

# Agricultural Crown Lands Leases and Permits Regulation

Proposed Amendments

June 2023



## A message from the Minister

Dear Manitobans,

I am pleased to introduce proposed changes to further enhance the Agricultural Crown Lands Program through amendments to the Agricultural Crown Lands Leases and Permits Regulation, a regulation under The Crown Lands Act. Agricultural Crown lands (ACL) are an important public asset economically, environmentally, and socially. Agriculturally, these Crown lands are essential to supporting and growing the livestock industry in Manitoba. In addition, many Indigenous peoples utilize these lands for traditional purposes and to exercise Treaty and Aboriginal rights.

Through these regulatory changes Manitoba aims to build productivity investments by balancing the requests from existing and potential new ACL leaseholders, Indigenous peoples and communities. Since 2018, Manitoba Agriculture has sought and reviewed feedback from forage leaseholders around rent costs, lease terms and conditions, land productivity, and programs and services. Furthermore, various Indigenous communities, organizations, and bands have increased participation in the use and management of agricultural Crown lands.

The proposed amendments to the regulation will update the Agricultural Crown Land Program by:

- Determining forage capacity at the outset of a forage lease or renewable permit (evaluating animal unit months or AUMs)
- Expanding eligibility to hold an agricultural Crown lands lease or permit to include Indigenous organizations
- Allowing terms of new leases (post October 2019) to be extended by five years to a maximum of 20 years where a forage management plan has been implemented and good land management has been demonstrated
- Allowing new leaseholders (post October 2019) to transfer the remainder of their lease term to another eligible party
- Allowing leaseholders to nominate the next leaseholder for leases issued before October 2019, provided the lease is not selected through Treaty Land Entitlement (TLE)
- Valuing improvements at the end of a lease through a third party appraiser

We want to make sure we are considering stakeholder perspectives for the management of provincial agricultural Crown land as a public asset. We encourage you to share your ideas as we continue to implement changes to enhance and modernize the Agricultural Crown Lands Program.

Sincerely,

Honourable Derek Johnson  
Minister, Manitoba Agriculture

## The Agricultural Crown Lands Program

Manitoba's Agricultural Crown Lands Program administers agricultural Crown lands to support the sustainable expansion of the livestock herd, contribute to ecological goods and services, and provide mitigation and adaptation to climate change, while recognizing Indigenous use for traditional purposes and to exercise Treaty and Aboriginal rights.

Provincial Crown lands are lands that are vested with the Manitoba government. The Manitoba government uses a planning process to determine how parcels of Crown land may be used. This planning process has identified approximately 1.5 million acres as suitable for agricultural use and is designated as agricultural Crown lands. While important to agriculture, it also supports the ecological and environmental priorities of many Manitobans that enjoy these vast areas and the natural diversity they offer.

The Agricultural Crown Lands Program facilitates the use of provincial land for agriculture, in the form of cropping leases, forage leases and hay and grazing permits. Forage leases, held primarily by cattle producers, account for the majority of the Agricultural Crown Lands Program activity.

Since 2017, Manitoba has been committed to modernizing the Agricultural Crown Lands Program. The Agricultural Crown Lands Leases and Permits Regulation (Regulation) was amended in 2017, 2019, 2020, and 2022 including:

- Expanding eligibility to hold a lease or permit to Canadian residents and First Nations bands;
- Shifting from a points system to a tender system and finally to an auction-based system;
- Calculating forage rents using a market-based formula;
- Eliminating the ability of leaseholders to transfer an agricultural Crown lands lease to a third party as part of a farm sale and limiting transfers to immediate family members only;
- Eliminating lease terms and limiting new lease terms to a maximum of 15 years; and
- Enabling a 50 per cent rent reduction as a 2023 adjustment in annual rent or fee.

In October 2022, an EngageMB survey was held to gather views surrounding forage leases under the Agricultural Crown Lands Program and ways to enhance leaseholder investment in agricultural Crown land parcels to improve productivity. Respondents indicated increased need for departmental support, cost-shared programming to improve productivity, longer term lengths, assurances of return on investments and parcel improvements, and an ability to transfer their lease. A summary of the survey can be found at [Agricultural Crown Lands Program - Forage Leases | EngageMB](#).

