

## Chapter 10

# Saskatchewan Liquor and Gaming Authority—Regulating Recreational Cannabis

### 1.0 MAIN POINTS

Increased health risks, especially in minors (e.g., long-term brain impacts), associated with the use of cannabis makes the regulation of its sale and distribution important. The industry began operating in October 2018.

The Saskatchewan Liquor and Gaming Authority is responsible for regulating Saskatchewan’s recreational cannabis retail and wholesale businesses. Recreational cannabis refers to cannabis products (e.g., flowers, edibles) used for non-medical purposes.<sup>1</sup>

The Authority’s processes to regulate the recently established legal recreational cannabis market are relatively new and, as at December 2020, still evolving. As of December 2020, the Authority is focusing its efforts on educating retail and wholesale permittees about operating requirements and has not yet taken more strict enforcement actions (e.g., fines). Focusing on educating permittees during the early stage of regulating recreational cannabis helps foster a culture of compliance.

To effectively regulate the distribution and sale of recreational cannabis in Saskatchewan, past the initial start-up phase, the Authority needs to make improvements in the following areas. The Authority needs to:

- Decide when to shift its focus to taking enforcement actions (e.g., fines) on identified non-compliance, from its present focus on education. To act fairly and transparently, it must advise permittees of the expected timing of this shift in writing
- Develop a risk-informed inspection plan (e.g., based on assessed risk of identifying non-compliance) and actively monitor whether it completes permittee inspections as planned
- Finalize guidelines for actions key to enforcing identified non-compliance with permit requirements consistently, and actively monitor whether permittees sufficiently address identified non-compliance
- Consistently and centrally maintain information about its key activities used to regulate recreational cannabis (e.g. due diligence procedures when assessing new applicants seeking cannabis permits), so that it can show it carried out these activities as and when expected
- Give senior management periodic reports on the nature and extent of identified non-compliance, and related enforcement actions over retail and wholesale recreational permittees

Effective regulatory processes help prevent the sale of legal recreational cannabis to youth, keep profits from cannabis sales in the regulated market (i.e., away from criminals), and protect public health and safety by allowing adults to access legal cannabis.

<sup>1</sup> See **Section 6.0** for a glossary of key terms pertaining to cannabis products.



## 2.0 INTRODUCTION

This chapter reports the results of our audit of the Saskatchewan Liquor and Gaming Authority's processes to regulate the distribution and sale of recreational cannabis in Saskatchewan. Our audit did not examine the enforcement of laws related to illegal cannabis, as this is not under the Authority's responsibility.

### 2.1 Federal and Provincial Responsibility for Cannabis

Since the legalization of cannabis in October 2018, Canadian federal, provincial and territorial governments share responsibility for overseeing the cannabis regulatory system.<sup>2</sup> **Section 5.0** provides a breakdown of the regulatory responsibilities for each level of government.

In general, the Federal Government is responsible for setting requirements for producers who grow and manufacture cannabis, and industry-wide rules and standards (e.g., types of cannabis products available for sale, packaging and labelling requirements, potency, production practices, tracking requirements, and restrictions on promotional activities).

Whereas, provinces and territories are responsible for developing, implementing, maintaining and enforcing systems to oversee the distribution and sale of cannabis within the requirements of the federal framework. They can add their own safety measures like increasing the minimum age, lowering the personal possession limit, and restricting where adults can consume cannabis, such as in public or in vehicles.

Also, federal requirements make retail and wholesale permittees responsible for monthly reporting data about cannabis inventory to the Federal Government. Data required includes the amount of product purchased from wholesale permittees or licensed producers, products sold to customers, and inventory on hand at month end.

### 2.2 Saskatchewan Liquor and Gaming Authority's Responsibilities for Cannabis

*The Cannabis Control (Saskatchewan) Act* along with Order in Council 347/2018 gives the Authority responsibility for regulating recreational cannabis retail and wholesale businesses, and licensed producers.<sup>3,4</sup> The Authority modelled its cannabis regulatory processes similar to those used to regulate liquor, in which it has significant experience.

Saskatchewan has chosen to use a fully private distribution and sales model for cannabis. The Authority issues permits to privately owned and operated recreational cannabis retail and wholesale businesses. It also registers licensed producers allowing the sale of the producers' cannabis in Saskatchewan to retail and wholesale permittees (i.e., verifies the licensed producer has a federal permit and meets requirements to sell products to

<sup>2</sup> In October 2018, cannabis became legal in Canada under *The Cannabis Act* (Canada).

<sup>3</sup> Order in Council 347/2018 dated July 12, 2018 designates the Saskatchewan Liquor and Gaming Authority as the Cannabis Authority contemplated under *The Cannabis Control (Saskatchewan) Act*.

<sup>4</sup> **Retail permittee** is a business that engages in the retail sale of cannabis for the public's consumption and use. **Wholesale permittee** is a business that wholesale purchases cannabis product from licensed producers and distributes the products to retail permittees. **Licensed producer** is a business, licensed by the Federal Government, which grows, packages, and sells finished cannabis products.

Saskatchewan). **Figure 1** briefly outlines specific responsibilities of the Authority in regards to regulating cannabis.

**Figure 1—Specific Provincial Regulatory Responsibilities of the Authority for Cannabis**

- Approving an application for a three-year permit to purchase, sell, transport or distribute cannabis subject to any terms and conditions that it considers appropriate (including determining the duration of the permit)
- Refusing any application for a permit or for renewal of a permit
- Designating cannabis enforcement officers to inspect retail and wholesale permittees
- Enforcing terms and conditions and legislation relating to permits
- Cancelling or suspending a permit

Source: *The Cannabis Control (Saskatchewan) Act*, s. 3-1(1).

As of December 31, 2020, the Authority had issued 54 retail and 4 wholesale active cannabis permits, and 97 active registrations for licensed producers to sell cannabis products to retail/wholesale permittees in Saskatchewan. The Authority issued its first permit in October 2018. The Authority's cannabis permits have a three-year term. The first cannabis permit renewal will occur in 2021.

