



Notice of Procedures Regarding Drop Trailer Regulation under Section 45.1 of the *Coastal Ferry Act*

On December 2, 2015 the BC Ferries Commissioner issued a notice pertaining to Order 11-01 and Memorandum 42, to inform the public that BC Ferry Services Inc. has surpassed the drop trailer volume specified in that order. Submissions were invited on or before January 15, 2016. A total of 8 submissions were accepted by the Commissioner.

Based on the submissions received the Commissioner intends to proceed with his review of this matter as follows:

1. The 8 submissions received from the public and accepted by the Commissioner are posted to the Commissioner's website at <http://www.bcferrycommission.ca/wp-content/uploads/2011/06/Drop-Trailer-all-Comments-Jan-15-2016.pdf>
2. The 8 persons or entities which filed submissions by the January 15, 2016 deadline are invited to make a further submission at this stage to respond to arguments in any or all of the other submissions and to address the matters the Commissioner intends to consider, which are set out below. No submissions will be accepted from any other parties at this stage.
3. The deadline for additional submissions is March 1, 2016.
4. The Commissioner will then consider the 8 initial submissions and any additional, eligible submissions in arriving at a decision on this matter.
5. The Commissioner has engaged PricewaterhouseCoopers to assist with the analysis and decision process.
6. The Commissioner will consider the following questions, in sequence:
 - a) Does BC Ferries have an "unfair competitive advantage" in the drop trailer business which requires a determination by the Commissioner under section 45.1 of the *Coastal Ferry Act* (the "Act")? The Commissioner requests evidence to be filed to support the position that there is an unfair competitive advantage or to support the position that there is no unfair competitive advantage.
 - b) If the answer to a) is affirmative, which of the available remedies set out in section 45.1 of the Act should the Commissioner employ?
 - c) If the answer to b) is a tariff, what factors should be taken into account in setting a tariff, and how frequently would it reasonably need to be adjusted?
 - d) If a tariff is to be established, are there any alternatives to a confidential order which would provide a transparent result, without compromising legitimate concerns about commercial confidentiality by any of the parties in the drop trailer business?
 - e) Does any provision of the Act compel the Commissioner to consider the interests of ferry users, taxpayers and the financial sustainability of ferry operators in making a decision under Section 45.1?

7. Commercially confidential information provided to the Commissioner will be kept in confidence, provided the information which is considered confidential is clearly identified and the Commissioner is satisfied that the disclosure of such information would harm the financial, economic and commercial interests of BC Ferries, or any other entity which voluntarily provides confidential information.

Non-confidential portions of additional submissions may be posted to the Commissioner's website.