## Determining Land Productivity

A key priority of the Manitoba government is to maximize livestock numbers and improve forage productivity in the ACL Program through the use of well managed native and tame pasture. Proper land management requires a producer to be familiar with the amount of dry matter forage the pasture can produce and the amount of forage required over the grazing season by each animal and the herd as a whole. As such, the proper combination of land, time and number of animals ensures the sustained, long-term productivity of the pasture.

Forage capacity of ACL leases are based on the available animal unit months for each parcel, as determined by the department of Agriculture. The optimum number of animals on the pasture makes efficient use of the forage without waste, but still leaves enough forage to allow quick and complete recovery. In 2019, Manitoba brought in changes to rental rates, including developing a linkage between the rental rate and cattle markets. Through this amendment, Manitoba is proposing changes to determine the forage capacity or the animal unit months of an ACL parcel at the outset of a lease or renewable permit. This is an incentive for leaseholders to increase productivity through management and investment without a corresponding increase in rent; the Animal Unit Month will not change during the lease term.

Current State	Proposed Enhancement
<p>The annual rent of fee for an agricultural forage lease or permit is determined by formula.</p> <p>Annual Rent = A x B x 3.5%, where:                      A = is the average price of beef published by Canfax                      B = is the forage capacity of the land or number of Animal Unit Months that the land is capable of producing in an average year.</p>	<p>Forage capacity is the number of Animal Unit Months that the land is capable of producing.</p> <p>The description of B in the formula is the forage capacity of the land in an average year at the time the lease or permit is issued or renewed. The forage capacity of the land is determined at the time the lease or permit is issued or, in the case of a legacy lease, renewed. The forage capacity of the land established at the outset of the lease will remain in place should a lease qualify for a five-year extension.</p>

## Animal Unit Month

The amount of forage required by one animal unit (AU) for one month is called an Animal Unit Month (AUM). One animal unit is defined as a 1,000 lb. (450 kg) beef cow with or without a nursing calf with a daily intake requirement of 26 lb. (11.8 kg) of dry matter forage. Therefore, one AUM is equal to 780 lbs (355 kg) of dry matter forage intake (30 days X daily forage requirement).

Example: a parcel capable of producing enough forage for 40 AUMs could sustain 10, 1,000 lb beef cows for 4 months (10 cows x 4 months = 40 AUMs). Generally, cows are larger than this and one cow may account for greater than one AUM, possibly in the 1.3 AUMs per cow range. In this case, the same parcel may only support seven or eight cows for the same period.

More information on stocking rates and AUMs is available at <https://www.gov.mb.ca/agriculture/livestock/sheep/how-to-determine-stocking-rates-for-manitoba-pastures.html>.

## Expanding Eligibility

Since 2017, Manitoba has increased efforts toward truth and reconciliation and enabled legislation to encourage and allow interested Indigenous groups to hold agricultural Crown lands leases and permits. Regulatory change in 2019 expanded eligibility to First Nation bands to hold a lease or renewable permit for the first time. Additionally, First Nations have received more frequent notices for ACL available for Treaty Land Entitlement selection, as leases are now being circulated prior to reallocation through the auction process. Manitoba is proposing to further expand eligibility for holding an ACL lease or permit to groups representing First Nations, Metis, and other Indigenous communities.

<b>Current State</b>	<b>Proposed Enhancement</b>
<p>The following entities are eligible to hold an agricultural lease or permit:</p> <ul style="list-style-type: none"> <li>- a Canadian citizen or permanent resident</li> <li>- a Partnership made up of Canadian citizens or permanent residents</li> <li>- a First Nations band</li> <li>- a forage cooperative made up of Canadian citizens or permanent residents</li> <li>- a Hutterite colony or a corporation owned by a Hutterite colony or similar organization</li> <li>- a corporation made up of Canadian citizens or permanent residents</li> </ul>	<p>The amendment proposes to enhance the eligibility of a band to include any non-profit organization that represent the interests of one or more bands, individuals of Metis decent, or holders of Aboriginal or Treaty rights. This amendment intends to enable participation of not-for-profit partnerships between First Nations, Metis, and other Indigenous organizations in the Agricultural Crown Lands Program and for these partnerships to be eligible to hold an agricultural Crown land lease or permit.</p>

## Extending a Lease

Currently, all agricultural Crown land forage leases issued after 2019 have a 15-year term in Manitoba. However, there is a significant discrepancy in the ability to renew leases issued before October 2019, and forage leases issued by auction since October 2019. Manitoba is proposing an amendment that would allow new system leases the option to extend the term of a lease from 15 years to 20 years for leaseholders that practice good land management.

