



Office
des transports
du Canada

Canadian
Transportation
Agency



Guidelines for Coasting Trade Licence Applications

Table of Contents

Part 1 – Introduction	3
Part 2 – Minimum Notice Periods and Content of Application.....	6
Part 3 – Pleadings	11
Part 4 – General Information.....	20
Appendix A – Supplemental Provisions for the Processing of Coasting Trade Licence Applications.....	25
Appendix B – Schematic of the Agency’s Coasting Trade Licence Application Process ...	32

This document and other Canadian Transportation Agency publications are available on our website at otc-cta.gc.ca.

© His Majesty the King in Right of Canada, as represented by the Canadian Transportation Agency, 2023

Catalogue No. TT4-19/2023E-PDF
ISBN 978-0-660-49413-5

Available in alternate formats
Version française disponible

Part 1 – Introduction

1.1 Canadian Transportation Agency Mandate

Coasting trade refers to any commercial marine activity within Canadian waters. The Coasting Trade Act (the Act) supports Canadian marine interests by reserving the coasting trade of Canada to Canadian-registered duty-paid ships, with limited exclusions. The legislation provides a process to temporarily import a foreign or non-duty-paid ship under coasting trade when a suitable Canadian-registered duty-paid ship is unavailable.

Under the Act, the Canadian Transportation Agency (Agency) determines if a suitable Canadian or non-duty-paid ship is available to perform the activity described in the application. If the coasting trade licence application is for the transportation of passengers, the Act also requires the Agency to determine whether an identical or similar adequate marine service is offered (referred to collectively as "activity").

If the Agency determines that no suitable ship is available, the Minister of Public Safety and Emergency Preparedness issues a coasting trade licence. This licence authorizes a foreign or non-duty-paid ship to conduct commercial activity in Canadian waters for a maximum period of 12 months.

The Canadian Transportation Agency Guidelines for Coasting Trade Licence Applications (Guidelines) address the mandate of the Agency under the Act.

However, the coasting trade licence application process directly or indirectly involves several other government departments and agencies that may need to be contacted before starting any activity with a foreign ship in Canadian waters. These departments and agencies are listed in section 4.6. That section also describes their respective responsibilities and anticipated processing timelines.

1.2 Purpose of the Guidelines

The Guidelines explain the Agency's mandate and administrative obligations and describe the nature of the information required by the Agency to make a determination under the Act. These Guidelines also clarify the roles and responsibilities of the applicant and the offer or involved in the application process and describe options for

processing different types of applications. For a schematic of the process, please refer to [Appendix B](#).

In the event of an inconsistency between the Guidelines and the Act, *Canada Transportation Act* or any other Act of Parliament, the legislation prevails.

1.3 Process for Coasting Trade Licence Issuance

To apply for a coasting trade licence, one must file a [C-47 CBSA Form for Temporary Admission](#), simultaneously with the Canada Border Services Agency (CBSA) and the Agency. The Agency also requests the submission of the [Applicant's Checklist](#).

The Agency notifies operators of Canadian-registered ships of the proposed activity to be performed (as described in the application). A Notice of Application (Notice) is posted on our website and sent to those who subscribe to receive [email notifications](#). When staff receives an application, staff reviews and advises the applicant if it is incomplete. Once deemed complete, staff proceeds to the posting of the Notice.

The Notice will request that Canadian operators advise, within the time frames provided, if they have a suitable ship available to perform the activity described in the application. In the case of passenger ships, Canadian operators are also to advise whether an identical or similar adequate marine service is available.

If no offer of a Canadian ship is received by the deadline specified in the Notice, the Agency consider the application to be uncontested. It will then issue a determination that no suitable Canadian ship is available.

The Agency will consider the application contested if its receives an offered Canadian ship (s) to perform the proposed activity ("objections with an offer"). It will then accept written submissions from the relevant parties.

The Agency will automatically determine that no suitable ships are available for all "objections without an offer" of a Canadian ship, making the application uncontested.

Objections with or without offers of Canadian-registered ships must be filed with the Agency and the applicant at the same time.

Each party is responsible for presenting its case and making all pertinent arguments in its pleadings. The Agency bases its decision on the information provided. The pleadings must be received within the time frame provided in the Notice.

Where an offer of a Canadian-registered ship is made, **the applicant must contact the Canadian offeror(s)** to discuss the availability and suitability of the Canadian ship(s). If the application or offer(s) is not subsequently withdrawn, the applicant must file any relevant comments on the offer(s) within the applicable time period. The offeror(s) must file any final reply to those comments within the applicable time period. Pleadings will be considered closed after the final reply is received or, if no reply is received, once the deadline for submitting the final reply has passed. Once pleadings have closed, parties are not generally permitted to make any further submissions.

Based on the arguments and evidence before it, the Agency will decide whether, on a balance of probabilities (i.e., it is more likely than not), a Canadian ship is suitable and available to perform the proposed activity. If the case involves the transportation of passengers, the Agency will decide whether an identical or similar adequate marine service is offered. The Agency then issues a decision containing this determination.

A determination of the Agency under the Act is provided to the Minister of Public Safety and Emergency Preparedness for further action. **An Agency determination does NOT authorize the activity in the application to commence. Before the activity described in the application can commence, the Minister of Public Safety and Emergency Preparedness must issue the appropriate licence.**

Applicants are advised that they are responsible for ensuring that they meet other government departments and agencies' requirements related to coasting trade, as noted in [section 4.6](#) of these Guidelines. In so doing, applicants should plan accordingly to consider the time required for each relevant authority to carry out its obligations.