The Authority considers federal responsibilities during its regulatory process (e.g., Authority cannabis inspectors inform the Federal Government of any identified potential federal violations, such as promotional emails to customers). In addition, under its private distribution and sales model, it has agreed to collect and provide to the Federal Government monthly data on behalf of the permitted and registered private businesses operating in the province.

In 2019-20, the Authority recorded revenues of \$226,000 for cannabis permit fees, and expenses of about \$3 million pertaining to cannabis regulation.<sup>5,6</sup>

## 2.3 Importance of Effective Regulation of Recreational Cannabis

Cannabis use increases health risks (e.g., long-term brain impacts from use especially for minors, mental health issues) and safety risks (e.g., driving impaired). This increases the need for effective regulatory processes to enforce requirements for sale and distribution of legal cannabis (types, potency, and quantity).<sup>7</sup>

Overall, effective regulatory processes helps prevent the sale of legal recreational cannabis to youth, keep profits from cannabis sales in the regulated market (i.e., away from criminals), and protect public health and safety by allowing adults access to legal cannabis.<sup>8</sup>

## 3.0 AUDIT CONCLUSION

At December 2020, the Saskatchewan Liquor and Gaming Authority had been responsible for regulating cannabis for two years. The regulatory environment evolved during this

<sup>5</sup> *Saskatchewan Liquor and Gaming Authority Annual Report for 2019-20*, p. 43.

<sup>6</sup> The Authority's only cannabis revenue source related to permit fees (initial application fee and annual fee). The Ministry of Finance collects revenue related to the cannabis excise tax charged on all sales of cannabis products.

<sup>7</sup> [www.saskatchewan.ca/government/cannabis-in-saskatchewan/cannabis-and-your-health](http://www.saskatchewan.ca/government/cannabis-in-saskatchewan/cannabis-and-your-health) (15 April 2021).

<sup>8</sup> [www.justice.gc.ca/eng/cj-jp/cannabis/](http://www.justice.gc.ca/eng/cj-jp/cannabis/) (04 March 2021).



period. As a result, the Authority appropriately focused its efforts on educating retail and wholesale permittees on the legislative requirements of operating instead of taking harsher, enforcement action on non-compliance found (e.g., monetary fines). Changes of this magnitude take time to implement.

**With this context in mind, we concluded that, for the 12-month period ended December 31, 2020, the Saskatchewan Liquor and Gaming Authority had, other than in the following areas, effective processes to regulate the distribution and sale of recreational cannabis in Saskatchewan.**

**The Authority needs to:**

- **Finalize key operational documents (e.g., a risk-informed inspection plan and guidelines for sanctions) to guide identification and handling when retail and wholesale permittees do not comply with permit requirements**
- **Communicate to permittees when it plans to start taking enforcement actions (e.g., fines) on identified non-compliance**
- **Establish guidance about consistently and centrally maintaining evidence about its key activities to regulate recreational cannabis (e.g., in its IT system)**
- **Actively monitor whether permittee inspections are done as planned and identified non-compliance with permittee requirements have been addressed**
- **Report to senior management on the nature and extent of non-compliance and related enforcement activities over retail and wholesale recreational permittees**

**Figure 2—Audit Objective, Criteria, and Approach**

<p><b>Audit Objective:</b></p> <p>The objective of this audit was to assess whether the Saskatchewan Liquor and Gaming Authority, for the 12-month period ended December 31, 2020, had effective processes to regulate the distribution and sale of recreational cannabis in Saskatchewan</p> <p><b>Audit Criteria:</b></p> <p>Processes to:</p> <ol style="list-style-type: none"><li>1. <b>Approve eligible retailers, wholesalers, and producers for the distribution and/or sale of recreational cannabis</b><ul style="list-style-type: none"><li>• Set requirements for eligible retailers, wholesalers and producers consistent with legislation</li><li>• Confirm applicants meet established requirements (e.g., use qualified staff, verify applicant information)</li><li>• Issue permits or registrations with appropriate requirements to successful applicants within a reasonable timeframe</li></ul></li><li>2. <b>Monitor compliance with permit requirements</b><ul style="list-style-type: none"><li>• Set guidance for monitoring compliance with permit requirements (e.g., checklists, inspection procedures, penalties, escalation processes for identified non-compliance, how to enforce corrective action)</li><li>• Set risk-based plans for inspecting permitted retailers and wholesalers</li><li>• Regularly assess compliance with requirements (e.g., use qualified staff, complete inspections in accordance with established process)</li><li>• Investigate complaints about permit holders within a reasonable time (expect guidance on timeframes based on potential impact of complaint)</li><li>• Analyze cannabis sales and purchase data reported to Federal Government (e.g., Department of Health Canada, Statistics Canada) to identify potential irregularities or issues</li></ul></li></ol>
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### 3. Address and report non-compliance

- Communicate action required for resolution of non-compliance within a reasonable time (e.g., timeframes vary based on severity of non-compliance)
- Require prompt action on non-compliance based on severity of non-compliance
- Escalate action on continued non-compliance (e.g., cancel or suspend permit, report non-compliance to appropriate authorities)
- Report information on non-compliance and related enforcement actions to senior management and the public

#### Audit Approach:

To conduct this audit, we followed the standards for assurance engagements published in the *CPA Canada Handbook—Assurance* (CSAE 3001). To evaluate the Authority's processes, we used the above criteria based on our related work, reviews of literature including reports of other auditors, and consultations with management. The Authority's management agreed with the above criteria.

We examined the Authority's procedures and policies relating to regulating the distribution and sale of recreational cannabis. We assessed the Authority's permit application templates and permit conditions for consistency with legislation and good practice. We tested samples of permit approvals, inspections, and actions taken on identified non-compliance with requirements to verify the Authority followed its established procedures. In addition, we analyzed data to assess if the Authority inspected retail permittees in accordance with its established frequency expectations.