<b>Current State</b>	<b>Proposed Enhancement</b>
<p>The Regulation allows for a forage lease issued before October 2019 to be renewed indefinitely with a term of up to 15 years.</p> <p>Conversely, there is no ability to renew a forage lease issued after October 1, 2019. These leases were initially allocated by public auction, and at the end of the 15-year term, the lease returns to public auction.</p>	<p>Manitoba is proposing to allow a five-year extension on a 15-year lease term for qualifying leases issued after October 2019. Leaseholders that complete and implement a forage management plan for at least the last five years of the 15-year lease term, are eligible for a five year extension, thus making the lease term up to 20 years.</p> <p>A forage management plan outlines practices that support sustainable management of forage leases and improved forage productivity. The plan must be developed and approved by a professional agrologist. Costs associated with plan development would be the responsibility of the leaseholder. These plans are not mandatory, however without one, the lease term cannot exceed 15 years.</p> <p>Only one extension period is available. At the end of the lease term, the land will be put to auction and reallocated. The outgoing leaseholder is eligible to bid on the lease and, if successful, would be allocated a new 15-year lease with a possible five-year extension.</p> <p>There are no proposed changes to the ability to renew a forage lease issued before October 2019 (legacy lease).</p>

## Transferring a Lease

Prior to 2019, leaseholders had the ability to transfer an ACL lease or renewable permit to any eligible third party as part of a farm sale. In 2019, amendments limited transfers to immediate family members only. Manitoba is proposing an amendment that would allow new system leases to be transferred to new leaseholders within the 15-year term.

Current State	Proposed Enhancement
<p>Leases or permits issued under the Regulation may be transferred to family members or corporate entities or partnerships controlled by family members, only.</p> <p>In instances where a leaseholder has an ownership interest in a partnership or corporation, the leaseholder can transfer their ownership interest to another ownership interest (non-family) in the same partnership or corporation.</p> <p>For either purposes, a share transfer or transfer of a partnership interest are deemed to be a transfer of the lease.</p>	<p>The transfer provision will no longer be limited to family. The proposed amendment will allow unlimited transfers of new system forage lease or renewable permits to any eligible lessee for the remainder of the lease term.</p> <p>The eligible person or entity taking over a new system lease, or to whom it is transferred, is not issued a new 15-year lease. The new leaseholder will be limited to the remainder of the original lease period. A five-year extension is available if a forage management plan was completed and followed by the previous leaseholder, the succeeding leaseholder, or a combination of the two.</p> <p>Legacy leases issued before October 1, 2019 can only be transferred within families, or to a partnership or corporation where each owner of the partnership or corporation is a family member.</p>

Since 2019, there is a significant distinction in the term lengths and ability to renew different types of leases.

**Legacy lease** – a lease originally issued prior to October 2019. This type of lease is in place until age 65, at which time it has an unlimited ability for renewal. At age 65, the leaseholder can apply to renew their lease for a further 15 years.

**New system lease** - forage leases issued after October 2019. This type of lease has been allocated through auction and cannot be renewed.