Part 2 – Minimum Notice Periods and Content of Application

2.1 General

Although the Act does not contain statutory time frames for the various steps involved in an application, these Guidelines describes minimum time periods for notice depending on the nature or urgency of the activity, and keeping in mind that potential offerors must have sufficient time to respond and the Agency must have sufficient time to consider the merits of the application.

It is an applicant's responsibility to ensure that an application is submitted with sufficient time to be processed prior to the anticipated start date of the activity described in the application. For this reason, an application should be filed with the Agency as far in advance as possible before the proposed activity starts. That said, an application must contain sufficient information to enable the Agency to make its determination, and must not be of a general or speculative nature.

The onus is on the applicant to complete the application in full, providing information in sufficient detail to permit the Canadian operators to assess and respond to the application. An incomplete application will result in delays in processing and may result in the application being returned as incomplete to the applicant.

An applicant may need to disclose to the Agency information of a commercially sensitive nature during pleadings. In such cases, there is a process for making a claim for confidentiality and allowing other parties to comment on the disclosure of confidential information. See the [Appendix A](#) for further details.

2.2 Minimum Notice Periods

The Agency has established the following *minimum* advance notice time periods informed by the various circumstances under which a coasting trade licence may be sought. All time periods are in business days.

These time periods apply to the Agency's processes only. They do not account for time constraints imposed by or resulting from other federal departments or agencies. An applicant should consider whether it is required to deal with other federal departments

or agencies for purposes related to the proposed Activity, the time that may be associated with these processes, and should factor this into the amount of notice they provide to the Agency.

The Agency's minimum time periods for advance notices are as follows:

- **30 days:** For all applications, except tankers. These applications are for pre-planned activities where specific dates and locations are known in advance. This could include non-urgent activities (e.g., multi-trips or yearly operations), shorter-term activities (e.g., a single trip, isolated or non-repetitive operations), activities related to offshore resource exploration and development, cable laying, or passenger services (e.g., sightseeing, cruises or tall ships).
- **8 days:** For all applications proposing the operation of oil tankers.

Fast Track for unforeseen activities.

The fast track process is *not* to be used when an applicant has failed to properly plan for an activity that would typically have a longer advance notice period.

The fast track process applies only to unforeseen short-term situations where the economic consequences of the commercial shipping activity not being performed would have a negative impact on a business or a community (e.g., damaged telecommunication cables).

An applicant must provide clear and concise written reasons why the advance notice period of a minimum of 30 days/8 days and the associated timelines described in these Guidelines are not feasible. Otherwise, the Agency will process the application following the time frames associated with the minimum advance notice period of 30 days or 8 days as applicable.

When the Agency has accepted an application that requests the fast-track process, the Agency will post a Notice on its website, and will email the Notice to those who subscribe to receive [email notifications](#). Timelines are set out in section 3.3 below.

Emergency Situations (Urgent process)

In emergency situations only, the Agency may process a complete application with the urgent process. This process only applies to imminent life threatening situations or disasters which could result in loss of life or other very serious consequences which are not strictly economic in nature. Timelines are set out in section 3.3 below, and reflect calendar days, rather than the standard business days used in other types of processes, and may be adjusted by the Agency on a case-by-case basis depending on the particular facts and circumstances. Should the timelines set out in section 3.3 not be appropriate given the seriousness of the emergency situation, the applicant could request more accelerated specific timelines in its application and, in doing so, should justify such request based on the relevant facts and circumstances.

2.3 Content of Applications

The [C-47 CBSA Form](#) must be signed by a Canadian resident, along with the comprehensive application to justify the reasons why a foreign ship must be imported to perform the proposed activity. The [Applicant checklist](#) is created to help you to include the details required.

All applications **must** include the checklist and the following information:

- A detailed description of the activity identified in the application, including, but not limited to:
 - name of ship (s);
 - nationality of ship (s);
 - type of ship, size, capability;
 - IMO number;
 - complete description of the type of activity;
 - list of all ports, with an itinerary;
 - number of trips;
 - start and end dates;
 - any special requirements and physical limitations (e.g., crane, reefer, port's limitation, etc.); and

- reason for the need to use a foreign ship.
- Information by type of activity:

Cargo:

- type of cargo (fish, supplies, equipment, etc.);
- location, destination of cargo, and reason for the move;
- constraints that would prevent another ship from performing the activity; and
- any special requirements (e.g., crane, reefer plugs, deck structure, self-loading, physical limitations at ports of loading/discharge, etc.).

Tanker:

- volume of cargo (m³, etc./per voyage);
- constraints that would prevent another ship from performing the activity; and
- type of cargo (e.g., clean, dirty petroleum products, type and grade of crude, etc.).

Passenger service:

- number of passengers;
- if overnight stay, number of rooms/berths;
- nature of the service (e.g., bareboat, cruise, sightseeing, business venue, etc.);
- length of the excursion;
- deck plans;
- description of services offered;
- targeted customer (luxury), and
- table with the pricing structure.
- The name of the proposed foreign ship. In exceptional circumstances (e.g., tankers, urgent applications), the Agency will consider applications without the name of the foreign ship; however clear reasons must be provided indicating why the name is unknown;

- An indication of whether the dates of the proposed activity can be changed, and, if not, reasons why the dates cannot be changed;
- Reasons why the applicant determined that there was no alternative but to import the foreign ship identified in the application;
- Any other relevant information supporting the application, including, but not limited to, environmental permits and any attached conditions that have been issued under the *Canadian Environmental Protection Act* and are required to perform the proposed activity. In the case of Northern waters (north of the 60th parallel), indicate if the activity and/or the ship is subject to any restrictions imposed by Schedule VIII of the *Arctic Shipping Pollution Prevention Regulations*; and
- The names of the operators of Canadian-registered ships the applicant has contacted before applying and the results of those communications in terms of potential offers, including suitability and availability of Canadian-registered ships.

