

Guide for Self-Represented People

Purpose of this guide

This guide helps explain the procedures at the Canada Agricultural Review Tribunal (CART).

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1 Definitions

AAAMP Act: Short form of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

Administrative Monetary Penalty (AMP): A monetary penalty (fine) issued by an Agency to an individual accused of breaching Agri-Food or Agriculture law.

Admissible: A request that CART can evaluate. This means that CART has the power to determine the questions raised in a request, and that the request was made in the manner required by the law.

Agency: The government organizations that issued the Notice that is being reviewed by CART. The agencies that are most often at CART are:

- Canadian Food Inspection Agency
- Canada Border Security Agency
- Pest Management Regulatory Agency

Agri-food or Agriculture Law: Federal laws about agri-food or agriculture that may form the basis of a Notice of Violation. They include the AAAMP Act, the Safe Food for Canadians Act, and the Health of Animals Act.

Applicant: A person who is requesting a review of a Notice or a Minister’s decision.

CART: Short form of the Canada Agricultural Review Tribunal.

Evidence: The information you present to CART to prove an allegation. CART considers your evidence to make its decision. Evidence may include:

- documents
- photographs
- video recordings
- sound recordings
- testimony (what a witness says)

Member: An impartial decision-maker at CART who decides the outcome of the request. Members are also sometimes called adjudicators.

Minister: Defined in the AAAMP Act. It depends on the request in question and may mean the Ministers of Public Safety and Emergency Preparedness, Health, or Agriculture and Agri-Food Canada.

Notice: The “Notice of Violation” document issued by one of the Agencies with information about the alleged violation and the warning or amount of the penalty.

Respondent: Either the Minister or the Agency. The Respondent is the party who will defend the Notice or decision that is in question.

Regulations: Refers to the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*.

Request: The request for review that the Applicant submitted to CART about the Notice or Minister's decision.

Rules: The *Rules of the Review Tribunal (Canada Agricultural Review Tribunal)*.

Service: The way that a document is provided to a person.

Unrepresented: The person does not have a lawyer or another representative to help them.

Violation: A breach of an agriculture or agri-food law. Sometimes an agency will issue a Notice following an alleged violation. Violations are not criminal offences.

2 CART's jurisdiction

CART reviews Notices and Minister's decisions that have warnings or AMPs relating to agriculture and agri-food.

CART is an independent tribunal. This means it makes decisions separate from the Federal government, including the agencies that issue the Notices.

The Federal agencies that issue Notices that CART reviews include the Canadian Food Inspection Agency (CFIA), the Canada Border Services Agency (CBSA) and the Pest Management Regulatory Agency.

3 How to request a review

CART can receive two types of requests after an AMP is issued: requests about Notices and requests about Minister's decisions.

If you want to challenge a Notice, you can submit a request:

- To the Minister. If you are unhappy with the Minister's decision, you may then request that CART review the Minister's decision, or
- Directly to CART

You can also pay the AMP. However, if you pay the AMP, you cannot request that CART or the Minister review the Notice. If you pay the penalty within 15 days of the Notice being served on you, the amount you must pay is decreased by 50%.¹

You may submit a request by hand, by registered mail, by courier or electronically.

PRACTICAL INFORMATION

- Be sure that your request includes the required information. To do so, we strongly recommend that you use the *Request for Review Form* found on our website.

¹ Subsection 10(2) of the Regulations.

- Keep a copy of each document you send to CART.
- Tell CART right away if your contact information changes.
- The only costs you must pay are your own expenses, and you will not be reimbursed for them. For example, you will not be reimbursed if you pay for a representative or to mail or photocopy documents.

3.1 Time limit to file request

You must file the request within **30 days** after being served with the Notice or Minister's decision.

3.2 What is service?

Service is how a document is sent to you. The Notice must be served on you in the ways described in the AAAMP Act and Regulations.

Your 30-day time limit to file a request starts on the service date.

