



Bringing your case before the Canada Agriculture Review Tribunal

The following information is not legal advice, it serves simply as a guide for those who intend to appear before the Tribunal either orally or in writing, and those who are looking for further information of the Tribunal decision-making process. For legal advice please contact a lawyer.

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1. What is the Canada Agricultural Review Tribunal?



The Canada Agricultural Review Tribunal (CART or Tribunal) is an independent, quasi-judicial body established by Parliament under the [Canada Agricultural Products Act](#) and the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) (AMP Act). The purpose of the Tribunal is to act as a safeguard to the integrity of the administrative monetary penalties system used by federal agencies to ensure compliance with agriculture and agri-food statutes. The mission of the Tribunal is to provide an independent, fair, informal and timely review of the validity of administrative monetary penalties issued to any person, or a company, by a federal Agency under the AMP Act.

2. Who can I contact for help?

If you require further guidance or advice, please contact a lawyer or someone whom you believe can provide you with advice on Tribunal procedures and the law (see FAQ 7.3 and 7.4). Please read this Guide and the related [Practice Notes](#) (found online at: <http://cart-crac.gc.ca/>) for assistance before contacting any Tribunal personnel.

2.1. What we CAN help you with

If you decide to contact the Tribunal, **we can** provide you with:

- Forms you may need to use;
- Information about CART;
- How a hearing works;
- Whether your forms and papers meet the formal requirements of the CART.

2.2. What we CANNOT help you with

If you decide to contact the Tribunal, **we cannot** provide you with:

- Legal advice;
- Assistance in finding a lawyer;
- Assistance in writing or making your written submissions;
- Information whether to have your review conducted by the Minister or the Tribunal;
- Whether you have included enough or the right information in your submissions;
- Assistance creating arguments for your oral hearing;
- Any opinions regarding your case.

3. Can I take my case to the Canada Agricultural Review Tribunal?

Can I use this guide?

This Guide is for individuals who wish the Canada Agricultural Review Tribunal to review a Notice of Violation issued by one of the following federal Agencies (see FAQ 7.1 and 7.2):

- The Canadian Food Inspection Agency (CFIA);
- The Canada Border Services Agency (CBSA);
- The Pest Management Regulatory Agency of Health Canada (PMRA).

This Guide will also be useful for individuals wishing to present their own case when they have already received a Minister's Decision upholding the validity of a Notice of Violation received from CFIA, CBSA, or PMRA (Figure 1).

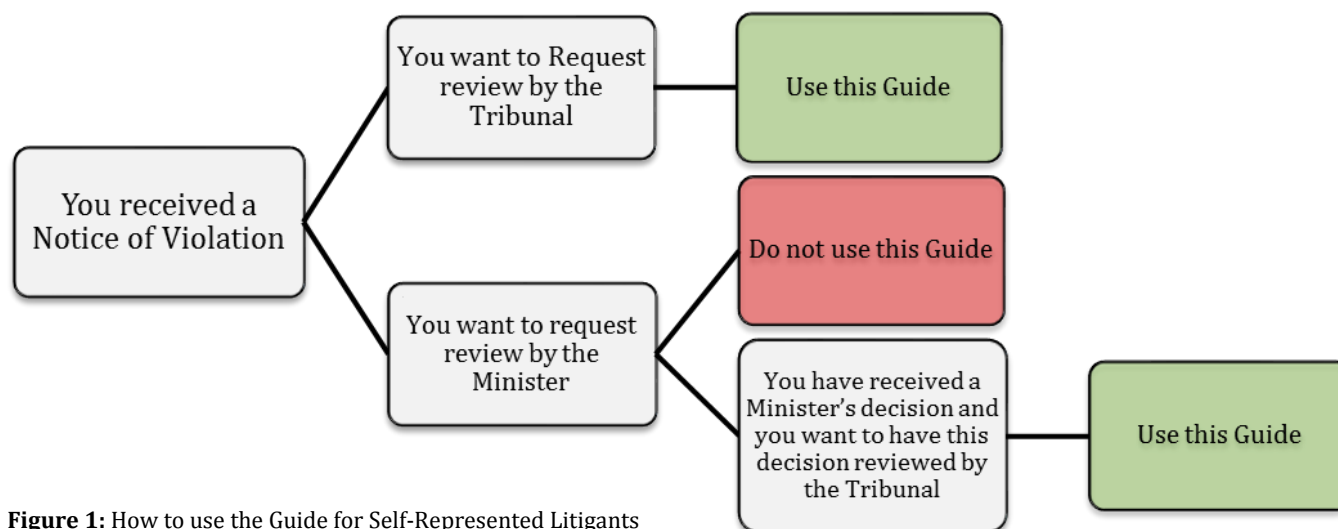


Figure 1: How to use the Guide for Self-Represented Litigants

3.1. Should I take my case to CART or the Minister?

If you desire to have your Notice of Violation reviewed, you may do so either through CART or the Minister of Agriculture and Agri-Food (if it came from CFIA), or the Minister of Public Safety and Emergency Preparedness (if it came from CBSA), or the Minister of Health (if it came from PMRA). **If you choose to have your Notice of Violation (NOV) reviewed by a Minister cease to use this guide.** You must contact the Minister directly at the following address, by registered mail courier, fax or electronic mail to begin your request for review.

| CBSA | CFIA | PMRA |
|--|--|--|
| <p>Recourse Directorate, Canada Border Services Agency</p> <p>Address: 333 North River Rd, Tower A, 11th Floor, Ottawa (ON), K1A 0L8.</p> <p>Facsimile: 343-291-7239</p> | <p>National Accounts Receivable, Service Center</p> <p>Address: 33 Weldon St. Suite 100, Moncton (N.-B.), E1C 0N5, P.O. Box 6199.</p> <p>Facsimile: 506-777-3777</p> | <p>AMPs Administrator, Pest Management Regulatory Agency</p> <p>Address: 2720 Riverside Dr. Ottawa (ON), K1A 0K9.</p> <p>Facsimile: 613-738-3540</p> |

If you have already received a Minister's decision you may have that decision reviewed by the Tribunal. If you choose to have it reviewed by the Tribunal, continue to use this guide.

The decision to have your case reviewed by the Minister and not CART is your decision and CART cannot help you with this choice. For more information you may want to consult [Practice Note #9](#), entitled *Standards of Review and Submission of Evidence: Differences Between Requests for Review Directly from an Agency Notice of Violation and Request for a Review from a Minister's Decision* (accessible on the Tribunal website, rubric "Practice Note": <http://cart-crac.gc.ca/>).

4. How do I request a review?

If you choose to have your decision reviewed by CART you must complete and submit a [Request for Review form](#), which is available online (<http://cart-crac.gc.ca/>), or at the Annex A, B and C of the present Guide. Please also consult FAQ 7.5 to 7.9.