Fast-Track Applications

All fast-track applications **must** include detailed responses to the following four questions:

- What are the reasons the minimum advance notice period of 30 days or eight days could not be provided for this activity?
- What date did the applicant (or party represented by the applicant) become aware of the requirement or opportunity to conduct the proposed activity?
- What are the names of the operators of Canadian-registered ships contacted before applying?
- What are the economic consequences of not obtaining a coasting trade licence on a fast track basis in terms of the negative impact on businesses or communities? A detailed explanation is required. Such applications should also include any relevant statements from representatives of businesses or communities that are or would be negatively impacted due to this unforeseen short-term situation.

- More favourable costs (e.g., duty, crew, fuel) and operating conditions of foreign ships compared to Canadian-registered ships will not be considered by the Agency as "economic consequences" to justify a fast-track application.

Urgent Applications

All urgent applications **must** include detailed responses to the following three questions:

1. What are the reasons why the minimum advance notice period of 30 days or eight days could not be provided for this activity?
2. What is the emergency situation? Provide a detailed explanation based on the definition of emergency situations outlined in section 2.2.
3. Are the timelines set out in section 3.3 appropriate given the seriousness of the emergency situation? If not, applicant could request more accelerated specific timelines in its application and, in doing so, should justify such request based on the relevant facts and circumstances.

Part 3 – Pleadings

3.1 Filing an objection

Canadian-ship operators need to understand the significance of offering or not offering a ship when objecting.

For this reason, if you object to an application as a Canadian ship operator, your objection **must** include the offer of a ship in order to be considered as part of the pleadings. If your objection does not include an offer of a ship, pleadings will not be initiated, you will not have the opportunity to make further submissions, and the application will be considered uncontested.

Filing comments as an interested person

Any interested person who intends to make comments, provide an opinion or file support letters to the Agency regarding an application, but does not intend to offer a ship, shall file with the Agency, the applicant, and any offerors, the following information in a written submission:

- a description of the nature of the person's interest in the proceeding and, in particular, support for or objection or opposition to the application and/or offer;
- any relevant information, including documents, that explain or support the person's comments; and
- a statement indicating the date on which the person became aware of the application.

Please note:

- The application remains uncontested as no offer of a ship has been made.
- An interested person who wants to file submissions with the Agency must do so at the earliest possible time after becoming aware of the application. Submissions by interested persons are not to be made after the close of pleadings.
- The Agency may refuse to accept a submission if the person submitting it fails to satisfy the Agency that they have an interest in the proceeding. It is not enough to simply state that the person has an interest; sufficient information must be provided in order to demonstrate this interest.
- A person who files a submission as an interested person is not considered a party to the proceeding, is not entitled to further notice, and does not have a right to participate further.
- The Agency may direct or allow a party to the proceeding to file a reply to an interested person's submission where their interests could be adversely affected by the submission.

3.2 Pleadings

Where no offers are received, the Agency deems there to be no suitable Canadian-registered ship available and issues its determination promptly.

Where an offer of a ship is received, the Agency initiates the pleadings process. During this process, the applicant and the offeror must always ensure to copy one another on any submissions to the Agency, which generally includes filing an offer, responding to an offer, providing comments to a response, an offer or an objection.

Under Section 9 of the Act, in making its determination on an application, the Agency may request any information and documentation related to an application from the applicant and/or from the offeror, as deemed necessary.

3.3 Time Limits for Pleadings

The time limits stated below reflect the time allocated for the pleadings related to each application process.

Table 1: Time Limits (in business days)

Minimum advance notice periods	Minimum 30 days in advance	Minimum 8 days in advance required (tankers only)
Offer or objection or comment:	8 days	2 days
Applicant's answer:	5 days	2 days
Reply from offeror:	2 days	1 day

Table 2: Time Limits for Unforeseen Activities (in business days unless otherwise stated)

Minimum advance notice periods	Fast Track (no minimum advance notice)	Urgent Process* (no minimum advance notice)
Offer or objection or comment:	2 days	2 days
Applicant's answer:	1 day	1 day
Reply from offeror:	1 day	1 day

These time periods are intended to balance the applicant's need for a determination within a reasonably short period of time and an offeror's need for a reasonable period to review the application requirements and make an offer of a Canadian-registered ship.

*Note that the days reflected under the urgent process are **calendar** days, rather than business days, which may mean that the process could unfold during non-standard

business hours (for example, on a weekend). **These time limits could be changed by the Agency on a case-by-case basis depending on the particular facts and circumstances of an emergency situation.**

3.4 Roles and Responsibilities of the Parties During Pleadings

Parties must understand their roles and responsibilities during pleadings in the context of the Agency's determinations under the Act.

It is always recommended that parties communicate with each other and attempt to find a mutually beneficial solution. At any time during the pleadings:

- A party may, on notice filed with the Agency, withdraw an application, offer, or other pleading at any time before the Agency's final determination under paragraphs 4(1)(a) or (b) or 5(a) or (b) of the Act.
- The party shall serve a copy of the notice of withdrawal on the other parties.
- The Agency may fix any terms and conditions, including costs, when considered appropriate.

3.4.1 Applicant's Role

When a Canadian-registered ship is offered to perform the proposed activity described in the application, the applicant must prove to the Agency on a balance of probabilities that the offered ship is:

- not technically or commercially suitable;
- not available to perform the activity described in the application; and
- in the case of passenger services, not an identical or similar adequate marine service available from any person operating one or more Canadian-registered ships.