The "service date" is sometimes the day the document is sent to someone. Other times, the service date is a later date. It depends on how the document was sent. For example, if the Notice was sent by:

- Fax or email, the service date is the date it is sent.²
- Registered mail or courier, the service date is the 10th day after the date it was sent.

4 Admissibility of the request

When it receives a request for review, CART must determine if it is admissible. This means CART determines whether it is allowed to review the request.

CART can only review a request if it meets certain requirements in the AAAMP Act, the Regulations, and the Rules.

4.1 Is your request admissible?

To decide if your request is admissible, CART considers whether:

1. CART has the power to consider the request

First, we consider whether the Notice or Minister's decision is something we have the power to review. The AAAMP Act says that CART can only review AMPS relating to agriculture and agri-food.

2. The penalty was paid

Next, if you have paid the penalty, your request is not admissible.³

3. The request was made in time

If you do not make a request within 30 days after the Notice or Minister's decision is served, your request is not admissible.⁴

4. The request was sent in the right way

You must submit your request to CART by hand, registered mail, fax, email, or by courier.⁵ The request cannot be sent by ordinary mail.

² Subsection 9(2)-(4) of the Regulations

³ Subsections 9(1), 11(2) and 13(2)(a) of the AAAMP Act.

⁴ Sections 11, 12 and 13 of the Regulations.

⁵ Subsection 14(1) of the Regulations.

4.2 What if CART decides my request is not admissible?

If CART determines that your request is inadmissible, this will end the process at CART.

If you disagree with the decision, you may ask the Federal Court of Appeal to review CART's decision.⁶

5 Burden of proof

The Respondent has the burden of proof.⁷ This means that it is up to the Respondent to convince CART that you committed the violation described in the Notice.

Since the Respondent has the burden of proof, you don't have to provide any evidence to CART about the violation. It's up to you to decide if you want to give CART your version of events.

In a request, the Respondent must prove every element of the alleged violation⁸. For example, the Respondent must prove all the following:

- The right person is named in the Notice
- The person named in the Notice violated the law as alleged
- The penalty, if any, was established according to the regulations

The Respondent must prove each element on "a balance of probabilities". This means that the Respondent must show that its allegation is more likely to be true than not.

If the Respondent does not prove every element of the violation, the Notice must be set aside.

6 Defences you can use and cannot use

In Canada, Federal AMPS relating to agriculture and agri-food are part of an absolute liability system. As a result, if the Respondent can prove that you committed the violation, you will be responsible to pay the penalty.

The Respondent does not have to prove that you meant (or intended) to break the law – in general, it won't matter *why* you committed the violation.

As a result, in a request to CART, **you cannot use** these defences:

- "I did my best" or "I didn't intend to" (also called "due diligence" defences)
- "I didn't know" or "I thought I was doing the right thing" (also called "mistake of fact" defences)⁹

However, you **may use other defences** such as:

- "I had no other choice" (also called "necessity")
- "A government official told me ("officially induced error")
- "I was not in control of what I was doing" (also called "automatism")¹⁰

7 Whether to choose a written or oral hearing

⁶ Subsection 28(1) of the *Federal Courts Act*.

⁷ Section 19 of the Regulations.

⁸ *Doyon v Canada (Attorney General)*, 2009 FCA 152.

⁹ Subsection 18(1) of the AAAMP Act.

¹⁰ Subsection 18(2) of the AAAMP Act.

If your request is admissible, CART will hold a hearing to decide if you are in violation of the law. If you are in violation of the law, CART will decide if the amount of the AMP was properly determined.

To do this, CART will have a hearing to consider the parties' evidence and arguments.

There are two types of hearings: written hearings and oral hearings.

We will ask you whether you prefer a written hearing or an oral hearing.

7.1 Written hearings

In written hearings, the parties provide written, photographic, or video evidence and written arguments.

These hearings are usually decided more quickly. CART makes its decision based only on the written arguments and supporting documents that the parties send in. As a result, there is no opportunity to testify or to ask questions about the evidence.

