

Advisory | Equine Industry Group



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USEF's Mileage Rule: A 14-Year Journey from *JES Properties*

What Is USEF's Mileage Rule?

Since 1917, the United States Equestrian Federation (USEF) and its predecessor the USA Equestrian, Inc. (USAE) have governed the sport of amateur equestrianism in the United States. The rules that govern all American equestrian competitions were promulgated originally by the USAE. In June 2004, the United States Olympic Committee (USOC), pursuant to the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. § 220501 et seq. (ASA), officially appointed USEF as the sole national governing body (NGB) for the sport. When appointed as the NGB, USEF's Board of Directors adopted the same rules promulgated by USAE.

USEF sanctions various types of "licensed competitions," including breed competitions, Hunter and Jumper competitions, Dressage, and Eventing competitions. There are different levels of competition for each of these riding disciplines under USEF's rules. Licensed competitions allow riders to collect points and earn prize money from wins. Wins lead to invitations to more prestigious competitions. The Jumping, Dressage, and Eventing disciplines are Olympic sports. To represent the United States at an international level in these disciplines, including the Olympic Games, athletes must compete in USEF-sanctioned events, and excel at the highest levels of competition. Although not an Olympic sport, USEF also has a rating system for Hunter events, with "Premier (AA)" being the highest level of competition, and "Local" being the lowest level.

All licensed competitions are subject to USEF General Rule 314 (Mileage Rule, or GR 314). The Mileage Rule was first promulgated in 1975 by USAE (then known as the American Horse Shows Association), and it has been periodically revised since adopted by USEF. Essentially, the Mileage Rule requires that two or more events at the same competitive level held on the same date be held a certain mileage radius from one another. The purpose of the Mileage Rule appears twofold: (1) to concentrate elite riders into fewer competitions in order to yield the most competitive international equestrian team possible; and (2) to promote equestrianism nationwide by requiring promoters to hold licensed competitions in more diverse locations.

GR 314 explains the procedures by which USEF calculates applicable mileage boundaries. As shown by the following examples, mileage boundaries are determined: (i) by breed for breed competitions; (ii) by location and competitive level for Hunter, Jumper and Eventing competitions; and (iii) by location for regular and local “open” (unrestricted by breed) Dressage competitions:

- Examples of Breed competition mileage boundaries: Arabian and Friesian 250 miles, Hackneys and Morgan 100 miles, and National Show Horses 50 miles.
- Hunter: Locations include US Hunter and Jumper Association (USHJA) Zones 1-2, Zones 3-12, Canada, and First Trimester Florida. Competitive ratings include Premier (AA), National (A), Regional I (B), Regional II (C), and Local. The closer the competitive ratings of two events in a given location, the greater the mileage boundary. As an example, the mileage boundary between two Premier (AA) events in Zones 1-2 is 125 miles. In contrast, the boundary between Premier and Local events in these Zones is 40 miles.
- Jumper: Mileage boundaries are based on the same location criteria as Hunters. Competitive Levels range from 1 to 6, with Level 6 being the highest level of competition. As with Hunters, the closer the competitive ratings of two events in a location, the greater the mileage boundary. For example, the mileage boundary between Levels 6 and 4 events in Zones 3-12 is 250 miles, and 0 miles between Levels 6 and 2 events in these zones.
- Dressage: Competitive Levels range from 1 to 5. For all levels: (i) a 50 miles boundary applies to open Dressage competitions held in US Dressage Federation (USDF) Regions 1, 2, 6, and 8; (ii) a 100 miles boundary applies to Regions 3-5, 7, and 9; and (iii) a 75 miles boundary applies to competitions held in contiguous Regions, for which different distances are specified. With certain exceptions, two or more Dressage competitions cannot be held at the same or adjacent locations on the same days.
- Eventing: Competitive levels include both US Eventing Association levels (Modified, Preliminary, Intermediate and Advanced), and FEI levels (CCI1-CCI4). The CCI levels include either an “L” (long) or an “S” (short) to signify whether the event is a three-day (L) or a one-day (S) event. Mileage boundaries are based on the level and location of the competition, but a boundary for the same level event can be different depending on the location. For example, the boundary for two Advanced events in Areas 1-3 and 8 is 200 miles, and 400 miles in Areas 4-7 and 9-10. Similarly, the boundary for two CCI4-S events is 250 miles in Areas 1-3 and 8, and 400 miles in Areas 4-7 and 9-10.

General Rule 315 (GR 315) provides procedures for a license applicant to seek an exemption from the Mileage Rule. Factors USEF will consider in determining whether to grant an exemption include the Priority Date Holder’s adherence to competition standards, competition and calendar factors, and sort growth and visibility factors. GR 315 sets out a detailed process the applicant must follow to seek an exemption. The first step requires the applicant to contact the Priority Date Holder and attempt to come to agreement that would allow the proposed event to run concurrently with the Priority Date Holder’s event. If no agreement is reached, both sides are given the opportunity to present their positions to USEF

in writing. A Federation Mileage Exemption Panel will decide whether an exemption should be granted, and under what conditions.

Mileage exemptions are granted for one year only. Approval in one year does not guarantee future approval of a mileage exemption request. Any applicant for a competition license may dispute the denial of a license request or renewal. Under General Rule 316, license disputes are decided by the Federation Hearing Committee. The Hearing Committee, in its discretion, may hold a hearing at which the parties shall have the right to make written submissions, to be represented by counsel, to appear in person, and to present or cross-examine witnesses. The Hearing Committee shall only determine if the denial of a new or renewal license application or the mileage exemption process was conducted in accordance with USEF's rules.