The ultimate burden of proof rests with the applicant to demonstrate that the offered ship is not suitable and available. If an applicant provides sufficient evidence to make its arguments persuasive, the evidentiary burden will shift to the offeror. The offeror may then respond by adducing evidence to support its assertion and/or disprove those of the applicant.

Should the applicant fail to provide sufficient evidence to support its position that it is more likely than not that the offered ship is not suitable (technically or commercially) or not available to perform the proposed work, the application will be denied by the Agency.

3.4.2 Offeror's Role

Where an applicant has submitted evidence to challenge the suitability or availability of the offered ship, the evidentiary burden shifts to the offeror to produce evidence to counter the applicant's evidence. This burden obligates the offeror to respond by providing evidence to support its assertions.

Should the offeror fail to provide sufficient evidence to support its position that the offered ship is suitable and available to perform the proposed work, the Agency will determine there is no suitable Canadian ship available to perform the activity. Similarly, in the case of passenger services, if the offeror provides insufficient evidence, the Agency will determine there is no identical or similar adequate marine service available from any person operating one or more Canadian ships.

The offeror should always file complete submissions during the pleadings process using the [Offeror's Checklist](#).

3.4.3 Agency's Role

The Agency decides cases based on the written arguments and evidence submitted by the parties and interested persons (In exceptional cases, the Agency may find it necessary to convene an oral hearing, see Appendix A in this regard). To do so, the Agency weighs the submissions made and the evidence to assess whether the applicant has proven that a suitable Canadian ship is not available to perform the activity. In the case of passenger services, the Agency similarly assesses the submissions and evidence to determine if there is not an identical or similar adequate marine service available from any person operating one or more Canadian-registered ships.

The Agency makes its determination on a balance of probabilities assessment of the merits of the evidence submitted, meaning that the applicant must prove that its position is more likely than not.

3.5 The offer of a ship

As per the checklist, the offer of a ship must include the following information:

- name, description and specifications of the offered ship(s);
- type, size, capacity, capability, on-board equipment, and all other relevant information justifying the offer in direct response to the suitability requirements of the proposed activity as described in the application, including the details of any proposed retrofitting (e.g., nature, cost, timing);
- comprehensive information to support how the offered ship(s) is/are going to perform the activity as described in the application;
- availability of the offered ship(s) for the time period identified in the application, or the offeror's opinion concerning another suitable period when the activity could be performed; and
- in the case of an application to transport passengers, all pertinent information to show that it is an identical or similar adequate marine service offered by one or more Canadian-registered ships.

The offer can include more information than listed above, but it should not contain less.

The offeror's responsibility is to provide evidence that the offered ship is Canadian-registered. Satisfactory evidence of the Canadian-registered status of an offered ship is its name and proof that it is currently registered in Transport Canada's [Canadian Register of Vessels](#) database.

If the offered ship is a foreign ship that is undergoing a process of becoming a registered Canadian ship, an offeror must provide evidence that the offered ship will be registered by the time the proposed activity is to be performed.

Failure to do so will result in the Agency concluding that no Canadian-registered ship is available for the proposed activity.

3.5.1 Suitability, Availability, Identical or Similar Adequate Marine Service

The Act does not define the terms "suitable," "available," or "identical or similar adequate marine service." The Agency considers various factors as described below, to determine whether an offered Canadian-registered ship is suitable and available to perform the activity.

All determinations and other rulings concerning coasting trade licence applications are listed in our [decision and determination database](#).

Suitability

The Act does not state that an offered Canadian-registered ship must be "identical" to the foreign ship proposed in an application.

The suitability of the Canadian-registered ship is not assessed in relation to the technical specifications of the foreign ship. The Agency assesses the suitability of the Canadian-registered ship in relation to the technical and operational requirements of the activity and whether the Canadian-registered ship can perform the activity.

The suitability factors assessed may include the following:

- **Technical and Operational suitability** – the technical characteristics of the ship and equipment required to perform the proposed marine service or activity operationally.
- **Commercial and Economic suitability** – the commercial (e.g., financial, cost) and economic implications of using the foreign ship versus the offered Canadian-registered ship. The Agency recognizes that the operation of Canadian-registered and crewed ships implies costs and operating conditions that do not apply to (and are usually higher than for) foreign ships. Therefore, allegations or evidence from the applicant that go solely to the "higher cost" of operating a Canadian ship are generally insufficient to establish that an offered Canadian-registered ship is not commercially or economically suitable.

Where the applicant has raised commercial or economic suitability, the applicant must produce evidence that demonstrates the following:

- The use of the foreign ship is necessary to ensure the commercial viability of the proposed activity.
- The higher *costs* of using an offered Canadian ship for the activity would render the activity commercially or economically unviable.

If the applicant makes a case for commercial and economic suitability, the offeror must produce counter-evidence in its reply to demonstrate that using the Canadian-registered ship would not render the proposed activity commercially/economically unviable.

The Agency has the authority to require the parties to provide any additional information it deems necessary. The Agency may determine that additional information is necessary from an impartial third party. Any information received from a third party would be provided to the parties.

Availability

The Act does not state that an offered Canadian-registered ship must be available on the exact dates stipulated in an application. The Agency has determined on several occasions that the time period during which a proposed activity could take place could be reasonably flexible without affecting the parties' interests.