## 4.0 KEY FINDINGS AND RECOMMENDATIONS

### 4.1 Cannabis Permit Requirements Consistent with Legislation

The Saskatchewan Liquor and Gaming Authority set requirements for retail and wholesale permittees consistent with legislation for recreational cannabis.

The Authority makes its Cannabis Licensing and Inspection Branch responsible for permitting, inspecting, and monitoring cannabis retail and wholesale permittees. The Branch is part of the Authority's Regulatory Services Division. The Division is also responsible for registering licensed cannabis producers.<sup>9</sup>

Prior to the existence of the Cannabis Licensing and Inspection Branch, Authority staff participated on a working group with other provincial government organizations.<sup>10</sup> The working group used the Federal Government's cannabis legislation (*The Cannabis Act* (Canada)) as a starting point when developing Saskatchewan's legislation.

Once Saskatchewan established its cannabis legislation in July 2018 (i.e., *The Cannabis Control (Saskatchewan) Act*), the Branch developed a detailed *Cannabis Regulatory Policy Manual*. The Authority created the Manual for both internal (i.e., staff) and external (i.e., public, applicant) use. The Manual is available to the public on the Authority's website.

We found the Manual is consistent with legislative requirements and good regulatory practice guidance (e.g., the Transform Drug Policy Foundation's *How to Regulate Cannabis: A Practical Guide*).<sup>11</sup> The Manual is sufficiently detailed and is easy to understand. It outlines the requirements for an applicant to apply for a retail or wholesale permit, or register as a licensed producer. The Manual also outlines retail and wholesale

<sup>9</sup> The Authority's permit requirements for licensed producers is limited compared to retail and wholesale permits, because the Federal Government is responsible for regulating and establishing operating requirements for licensed producers.

<sup>10</sup> This working group consisted of numerous Saskatchewan government agencies including the Ministry of Justice and Attorney General, Ministry of Health, and Saskatchewan Government Insurance.

<sup>11</sup> [www.unodc.org/documents/ungass2016/Contributions/Civil/Transform-Drug-Policy-Foundation/How-to-Regulate-Cannabis-Guide.pdf](http://www.unodc.org/documents/ungass2016/Contributions/Civil/Transform-Drug-Policy-Foundation/How-to-Regulate-Cannabis-Guide.pdf) (18 March 2021).



permittee operating requirements once a permit is obtained.<sup>12</sup> See **Figure 3** for a summary of the contents of the Manual.

**Figure 3—Content of Cannabis Regulatory Policy Manual at September 2020**

- **General Information:** how to use the manual; summary of federal, provincial and municipal responsibilities; summary of legislation
- **Process to Apply to Obtain a Retail or Wholesale Permit:** summary of the information required to apply for a permit to operate a cannabis retail or wholesale business in Saskatchewan; security requirements; inventory system and point-of-sale requirements; permit fees
- **Retail or Wholesale Permit Information:** cannabis permittee staff training requirements; verifying customer age requirements; hours of operation; product and pricing rules; rules about delivering to customers; record keeping requirements
- **Registration in Saskatchewan for Licensed Cannabis Producers:** application process; fees
- **Inspections:** overview of the Authority's regulatory processes to assess permittees comply with operating requirements
- **Disciplinary Action:** summarizes potential actions Authority may take to address and correct identified non-compliance with operating requirements

Source: Adapted from the Authority's *Cannabis Regulatory Policy Manual*.

In addition, the Authority keeps applicants informed of changes to operating requirements.

In March 2020, we noted the Authority emailed permittees about changes to operating requirements because of the COVID-19 pandemic (e.g., permittees could offer curbside pick up so customers did not have to enter the store). We found this communication timely and easily understandable.

Having consistent and understandable publicly available requirements enables the Authority to be transparent in its requirements. This increases the ability of those with permits to follow the Authority's requirements, as well as potential applicants to be able to understand what is needed to apply for a permit and requirements they will have to meet if they are successful in obtaining a permit.

## 4.2 Adequately Confirming Applicants Meet Requirements But Not Always Keeping Results of Due Diligence Procedures

Although the Saskatchewan Liquor and Gaming Authority effectively confirms applicants for recreational cannabis permits meet established requirements, it does not always maintain proper records of the results of its due diligence procedures—a key activity in the approval process.

As of December 2020, the Cannabis Licensing and Inspection Branch had clearly documented its flow of work (process maps). **Figure 4** provides a summary of the Authority's retail and wholesale permit and licensed producer registration approval process.

We found these process maps sufficiently detailed. They outline the key steps in the permit application review and approval process. For example, permit application review processes included checking that the community the applicant wishes to operate in has approved

<sup>12</sup> The Authority updated the *Cannabis Regulatory Policy Manual* twice in 2020 to incorporate regulatory changes in the year. The Authority issued the most recent version in September 2020. [www.slga.com/permits-and-licences/cannabis-permits/cannabis-retailing](http://www.slga.com/permits-and-licences/cannabis-permits/cannabis-retailing) (09 March 2021).

cannabis retail stores.<sup>13</sup> The process maps assign each process to an appropriate staff position.