The following is the typical process for a written hearing:

- First, the Respondent will provide its written arguments and evidence (documents, photos, or videos). The Respondent will try to convince CART that you committed the violation in the Notice and that the penalty, if any, was appropriate.
- Next, if you want to, you will provide your written arguments and evidence (documents, photos, or videos) about why you disagree with the Respondent's arguments and evidence.

7.2 Oral hearings

At an oral hearing, you will have the opportunity to talk and ask questions. The parties will often bring witnesses and make oral arguments. An oral hearing also allows parties to question each other's witnesses.

CART holds its oral hearings by videoconference. As a result, you can attend an oral hearing from your home. You can use your own electronic device, such as a laptop, desktop, or a smartphone, to join the hearing.

For more information, please see [Practice Note re: Virtual and In-Person Oral Hearings](#).

The following is the typical process for an oral hearing:

- 1) The member asks if there are any preliminary issues.

A preliminary issue is a concern that a party thinks should be discussed before other things. Examples of preliminary issues include concerns about:

- a. The hearing process
- b. Access to documents
- c. Whether the witnesses have shown up
- d. What the witnesses can hear before they testify
- e. Technology issues
- f. Human rights accommodations

Not every hearing will have preliminary issues.

- 2) The parties make opening statements.

First, the Respondent's lawyer will make their opening statement. Then, you will make your opening statement.

An opening statement is a short description, if you want to give it, about why you disagree with the Notice or Minister's decision. This is not the time to get into details or evidence; it is just a summary of what you will show CART during the hearing.

3) The Respondent's witnesses.

The Respondent's witnesses will testify first. When the Respondent's witnesses testify:

- The Respondent's representative asks its witness questions about what happened (called "direct examination")
- After direct examination, you can ask the Respondent's witness questions (called "cross-examination"). The purpose of cross-examination is to challenge a witness' evidence
- After cross-examination, the Respondent may ask follow-up questions (called "redirect")

This process is repeated for each of the Respondent's witnesses.

4) You and/or your witnesses

When you and your witnesses testify:

- You will ask your witnesses questions, the Respondent will cross-examine them, and you will ask questions in redirect
- If you testify, you will tell CART what you want it to know. The Respondent will then cross-examine you and you will have a chance to add more to your testimony after cross-examination

5) Closing submissions

Once all the witnesses have testified, the parties make their closing submissions.

A closing submission is a short summary of what you want the member to remember about the evidence.

- First, the Respondent will make their closing submissions
- Next, you will make your closing submissions

Closing submissions are sometimes made orally at the hearing, or in writing after the hearing.

8 Case management conference calls

Sometimes, case management conference calls (CMCCs) are required before oral hearings. They are usually held at least a month before the hearing.

During the CMCC, the parties usually discuss:

- the hearing process
- who their witnesses will be and how much time they will need to testify
- timelines for submitting documents
- potential hearing dates

Following the CMCC, CART will write to the parties confirming next steps in the file.

9 Witnesses

Witnesses can give their testimony in writing.

All witnesses must promise to tell the truth. Witnesses make this promise by either making a sacred oath (a religious promise to tell the truth) or an affirmation (a non-religious promise to tell the truth).

9.1 Summonses: Making a witness testify at an oral hearing

If you want to make sure that your witness will attend the oral hearing, you can ask CART for a summons. A summons is a document from CART to a person that tells them they must attend the hearing.

9.2 Affidavit evidence (written testimony)

An affidavit is a way of giving testimony in writing. A person who gives their testimony in this way is called an “affiant”.

An affidavit is affirmed to a lawyer, a notary public, or a commissioner of oaths.

10 Representation

You may represent yourself or someone else may represent you.¹¹

If the Applicant is a corporation, partnership, or unincorporated association, the representative must be a lawyer or an officer, partner, or member of the corporation.¹²

Your representative must provide their contact information to CART.

You must tell CART as soon as possible about any change to your representative or their contact information.

