



## **Revised 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. (“BC Ferries”) has surpassed the drop trailer volume specified in that order. Submissions were invited on or before January 15, 2016. A total of 8 submissions including one each from BC Ferries and Seaspan Ferries Corporation (“Seaspan”) were accepted by the Commissioner. Subsequently both BC Ferries and Seaspan submitted additional letters seeking clarification on the Notice of Procedures posted on the Commissioner’s website on February 1, 2016.

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

1. The 8 original submissions accepted by the Commissioner from interested parties (“Interested Parties”) were previously posted to the Commissioner’s website. The Commissioner’s website has been updated to include all subsequent submissions received from Interested Parties which can be found at:  
[http://www.bcferrycommission.ca/wp-content/uploads/2011/06/Submissions\\_BC-Ferries-Drop-Trailer-Services.pdf](http://www.bcferrycommission.ca/wp-content/uploads/2011/06/Submissions_BC-Ferries-Drop-Trailer-Services.pdf)
2. Interested Parties are invited to make a further submission to respond to arguments in any other submission and to address the matters set out in Paragraph (7) below. No submissions will be accepted from any other parties at this stage.
3. The deadline for additional submissions is April 22, 2016.
4. All Interested Parties will be provided the opportunity to submit a final response to any other submission received by the Commissioner by April 22, 2016. Final responses must be filed by May 13, 2016.
5. The Commissioner will then consider all submissions and make determinations regarding confidentiality of any information contained in any submission before arriving at a decision on this matter.
6. The Commissioner has engaged PricewaterhouseCoopers LLP to assist with the analysis and decision process.

7. The Commissioner will consider the following questions, in sequence:
  - a) Is BC Ferries pricing the service below the direct costs and an appropriate proportion of the indirect costs associated with providing that ferry transportation service?
  - b) 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 either support the position that there is an unfair competitive advantage or to support the position that there is no unfair competitive advantage.
  - c) If the answer to (a) or (b) is affirmative, which of the available remedies set out in section 45.1 of the Act should the Commissioner employ? If the answer to (c) is a tariff, what factors should be taken into account in resetting the existing minimum tariff, and how frequently would it reasonably need to be adjusted?
  - d) If the existing minimum tariff is to be reset, 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?
8. All future submissions will be posted to the Commissioner’s website subject to determinations by the Commissioner regarding confidentiality of commercially sensitive information that may be requested by an Interested Party.