**Figure 4—Retail and Wholesale Permit Approval Process and Licensed Producer Registration Approval Process**

#### Retail and Wholesale Permit Approval Process

- **Receipt of permit application:** Licensing Specialist reviews application for completeness to ensure all required documentation has been submitted by the applicant. Where an applicant fails to provide key information, staff follow up with applicant by phone or email
- **Review accuracy of information:** Licensing Specialist verifies the accuracy of information provided by applicants by comparing information disclosed. For example, corporate information in application package is verified to public corporate registry information (e.g., all shareholders listed in the corporation, verify business name and address)
- **Results of due diligence assessment procedures<sup>A</sup>**
  - **Review applicant financial position:** Licensing Specialist reviews financial information submitted by applicant and obtains credit check reports to verify financial viability of the applicant (i.e., applicant has sufficient financial resources to invest to be able to meet operating requirements)
  - **Review criminal record history:** Cannabis Inspector requests outside law enforcement agency run a criminal intelligence check on applicant(s) to verify applicant(s) have no criminal history<sup>A</sup>
  - **Review applicant publicly available information:** Cannabis Inspector searches social media and Authority internal regulatory records (e.g., if applicant has other Authority permits, such as alcohol permit) for any mention of the applicant's name<sup>A</sup>
  - **Interview applicant:** Cannabis Inspector interviews applicant asking pre-determined questions, and additional questions, from information disclosed in the application<sup>A</sup>
- **Site inspection before cannabis operations begin:** Cannabis Inspector performs pre-permit inspection of business location verifying facility set-up meets operating requirements (e.g., security cameras). Also verifies applicant has implemented appropriate inventory tracking and point-of-sale systems
- **Results of assessment procedures:** Management communicates whether applicant passed due diligence procedures and can begin to order inventory
- **Permit approved** in accordance with delegation of authority and issued to applicant

#### Licensed Producer Registration Process

- **Review of application:** Licensing Specialist reviews application package verifying all information provided by applicant (e.g., business name and location, holds active Federal Government cannabis production license)
- **Verify Federal status:** Licensing Specialist verifies the licensed producer has a federally approved permit
- **Registration approved:** Licensing Specialist communicates with licensed producer, informing applicant of approval to sell product in Saskatchewan

Source: Adapted from the Authority's process records.

<sup>A</sup> These due diligence processes are to assess whether the cannabis permit applicant is of suitable character to operate a cannabis business. *The Cannabis Control (Saskatchewan) Act* section 3-2 requires that the Authority not issue a cannabis permit to an applicant if the Authority has evidence that the applicant is not of good character, considering the applicant's reputation, past conduct, integrity, financial history, or competence.

In addition, the Authority established a reasonable service standard of issuing a permit/registration within six months of its receipt of an application. We found six months allows time for Branch staff to collect any missing application information from applicants.

For each of the three permit applications and two producer registration applications tested (that the Authority had received and assessed during 2020—the audit period), the Authority followed its review and permit/registration approval process in that it approved each within six months, included appropriate requirements in the issued permit (e.g., required compliance with *Cannabis Regulatory Policy Manual*), and approved each in accordance with the Authority's delegation of authority.<sup>14</sup>

<sup>13</sup> Municipalities have the authority to deny cannabis retail or wholesale operations within the community.

<sup>14</sup> We initially tested a sample of three approved permits (one wholesale, and two retail) for completion of due diligence procedures. Because the Authority could not provide us with evidence of completion of its due diligence procedures for all three permits, we tested an additional seven approved permits for a total sample of ten approved permits.



However as described below, for certain permit applications tested that it approved, the Authority did not sufficiently document its due diligence procedures. Branch staff completing the due diligence procedures do not keep or store records consistently. We found:

- For four of ten permit applications tested, the Authority could not provide evidence that it completed some of its due diligence processes (e.g., social media search). For these four permits, we noted the results from the documented due diligence processes did not find issues to suggest not approving these four applicants.
- For two of the ten permit applications tested, staff kept information about completed due diligence on a network drive in a separate location and did not refer to this work in the Authority's IT system used to manage cannabis permits.

We found the Cannabis Licencing and Inspection Branch does not have written guidance about documenting results of the retail and wholesale permit process including guidance on what information to keep and where.

Not having all information from an applicant stored in one central location increases the risk of staff not being supervised sufficiently, and of not having awareness of key documents when making application approval decisions.

In addition, not keeping key records centrally increases the risk that due diligence procedures are not performed sufficiently. By not completing required due diligence procedures, the Authority increases the risk of approving permittees with questionable backgrounds and character. As a result, this increases risk to public safety (e.g., illicit product making its way into the supply chain, or permittees selling product to ineligible customers such as minors).

- 1. We recommend the Saskatchewan Liquor and Gaming Authority develop guidance for centrally keeping results from its key regulatory activities of recreational cannabis (e.g., assessment of cannabis permit applications).**

### 4.3 Provincial Cannabis Inspectors Suitably Qualified

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The Saskatchewan Liquor and Gaming Authority staff responsible for assessing whether applicants meet permit conditions, and permittees follow cannabis retail and wholesale operating requirements (i.e., performed inspections) have the required and suitable training and experience.<sup>15</sup>

Its Cannabis Licensing and Inspection Branch had 11 full-time equivalent positions as at December 31, 2020. The positions included four cannabis inspectors, two licensing specialists, three managers, one director, and one data analyst. The Branch has located two inspectors in each Regina and Saskatoon.

The Authority appropriately uses job descriptions to set out expected educational and experience requirements for its staff. The Authority requires cannabis inspectors to have

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<sup>15</sup> The Federal Government is responsible for verifying licensed producers meet operating conditions.

at least five years of law enforcement background. Law enforcement experience gives them the skills to effectively:

- Interview and assess applicants applying to operate a cannabis retail or wholesale business (e.g., knowledge of criminal record/criminal intelligence checks and identified past convictions)
- Inspect whether permittees are complying with operating requirements
- Investigate complaints received

We found that all four cannabis inspectors had significantly more experience than the five years required.

Having suitably qualified staff to carry out inspections particularly during the Authority's early stage of regulating cannabis helps decrease the risk of inadequate inspections, and investigations.

#### 4.4 Implementation of Risk-Informed Inspection Plan Needed

As at December 2020, the Saskatchewan Liquor and Gaming Authority has drafted, but not finalized or implemented a risk-informed inspection plan.

A risk-informed inspection plan is typically based on an assessment of key risks of non-compliance. Such plans use risks to determine the nature and extent (frequency) of inspections. It is good practice to develop inspection plans based on risk.

