ARTICLE 33-44
MEDICAL MARIJUANA

CHAPTER 33-44-01
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SECTION 1. Section 33-44-01-01 is amended as follows:

33-44-01-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Activation time" means the amount of time it is likely to take for an individual to begin to feel the effects of ingesting or inhaling usable marijuana.

2. "Adverse reaction" means an unwanted, unexpected, or dangerous effect

caused by the administration of usable marijuana dispensed pursuant to North Dakota Century Code chapter 19-24.1.

3. "Analyte" means a component, substance, or chemical or microbiological constituent that is of interest in an analytical procedure or test.

4. "Batch" means a quantity of dried leaves and flowers from a harvest lot, a quantity of cannabinoid concentrate, or medical cannabinoid product from a process lot.

5. "Compliance test" means a test required by these rules to be performed by a laboratory selected by the department in order to allow the transfer or sale of usable marijuana.

6. "Container" means a sealed, hard- or soft-bodied receptacle in which usable marijuana is placed.

7. "Container identification number" means the identification number that was generated by the manufacturing facility at the time the usable marijuana was packaged and labeled for sale to the dispensary.

8. "Cotyledons" means an embryonic leaf of a plant, one or more of which are the first leaves to appear.

9. "Date of harvest" means the date the mature marijuana plants in a harvest lot were removed from the soil or other growing media. If the harvest occurred on more than one day, the "date of harvest" is the day the last mature marijuana plant in the harvest lot was removed from the soil or other growing media.

10. "Degradation compound" or "Pesticide degradate" means a resultant product from the transformation of a parent compound to a product with different physical and chemical properties, the fate and significance of which, is altered due to the structural changes.

11. “Dispensary premises” means the physical location of the dispensary listed on the registration certificate, including the dispensary lobby, restricted access areas, storage rooms, bathrooms, hallways, offices, sidewalks, and parking lot.

12. "Harvest lot" means a specifically identified quantity of the same strain of marijuana that is cultivated utilizing the same growing practices, harvested within a seventy-two-hour period at the same location, and cured under uniform conditions.

~~12.~~13. "Hazardous waste" means the same as defined in North Dakota Century

Code chapter 23-20.3.

~~13.~~14. "Laboratory" means a laboratory selected by the department in accordance with section 33-44-01-36 to sample and conduct tests in accordance with these rules.

~~14.~~15. "Medical marijuana waste" means the same as defined in North Dakota Century Code chapter 19-24.1.

~~15.~~16. "Net weight" means the gross weight minus the tare weight of the packaging.

~~16.~~17. "Parent compound" means the original molecular structure from which other compounds can be derived through a chemical reaction or natural breakdown process.

~~17.~~18. "Pediatric symbol" means the image, established by the department and made available to manufacturing facilities, indicating the product complies with the pediatric medical marijuana maximum concentration limit as defined in North Dakota Century Code chapter 19-24.1.

~~18.~~19. "Plant" means a marijuana plant that has produced cotyledons or a cutting of a marijuana plant that has produced cotyledons.

~~19.~~20. "Process lot" means any amount of:

a. Cannabinoid concentrate of the same type and processed within a forty-eight-hour period, unless prior written authorization is received from the department, using the same extraction methods, standard operating procedures, and batches, not to exceed ~~three~~fourteen thousand grams in total, of the same strain from the same or a different harvest lot; or

b. Medical cannabinoid product of the same type and processed within a forty-eight-hour period, unless prior written authorization is received from the department, using the same ingredients, standard operating procedures, and a process lot or process lots, not to exceed three, of cannabinoid concentrate as defined in subsection a.

~~20.~~21. "Product identity" means a common name of the product that is contained in the package.

~~21.~~22. "Remediation" means a process used by a manufacturing facility to remedy a lot or batch that has failed testing.

~~22.~~23. "Sterilization" means the removal of all micro-organisms and other

pathogens from usable marijuana by treating it with approved chemicals or subjecting it to high heat.

~~23.~~24. "Tentatively identified compounds" means compounds detected in a sample using gas chromatography mass spectrometry or liquid chromatography mass spectrometry that are not among the target analytes for the residual solvent analysis and pesticide and mycotoxin analysis.

~~24.~~25. "Test sample" means anything collected by a laboratory from a compassion center for testing.

~~25.~~26. "Unit of sale" means an amount of usable marijuana commonly packaged in a container for transfer to a registered qualifying patient or registered designated caregiver, or capable of being packaged in a container for transfer to a registered qualifying patient or registered designated caregiver.