## Nominating a New Leaseholder

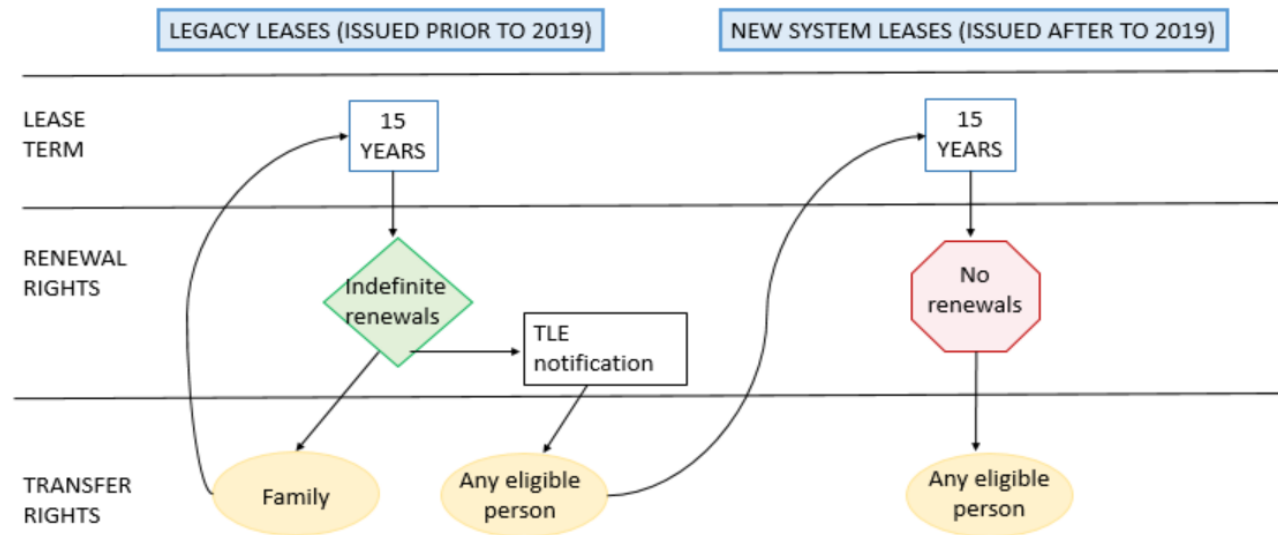
Prior to 2019, a ‘unit transfer’ of leases allowed leaseholders to transfer leases together with deeded farmland, thereby increasing the value of the total operation. However, this reduced access to ACL by new/young farmers trying to establish and grow farming operations. In 2019, in an effort to increase lands available to young producers, the ‘unit transfer’ was removed. Since then, producers and ranchers have indicated that losing the unit transfer provision severely reduced the sale value of their operations, and requested it be re-instated. Manitoba needs to balance this with the goals of ensuring access to land for young producers, while respecting and adhering to agreements made by government to Treaty Land Entitlement (TLE), First Nations and Indigenous peoples. Manitoba proposes allowing legacy leaseholders to nominate the next leaseholder, provided the land is not selected through the TLE process, and does not impact Aboriginal and Treaty rights.

Current State	Proposed Enhancement
<p>The Regulation allows for a forage lease issued before October 2019 (legacy lease) to be renewed indefinitely, with a term of up to 15 years.</p> <p>Legacy leases are transferrable to family members, or to partnerships or corporations owned by family members. In these cases, the lease retains all of the legacy lease features including renewable 15-year lease terms at age 65, and the ability to transfer to a family member, or to partnerships or corporations owned by family members.</p> <p>The only mechanism for a non-family member to access ACL parcels currently held by a legacy lease holder, is for the legacy lease to be surrendered or cancelled, and have the</p>	<p>For forage leases issued prior to October 2019, leaseholders can continue the practice of transferring a legacy lease to a family member, who would retain all legacy lease provisions including renewable 15-year terms at age 65.</p> <p>A new provision will allow legacy leaseholders to nominate the next leaseholder. This provision could be used to link land or farm sales to Crown land leases integral to the farm’s operation; however a land sale will not be required. The nominee can be anyone eligible to hold a lease, and must be in good standing. To be eligible to apply for the nomination process, the leaseholder must not have contravened the terms of the lease at any time, including paying late, subletting, or having allowed the condition of the forage to decline. The legacy lease would be terminated and the new leaseholder would be issued a new system lease with a term up to 15 years. However, the land must go through a review process to ensure it is eligible for this type of transfer.</p> <p>Under the Treaty Land Entitlement (TLE) Framework Agreement, government has a legal duty to offer unencumbered Crown lands for TLE selection. Under the agreement, any TLE First Nations must be notified of available land in their identified Community Interest Zone. The TLE First Nation is given time to assess and select Crown lands for incorporation into their Reserve holdings if desired. Allowing these legacy leases to be transferred to an eligible third party, without first offering the lands to TLE First Nations for selection is non-compliant with our Treaty obligations. In addition, impacted First Nations and Indigenous communities also need to be provided the opportunity to identify if the new lease will impact Aboriginal and Treaty rights.</p>