Therefore, the Agency may use the following factors to determine availability:

- the underlying rationale as to why the dates stipulated in the application are crucial and why alternative dates cannot not be considered;
- the capability of the offered ship to be at the required site on time;
- the location of the offered ship and repositioning delay;
- the normal, or usual, time period for conducting a proposed activity; and
- the ability of the offered ship to perform the proposed activity by the end of the required period (or relevant shipping/activity season).

Identical or Similar Adequate Marine Services - Passenger Services only

For passenger services, and in addition to the suitability and availability tests above, the Act requires the Agency to determine whether an identical or similar adequate marine service is available from any person operating one or more Canadian-registered

ships. In determining "identical or similar adequate" passenger marine service, the Agency considers factors such as:

- the offered ship's characteristics (e.g., passenger capacity, level of service, vintage, quality of build, appointments, etc.) in relation to the proposed foreign ship for conducting the proposed activity or service; and
- the distinctness of the passenger or cruise market targeted (e.g., cost/luxury segment of packages/service, foreign versus domestic marketing) by the proposed activity in relation to the offered packages/services of the offeror.

3.6 Deadline for Agency Decisions

The *Canada Transportation Act* requires the Agency to make its decisions as expeditiously as possible, which generally means within 120 days of receipt of an originating document (such as an application).

The Agency has adopted performance targets to efficiently protect the interests of Canadian-registered ships while allowing access to foreign ships when suitable Canadian-registered ships are not available.

Although the Agency strives to meet these performance targets and issue a determination as expeditiously as possible, in certain situations, the Agency may need the entire 120 days provided in the *Canada Transportation Act* to issue its determination. Applicants should anticipate this if offers are expected to be filed, the case is complex, or submissions do not contain enough information.

Table 3: Performance Targets

Services	Target
Contested cases completed within 90 calendar days*	80%
Uncontested cases issued before start date of activity	95%

Note: * The time period starts once the application is deemed complete.

Part 4 – General Information

4.1 Withdrawal or Modification of an Application or an Offer

The Agency may permit modifications to an application or offer under certain circumstances. The Agency considers the proposed modifications to determine whether the changes materially vary the existing application or offer.

For example, modifications to an application may be considered by the Agency for the following elements:

- nature of the proposed activity;
- type and name of ship, characteristics, equipment, etc.;
- area where the proposed activity will be performed; and
- starting/ending dates of the proposed activity.

However, where proposed modifications vary the application in a material way, a new application may be required.

An applicant may withdraw an application at any time before an Agency determination is issued.

An offeror of a Canadian-registered ship may also withdraw its offer at any time before an Agency determination is issued.

4.2 Procedural Provisions for the Processing of Coasting Trade Licence Applications

For procedural matters in coasting trade proceedings, parties should refer to these Guidelines, including the [Appendix A](#). This Appendix contains supplemental provisions for all proceedings before the Agency related to coasting trade licence applications.

The Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings) do not apply to these proceedings.

4.3 Appeal and Review of Agency Decisions

Should a party involved in the pleadings disagree with an Agency determination, there are two avenues to contest the decision:

- under section 41 of the *Canada Transportation Act*, a party can apply to the Federal Court of Appeal within 30 days of the issuance of an Agency decision for leave to appeal the decision on a question of law or jurisdiction; and
- under section 40 of the *Canada Transportation Act*, a party can petition the Governor in Council to vary or rescind any decision made by the Agency.

In addition, under section 32 of the *Canada Transportation Act*, the Agency may review, rescind or vary a decision if it is satisfied that there has been a change in the relevant facts or circumstances pertaining to the decision after the decision was made. This is not an open-ended authority for the Agency to reconsider its decisions. The Agency may decline to reconsider its decision for many reasons including when, for example, the Minister of Public Safety and Emergency Preparedness has already issued a licence for the proposed activity.

4.4 Official Languages

Written information can be submitted to the Agency in either **French or English**.

If documents are submitted by persons in different official languages, the Agency is not required to translate the documents. Where translation is required by a person to understand the document, that person will be responsible for obtaining and paying for the translation.

4.5 Agency Contact Information

New applications and questions about applications for a coasting trade licence must be sent to:

Rail and Marine Determinations

Canadian Transportation Agency

E-mail: maritime@otc-cta.gc.ca

Objections with or without a ship offer, comments, opinions, and support letters must be sent to the Secretary of the Agency and copied to the applicant.

E-mail: secretariat@otc-cta.gc.ca

4.6 Other Agencies and Departments – Contact Information

Depending on the activity being considered in a coasting trade application, all or some of the following departments and agencies must be contacted before starting any activity with a foreign or a non-duty ship in Canadian waters.

The following information is provided to assist parties in planning ahead for coasting trade applications, but may not be exhaustive. While the information is accurate as of the time of writing, contact and other information may change. The applicant should ensure they have the most recent accurate information.

4.6.1 Transport Canada

Transport Canada's Domestic Marine Policy Group administers and enforces the Act. To promote compliance with Canadian law, Transport Canada provides guidance on the application of the Act and undertakes enforcement as required.

Transport Canada may be contacted for guidance concerning particular activities, i.e., whether an activity is or is not considered coasting trade. Enquiries can be directed to Transport Canada by email at TC.CoastingTrade-Cabotage.TC@tc.gc.ca.

Safety and Security: Transport Canada must also verify that ship certificates and documents are valid and in force. They also conduct inspections under the *Canada Shipping Act* to ensure foreign ships meet all applicable safety and pollution prevention

requirements. Safety inspection of foreign ships that have received a letter of determination from CBSA can be coordinated through [Transport Canada's Marine Safety and Security regional offices](#).