- **Notice of Violation:** You must complete and submit a Request for Review within 30 days after a Notice of Violation being served on you.
- **Minister's Decision:** You must complete and submit the Request for Review within 15 days after the Minister's decision being served to you.



WARNING

DO NOT PAY the penalty fine if you wish to request a review of a Notice of Violation, or a Review of a Ministerial Decision. If you do, the law will deem that you have committed the violation and neither CART, nor the Minister, will be able review your case.

4.1. Is it possible my case may not be accepted for review?

Note: You cannot have a decision of the CART's reviewed by the Minister, but you can have the Minister's decision reviewed by CART. Your sole avenue for review of a decision of the CART's is to go to the Federal Court of Appeal.

- If you received a Notice of Violation from CBSA, CFIA, or PMRA within the past 30 days you may have your case reviewed by CART, or the Minister. However, if it has been longer than 30 days, you are no longer eligible to have your case reviewed and you are responsible for paying the fine.

- If you have received a decision from the Minister regarding a Notice of Violation and you wish to have that decision reviewed by the CART, your Request for Review must be submitted within 15 days after receiving the Minister's decision.
- Your case must be filed with the Tribunal using registered mail, a courier, or hand delivery to the Tribunal's head office. Requests for review may also be filed using fax or electronic means, but a copy by registered mail must be immediately sent to the Tribunal (to contact the CART, see FAQ 7.13).

4.2. How will my case be processed?

Your Request for Review will be processed by the CART as follows:

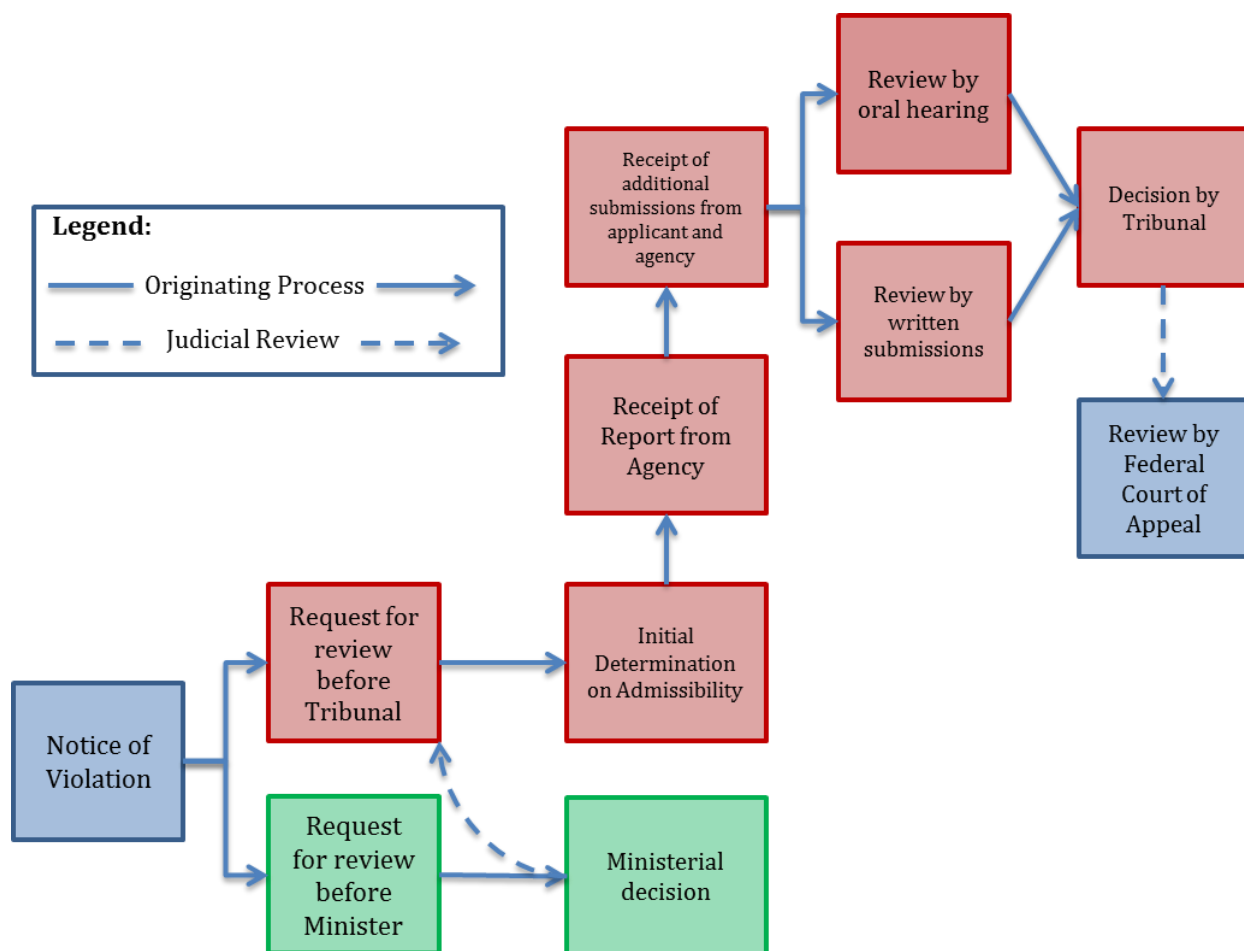


Figure 2: Procedure of a request for review

4.3. What are my responsibilities?

During the entire procedure, all the parties must respond to several responsibilities (see Figure 3):

1. Upon receiving a Notice of Violation, you may either choose to have it reviewed by the appropriate Minister (depending on which federal Agency issued it) or by the Canada Agricultural Review Tribunal. If you choose to take it to the Minister, it is outside of CART's scope, which will only be able to review the