The Authority uses periodic inspections of retail and wholesale permittees as its main way to monitor whether retail and wholesale permittees follow established operating requirements (i.e., legislation, requirements in its *Cannabis Regulatory Policy Manual*) on an ongoing basis. Since January 2019, the Authority's guidance expects cannabis inspectors to inspect retail and wholesale permittees at least once a month. It assigns inspectors to a list of permittees; they are not responsible to inspect other permittees.

The regulated sale and distribution of cannabis is still relatively new. Because of this, the Authority has focused its regulatory efforts on educating permittees about compliance with permit operating requirements, legislative requirements, and the *Cannabis Regulatory Policy Manual*, versus escalating enforcement action on identified non-compliance. Given the cannabis regulatory process is in its infancy, it is appropriate for the Authority to take an educational approach versus a hard-handed approach when dealing with non-compliance.<sup>16</sup>

We assessed the Authority's draft risk-based inspection plan and draft process to assess permittee risk and found the processes to be reasonable.

We further found a monthly inspection requirement for all permittees reasonable given the cannabis legalization and regulation is relatively new (i.e., provincial legislation in place since July 2018). We recognize it takes time to gather information on permittees to enable

<sup>16</sup> The Authority considers discussions with permittees about regulatory requirements during inspections, notice for improvement letters, and warning letters to be types of educational actions taken to address non-compliance (i.e., not a formal sanction such as issuing fines or suspending/cancelling a permit).



assigning an informed risk rating on the likelihood of non-compliance (e.g., based on regular inspections, complaints received against permittees).

The Authority noted it plans to have its draft risk-based plan finalized and implemented by September 30, 2021.

Having a written risk-informed inspection plan would help ensure the Authority treats cannabis permittees consistently and fairly. Areas of highest risk of non-compliance are related to factors such as:

- History of non-compliance
- Type of license (i.e., wholesale, stand-alone retail store, integrated retail)
- Character of the permit holder noted during the Authority's due diligence process

A risk-formed inspection plan would also help the Authority allocate its resources to the highest priority areas, which will become increasingly important as the number of permittees increases.

2. **We recommend the Saskatchewan Liquor and Gaming Authority implement a risk-informed plan for inspecting retail and wholesale permittees who sell or distribute recreational cannabis.**

## 4.5 Effective Inspections Conducted

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Since August 2020, the Saskatchewan Liquor and Gaming Authority completes effective inspections of recreational cannabis permittees. The Authority appropriately forwards matters of non-compliance that are outside its jurisdiction to the appropriate regulatory authority.

In August 2020, the Authority improved its minimum cannabis permittee inspection expectations. The Branch improved its inspection checklist templates that it expects cannabis inspectors to use during monthly permittee inspections. It made five inspection procedures mandatory for all inspections; they are:

- Assess permittee displays its approved cannabis permit at its business
- Assess a sample of cannabis inventory in the store matches the amount of inventory in the permittee's electronic inventory tracking system
- Assess cannabis inventory in the permittee's vault (e.g., check product containers that product is marked for sale in Saskatchewan)
- Assess security cameras operating in accordance with the *Cannabis Regulatory Policy Manual* requirements
- Assess permittee's staff are routinely checking customer photo identification to verify customer age<sup>17</sup>

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<sup>17</sup> The inspection checklist also lists numerous other optional inspection procedures.

Our testing of 15 inspections after August 2020 (out of about 150) noted that inspectors completed all mandatory inspection procedures. Based on written inspection reports, we determined inspections were completed as expected.

The Authority recognizes it is only responsible for regulating legal cannabis sold and distributed through permitted stores. See **Section 5.0** for provincial responsibilities in relation to cannabis regulation. It knows any instances of non-compliance such as black market (i.e., illicit) cannabis are the responsibility of law enforcement and the Ministry of Justice and Attorney General. We noted examples where the Authority forwarded matters to law enforcement around the suspected sale of cannabis to minors occurring outside of permittee stores (e.g., complaint forwarded to the RCMP).

We noted an example where the Authority appropriately cancelled a licensed producer registration during 2020—the audit period. Branch staff became aware that the Federal Government had cancelled the cannabis producer’s federal license to operate. The Branch contacted the licensed producer informing them of the cancellation of the registration to sell product in Saskatchewan until the Federal Government reinstated its license. We observed the Branch appropriately reinstated the licensed producer’s registration after confirmation the federal license was reinstated.

Effectively inspecting permittees enabled the Authority to monitor that permittees complied with its operating requirements. This decreases the risk to public safety.

## 4.6 Inspections Not Monitored for Timeliness

The Saskatchewan Liquor and Gaming Authority does not actively or effectively monitor whether it inspects retail and wholesale permittees consistent with its frequency expectations.

As at December 2020, the Authority relied on management’s review of individual inspection reports in its IT system as its only means of determining whether inspections occurred as expected (i.e., monthly).

Our analysis of all inspection records for 2020 (the audit period) found 40 instances out of about 470 inspections where an inspection was not completed in accordance with management’s monthly frequency expectation. For these 40 instances, we found there were between 51 and 196 days between inspections.<sup>18</sup>

- For 29 of these instances, although not documented, management provided us with reasonable explanations for the delay between inspections. Most of the reasons related to restrictions because of the COVID-19 pandemic (e.g., cannabis store was temporarily closed, Authority staff required to work from home, COVID-19 outbreak situations).
- For the remaining 11 instances (ranging between 51 and 98 days between inspections), management did not have an adequate explanation for the delay between inspections.

<sup>18</sup> Our audit used a threshold of 50 days when assessing if inspections occurred timely. This allowed for deviations that were the result of staff missing the deadline by a few days and potential delays due to the impacts of the COVID-19 pandemic.



- For two of these 11 instances, the cannabis inspector failed to update the IT system for inspections done. See **Recommendation 1** about needing guidance for sufficiently keeping results from its key regulatory activities of recreational cannabis (e.g., inspection activities).