~~26.~~27. "Universal symbol" means the image, established by the department and made available to manufacturing facilities, indicating the product contains marijuana.

~~27.~~28. "Water activity" means a measure of the free moisture in usable marijuana and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol a_w.

~~28.~~29. "Written notice" means a notice provided to the department via letter, electronic mail, or other electronic form or medium made available on the department's website.

History: Effective April 1, 2018; amended effective October 1, 2019; July 1, 2022; October 1, 2026.
General authority: NDCC 19-24.1-01
Law Implemented: NDCC 19-24.1-01

SECTION 2. Section 33-44-01-05 is amended as follows:

33-44-01-05. Expiration of registry identification cards.

~~An~~Except as provided in North Dakota Century Code section 19-24.1-03.3, an initial registry identification card expires ~~one year~~two years after the date of issuance~~, unless the health care provider's written certification identifies the benefit from the medical use of marijuana is less than a year~~. To prevent interruption of possession of a valid registry identification card, a renewal of a registry identification card may have an expiration date from date of issuance in excess of ~~one year~~two years.

History: Effective April 1, 2018; amended effective October 1, 2026.
General Authority: NDCC 19-24.1-11

Law Implemented: NDCC 19-24.1-11

SECTION 3. Section 33-44-01-07.3 is amended as follows:

33-44-01-07.3. Compassion center certification fees.

1. ~~The~~Through October 31, 2026, the department shall collect certification fees for compassion center registrations as follows:

   ~~1.~~a. For a manufacturing facility, seventy-five thousand dollars.

   ~~2.~~b. For a dispensary, sixty thousand dollars.

   ~~3.~~c. For a production only authorized manufacturing facility, forty thousand dollars.

   ~~4.~~d. For a medical marijuana product processor only authorized manufacturing facility, twenty thousand dollars.

2. Effective November 1, 2026, the department shall collect certification fees for compassion center registrations as follows:

   a. For a manufacturing facility, one hundred ten thousand dollars.

   b. For a dispensary, ninety thousand dollars.

   c. For a production only authorized manufacturing facility, seventy thousand dollars.

   d. For a medical marijuana product processor only authorized manufacturing facility, fifty thousand dollars.

History: Effective October 1, 2022; amended effective October 1, 2023; October 1, 2026.
General Authority: NDCC 19-24.1-15
Law Implemented: NDCC 19-24.1-15

SECTION 4. A new section is created as follows:

33-44-01-13.1. Dispensary premises.

Consumption of usable marijuana on a dispensary premises is prohibited.

History: Effective October 1, 2026.
General Authority: NDCC 19-24.1-33
Law Implemented: NDCC 19-24.1-33

SECTION 5. Section 33-44-01-26 is amended as follows:

33-44-01-26. Manufacturing facility labeling.

1. A manufacturing facility shall label all usable marijuana in accordance with the following before their sale or transfer to a dispensary:

   a. A container holding dried leaves and flowers must include the following information:

      (1) ~~Manufacturers'~~Manufacturing facility's business or trade name and registry certification number;

      (2) Container identification number;

      (3) Batch number;

      (4) Date of harvest;

      (5) Name of strain;

      (6) Net weight in United States customary or metric units;

      (7) Concentration of total tetrahydrocannabinol and total cannabidiol as identified by the laboratory selected by the department in accordance with section 33-44-01-36;

      (8) Activation time expressed in words or through a pictogram;

      (9) Expiration date;

      (10) Universal symbol; and

      (11) Consumer warnings that state:

         (a) "This product is not approved by the Food and Drug Administration to treat, cure, or prevent any disease."

         (b) "For use by North Dakota registered qualifying patients only."

         (c) "Keep out of reach of children."

         (d) "It is illegal to drive or to be in actual physical control of a motor vehicle while under the influence of marijuana."

   b. A container holding a cannabinoid concentrate must include the

following information:

(1) Manufacturing facility's business or trade name and registry certification number;

(2) Container identification number;

(3) Process lot number;

(4) Product identity;

(5) Date the concentrate was made;

(6) Net weight or volume in United States customary or metric units;

(7) If applicable, serving size and number of servings per container or amount suggested for use by the ~~consumer or~~registered qualifying patient at any one time;

(8) Concentration or amount of total tetrahydrocannabinol, and the concentration or amount of total cannabidiol, by weight or volume in the container as identified by the laboratory selected by the department in accordance with section 33-44-01-36;

(9) Activation time~~,~~ expressed in words or through a pictogram;

(10) Expiration date;

(11) A disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process;

(12) Universal symbol;

(13) Pediatric symbol, if applicable; and

(14) Consumer warnings that state:

(a) "This product is not approved by the Food and Drug Administration to treat, cure, or prevent any disease."