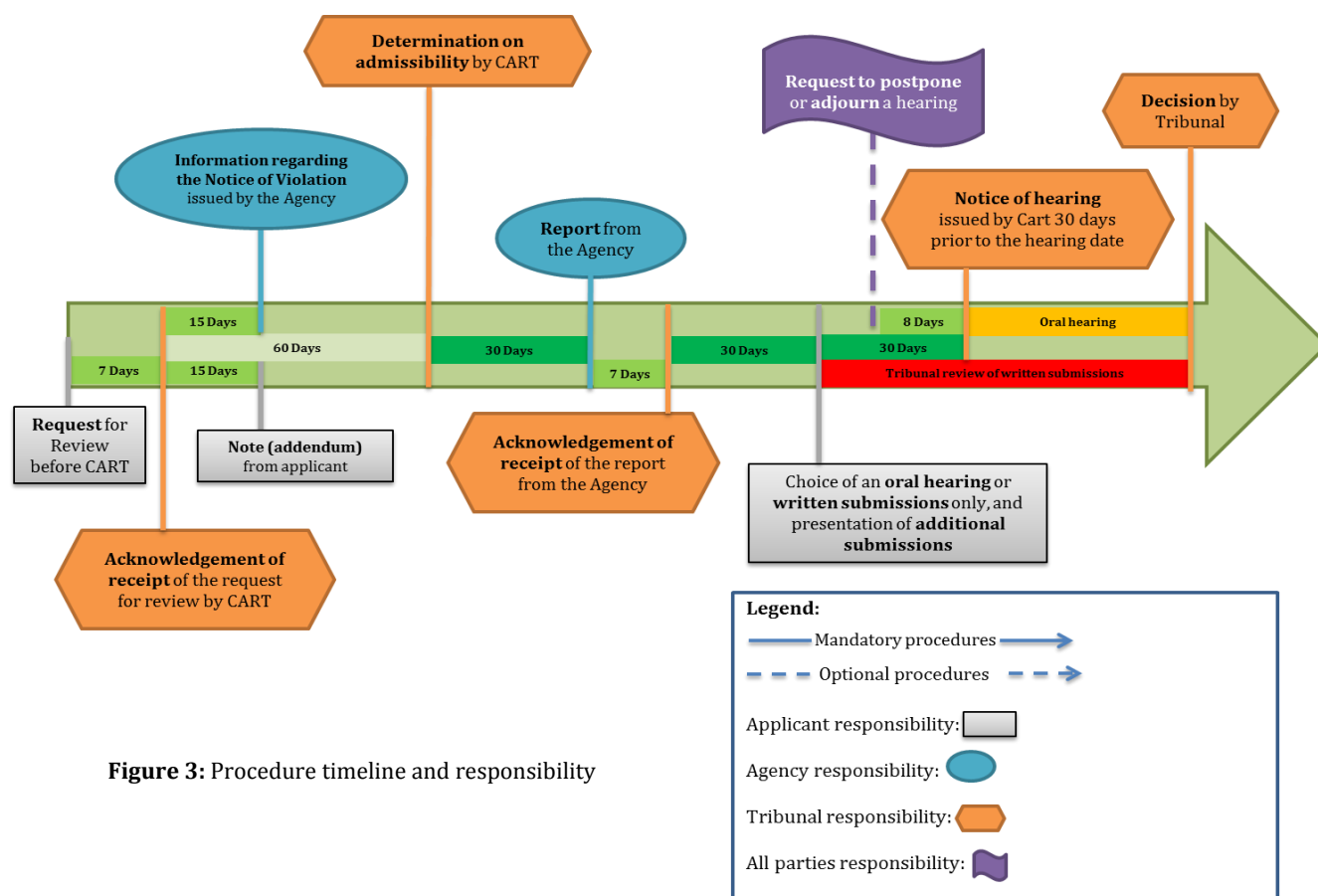
Minister's decision. If you choose to have your Notice of Violation reviewed by CART or wish to have a Ministerial decision regarding your Notice of Violation reviewed by CART, **you must** make a [Request for Review](#) to the Tribunal.

2. Upon completing your request (see Annexes A, B and C), CART will review the request and decide whether the claim is admissible. In other words, a CART member will decide at first instance if the Tribunal can review your case. This determination of admissibility is based upon the initial arguments or defenses you have raised, as well as whether you have complied with the technical requirements, such as being on time, filing by an acceptable method and not having already paid the violation. Within 7 days after the day on which the CART receives a Request for Review, the Tribunal will send an acknowledgment of receiving the Request for Review. Within 60 days of sending the acknowledgment of receipt of a Request for Review to you and the agency, the Tribunal will make a decision on the admissibility of the Request for Review.

3. Within 15 days after a Request for Review is made, you must file a note (addendum) containing the following information (unless the information is already contained in your Request for Review): Your full name, civic address, mailing address if different from civic address, at least one telephone number, fax number or email address. If you are represented by a representative, you must provide the CART with their contact information (full name, civic address, mailing address if different from civic address, at least one telephone number, fax number or email address) and authority from you to act as your representative (see FAQ 7.3 and 7.4, as well as Annex D). Moreover, the note (addendum) must contain: your reasons for the request, your choice of official language (English or French) for the proceeding and a complete copy of the notice of violation issued by the federal Agency. Also, please note that within the same 15 days the federal Agency that issued the Notice of Violation must file the Tribunal with a proof of service of the notice of violation that is the subject of the review and either (a) a statement that there is no monetary penalty set out by the notice of violation or, (b) if there is a monetary penalty, that it has not already been paid by the applicant.

4. Within 30 days after the Tribunal admitted your request, the Agency must provide you and the CART with a report outlining the facts of the incident in question. Within 30 days after the report is served, you must indicate to the Tribunal whether you wish to proceed by way of oral hearing or by way of written submissions. As well, you can file any additional submissions whether in relation to the report from the federal Agency, or other material of relevance to your case.

5. If the hearing is proceeding by way of written submissions, CART is then in a position to render a decision based on the documents or exhibits received. If the hearing will proceed orally, the tribunal will send a notice of hearing to all parties at least 30 days before hearing date.



5. How do I present my case?

Languages:

You must choose either English or French as the official language of the case. CART does not translate documents that participants submit. It is the responsibility of each party to submit documents in the official language of the case or to provide a translation of all documents submitted in the official language of the case, and CART may rule that nonconforming documents be excluded from the record of the case.

Type of review:

The applicant (you) get to choose how the Tribunal will proceed with the review (see FAQ 7.10). Please note that both types of review are treated equally:

- **Written submissions:** the Tribunal will review your case based only on the written submissions received (section 5.1).
- **Oral hearing:** the Tribunal will review your case based on written submissions and through an oral hearing (section 5.2).

Sending documents to the Tribunal:

The documents must be submitted by hand, registered mail, courier, facsimile (fax), Email, or regular post **(except the Request for Review that cannot be sent by Regular Post**, see Annex E). Please include your return address on your document's package. Please ensure you make copies of your documents and track their progress.

How to contact the CART?

Canada Agricultural Review Tribunal
 Central Experimental Farm
 960, Carling Avenue
 Birch Drive, Building 60
 Ottawa, ON, K1A 0C6
Telephone: 613-792-2087
Facsimile: 613-792-2088
E-mail: infotribunal@cart-crac.gc.ca

5.1. Written submissions and review

If you choose to proceed with your Request for Review by written submissions, then all the submissions by you and by the Agency will be made in writing.

Your submissions should provide reasons why you disagree with the Notice of Violation, why the Notice of Violation should be set aside, and should present “your side of the story” as opposite as the one presented by the Agency in its report. You should also include all evidence that you want the Tribunal to consider in support of your Request for Review.

Evidence can include:

- Witness testimony– that is, a written statement from people who saw, or heard “your side of the story”;
- Supporting documents– that support “your side of the story”;
- Required forms, certificates, photos, and correspondence.

If you do not feel confident in your writing ability then you have several options:

- Obtain legal counsel;
- Seek help from others;
- Consider an oral hearing.