11 Accommodations

We want to make sure you can fully participate in the hearing process, and that it is accessible for all participants (including parties, witnesses, and lawyers).

An accommodation is an arrangement to remove a barrier so you can participate fully in your hearing. We’ll accommodate your needs related to a disability or any of the other grounds set out in the Canadian Human Rights Act. We want to remove barriers so everyone has equal access to our services.

Anyone who requires accommodation should notify the Registry as early as possible.

Examples of accommodations at your hearing you can request:

- An interpreter, if French or English isn’t your first language
- Breaks during the oral hearing
- That participants speak loudly or slowly
- More time to answer questions

In addition, we can help you:

- Set up your technology for your hearing
- Access information and publications (including audio recordings of hearings)

We do our best to communicate clearly. But, if you have questions about anything we send you, please contact us.

If we can’t arrange what you ask for, we’ll let you know as soon as possible. We’ll do our best to offer you something else that will still work for you.

¹¹ Subsection 18(1) of the Rules.

¹² Subsection 18(2) of the Rules.

A party who wants interpretation must notify CART as soon as possible.¹³

If you need an interpreter at your hearing, we can help. We provide the following free of charge:

- spoken language interpretation (for French and English)
- sign language interpretation for languages like American Sign Language (ASL), Indigenous sign languages, and langue des signes québécoise [Quebec sign language] (LSQ)
- real-time captioning

For interpretation into a language other than French or English, the party requesting the service must notify CART at least thirty (30) days before the hearing. The party requesting that interpretation must pay for the service.¹⁴

Ask for an interpreter when you fill out your request or contact us [by email](#).

12 Preliminary issues

Preliminary issues are concerns that a party wants discussed before the hearing begins. If you have a preliminary issue, you should contact CART as soon as possible.

Examples of preliminary issues include questions about:

- Adjournment requests (an adjournment is when a party asks that the hearing happen on another day)
- Access to documents
- Whether the witnesses have shown up or will show up
- What the witnesses can hear before they testify
- Whether certain evidence can be provided to CART
- Technology problems
- Accommodation requests

If there's something that you still do not understand about the hearing process or something that you need help with, you also can ask these questions.

Not every hearing will have preliminary issues.

12.1 Adjournments (or postponements)

In exceptional cases, you may request that CART change the hearing date (also called "postponing" or "adjourning" a hearing).

You must make these requests as soon as possible.

12.2 Time extensions

Although CART cannot extend the time limits in the AAAMP Act, it can extend the time limits that are in the Rules.

When requesting more time for the limits sent out in the Rules, be sure to include:

- Your case number
- What the original deadline was
- How much extra time you are requesting
- The reasons you want an extension
- Whether you have already requested an extension in this file

¹³ Subsection 8(3) of the Rules.

¹⁴ Subsection 8(4) of the Rules.

12.3 Hearings are open to the public and our decisions are published online

Hearings at CART are public.¹⁵ For a list of CART's upcoming oral hearings, please see our [hearing schedule](#). If you would like to observe a hearing, please email the [Registrar](#).

Tribunal decisions are published in French and English on [CART's website](#) and on [CanLII](#), a legal decision website.

That said, in exceptional cases, a party may request that the proceedings be held in private.¹⁶

12.4 Excluding witnesses

Most witnesses must not attend the oral hearing until they have testified. The purpose of this rule is to make sure that witnesses' testimony is not influenced by what they hear at the hearing.

A party may request that CART formally order that witnesses be excluded from the hearing until they have testified. CART may also make such an order on its own.

12.5 New evidence during reviews of a minister's decision

This section applies only to requests of a Minister's decision.

Where you want CART to consider new evidence that was not provided to the Minister, you must request CART's permission.¹⁷

Your request to introduce new evidence will need to say why the new evidence:

- is **relevant**
- is **necessary**
- was **not available to the Minister**

The other side will have a chance to respond to the request.

CART will consider the parties' arguments before deciding whether to allow the new evidence.