There are transportation considerations stemming from the following international agreements:

- **The Canada-European Union Comprehensive Economic and Trade Agreement (CETA):** Canada's trade agreement with the European Union known as CETA, allows eligible European Union entities to offer a limited number of coasting trade services without a licence. Learn more about how CETA impacts [coasting trade and foreign vessels](#).
- **The Canada-United Kingdom Trade Continuity Agreement (Canada-UK TCA):** As of January 1, 2021, CETA no longer applies to the United Kingdom (UK). Canada's new transitional agreement with the UK, known as the Canada-UK TCA, reflects the terms and conditions of CETA. This allows eligible British entities to offer a limited number of coasting trade services without a licence. The continuity agreement will remain in place as Canada and the UK work towards negotiating a comprehensive free trade agreement. Learn more about how the Canada-UK TCA impacts [coasting trade and foreign vessels](#).

4.6.2 Canada Border Services Agency (CBSA)

The [C47 - Application for Vessel Temporary Admission to the Coasting Trade of Canada form](#) must accompany the applications and the [Applicant checklist](#) for a coasting trade licence and be signed by a resident of Canada. Applications are to be sent simultaneously to the Agency and CBSA by email at maritime@cta-otc.gc.ca and coastingtrade-cabotage@cbsa-asfc.gc.ca.

When the Agency determines that no suitable Canadian-registered ships are available to perform a proposed activity, CBSA will email a Letter of Determination to the applicant. This letter outlines the remaining requirements to obtain a coasting trade licence.

The applicant can then take the necessary documentation to a specified CBSA office where a licence is issued on behalf of the Minister of Public Safety and Emergency Preparedness. This licence authorizes the ship to commence its specified activities.

4.6.3 Employment and Social Development Canada (ESDC) and Immigration and Citizenship (CIC)

In general, employers who wish to use temporary foreign workers aboard ships that plan to work in Canadian waters under the Act must obtain a [Labour Market Impact Assessment](#) (LMIA). The temporary foreign worker must also obtain a work permit from CIC, and in some cases, a visa. Learn more about the [Temporary Foreign Worker Program](#).

4.6.4 Petroleum Boards

For companies that intend to carry out oil and gas activities in the Nova Scotia or Newfoundland and Labrador Offshore Areas, the relevant Board(s) must be contacted to obtain information and appropriate approvals for the proposed work activity. For more information, see:

- [Canada-Newfoundland and Labrador Offshore Petroleum Board](#)
- [Canada-Nova Scotia Offshore Petroleum Board](#)

Appendix A – Supplemental Provisions for the Processing of Coasting Trade Licence Applications

These Guidelines, including provisions in this Appendix, apply to proceedings before the Agency related to coasting trade licence applications under sections 4 and 5 of the Act.

Confidentiality

Recently, the Supreme Court of Canada reviewed the requirements for any discretionary limit on the openness of the court to the public and media in [Sherman Estate 2021 SCC 25](#) and recast the test for confidentiality. Following the principles set out in Sherman Estate, a person seeking for confidential information to be protected must establish that:

- a) Court openness poses a serious risk to an important public interest;
- b) The order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
- c) As a matter of proportionality, the benefits of the order outweigh its negative effects.

A person making a claim for confidentiality shall file:

- one version of the document from which the confidential information has been deleted, whether or not an objection has been made under paragraph (4)(b) of the Act; and
- one version of the document that contains the confidential information marked "contains confidential information" on the top of each page and that identifies the portions that have been deleted from the version of the document referred to in paragraph (a) of the Act.

A person making a claim for confidentiality shall indicate:

- the reasons for the claim, and in doing so, must address elements (a) through (c) above ; and

- whether the person objects to having a version of the document from which the confidential information has been removed placed on the public record and, if so, shall state the reasons for objecting.

A claim for confidentiality shall be placed on the public record and a copy shall be provided to any party adverse in interest.

Within 48 hours following receipt of the claim for confidentiality, a person contesting a claim for confidentiality shall file with the Agency and serve on the person claiming confidentiality,

- a request for the disclosure of the document, setting out the relevance of the document, the public interest in its disclosure and any other reason in support of the request; and
- any material that may be useful in explaining or supporting those reasons.

The person making a claim for confidentiality may, within 48 hours after being served with a request for disclosure, file a reply with the Agency and serve a copy of the reply on the person who made the request for disclosure.

If the Agency finds that one or more of criteria (a) to (c) above are not met, the Agency shall place a document in respect of which a claim for confidentiality has been made on the public record.

If the Agency determines that a document in respect of which a claim for confidentiality has been made is not relevant to a proceeding, it will not form part of the record and the Agency will return the document.

If the Agency determines that a document in respect of which a claim for confidentiality has been made is relevant to a proceeding and the requester satisfies the Agency that disclosure poses a serious risk to an important public interest, that the order sought is necessary to prevent this serious risk and alternative measures will not suffice, **and** that the benefits of a confidentiality order outweigh the negative effects, the Agency may:

- order that the document not be placed on the public record, but that it be kept confidential;
- order that a version or a part of the document from which the confidential information has been removed be placed on the public record;

- order that the document or any part of it be provided to the parties to the proceeding, or only to their solicitors, and that the document not be placed on the public record; or
- make any other order that it considers appropriate.

Affidavit

The Agency may require the whole or any part of a document filed with it to be verified by affidavit.

If the statements made in an affidavit are based on an individual's belief, the affidavit must also specify the reasons for this belief.

If the Agency requires a document be verified by affidavit and the party does not comply within the time established by the Agency, the Agency may strike out any document or part of it that has not been verified. When a document or portion of a document is struck, this means that it will not be considered by the Agency in its determination.