<p>new lease holder acquire the lease through auction.</p>	<p>A process to transfer unselected agricultural Crown lands that is compliant with Treaty obligations and Aboriginal and Treaty rights has been developed for the new nomination process. Under the proposed amendment, legacy leaseholders can apply for the ability to nominate the next leaseholder for a new-system lease. Once a legacy leaseholder makes an application to nominate the next leaseholder, government circulates the parcel to impacted communities and follows the TLE Framework Agreement process to notify eligible First Nations that Crown land is available for selection or allocation. The eligible TLE First Nation has up to six months in total to select the land for TLE, or not. If the land is selected, the lease is immediately terminated and the land begins the process of reverting to Reserve status. If the lands are not selected, and no impacts to Aboriginal and Treaty rights are indicated, the department can provide a nomination certificate that provides the leaseholder with two years to nominate the next leaseholder.</p> <p>For clarity, outgoing leaseholders that apply for a nomination certificate cannot withdraw their application once the TLE process is initiated. Outgoing leaseholders and prospective buyers involved in land transactions linked to ACL and possible nominees should fully understand potential outcomes of the TLE process, and the impact they may have on prospective transactions.</p>
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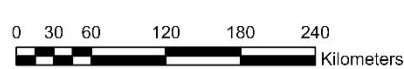
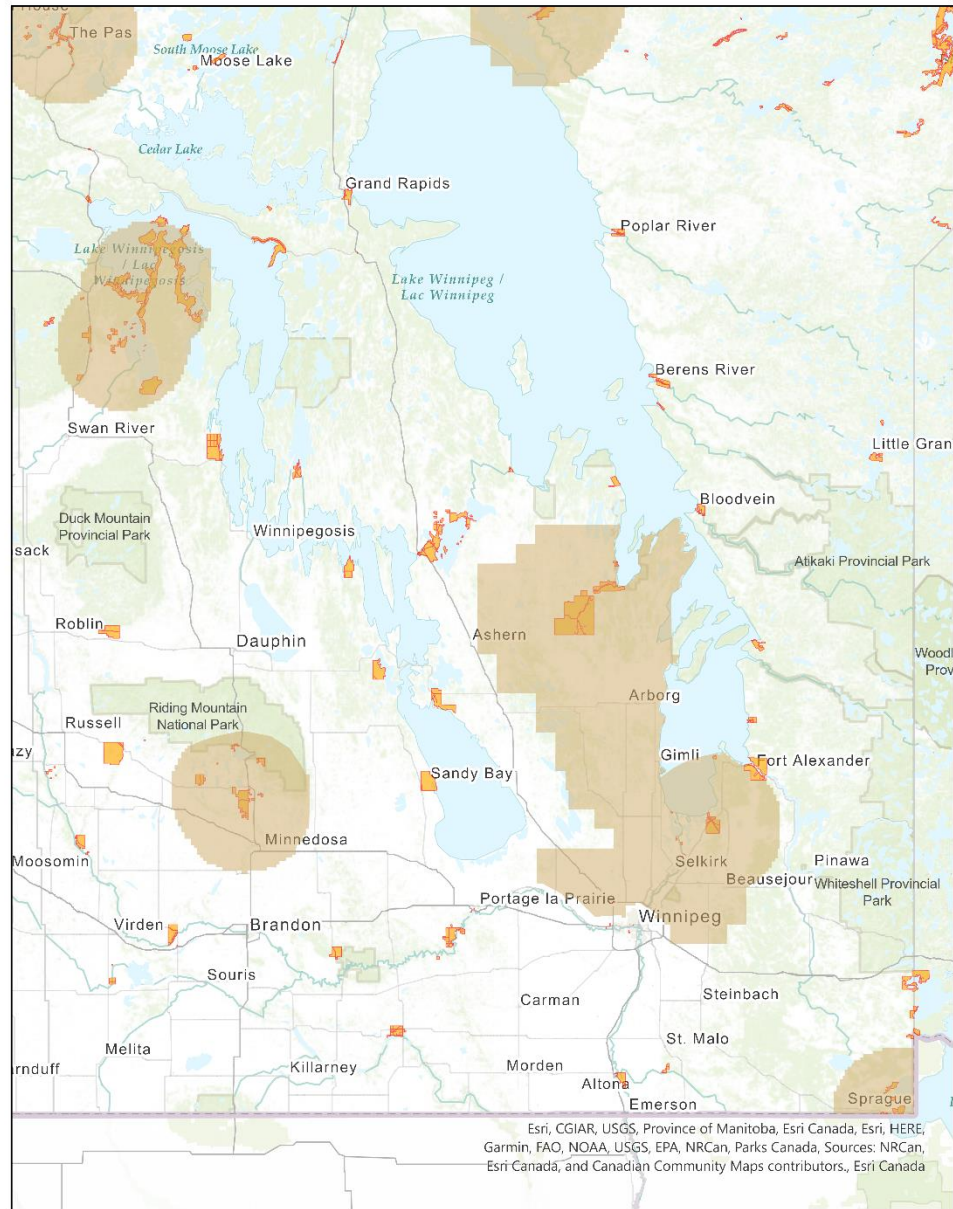
**Figure 1:** Proposed options for transferring or nominating the next leaseholder of a legacy lease or lease issued before October 2019.