JES Properties, Inc. v. USA Equestrian, Inc.

A much earlier version of the Mileage Rule set out in GR 314 came under judicial scrutiny in *JES Props., Inc. v. USA Equestrian, Inc.*, 458 F.3d 1224 (11th Cir. 2006). At issue was the then-existing 250 miles boundary between AA-rated shows. Unable to schedule events due to the rule, the plaintiffs lost business and sued USEF for, among others, antitrust violations under the Sherman Act. The defendants argued that because the claims were based on a rule promulgated by an NGB, they were entitled to implied antitrust immunity. The Eleventh Circuit agreed with defendants, stating that “when properly exercised, the ‘monolithic control’ an NGB has over its particular sport may excuse actions that would otherwise violate antitrust laws.” *Id.* at 1230–31.

The Eleventh Circuit reasoned that, due to “the monolithic control” exercised by national governing bodies, “the question ... is whether the application of the antitrust laws to the facts of this case would unduly interfere with the operation of the ASA.” *Id.* at 1231–32 (citation and internal quotation marks omitted). Judged by this standard, the court held that “[b]ecause the ASA requires an NGB to promulgate rules to minimize conflicts in schedules, the imposition of antitrust liability for the promulgation of such a rule is plainly repugnant to the ASA.” *Id.* The court further explained that it would “not substitute its own judgment for that of the USEF regarding the optimum way to fulfill its obligations,” and concluded that “implied immunity [was] called for in [the] case.” *Id.* at 1232. In reaching this conclusion, the Eleventh Circuit emphasized that it was not required to “focus on whether the rule is an effective or wise way of implementing the power given the USEF to minimize conflicts in scheduling and develop interest in equestrian sports throughout the United States,” *id.* at 1231; or “consider whether the *particular* eligibility rule was necessary or otherwise examine the wisdom of the rule.” *Id.* at 1232 (emphasis in original).

USEF's 2015 Rule Changes

The Mileage Rule has not faced a court challenge since *JES Properties*, even though a significant number of equestrians and show promoters continue to believe that the rule constitutes an unlawful restraint of trade under the antitrust laws. However, in 2015, USEF made certain rule changes intended to ameliorate the effects of the rule where circumstances warranted.

For example, on Feb. 23, 2015, in an effort to improve the fairness of competition licensing, and in response to member feedback, USEF's Board of Directors made the following announcement, which took effect immediately: “The Federation office will no longer issue competition licenses extending beyond a one-year term, allowing the Board time to evaluate the mileage rules and the criteria for issuing and renewing competition license agreements. Existing multi-year license agreements will be honored.” This change was welcomed by many equestrians as a way for the calendar to adjust more quickly to new rules

and future mileage exemptions, and facilitate possible approval of events previously blocked by holders of three-year licenses.

The rules for Special Competitions were also modified. A Special Competition is an event which may not fully meet the requirements for a license, but it will nevertheless be sanctioned by USEF because it has been deemed to be in the best interest of the breed, discipline, and/or sport. Special Competitions include: Olympic Games or Trials; Pan Am Games or Trials; World Equestrian Games or Trials; World Cup Finals or Qualifiers; FEI CSI 5* events held as a standalone event and not in conjunction with any other competition; Nations Cup Finals; Nations Cup CSIO events; Federation National Finals; Federation National Championships; Recognized Affiliate Championships; and any other events deemed by USEF to fit in this classification. Special Competitions are exempt from the Mileage Rule for the classes and divisions approved by USEF's Board, and the Board approved adding CSI5* events to the pre-existing rule. CSI events are international jumping events governed by the International Federation for Equestrian Sports (FEI). The events are broken down into a starring system from 1 to 5. More competitive events with more prize money have a higher number of stars.

In addition, many of the mileage exemption and license dispute resolution procedures in GRs 315-316 first became effective in 2015. The 2015 rule changes were endorsed by the North American Riders Group (NARG), self-described as an organization representing “the viewpoints and interests of all riders, trainers and owners in equestrian sport in North America.” According to NARG, the rule changes facilitate USEF's objective to provide a competition environment that is in the best interest of equestrian sport, and for viable competitions and a balanced competition calendar meeting the needs of the sport at all levels within a geographic area.

The Road Ahead

In addition to the Eleventh Circuit's decision in *JES Properties*, the Fifth, Ninth, and Tenth Circuits have found implied antitrust immunity for NGBs under the ASA. See *Gold Medal LLC v. USA Track and Field, et al.*, 899 F.3d 712 (9th Cir. 2018); *Eleven Line, Inc. v. N. Tex. State Soccer Ass'n, Inc.*, 213 F.3d 198 (5th Cir. 2000); *Behagen v. Amateur Basketball Ass'n*, 884 F.2d 524, 526 (10th Cir. 1989). In the near-term, absent a further challenge to the Mileage Rule under the ASA or congressional intervention, USEF's implied immunity under the antitrust laws should remain intact. Accordingly, unless and until there is a change in the law, to avoid potentially expensive mileage and licensing disputes, equestrians should educate themselves, with the assistance of counsel if necessary, on the requirements and procedures under GRs 314-316.

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