5.2. Review through oral hearing

If you choose to proceed by way of oral hearing you must specify the location at which you would like your hearing to be held, based upon the locations where CART is permitted to hold hearings (see below). However, it is CART, not you or the Agency, which will make the final determination as to when and where the hearing will be held.

These are the authorized locations, by province:

- **British Columbia:** Castlegar, Cranbrook, Fort Nelson, Fort St. John, Kamloops, Kelowna, Nanaimo, New Westminster, Penticton, Prince George, Prince Rupert, Vancouver, Victoria, Williams Lake;
- **Alberta:** Calgary, Edmonton, Grand Prairie, Jasper, Lethbridge, Medicine Hat, Red Deer, Wainwright;
- **Saskatchewan:** Estevan, Prince Albert, Regina, Saskatoon, Swift Current, Yorkton;
- **Manitoba:** Brandon, Dauphin, Morden, Winnipeg;
- **Ontario:** Barrie, Belleville, Brampton, Brockville, Cornwall, Hamilton, Kenora, Kingston, Kirkland Lake, Kitchener, London, Niagara Falls, North Bay, Ottawa, Owen Sound, Pembroke, Peterborough, St. Catharines, Sarnia, Sault Ste. Marie, Sudbury, Thunder Bay, Timmins, Toronto, Windsor;
- **Quebec:** Baie-Comeau, Chicoutimi, Drummondville, Granby, La Malbaie, Matane, Montréal, Québec City, Rimouski, Rivière-du-Loup, Rouyn-Noranda, Saint-Jovite, Sept-Îles, Sherbrooke, Thetford Mines, Trois-Rivières, Val-d'Or, Valleyfield;
- **New Brunswick:** Bathurst, Campbellton, Edmundston, Fredericton, Moncton, Saint John;
- **Nova Scotia:** Digby, Halifax, Liverpool, New Glasgow, Springhill, Sydney, Truro;
- **Newfoundland:** Corner Brook, Danger, St. John's;
- **Prince Edward Island:** Charlottetown, Summerside;
- **Yukon:** Whitehorse.

5.2.1. What is the process of an oral hearing?

If you choose to proceed by oral hearing, the process will be substantially similar to that of a written hearing. The Agency will be requested by CART to submit its report, to which you and the Agency may reply before the close of pleading (that is 30 days after the Tribunal's acknowledgement of the Agency report). After the close of pleadings, a Notice of Hearing will be sent to you and the Agency, or the Minister in a case where you have requested a Review of a Minister's decision. The hearing will take place at least 30 days after CART has sent a notice of hearing to you. Before the oral hearing, the CART may require a pre-hearing conference in person or by telephone. The purpose of this is to:

- Establish and record any agreement of facts;
- Establish which witnesses will be called;
- Speed up procedural matters; that is, get certain matters out of the way before the hearing starts so it won't take as long.

5.2.2. Can I choose my hearing date? What if I need to change it?

The Tribunal determines the date of your hearing; however, dates could be coordinated with both parties. You and the Agency (or Minister) will be notified in writing regarding the date of the hearing. If you or the Agency feels that it is necessary to change the date of the hearing, you may so request, by way of a letter or e-mail communication in which an adjournment or postponement is requested. Any request for postponement or adjournment must be made at least 8 days before the hearing date.

A letter or email for adjournment or postponement should include:

- The case number and parties involved;
- The currently scheduled hearing date;
- The reason(s) for postponement or adjournment;
- If the Tribunal has previously allowed for postponement;
- At least three new proposed hearing dates.

For more information see [Practice Note #4](#) — *Requests for Adjournments and Postponements of an Oral Hearing* (accessible on the Tribunal website, rubric “Practice Note”: <http://cart-crac.gc.ca/>).

Once the letter is received, the CART will contact the other party and determine whether they agree with, or oppose, the postponement requested. If the other party opposes to the postponement or adjournment request, it must provide written reasons. The Tribunal will then decide whether the adjournment or postponement should be granted. The Tribunal will let parties know whether a new date has been chosen, and what it is. If you are not granted the change of date, you will be expected to present on the original date that was established. The Tribunal also may postpone or adjourn a hearing on any terms that it considers appropriate. If you do not show up for the hearing, the Tribunal may proceed in your absence. If through unforeseen circumstances the hearing cannot be attended by the parties or witnesses, the Tribunal should be contacted immediately.

5.2.3. How do I prepare for an oral hearing?

Note: during the **first instance review** procedure by the Tribunal, the applicant “responds” to the federal Agency since it has burden of proving the violation. However, when the CART proceeds with a **review of a Minister’s decision**, the burden of proof is on the applicant, so he or she presents first.

General comments concerning an oral hearing:

At an oral hearing you will be presenting your case to set aside the violation to a member of CART. You should be prepared to (see Figure 4):

- Explain “your side of the story”;
- Argue why you should not be found in violation of the law;
- Prepare questions to ask your witness (or witnesses);
- Prepare questions to challenge the evidence of the Agency witnesses;
- Conclude with a closing statement to summarize your case and to remind the CART member why you should not be found in violation.

It is important to be thorough while preparing for your oral hearing. Include as much information as possible. Take this process seriously, but remember the environment is formal, yet flexible. The Tribunal member will be there to guide you if you need any help with procedural issues that may arise during the hearing.

What language will the oral hearing be in?

The hearing will be conducted in the official language of the case, but oral evidence from the witnesses may be made to the Tribunal in either official language (French or English). The Tribunal will provide interpretation service from English to French or French to English, as the case may be, given that the requesting party provides advance notice. Both you and the Agency are responsible for your respective costs of interpretation from a language other than French or English.

If you do not speak well in English or French, you should consider making a written submission or retaining a lawyer or someone that can speak the official language of the case to help you. With the permission of CART, you may have a qualified interpreter or any other person familiar with your first language present at the hearing, to help you present your case.

Hearing proceedings:

- The Tribunal establishes the order of proceedings at the start of the hearing;
- Hearings before the Tribunal may be recorded;
- A hearing at CART is more informal than a court, but it is still considered a legal proceeding. It is important to take it seriously, despite any flexibility. For instance, oral evidence at a hearing will be required to be given under oath or affirmation.