Document Request

If, in any pleading, a party refers to a document that it intends to rely upon, any other party may request to that party that, as soon as is reasonably possible,

- the document be produced for inspection and copying by the party making the request; or
- a copy of the document be provided to the party.

The Agency may determine that a party who fails to comply with a request within 48 hours may not enter the document as evidence in the proceeding.

The person who produces a document shall also provide a copy to the Agency.

Notice to Produce

When a party believes that another party has documents in its possession or control that relate to a matter in dispute, the party may request that these documents be produced by giving written notice to the party. This request must be made as soon as reasonably possible and must specify what document is being sought.

Subject to a determination of confidentiality by the Agency, if a party fails to respond, within 48 hours, to the notice to produce a document the Agency may

- direct the party to produce the document; or
- permit the party who gave the notice to submit other evidence supporting the contents of the document, or
- Decline to require the production of documents.

Notice to Admit

A party may give notice in writing to any other party to, within 48 hours after receipt of the notice, admit the authenticity of a document relating to a proceeding.

A party who does not admit the authenticity of the document within 48 hours is deemed to admit the authenticity of the document.

If a party refuses to admit the authenticity of a document, the party shall pay the costs of proving it, regardless of the disposition of the proceeding, unless the Agency determines that the refusal was reasonable.

Direction to Produce

The Agency may:

- request any additional information, particulars or documents that the Agency considers necessary for purposes of making its determination on the application; and/or
- stay the application until the information, particulars or documents are filed with the Agency and until the Agency determines that the information, particulars or documents constitute a reasonable response to the Agency's direction.

Interrogatories

A party to a proceeding may direct questions to any other party if the party files with the Agency, and serves on the other parties, a copy of the questions along with the reasons for them and their relevance to the proceeding.

A party to whom questions have been directed shall, within 48 hours,

- serve the party who directed the questions with a full and adequate response to each question;
- file a copy of the response with the Agency; and
- serve copies of the response on the other parties.

If a party to whom questions have been directed does not provide a complete and adequate response and contends that a question is not relevant or that the information requested is of a confidential nature or is not available, the party shall set out its reasons in support of that contention, and include any alternative available information that the party considers would be of assistance to the party who directed the questions.

If a party who directed questions is not satisfied that the response is complete or adequate, the party may request the Agency to direct that the questions be answered in full. The Agency may then direct that the questions be answered in full or in part, or not at all.

Formulation of issues

The Agency may formulate the issues to be considered in any proceeding or direct the parties to propose the issues for its consideration if

- the documents filed do not sufficiently raise or disclose the issues;
- the formulation would assist the Agency in the proceeding; or
- the formulation would assist the parties to participate more effectively in the proceeding.

Preliminary issue

If the Agency determines that an issue should be decided before continuing the pleadings, it may direct the issue be decided in the manner it considers appropriate.

The Agency may, pending its decision on the issue, stay the whole or any part of the proceeding. When the Agency stays a proceeding, this means that the proceeding is paused for a period of time and resumed later.

Stay

At any time before a coasting trade licence is issued to the applicant by the Minister of Public Safety and Emergency Preparedness, the Agency may, at the request of a party, grant a stay of a determination under paragraphs 4(1)(a) or (b) or 5(a) or (b) of the Act pending the disposition of:

- an application for rehearing or a review in respect of that determination under section 32 of the *Canada Transportation Act*;
- a petition to the Governor in Council in respect of that determination under section 40 of the *Canada Transportation Act*;
- an application for leave to appeal and, if leave is granted, an appeal to the Federal Court of Appeal in respect of that determination under section 41 of the *Canada Transportation Act*.

A person who files a request for stay shall serve a copy of the request on the other parties to the proceeding.

On granting the stay, the Agency may impose any terms and conditions that it considers just and reasonable in the circumstances.

Hearing

The Agency will generally make its determinations based on the written pleadings. In exceptional cases, the Agency may find it necessary to convene an oral hearing to further its investigation in an application and, in that case, specific procedures for the conduct of oral hearings will be established and applied by the Agency.

Discretionary powers

The Agency shall exercise all discretion under the Guidelines and in these supplemental provisions (provisions) in a fair and expeditious manner.

