

Predicting How the New Wada Code Will Impact Cycling

Anti-doping is both simple and complex. The simple perspective is this: don't take any banned drugs or use any banned methods, make yourself available for testing when requested, [get any TUEs in advance](#), avoid contaminated supplements and medicines, and you'll be fine. The complex perspective, on the other hand, is illustrated by the new World Anti-Doping Code – 180 pages, 27 Articles with six associated international standards. The 2021 code will be the fourth one, with the previous codes being issued in 2003, 2009 and 2015. While it may be advisable that athletes become familiar with these documents, it is easy to understand why that is a very challenging prospect. This article outlines some of the key changes which will come into force on January 1, 2021, and which could potentially affect cyclists.

The new code: Much of it remains the same, notably the four-year ban for a standard violation, which could be reduced if the substance falls in the “specified” category; the testing system; and range of Anti-Doping Rule Violations (ADRVs). Not much has changed in the Prohibited List. Hopefully, most cyclists are already familiar with how these violations and exceptions work.

However, four aspects of the new code are potentially relevant for cyclists: new provisions for recreational athletes; enhanced protection of whistle-blowers; definition of substances of abuse; and mandatory education. Full details of code changes can be found on the [WADA web site](#).

- 1. Recreational athletes:** This has been included as a new definition to allow flexibility in sanctions to address concerns that non-elite athletes may not have the same level of education and support as elite athletes. And, importantly, to recognize that “the consequence of mandatory public disclosure on the employment status of someone who participates in sport only at the recreational level is unduly harsh.” In other words, not all athletes are the same, and should not be treated the same. To qualify as recreational, the athlete should not have competed at the national or international level for at least five years prior to any anti-doping rule violation. There is a caveat: the decision on whether an individual can be categorized as recreational ultimately lies with the governing NADO. This opens up the potential for inconsistency, and it is not always clear what “national level” means. For example, USADA has a much more complicated and more restricted definition of a recreational competitor, including just those who placed in the top three of an event with more than 50 competitors or won more than \$500 in any race. The scope of testing has widened over the past few years to include non-elite and age group cyclists, some of which have fallen afoul of the rules. Any cyclist should try to become familiar with the processes and ask their club whether or not they can be tested and, if so, how should they prepare for that. However, it does seem fairer and more reasonable to have different expectations of cyclists who are training and racing as a hobby rather than as a profession.
- 2. Whistle-blowers:** A new article (2.11) provides new protection for whistle-blowers. The article states that in an ADRV, “to threaten another person to discourage that person from the good faith reporting to authorities of information relating to an ADRV, non-compliance with the code or other doping activity, or to retaliate against another person for doing so” will not be tolerated. The sanction for such behavior could be a ban of two years up to a lifetime depending on the situation. In other words, if you plan to give evidence of an ADRV and someone tries to stop that from happening, they could be in trouble. Of course, the problem emerges when trying to provide evidence of intimidation or harassment if it is not written or recorded. And even if it is, the definition

of “threaten” could be a point of contention. It is advisable to seek legal and confidential counsel before making any whistle-blowing claims.

3. **Substances of Abuse:** The terminology for these drugs varies, as of course performance-enhancing substances can be abused as well. The focus of the new change is on what WADA calls “street drugs” (opposed to performance-enhancing drugs) – primarily cocaine – that are not used specifically to enhance performance. There have been recent cases where athletes in a wide range of sports have been given a range of bans from a warning (i.e., Tom Boonen in 2009) to four years for use of social drugs. The new code will allow for a standard three-month ban for such users, but only if they can demonstrate that the use was during an out-of-competition period, and not intended for improving performance in their sport. If the athlete agrees to attend rehab, the ban can be reduced to one month. In-competition use is likely to be punished more severely, but less than four years, if the athlete can establish that it was not used in relation to performance enhancement. Although there are clearly subjective issues and interpretations here, this approach mirrors that in some professional team sports who have collectively bargained anti-doping policies and are not signatories to the World Anti-Doping Code. By doing so, the focus is shifted towards supporting the athlete in recovery, instead of punishing them through a lengthy ban and public humiliation.
4. **Education:** WADA has also written a new international standard for anti-doping education. Until now, education has been provided in a localized way, that can often be inconsistent and fragmented. It is estimated that up to [40 percent of all anti-doping rule violations](#) could be considered inadvertent. Increased education could potentially reduce this number by pre-empting the various circumstances that lead to both deliberate and accidental doping. The International Standard of Education (ISE) aims to make education mandatory, based on the broad idea that, “A key underpinning principle of the ISE is that an athlete’s first experience with anti-doping should be through education rather than doping control.” It may take a while for this initiative to percolate through the organizational system and reach all athletes, but the eventual impact for cyclists is that they may need to attend educational workshops and/or undertake on-line training courses. There will be a more standardized approach to planning courses, monitoring outcomes, including of other relevant groups beyond just athletes, and importantly to the content which has been outlined as follows:
 - Values-Based Education: Delivering activities that emphasize the development of an individual’s personal values and principles. It builds the learner’s capacity to make decisions to behave ethically.
 - Awareness Raising: Highlighting topics and issues related to clean sport.
 - Information Provision: Making available accurate and up-to-date content related to clean sport.
 - Anti-Doping Education: Delivering training on anti-doping topics to build competencies in clean sport behavior and make informed decisions.

These seem like positive steps forward to ensure that those subject to the code are aware of what it actually means, and they probably should have been in place from 2003 onwards. However, there is also a potential concern that any appeals based on inadvertent use could be undermined by pointing to this provision of education; in other words, “you should have known better.”

Overall, the new code addresses several points of discussion and contention raised by stakeholders and academic research. It remains a challenging document to read for the layperson, and those caught up in appeals processes will continue to struggle with legalistic terminology and interpretations. Although there is a global trend towards enhancing athlete representation and welfare within the governance and

policymaking processes, this has so far not had much influence on WADA itself. Nonetheless, some of the above changes aim to reduce inequities and protect fair practices for athletes. As ever, it is a delicate balancing act between deterrence and proportionality: between avoiding another “Russia” while ensuring innocuous cases are not unduly punished.

The direct impact of the 2021 WADA Code might not be felt straight away but the above issues are among the most pertinent for both elite and non-elite cyclists.

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