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Does the legalization of the use and possession of marijuana by a State, or other country that has drivers who operate in the United States, change the treatment of marijuana use under federal regulations applicable to drivers operating a commercial motor vehicle (CMV) (as defined in 49 CFR § 390.5)?

No. Marijuana, including a mixture or preparation containing marijuana, continues to be classified as a Schedule I controlled substance by the Drug Enforcement Administration (DEA) in 21 CFR § 1308.11. Under the Federal Motor Carrier Safety Regulations (FMCSRs), a person is not physically qualified to drive a CMV if he or she uses any Schedule I controlled substance such as marijuana. (See 49 CFR §§ 391.11(b)(4) and 391.41(b)(12)). In addition to the physical qualification requirements, the FMCSRs prohibit a driver from being in possession of or under the influence of any Schedule I controlled substance, including marijuana, while on duty, and prohibit motor carriers from permitting a driver to be on duty if he or she possesses, is under the influence of, **or uses a Schedule I controlled substance**. (See 49 CFR §§ 392.2 and 392.4). Legalization of marijuana use by States and other jurisdictions also has not modified the application of U.S. Department of Transportation (DOT) drug testing regulations in 49 CFR parts 40 and 382. (See <https://www.transportation.gov/odapc/medical-marijuana-notice> and <https://www.transportation.gov/sites/dot.gov/files/docs/odapc-notice-recreational-mj.pdf>).

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