**Figure 2:** First Nations Reserves in Agro-Manitoba and current Community Interest Zones reserved on behalf of 21 Entitlement First Nations as per the Treaty Land Entitlement Framework Agreement and the Notice Area for the Peguis Treaty Entitlement Agreement.

**Source:**

<https://geoportal.gov.mb.ca/datasets/manitoba::community-interest-zones-in-manitoba/explore?location=54.359521%2C-94.027567%2C5.48>



Community Interest Zones of Entitlement First Nations  
 First Nation Reserves

## Valuing Improvements

During the period a lease is in effect, lessees often construct improvements on the land, such as fences, shelters for cattle, constructed water sources, troughs, etc. This creates an ‘unknown’ for bidders at the lease auction – a winning bidder may be required to compensate an outgoing leaseholder without knowing in advance what the amount of compensation will be. The current negotiation and arbitration process for value disputes has resulted in a number of complaints to the department of Agriculture. Manitoba is proposing an amendment that provides an assessed value at the time of auction to better inform the potential bidders.

Current State	Proposed Enhancement
<p>Outgoing leaseholders can be compensated by the incoming leaseholder for improvements made to the agricultural Crown lands provided the land is released within two years. The outgoing leaseholder can also remove chattel improvements, such as fences, or can forego compensation for improvements.</p> <p>Under the current regulation, the process for determining this value is negotiated between the incoming and outgoing leaseholders. If they fail to agree on an amount, The Arbitration Act guides compensation.</p>	<p>To encourage investment and compensate those leaseholders for making productivity improvements like cross-fencing, water supply development, etc., the ability for the outgoing leaseholder to be compensated for any identified improvements by the incoming leaseholder will continue. However, the proposed method to determine the value of the improvements will change.</p> <p>In the last year of their lease, outgoing leaseholders that choose to be compensated for improvements must obtain an appraisal, from an accredited appraiser, which indicates the value of the eligible improvements. The cost of the appraisal is their responsibility. The outgoing leaseholder cannot appeal the appraisal but can obtain a second appraisal if they disagree with the initial valuation.</p> <p>The appraised value is posted at the time of the auction. If the lease is reallocated within two years of expiry, the successful bidder must pay the outgoing leaseholder the posted amount. If reallocation takes more than two years, compensation from the incoming leaseholder is not required and there is no compensation for improvements to the outgoing leaseholder.</p>

## Investing in Productivity

The proposed Agricultural Crown Lands Leases and Permits Regulation amendment also formalizes Manitoba's commitment to provide a temporary rent reduction. In the fall of 2022, Manitoba committed to implementing a temporary rent reduction over three years for forage lease and renewable hay and grazing permits on agricultural Crown lands. Current leaseholders have already received the benefit of the first year's rent reduction of 50 per cent, with future reductions formalized at 33 per cent in 2024 and 15 per cent in 2025. Forage leaseholders do not need to apply for the support, the reduction is automatically applied to each year's bill.

In addition to regulatory changes to support the Agricultural Crown Lands Program, Manitoba Agriculture is exploring opportunities to further enhance ACL productivity. As such, the department is considering increasing extension services to forage leaseholders, and offering cost-shared programs aimed at improving agricultural Crown land productivity. For more information, please see <https://www.gov.mb.ca/agriculture/land-management/crown-land>.

## Engagement and Consultation

We want to hear from you. Please send us your thoughts and suggestions to help refine Manitoba's proposed Agricultural Crown Lands Leases and Permits Regulation amendment under The Crown Lands Act. Comments can be provided through the Manitoba Regulatory Consultation Portal at <http://reg.gov.mb.ca/home>.