(b) "For use by North Dakota registered qualifying patients only."

(c) "Keep out of reach of children."

(d) "It is illegal to drive or to be in actual physical control of a motor vehicle while under the influence of marijuana."

c. A container holding a medical cannabinoid product must include the following information:

(1) ~~Manufacturers'~~Manufacturing facility's business or trade name and registry certification number;

(2) Container identification number;

(3) Process lot number;

(4) Product identity;

(5) Date the product was made;

(6) ~~Net~~If applicable, net weight or volume in United States customary or metric units;

(7) If applicable, serving size and number of servings per container;

(8) Concentration or amount of total tetrahydrocannabinol, and the concentration or amount of total cannabidiol, by weight or volume in each serving and in each container as identified by the laboratory selected by the department in accordance with section 33-44-01-36;

(9) List of ingredients in descending order or predominance by weight or volume used to process the medical cannabinoid product;

(10) Activation time~~,~~ expressed in words or through a pictogram;

(11) Expiration date;

(12) A disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process;

(13) Universal symbol;

(14) Pediatric symbol, if applicable; and

(15) Consumer warnings that state:

(a) “This product is not approved by the Food and Drug Administration to treat, cure, or prevent any disease.”

(b) “For use by North Dakota registered qualifying patients only.”

(c) “Keep out of reach of children.”

(d) “It is illegal to drive or to be in actual physical control of a motor vehicle while under the influence of marijuana.”

2. Usable marijuana labels required in accordance with this section must be no smaller than eight point, arial or calibri, font. If, due to the size of the container, sufficient space does not exist for a label containing all of the required information, the manufacturing facility may:

a. Use a peel-back or accordion label if, the peel-back or accordion label is easily identified as containing the required information; or

b. Reduce the size of the required information to six point font.

3. Usable marijuana labels may not contain the word “organic”.

History: Effective April 1, 2018; amended effective October 1, 2019; July 1, 2022; October 1, 2026.
General Authority: NDCC 19-24.1-36
Law Implemented: NDCC 19-24.1-36

SECTION 6. Section 33-44-01-51 is amended as follows:

33-44-01-51. Standards for concentration compliance testing.

1. Usable marijuana concentration testing must include:

a. Tetrahydrocannabinol (THC).

b. Tetrahydrocannabinolic acid (THCA).

c. Cannabidiol (CBD).

d. Cannabidiolic acid (CBDA).

2. The total tetrahydrocannabinol and total cannabidiol must be calculated as follows:

a. Total tetrahydrocannabinol, where M is the mass or mass fraction of tetrahydrocannabinol or tetrahydrocannabinolic acid:

M total THC = THC + (0.877 x M THCA)

b. Total cannabidiol, where M is the mass or mass fraction of cannabidiol and cannabidiolic acid:

M total CBD = M CBD + (0.877 x M CBDA)

3. Test results must report tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content by dry weight calculated as follows:

a. P THC(dry) = P THC(wet) / [1-(P moisture/100)].

b. P THCA(dry) = P THCA(wet) / [1-(P moisture/100)].

c. P CBD(dry) = P CBD(wet) / [1-(P moisture/100)].

d. P CBDA(dry) = P CBDA(wet) / [1-(P moisture/100)].

4. The concentration test fails if the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid, as calculated pursuant to this section, exceeds the maximum concentration or amounts permitted in North Dakota Century Code chapter 19-24.1 except for a cannabinoid edible product. A cannabinoid edible product may deviate from the maximum concentration or amount by no more than ten percent.

5. The concentration test fails if the tetrahydrocannabinol or cannabidiol content of a medical cannabinoid product is determined through testing not to be homogenous. A medical cannabinoid product is considered not to be homogenous if test results identify a total tetrahydrocannabinol or cannabidiol variation of plus or minus fifteen percent. A medical cannabinoid product intended for ingestion must include concentration homogeneity testing.

6. If the samples do not pass testing standards for concentration, the manufacturing facility must comply with section 33-44-01-52.

History: Effective April 1, 2018; amended effective October 1, 2019; July 1, 2022; October 1, 2025; October 1, 2026.
General Authority: NDCC 19-24.1-36
Law Implemented: NDCC 19-24.1-36