The Authority noted not having its full staff compliment (e.g., leaves) of cannabis inspectors contributed to why inspections experienced delays.

We found the Branch did not re-assign cannabis inspectors when management became aware an inspector would be away for an extended period. Not having coverage when an inspector will be away for an extended period increases the risk of inspections not occurring as frequently as expected.

Tracking inspection frequency will become increasingly important as inspection frequency changes from monthly to differing frequencies based on the risk level assigned to a permittee. Not actively monitoring if, and how often, retail and wholesale permittees are inspected (e.g., at least monthly) increases the risk of the Authority not detecting significant non-compliance. Unidentified violations could lead to increased risk of public safety (e.g., retail permittees selling cannabis to minors).

Infrequent inspections may also reduce opportunities for the Authority to educate permittees on the importance of complying with Saskatchewan's cannabis laws and permit terms and conditions. This is especially important, as the Authority has been focusing on education versus enforcement on non-compliance.

- 3. We recommend the Saskatchewan Liquor and Gaming Authority actively monitor the frequency of inspections of retail and wholesale permittees that sell or distribute recreational cannabis, and obtain reasons for delayed inspections.**

## 4.7 Need to Finalize Guidance for Addressing Non-Compliance Identified and Decide When to Begin Taking Enforcement Actions

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Although the Saskatchewan Liquor and Gaming Authority has drafted guidance about addressing identified non-compliance (e.g., its internal draft Sanctions Guideline), it has not finalized its guidance nor decided when it plans to take enforcement actions other than educating recreational cannabis retail and wholesale permittees.

By December 2020, the Authority drafted a Cannabis Sanctioning Guideline for staff to follow when identifying non-compliance. However, the Authority has not finalized or implemented the Guideline as at December 2020.

We found the draft Guideline clearly and appropriately sets what the sanctions should be (e.g., warning letter, fine, permit cancellation) and how the sanction escalates if non-compliance continues. We found the Guideline was consistent with legislation. The Guideline provides staff with adequate guidance on how to escalate enforcement action based on the:

- Number of times the non-compliance occurred
- Section(s) of legislation the non-compliance violated. A minor infraction (e.g., failure to post a valid permit) results in a Notice for Improvement and Warning Letter before the Agency imposes a fine, or suspends or cancels a permit. A major infraction (e.g., sell cannabis without demanding proof of age) results in a fine for the first infraction. The fine amount increases when additional infractions are identified.

The draft Guideline expects permittees to resolve identified non-compliance immediately.

In 2020, consistent with provisions in the draft Guideline, the Branch developed and implemented a template for when staff draft a Notice for Improvement (i.e., educational guidance).<sup>19</sup> Use of this template helps ensure consistent communication with permittees on non-compliance found.

The Branch does not use a template for warning letters contemplated in the draft Guideline, rather, it gives only one person in management the authority to draft these letters based on the recommendations of the inspectors.<sup>20</sup> Having only one person drafting the letters enables consistency.

However, the draft Guideline does not set out expected timeframes to review and approve recommended sanctions (e.g., within one week of drafting).

**Figure 5** summarizes the number of and types of issues found during the Authority's approximately 470 inspections of cannabis permittees during 2020. This represents the best data available during the audit. See **Section 4.9** for improvements needed related to tracking non-compliance found in its IT system.

**Figure 5—Summary of Issues Found from the Authority's Inspections of Cannabis Permittees During 2020**

Results of Inspections When Potential Issues Found	Number of Items	Examples of Issues Found
Authority verbally provided education to permittee or Notice For Improvement Letter issued	12	Non-cannabis related products being sold in store; store trying to use promotional offers; no video camera test log established
Referred to others (Health Canada, RCMP)	4	Store trying to use promotional offers; received a complaint from customers about suspected sale of cannabis to minors occurring outside of permittee stores
Warning Letter issued	3	Not providing accurate monthly reports; possessing and selling cannabis product labelled for sale from another province
Potential Sanction identified but not yet finalized at January 31, 2021 (because issue was not finalized at time of audit, possible may result in education instead of sanction)	12	Retail permittee shipping cannabis to customer without requiring customer to show identification to courier to verify age; cannabis inspector observed retail staff not checking customer identification at time of purchase to verify age; a permittee with several instances of failure to provide accurate monthly reporting

Source: Adapted from the Authority's records.

<sup>19</sup> Notice for Improvement informs the permittee about a noted instance of non-compliance and informs the applicant what the section of legislation the non-compliance violates, the date the non-compliance occurred, and actions needed to address the non-compliance.

<sup>20</sup> Warning Letter is the last option the permittee has to address the non-compliance before the Authority may impose further enforcement action (e.g., fines).



Not having a complete and approved guideline increases the risk of staff not performing expected procedures or not performing them consistently (e.g., following up within five days in one instance, but waiting 15 days in another). In addition, it increases the risk of the Branch making decisions on how to deal with non-compliance that are not in line with senior management's expectations. Furthermore, not having approved enforcement policies available to all permittees reduces transparency.

**4. We recommend the Saskatchewan Liquor and Gaming Authority approve policies governing the escalation of regulatory enforcement actions to take to address identified non-compliance with cannabis permit operating requirements.**

The Authority noted it plans to finalize and approve the Guideline by August 31, 2021. However, as at December 2020, it had not set a date for when it will fully transition to escalating enforcement action on non-compliance.

Providing adequate education and guidance in the early stages of regulating recreational cannabis will likely serve the Authority better in the long run. Education may reduce the amount of non-compliance identified in the future (i.e., if permittees fully understand what they can and cannot do, this is expected to reduce future non-compliance).

A shift to enforcement from education will be needed after the initial start up phase. As a regulator, the Authority must be fair and transparent to cannabis retail and wholesale permittees as to when it expects to make this shift.