13 Objections

An objection is how you tell the member that the other party's evidence, testimony, or question shouldn't be allowed. A successful objection will keep evidence from entering the record. This means that the member cannot use that evidence to decide your case.

CART is not required to follow the rules of evidence used in courts. As a result, with only one exception, CART can accept any evidence.¹⁸ The exception is privileged information (which is explained later).

To make an objection, you will have to say "Objection". You will say "Objection" as soon as you hear or see a question or evidence that you don't think should be included.

You will then say why you are objecting to the question or statement.

¹⁵ Subsection 19(1) of the Rules.

¹⁶ Subsection 19(2) of the Rules.

¹⁷ Section 44 of the Rules.

¹⁸ Sections 44 and 45 of the AAAMP Act.

If the member agrees with your objection, the evidence will not be considered.

If the member disagrees with your objection, the evidence can be considered.

Below, we review the most common types of objections.

13.1 Relevance

You can object to the evidence if you think a piece of evidence or something a witness is saying has nothing to do with the issues in question.

13.2 Leading questions

If the other party asks a question on direct examination that leads the witness to a certain answer, then you can object to the question as “leading”. This is often the case with “yes” or “no” questions. For example, “did you suspect a problem right away?” is a leading question.

Keep in mind that the member might allow some leading questions during direct examination for simple background information to move the testimony along faster.

For example, if the applicant’s mother is testifying, the member might allow the question “You are the respondent’s mother, correct?” instead of “How do you know the respondent?”. However, when someone is asking about issues that directly relate to the case, leading questions are not allowed.

13.3 Privileged information

Privileged information is secret information that is legally protected so that it does not have to be shared.

One kind of privileged information is solicitor-client privilege (that is, what is said between a lawyer and their client).

13.4 Compound questions

A compound question is when two or more questions are combined as one question. Compound questions are not allowed because they can confuse the witness, the other side, and the member. Also, it may not be clear which of the questions the witness is answering.

If you find yourself asking a compound question, don’t get flustered with the other party’s objection or skip the issue entirely. Just separate out the questions, ask them one at a time, and they might be allowed.

13.5 Argumentative

When the person asking cross-examination questions begins to argue with the witness, known as “badgering the witness”, then the other party can object to the questioning as argumentative.

13.6 “Asked and Answered”

Sometimes, the person asking questions might ask the same question over and over, perhaps in slightly different ways, or re-ask a question they asked earlier in the testimony. After a question has been asked and answered, you can object to any further attempts to ask the question.

13.7 Vague

A vague question is when it is difficult to tell what the question is about. You may object to a vague question because the witness may misunderstand the question and say something that will hurt your case.

If the question is objected to, the person asking the question might then be able to ask the question in a different way that is more specific.

13.8 Non-responsive

When a witness answers a question with information that is unrelated to the question, you can object to it as being “non-responsive.”

This can be especially important in cross-examination when you are looking for very specific “yes” or “no” answers.

13.9 What you cannot object to

Opinion and hearsay evidence are allowed at CART.

As a result, **you cannot object** because the evidence is:

- Hearsay: Where a person testified about something they heard from someone else
- Opinion: Where a person gives their opinion about something

14 Withdrawing your request

You may choose at any time to withdraw the request (including if you reach an agreement with the Respondent). To do so, you must send an email or letter to CART telling us of your intention. CART will close your file once that letter is received.

For more information, please see [Practice Note re: Withdrawal of A Request For Review](#).

15 Challenging a tribunal decision

A party who is unhappy with CART’s decision may request that the Federal Court of Appeal review the decision. This is called a judicial review.

For more information, please see the [Federal Court of Appeal](#).

16 Contact information for the Canada Agricultural Review Tribunal

Mailing address:

Canada Agricultural Review Tribunal
Registry Office
344 Slater Street, 15th Floor, Suite 300
Ottawa, Ontario K1A 0B7

Telephone: 613-943-6405

Fax: 613-943-6429

Email: InfoTribunal@cart-crac.gc.ca