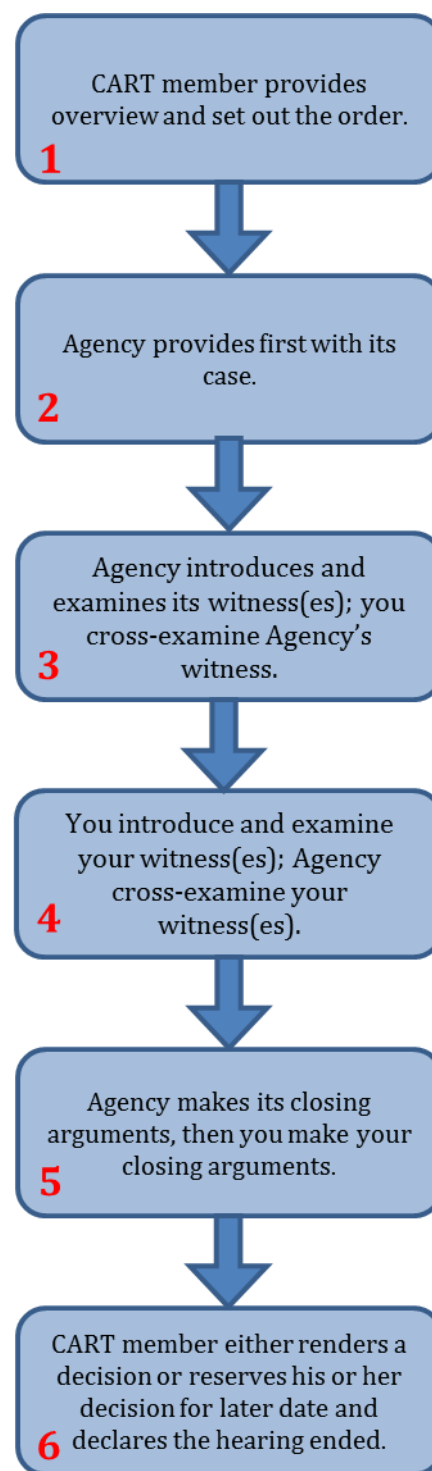


Figure 4: Stages of a first instance hearing

- The physical location where your hearing will be heard is dependent on the city of your hearing. Your review could occur in a courtroom, or a conference room in an office or hotel;
- The length of the hearing depends on the complexity of the case. A hearing can be as short as an hour, or as long as several days.

Individuals present at the hearing:

- Presiding CART member;
- Applicant (You) and your representative if you've chosen to have one;
- Representative of the Agency;
- Witnesses for applicant and Agency;
- Legal counsel for you or for the agency if either party has one.

Tribunal member's role:

Proceedings at the oral hearing will be determined by the presiding CART member (see FAQ 7.11). He or she will want to hear all of the facts and arguments from both of the parties. In very rare cases the Tribunal member may issue a decision on the spot at the end of the hearing. Otherwise, the decision will be "reserved" until a later date after the CART member has had a chance to review all the evidence and arguments.

Witnesses:

- A witness must:
 - Provide evidence relevant to the case and at all times be courteous to the other party and the Tribunal members and staff;
 - Give all evidence under oath or solemn affirmation.
- The Tribunal may order witnesses to be excluded from the hearing while the other witnesses are called to give evidence;
- A party at a hearing is entitled to examine their own witnesses, cross-examine any witnesses of the other party and re-examine their own witnesses on matters raised in cross-examination.

How does a witness give evidence?

In addition to being your own witness, you may have other witnesses (but it is not necessary). You will be responsible for telling "your side of the story". Therefore, if you feel your personal testimony will be sufficient to establish your position, you do not need other witnesses. However, if someone was present when the alleged violation occurred, when the notice was given, or was present with something associated with the circumstances of the alleged violation, you may consider having them as a witness.

- During the hearing you may ask your own witness questions about matters relating to your case. After your preliminary examination, the opposing party will be permitted to cross-examine your witness;
- While a witness may do a lot to help your case, they may also harm your case, so make sure your witnesses will provide useful and truthful information.

How do I submit evidence?

If you have pictures, photos, diagrams, objects or anything that could be considered as evidence to support your case, you may submit them before or at the hearing. These may be part of your written submissions made during the 30 days after receipt of Agency Report. If you have something to submit after this window of opportunity, you must ask the Tribunal for permission.

Can I make an objection?

You may make objections when the Agency is unreasonable, or when its line of question of its own witnesses, or one of yours, is unreasonable. **A question or an argument is usually considered as being unreasonable when it is unfair, misleading or abusive.** However, when you object you must explain your objection to the Tribunal member. Your objection may be allowed or disallowed. If the Member allows the objection, it means that the opposing party can no longer continue with that line of questioning.

Do I need to be there?

Whether you are self-represented or represented by a counsel, or an agent, you should be present at your own Tribunal hearing, except if the Agency and the Tribunal both consent that you do not have to be present. As well, if the Agency would like to be absent for the hearing you must give consent. Nonetheless, it's important for both parties to be there as you both have the right to present evidence and cross-examine witnesses at the hearing.

May I bring a family member or friend to support me or speak for me?

You may bring someone to support you during the hearing. However, if you are having someone speak on your behalf, this person will be acting as your representative. You will need to make sure that they are accurately representing you and your case, and that you have authorized this person in writing to represent you. A sample letter of representation is provided in Annex D (see FAQ 7.3 and Annex D).

5.2.4. What happens at the end of the hearing?

Note: only the Tribunal member who hears your case will be making the decision.

How long do I have to wait for a decision?

The time it takes for a decision to be released is case dependent. You will be promptly informed when a decision has been made. Usually the decision is released to the parties within 90 days of the hearing of your case.

In certain cases, the CART member hearing your case may decide that decision can be rendered orally, immediately following the closing of the hearing. In this case, he or she will issue written reasons at a later date, usually within one month of the hearing.

How does the Tribunal make its decision?

The CART member who makes the decision in your case will consider: the evidence and arguments presented by both sides, as well as the applicable law. The CART favors consistency in its decision making but, unlike a court, is not strictly bound by prior decisions it has taken.

May I submit more evidence or make further submissions after my hearing?

In exceptional circumstances, you may seek permission of CART to submit further evidence or make further submissions. CART will determine whether to grant permission after seeking the arguments from the Agency on your request.

May I refer to similar cases to support my own case?

You may refer to previous decisions of CART, or to other cases, which you believe support your case. Previous CART decisions may be found on the [Tribunal's Website](http://cart-crac.gc.ca/). The database allows you to search the cases in sever using topic or specific words filters (accessible on the Tribunal website, rubric "Decisions": <http://cart-crac.gc.ca/>).

Is everything on record?

Yes, the hearing is generally audio-recorded, with the audio-recording forming part of the public record. Upon request, a digital recording of the hearing will be made available at no cost to the parties. However, if a party wishes to secure a written transcript, the party requesting the transcripts is responsible for the cost.

How does a hearing end?

The oral hearing ends when both sides have completed their examination and cross-examination of witnesses and made their closing arguments. These procedures are not mandatory and a CART member may conclude the hearing when he or she deems necessary. In exceptional cases, the CART member may request that additional information be submitted after the end of the hearing based on evidence previously presented, or may even order that the hearing be reconvened at a later date.

5.2.5. Code of conduct

As an administrative tribunal, the Canada Agricultural Review Tribunal will conduct its public hearings and meetings in an effective, courteous and respectful matter. The Tribunal has the authority to address any procedural matter as informally and expeditiously as the circumstances and considerations of fairness permit.