**5. We recommend the Saskatchewan Liquor and Gaming Authority advise permittees when the Authority expects to start taking regulatory enforcement actions (e.g., fines) to address identified non-compliance with cannabis permit operating requirements.**

## 4.8 Timely Review and Issuance of Sanctions and Warning Letters about Identified Non-Compliance Required

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The Saskatchewan Liquor and Gaming Authority is not always finalizing and issuing recommended sanctions for identified non-compliance within a reasonable period.

For two of six instances of inspector-identified non-compliance tested, the Authority had not reviewed or approved as of January 2021 sanctions drafted several months earlier. One was drafted in September 2020, and the other in October 2020. For one, the draft related to a permittee not asking customers for identification at the time of sale to verify age.

Our further review of all non-compliance identified by the Authority in the audit period, found up to 12 more instances where cannabis inspectors had identified non-compliance and drafted a sanction letter, and the Authority had either not issued a sanction at January 2021, nor finalized what enforcement action to take.

By not reviewing and approving sanctions timely (e.g., within 30 days of drafting), the Authority increases the risk of cannabis permittees continuing to not comply with the

Authority's operating requirements. This may increase risk to public safety (e.g., retail permittees selling cannabis to minors).

6. **We recommend the Saskatchewan Liquor and Gaming Authority promptly communicate to cannabis retail and wholesale permittees sanctions about addressing identified non-compliance.**

## 4.9 Better Monitoring of Non-Compliance and Enforcement Planned

The Saskatchewan Liquor and Gaming Authority plans to implement new technology in fiscal 2021-22 to enable it to electronically track identified non-compliance of recreational cannabis retail and wholesale permittees, and their actions to address non-compliance.

The IT system the Authority uses at December 2020 to regulate cannabis does not have the capability to report on the history of identified non-compliance, and actions taken to address non-compliance.

As noted earlier, at January 2021, the Authority has not transitioned from educating recreational cannabis retail and wholesale permittees to taking more punitive enforcement actions (e.g., issuing fines, closures, requiring specific training).

Staff will need effective monitoring capabilities prior to the Authority transitioning to taking enforcement actions to address non-compliance.

In order to track history of permittee non-compliance or assess if staff have taken timely action on identified non-compliance, management must be able to run reports on outstanding non-compliance. This would enable management to readily determine what sanction level is required for continued non-compliance or to monitor staff took appropriate action in accordance with guidelines.

7. **We recommend the Saskatchewan Liquor and Gaming Authority enable effective monitoring of the status of enforcement actions to address cannabis retail and wholesale permittee identified non-compliance from operating requirements.**

## 4.10 Robust Processes to Verify Accuracy of Permittee Monthly Reporting

The Saskatchewan Liquor and Gaming Authority performs a robust review of monthly sales and inventory data it receives from recreational retail and wholesale permittees, before compiling and sending it to the Federal Government.

Federal reporting requirements are detailed, and require permittees to report inventory levels by product type (e.g., topicals, dried cannabis, plants). As required in legislation, permittees must submit reporting on cannabis purchases, sales, and inventory levels for each month. The Authority has agreed to centrally receive this information, review it, compile all permittees into one central report for Saskatchewan, and provide the report to Health Canada.



As part of its review, staff analyze data to ensure permittees report inventory information appropriately. They note the most common issue identified is permittees not using the correct product weight (e.g., grams of dried cannabis) to report product (as cannabis packaging contains multiple weights on it).

Branch staff use computer formulas to verify information reported is accurate. This includes:

- Comparing the opening inventory of one month to the closing inventory of prior month (e.g., closing inventory of March should equal opening inventory of April)
- Identifying whether large numbers of lost or stolen items are reported
- Comparing expected product weights to current and historical information reported by permittees to identify anomalies in reported information

Based on our data analysis of reported information we viewed as risky, we found the Authority did a robust review. We viewed the following as risky: large amounts of items reported as lost or stolen, opening inventory of current month not agreeing to closing inventory of the prior month. We found the Authority had supporting documentation showing it had already identified these and was investigating or working with the related permittees on them:

- For 18 permittees reporting more than 30 packages of lost or stolen product in a month, email documentation with the permittee showed the Authority questioning why reported amount was so high.
- For 16 permittees with differences between closing inventory of the prior month and opening inventory of the current month documentation showed Branch staff had identified these issues and were working with these permittees to correct errors in reported information. Monthly reports for these permittees were not finalized as of December 2020.

In addition, the Authority accurately compiles monthly reports sent to Health Canada.

For 16 monthly reports submitted by permittees, we found the data was properly compiled into the consolidated monthly report provided to Health Canada. We found 11 of the 16 items where permittee reporting matched the consolidated report exactly. For five of the 16 items, the Authority had identified an issue with the original information provided by the permittee. In all five instances, we observed evidence that the Authority had worked with the permittee to revise the information, which was correctly included in the consolidated report.

Effective processes to review inventory and sales data reported by permittees enabled the Authority to compile accurate reports. The Authority providing reliable data allows Health Canada to monitor the legal cannabis market and report cannabis data to all Canadians.

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## 4.11 Reporting about Non-Compliance to Senior Management and Board Needed

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As at December 2020, the Saskatchewan Liquor and Gaming Authority does not give senior management sufficient information about permittees identified as not complying with operating requirements and related educational actions.

Monthly, senior management received a summary of cannabis sales information (e.g., retail sales of dried cannabis).

Senior management does not receive written reports about the nature and extent of permittees not complying with operating requirements (e.g., identified instances of cannabis retail permittees not asking for identification to verify customer age), or the implications of identified non-compliance (e.g., potential disregard for the Authority's regulatory role). Also, senior management does not receive information about enforcement strategies to achieve compliance.

By not reporting this information to senior management, the Authority increases the risk of senior management not being aware of the nature and extent of identified non-compliance, and implications thereof. It also may increase the risk of the Authority not taking sufficient or appropriate action to bring permittees into compliance for significant infractions.