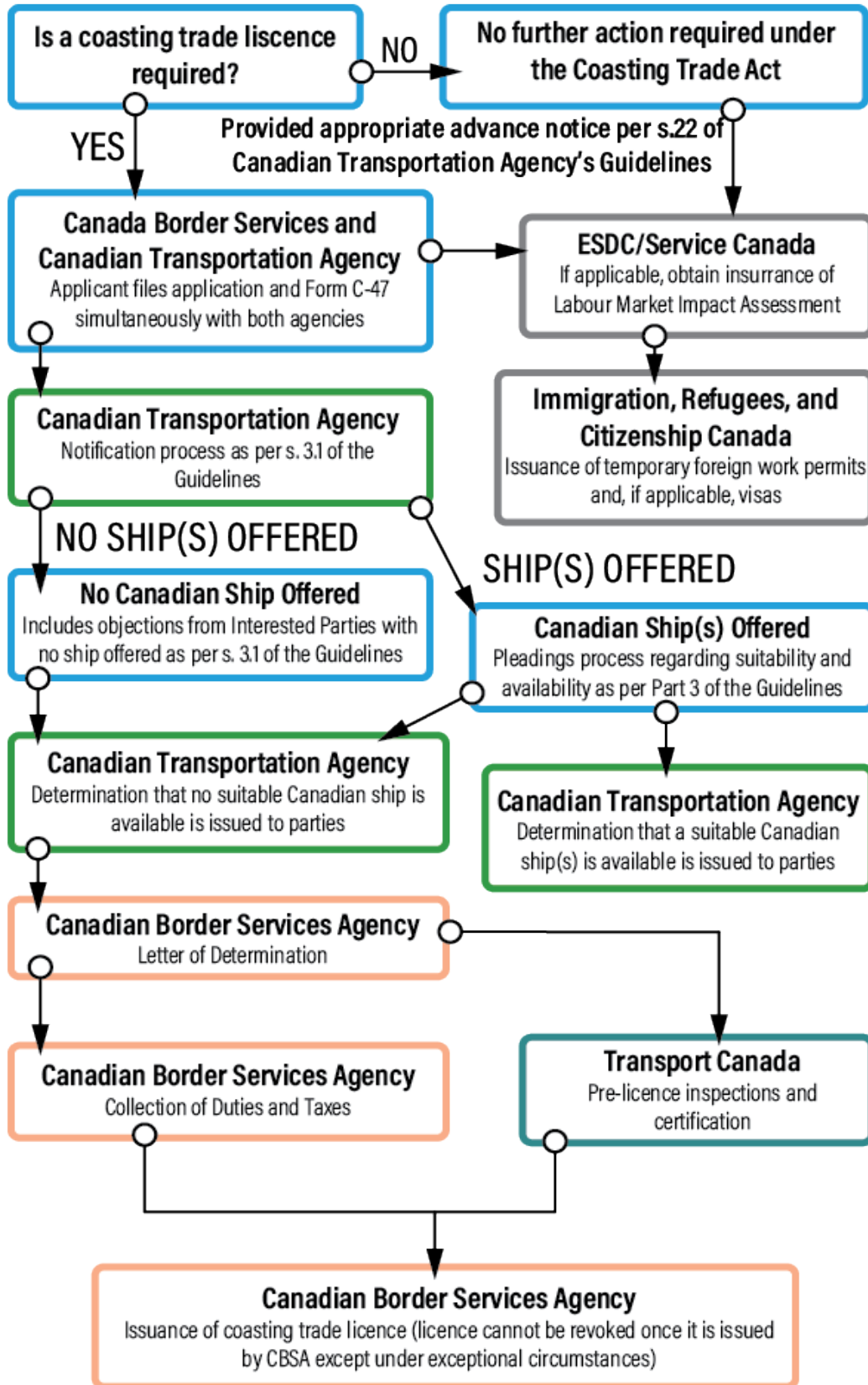
The Agency may, with or without notice,

- do whatever is necessary to deal with anything that is not covered by the Guidelines or these provisions; or
- do anything prescribed in the Guidelines or in these provisions on its own, even if the Guidelines or these provisions state that a party must make a request to the Agency.

In any proceeding, the Agency may dispense with or vary any of the provisions of the Guidelines or these provisions. In particular, failing to follow a requirement of the Guidelines or these provisions does not, of itself, make a proceeding invalid, and the Agency may make all necessary amendments or grant other relief on any terms that it deems appropriate or dispense with compliance with any provision of the Guidelines or these provisions at any time.

In any proceeding, the Agency may extend or abridge the time limits set by the Guidelines or these provisions or otherwise set by the Agency, either before or after the expiry of the time limits.

Appendix B – Schematic of the Agency’s Coasting Trade Licence Application Process



Text description: Schematic

Is a coasting trade licence required? If no, then no further action is required under the Act. If yes, then the applicant is required to file, simultaneously, a Form C-47 with the Canada Border Services Agency and an application with the Canadian Transportation Agency.

At this time, the applicant should also contact ESDC/ Service Canada to obtain, if applicable, a Labour Market Impact Assessment, and Citizenship and Immigration Canada to obtain temporary foreign work permits and, if applicable, visas.

After the application is received, the Canadian Transportation Agency will begin the notification process.

The results of the notification process will result in one of the following possibilities.

Possibility 1:

No Canadian ship is offered. The Canadian Transportation Agency will determine that no suitable Canadian ship is available. Once this determination is made, the Canada Border Services Agency will then issue a Letter of Determination, resulting in the following:

- The Canada Border Services Agency will collect duties and taxes; and
- Transport Canada will conduct pre-licence inspections and certification.

Once the Canada Border Services Agency has collected duties and taxes and Transport Canada has conducted its pre-licence inspections and certification, the Canada Border Services Agency will issue the coasting trade licence. The licence cannot be revoked once it is issued by the Canada Border Services Agency, except under exceptional circumstances.

Possibility 2:

A Canadian ship is offered. The Canadian Transportation Agency will begin the pleadings process regarding suitability and availability, as per Part 3 of the Guidelines. The Canadian Transportation Agency will determine that either:

- a suitable Canadian ship is available; or
- no suitable Canadian ship is available.

If the Canadian Transportation Agency determines that no suitable Canadian ship is available, then the Canada Border Services Agency will issue a Letter of Determination, resulting in the following:

- The Canada Border Services Agency will collect duties and taxes; and
- Transport Canada will conduct pre-licence inspections and certification.

Once the Canada Border Services Agency has collected duties and taxes and Transport Canada has conducted its pre-licence inspections and certification, the Canada Border Services Agency will issue the coasting trade licence. The licence cannot be revoked once it is issued by the Canada Border Services Agency, except under exceptional circumstances.

If the Canadian Transportation Agency determines that a suitable Canadian ship is available, then the decision is issued to applicant, offeror, Canada Border Services Agency and Transport Canada that a suitable Canadian ship is available. The process ends.