Decorum:

Participants and members of the public are expected to conduct themselves courteously and respectfully when attending a hearing.

Time Allocations, Examinations & Cross-Examinations:

Presenters must respect the time allocated by the CART member for their verbal presentations. A party at a hearing is entitled to examine their own witnesses, cross-examine any witnesses of the other party and re-examine their own witnesses on matters raised in cross-examination.

Security Search:

The Tribunal reserves the right to request persons attending a hearing proceeding to disclose and show the contents of pockets, bags, etc., brought to the proceeding. The Tribunal reserves the right to search all bags, briefcases, portfolios, etc., and to require that all inappropriate objects be handed over to gain admittance to the proceedings. Additionally removal of any device or object disruptive to the proceedings which is not beneficial to the tribunal proceeding may be removed.

Filming, Photography and Audio Recording:

Members of the public and media may take photographs, film or record proceedings. However, they must do so in an area designated by the Tribunal. No person will be permitted to photograph film or record outside of the designated areas, unless authorized.

Proper Attire:

Participants and members of the public are expected to be appropriately attired, in a manner befitting an administrative tribunal proceeding (business casual). Any persons not appropriately dressed will not be permitted to enter the Tribunal proceedings until appropriately attired.

Seating Arrangements:

Participants and members of the public are to sit in designated areas. Presenters making verbal presentations on a specific day may be provided priority seating in the hearing room on that day, should the room be at full capacity. The Tribunal reserves the right to limit the number of persons in attendance at the public proceedings to a maximum which is consistent with the proper functioning and decorum of the proceeding.

Food and Beverages:

For safety and security purposes, the consumption of hot food or beverages may be restricted during Tribunal proceedings.

General:

The Tribunal reserves the right to exclude from the hearing room any person refusing to comply with the guidelines or requests outlined above, or with any other request made to preserve the functioning and decorum of the proceeding.

6. What happens once the Tribunal renders a decision?**6.1. What if the Tribunal says that the violation is upheld?**

You have to pay the Penalty **within 30 days** of CART's decision being issued, unless you seek a judicial review of the CART decision.

6.2. How do I challenge a Tribunal's decision?

If you received a decision from CART and are dissatisfied with the outcome, you may request a judicial review of the decision before the Federal Court of Appeal. While a judicial review may resemble an appeal, there are some important differences to take into account before considering this option. A judicial review is often much more limited in scope than an appeal and will normally only consider the points of law, major error in the CART's findings and questions of jurisdiction. New evidence is only taken into account in very rare circumstances. CART is not involved with this process and cannot provide you with further information. For further information, please refer to the [Federal Court of Appeal website](#), the [Federal Courts Act](#) and [Federal Court Rules](#). It is also important to note that if the Agency is unhappy with the Tribunal's decision, it is also allowed to make a request for judicial review to the Federal Court of Appeal.

7. Frequently asked questions (FAQ)**7.1. What did I do wrong?**

You have been given a Notice of Violation under the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) for allegedly violating one of the following Acts: the [Health of Animals Act](#), the [Pest Control Products Act](#), the [Plant Protection Act](#), or the [Meat Inspection Act](#).

7.2. What is a Notice of Violation (NOV)?

A Notice of Violation is issued when an inspector or agent of any of the federal Agencies issues a "ticket" to an individual when a law or any of its rules are violated. It is similar to a traffic ticket in a lot of ways, in that the issuer of the ticket generally has a certain amount of discretion in issuing the NOV but once issued, opportunities to "beat the ticket" are limited. This is not a criminal proceeding, therefore the issuer or Agency only needs to be more certain, than not (for example 51%), of the elements that gave rise to the issuance of the NOV.

7.3. Do I need a lawyer?

It is not necessary to have a lawyer for this type of proceeding. However having legal representation or advice may benefit you. There will be steps along the way for which you may need help or direction. It is your choice who you seek to receive help or advice from; the CART cannot provide you with this information. Whether you wish to be represented, and who represents you, is entirely up to you. You will be treated equitably through the process with or without representation. However, you must remember that the quality of your presentation can affect the outcome of your Request for Review. If you choose to have someone other than a lawyer represents you, you will be required to present CART with a written authorization for the person to act on your behalf (see Annex D).

7.4. What if I would like a lawyer or legal advice but cannot afford it?

You may contact your provincial Law Society or Legal Aid program or University law faculty legal clinics for further help or information.

7.5. Is this a criminal proceeding?

No, this is not a criminal proceeding. If you are found to be in violation after the review you simply need to pay the violation. There is no criminal record, although there is a record of the violation, which is maintained for five years. After five years you may write to the Minister to have that record removed.

7.6. What if I decide in the middle of the process I just want to pay the violation?

If you would like to do so you can, as the Request for Review suspends the initial time limit imposed in which to pay your fine. You must indicate in writing that you are withdrawing your Request for Review and you must provide the Tribunal with proof you have paid the penalty (however, while the Notice of Violation may have offered an option to pay a reduced amount, this reduction will no longer apply).

When withdrawing a request for review:

- Indicate the name of the case;
- Set out the date of the alleged Notice of Violation;
- Indicate the hearing date, if one has been requested or has occurred;
- Set out clearly a statement that you are requesting to withdraw the Request for Review;
- Provide the date on which the monetary penalty has been paid for the Notice of Violation.

7.7. What if I took careful steps and this violation still happened?

When you make your submissions either in writing or orally at a hearing, you must include the reasons why you think that you should not be found in violation of the law. You may also include information about the specific steps you took to ensure that a violation would not occur. This does not guarantee the Tribunal will rule in your favor. Taking careful steps, all by itself in your circumstance, is rarely enough for a valid defence.

7.8. What if I didn't know I was in violation of the law?

This unfortunately happens to many people. Not knowing you were in violation of the law is not a defence in itself to the violation. However, you may have other defences to the violation or the Agency may fail to prove the case against you. In either case, you can request a review of your case.

7.9. What are the costs associated with having my violation reviewed by the Tribunal?

There are no costs associated with having your Notice of Violation reviewed by the Tribunal or by the Minister, besides the costs that you incur independently. Costs for which you are personally responsible include any costs related to representation, sending in documents, travel expenses, reproduction of documents and any translation or interpretation of documents or evidence not in English or French.

7.10. Should I choose an oral or written hearing?

This decision is up to you. On the Request for Review form (see Annexes A and B) you can specify whether you'd like to proceed with an oral hearing or by written submissions to deal with your claim. Both types of submissions are treated equally. Please consider your writing skills, your verbal skills, the time commitment and complexity of your Request for Review in making your choice. If you require help making this decision or with the submission process, please contact a lawyer or someone whom you believe could help making this decision or with the submission process. The Tribunal cannot help you with this decision.