Moreover, because the regulated sale and distribution of cannabis is still relatively new, senior management needs information about non-compliance to determine if its regulatory model and approach is working as intended, and to identify whether adjustments are necessary.

**8. We recommend the Saskatchewan Liquor and Gaming Authority periodically give senior management written reports on the nature and extent of non-compliance with cannabis retail and wholesale permit conditions, and related enforcement strategies and actions.**

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## 4.12 Complaints Received Resolved Timely and Adequately

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While the Saskatchewan Liquor and Gaming Authority did not have a process to centrally track all complaints it received relating to the recreational cannabis retail and wholesale permittees it regulated, cannabis inspectors quickly and adequately resolved complaints received.

The Authority expected staff to acknowledge receipt of a complaint within 24 hours. We found this timeframe reasonable. We noted the Authority did not set a formal expectation for how timely staff should resolve complaints received. Establishing this guidance could help ensure a consistent approach to resolution amongst all staff.

The Authority indicated it received less than 10 complaints during the 2020 calendar year.

For each of two complaints tested, staff sufficiently investigated the complaint or forwarded it on to the applicable regulatory authority. One complaint received was outside of the Authority's jurisdiction. We observed the Branch staff emailed Health Canada about the



promotional materials a permittee sent a customer. Staff resolved this complaint within six hours of receiving it. The other complaint related to a permittee delivering cannabis to customers without the appropriate approval. The cannabis inspector assigned to the complaint provided the permittee with appropriate educational guidance. This complaint was resolved within three days of receipt.

Adequately resolving complaints received about cannabis permittees enables the Authority to monitor and address situations that may identify permittees not complying with operating requirements reported by the public.

## 5.0 SUMMARY OF FEDERAL AND PROVINCIAL GOVERNMENT CANNABIS REGULATORY RESPONSIBILITY

Activity	Federal Responsibility?	Provincial Responsibility? <sup>A</sup>
Possession limits: maximum of 30 grams for adults	Yes	Yes
Trafficking	Yes	No
Advertising and packaging	Yes	No
Impaired driving	Yes	Yes
Medical cannabis	Yes	No
Tracking & reporting system	Yes	No
Production (cultivation and processing)	Yes	No
Age limit - The federal government's minimum age is 18 years and provinces can choose to go higher	Yes	Yes – set at 19 years
Public health (e.g., responsible use, addiction supports)	Yes	Yes
Public education	Yes	Yes
Taxation	Yes	Yes
Home cultivation (growing plants at home); maximum four plants	Yes	Yes
Distribution and wholesaling	No	Yes
Retail model	No	Yes
Retail locations and rules	No	Yes
Regulatory compliance	Yes	Yes
Public consumption	No	Yes
Land use and/or zoning	No	No (municipal)

Source: Saskatchewan's Cannabis Framework: Framework and Survey Results.

<sup>A</sup> The Authority is not responsible for all areas of provincial responsibility.

## 6.0 GLOSSARY

**Cannabis** – a cannabis plant and anything prescribed in *The Cannabis Control (Saskatchewan) Act* including:

- Any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant prescribed as not cannabis below<sup>21</sup>
- Any substance or mixture of substances that contains any part of a cannabis plant
- Any substance that is identical to any phytocannabinoid produced by, or found in, a cannabis plant, regardless of how the substance was obtained

Cannabis does not include hemp, or anything prescribed as not cannabis, in the Act, such as:

- A non-viable seed of a cannabis plant
- A mature stalk, without any leaf, flower, seed or branch of a cannabis plant
- Fibre derived from a mature stalk without any leaf, flower or seed
- The root of a cannabis plant

**Concentrates** – cannabis products made from the outgrowths surrounding the budding marijuana flower. When collected, the resulting products contain very high levels of THC. These products may be vaporized and inhaled using a vape pen or through a process called dabbing. Examples of products include: hash oil, wax, and shatter.

**Edibles** – cannabis that is taken, crushed, and cooked into products that can be ingested. Examples of edible products include: brownies, cookies, chocolates, mints and gummies.

**Infused beverage** – producers infuse a liquid such as sparkling/flat water, tea bags, etc. with cannabis concentrate and blend to create an infused beverage.

**Topicals** – products such as lotions and oils that have been infused with cannabis extracts and are meant to be applied to the to the external body surface including the hair, skin and nails.

## 7.0 SELECTED REFERENCES

Provincial Auditor of Saskatchewan. (2017). *2017 Report – Volume 1, Chapter 7 – Highways and Infrastructure – Enforcing Vehicle Weight and Dimension Requirements*. Regina: Author.

Provincial Auditor of Saskatchewan. (2017). *2017 Report – Volume 1, Chapter 11 – Saskatchewan Liquor and Gaming Authority – Commercial Permittee Sale of Liquor*. Regina: Author.

Provincial Auditor of Saskatchewan. (2018). *2018 Report – Volume 1, Chapter 4 – Energy and Resources – Regulating Oil, Gas, and Pipeline Industry Incidents*. Regina: Author.

<sup>21</sup> A phytocannabinoid is a chemical in a cannabis plant. For example THC is a common chemical in the cannabis plant that creates a euphoric high sensation.



Provincial Auditor of Saskatchewan. (2018). *2018 Report – Volume 1, Chapter 12 – Water Security Agency – Regulating Drainage*. Regina: Author.

*Transform Drug Policy Foundation*. (2016). *How to Regulate Cannabis A Practical Guide – Second Addition*. [www.unodc.org/documents/ungass2016/Contributions/Civil/Transform-Drug-Policy-Foundation/How-to-Regulate-Cannabis-Guide.pdf](http://www.unodc.org/documents/ungass2016/Contributions/Civil/Transform-Drug-Policy-Foundation/How-to-Regulate-Cannabis-Guide.pdf). (05 March 2021).