7.11. What do I do if I believe that a member of the Tribunal is not in a position to act impartially?

If you believe that a member of the Tribunal is not in a position to act impartially or without a conflict of interest, you must immediately give written notice of this opinion to the Tribunal, stating your reasons. Within 7 days the Chairperson will determine if the Tribunal member is not in a position to act and if so exclude the Member for the matter, and give any directions that he or she considers necessary for the matter to be reconvened with a differently constituted Tribunal.

7.12. What happens if I do not pay the fine?

By law you must pay the fine, unless you are having your violation reviewed by CART or the Minister. If you have your case reviewed by the Tribunal or the Minister and the violation is upheld you are responsible to pay the fine. An order for payment may be issued from the Federal Court or a collection agency may be engaged by the CFIA, CBSA, or PMRA to take steps to collect the outstanding fine.

7.13. How to contact the CART?

Postal address:

Canada Agricultural Review Tribunal
Central Experimental Farm
960, Carling Avenue
Birch Drive, Building 60
Ottawa (Ontario), K1A 0C6

Telephone: 613-792-2087

Facsimile: 613-792-2088

E-mail: infotribunal@cart-crac.gc.ca

Annex A: Request for Review Online Form

[Request for Review Form](#)


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Canada Agricultural Review Tribunal


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Request for Review Form

Please complete, print and send this web form by registered mail, courier, email or fax.

Note: If the form is sent by email or fax, a hard copy must be immediately sent to the Tribunal by registered mail.

Please send a completed copy of this form to the following address:

Registry Office
Canada Agricultural Review Tribunal
Central Experimental Farm
960, Carling Avenue
Building 60, Birch Drive
Ottawa, Ontario K1A 0C6

Telephone: 613-792-2087
Fax: 613-792-2088
Email: infotribunal

For more information, please contact our [Registry Services](#).

A. Nature of request for review

* Select one of the following two statements - A.1 or A.2 (required)

Please select ☐

B. Contact Information

B.1 About You

* Select one of the following two options (required)

☐ My physical address is within Canada
☐ My physical address is outside of Canada

* Your Name (required)

Business Name (if the Notice of Violation was issued to a Business):

* Physical Address. Please provide the complete address, including the city, province and postal code. (required)

Postal Address. (If different from physical address).

* Please provide at least one of the following: email address, telephone or fax number. (required)

Email address (yourname@domain.com)

Telephone number

Fax number

B.2 About your Representative (if you have one)

* Are you beign represented ? (required)

- ☐ Yes
☐ No

C. Choice of Language of Proceeding

* Choice of language for Tribunal proceedings (required)

- ☐ English
☐ French

D. Choice of Oral Hearing or Proceeding with Written Submissions Only

* Select one of the following two options - D.1 or D.2 (required)

Please select




E. Reasons for the Request for Review

* This section must be completed or your request may be rejected (required)

Signature: (please print and sign this form prior to submitting it to the Tribunal, **or** if you are submitting this form electronically, your dating and submission of form to the Tribunal will have the same effect as affixing your legal signature to a paper copy of this form)

* Date (YYYY-MM-DD) (required)



Optional: Use the Submit button to send your completed form electronically to the Canada Agricultural Review Tribunal Registry Office.
Note: A hard copy must be immediately sent to the Tribunal by registered mail.
☐ I have read and understand the [Terms of Use](#) applicable to this online Form. (required)

Submit

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Canada.ca

Annex B: Sample Request for Review Using Online Form


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Canada Agricultural Review Tribunal


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Request for Review Form

Please complete, print and send this web form by registered mail, courier, email or fax.

Note: If the form is sent by email or fax, a hard copy must be immediately sent to the Tribunal by registered mail.

Please send a completed copy of this form to the following address:

Registry Office
Canada Agricultural Review Tribunal
Central Experimental Farm
960, Carling Avenue
Building 60, Birch Drive
Ottawa, Ontario K1A 0C6

Telephone: 613-792-2087
Fax: 613-792-2088
Email: infotribunal

For more information, please contact our [Registry Services](#).

A. Nature of request for review

* Select one of the following two statements - A.1 or A.2 (required)

A.1 I would like to request a review of an Agency's Notice of Violation from:

* A.1 I would like to request a review of an Agency's Notice of Violation from: (Select one agency) (required)

☒ Canada Border Services Agency (CBSA)
☐ Canadian Food Inspection Agency (CFIA)
☐ Pest Management Regulatory Agency (PMRA)

* Date of Notice of Violation YYYY-MM-DD (required)

2016-09-15

* Notice of Violation Number: (required)

YHZ-1234-567

B. Contact Information

B.1 About You

* Select one of the following two options (required)

☒ My physical address is within Canada
☐ My physical address is outside of Canada

* Your Name (required)

Pavel Valhov

Business Name (if the Notice of Violation was issued to a Business):

* Physical Address. Please provide the complete address, including the city, province and postal code. (required)

15 York St, Sydney, NS. B2P 6B3

Postal Address. (If different from physical address).

* Please provide at least one of the following: email address, telephone or fax number. (required)

Email address (yourname@domain.com)

pavel.valhov@gmail.com

Telephone number

902-456-7890

Fax number

B.2 About your Representative (if you have one)

* Are you being represented? (required)

- ☒ Yes
☐ No

* Name of your Representative (required)

Irena Valhov

* Is your representative a lawyer? If no, please send written instructions giving him/her permission to act on your behalf (required)

- ☐ Yes
☒ No

* Coordinates of your Representative. Select one of the following two options (required)

- ☒ My representative's physical address is within Canada
☐ My representative's physical address is outside of Canada

* Physical Address. Please provide the complete address, including the city, province and postal code. (required)

21 Main St, Sydney, NS. B2P 6B3

Postal Address. (If different from physical address).

* Please provide at least one of the following: email address, telephone or fax number. (required)

Email address (yourname@domain.com)

irena.valhov@gmail.com

Telephone number

902-456-7890

Fax number

C. Choice of Language of Proceeding

* Choice of language for Tribunal proceedings (required)

- ☒ English
☐ French

D. Choice of Oral Hearing or Proceeding with Written Submissions Only

* Select one of the following two options - D.1 or D.2 (required)

D.1 I want an oral hearing



I prefer an oral hearing to be held as close as possible to:

* City (required)

Sydney

* Province (required)

Nova-Scotia

E. Reasons for the Request for Review

* This section must be completed or your request may be rejected (required)

My reasons for requesting a review of my Notice of Violation concern the fact that the cabbage rolls in question did not contain any meat; they were indeed homemade by my wife who pertinently knows that I am a vegetarian. Therefore, I am uncertain how my Notice of Violation could have been made in relation to the Health of Animals Regulations.

Signature: (please print and sign this form prior to submitting it to the Tribunal, or if you are submitting this form electronically, your dating and submission of form to the Tribunal will have the same effect as affixing your legal signature to a paper copy of this form)

* Date (YYYY-MM-DD) (required)

2016-09-20 x



Optional: Use the Submit button to send your completed form electronically to the Canada Agricultural Review Tribunal Registry Office.

Note: A hard copy must be immediately sent to the Tribunal by registered mail.

☐ I have read and understand the Terms of Use applicable to this online Form. (required)

Submit

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Annex C: Sample Request for Review using Personal Letter

Fictional statement of the facts:

On September 15th, 2015 at 3pm in Halifax, Pavel Valhov was stopped at secondary inspection and found to be carrying a bag of homemade cabbage rolls coming from Bulgaria. Pavel was issued a Notice of Violation in the amount of \$800 for allegedly importing meat without any permit or certificate, which is a serious violation under Section 40 of the [Health of Animals Regulations](#). After deciding not to pay the penalty on the spot, Pavel submitted a Request for the Review of the Notice of Violation to the Canada Agricultural Review Tribunal.

Fictional example of a Request for Review using Personal Letter:

Attn: Canada Agricultural Review Tribunal
Central Experimental Farm
960, Carling Avenue
Birch Drive, Building 60
Ottawa, ON, K1A 0C6.

September 20, 2015,

By Registered Mail

To whom this may concern,

I would like to have my Notice of Violation (#YHZ-1234-567 dated September 15th, 2015) reviewed by the Canada Agricultural Review Tribunal.

I would like to have an oral hearing in English and preferably in Sydney, Nova Scotia.

My reasons for requesting a review of my Notice of Violation concern the fact that the cabbage rolls in question did not contain any meat; they were indeed homemade by my wife who pertinently knows that I am a vegan. Therefore, I am uncertain how my Notice of Violation could have been made in relation to the *Health of Animals Regulations*.

Thank you for your consideration of my case and please let me know if you need any more information from me.

Yours sincerely,

Pavel Valhov

Statement and Notice of Violation number

Choice of written submissions or oral hearing, and language

Reasons for the Request for Review

Annex D: Sample Letter of Representation

A letter of representation, whether you are being represented by a lawyer, a family member, a colleague or a friend, should provide the Tribunal with clear instructions that this person will be working and making decisions on your behalf.

Attn: Canada Agricultural Review Tribunal
Central Experimental Farm
960, Carling Avenue
Birch Drive, Building 60
Ottawa, ON, K1A 0C6.

September 20, 2015,

Letter sent by email, then by registered mail on September 20, 2015

To whom this may concern,

I would like to make Mrs. Irene Valhov, my sister, my representative in the matter of Notice of Violation number YHZ-1234-567. Mrs. Valhov is authorized to make all decisions and representations on my behalf and in my absence, with all correspondence, in future, being sent to her. For addressing details, please see below.

Yours sincerely,

Pavel Valhov

Mrs. Irena Valhov's contact information:

Address: 21 Main St, Sydney, NS, B2P 6B3.

Telephone: 123-456-7889

E-mail: irena.valhov@gmail.com

Annex E: Checklist for Requesting Review

Submit your Request for Review by completing the [Request for Review](#) form, available online, or by way of a personal letter (within the prescribed time).

- For a review of a Notice of Violation: You must complete and submit a Request for Review Form in the 30 days after a Notice of Violation was served on you.
- For a Review of a Minister's Decision: If you requested a review by the Minister and now want the Minister's decision reviewed by CART, you must complete and submit the Request for Review form in the 15 days after the Minister's decision was served on you.

Moreover, you must:

- Submit your Request for Review by proper delivery system (hand delivered, courier mail, registered mail, fax or electronic mail followed up by registered mail). **Regular Post is not permitted;**
- Decide between proceeding by oral hearing or written submissions;
- If choosing hearing by written submissions, send your reasons why the NOV or Minister's Decision is not valid and any other information to the CART within the time window indicated to you by CART registry staff;
- If choosing oral hearing, send your reasons why the NOV or Minister's Decision is not valid and any other information to the CART within the time window indicated to you by CART registry staff, then prepare for your oral hearing. Chose a location, prepare your story and arguments. Gather your witnesses, examination questions and cross-examination questions. Submit witness list 20 days before the hearing.

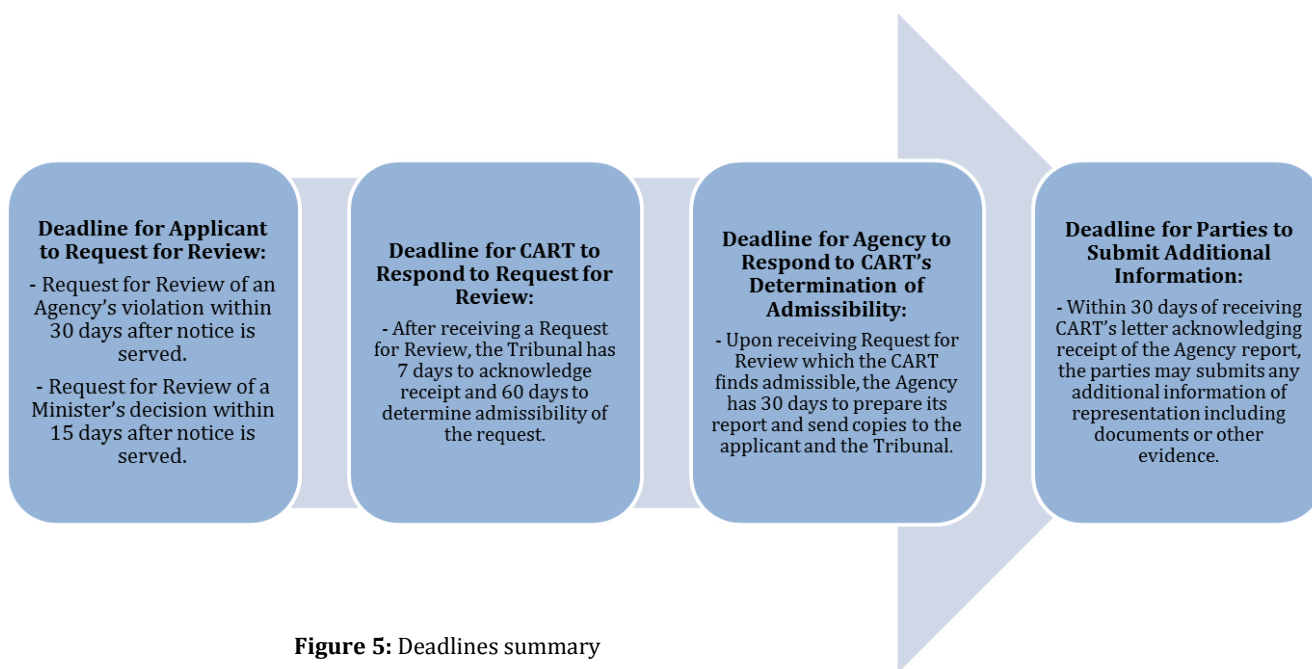


Figure 5: Deadlines summary