

Surface Transportation Board
Washington, D.C. 20423-0001

Office of Economics

June 23, 2021

John T. Gray
Association of American Railroads
425 Third Street, SW
Washington, D.C. 20024

Re: Waybill Request WB21-03

Dear Mr. Gray:

This letter responds to your January 6, 2021 request under 49 C.F.R. § 1244.9 on behalf of the Association of American Railroads (AAR) seeking permission to access to the full confidential Carload Waybill Sample (CCWS) for 2019 and to continue your access to the data granted in WB20-22, which expires on June 30, 2021. Your letter states that AAR is requesting the data for a variety of purposes, including quantification of data in matters of regulatory economics (including relating to STB proceedings), econometric models, freight car utilization analyses, measurement of hazardous material movements, and railroad industry base studies.

Because your request is missing certain information and is unclear in some respects, I will not grant the requested access at this time. First, although your request refers to a variety of purposes for which you intend to use CCWS data, it does not adequately explain which waybill data/fields are required for each purpose or provide a detailed justification as to why the CCWS data are needed for each purpose. See 49 C.F.R. § 1244.9 (e)(1)(i-iii).

Second, given the breadth of your request, the waybill “class of user” that would be applicable to each of your proposed purposes is unclear. Under § 1244.9(b), there are five classes of user for waybill, including (as relevant here) transportation practitioners/consultants in specific STB proceedings and “other users.”¹ Some of the purposes identified in your letter, including “rate regulation and other STB rulemakings,” would appear to be related to specific proceedings and may be covered by other waybill access grants to AAR.

Third, recent Board decisions addressed agency policy regarding access to the CCWS by other users for commercial purposes. See e.g., Request for Waybill Data (U.S. Wheat Associates), WB 20-40 (STB served Nov. 20, 2020); Request for Waybill Data (Trinity Industries), WB-20-50 (STB served June 17, 2021). Based on the limited information provided, it is unclear whether some of your purposes would be implicated.

¹ Classes of user include (1) railroads, (2) federal agencies, (3) states, (4) transportation practitioners/consulting firms/law firms for specific proceedings, and (5) other users. See 49 C.F.R. § 1244.9(b)(1)-(5).

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AAR may submit a modified request (or multiple requests, as appropriate) addressing these issues.² Any modified other user request would be published in the Federal Register, pursuant to 49 C.F.R. § 1244.9(d). Given that your request for continued access was submitted well in advance of the June 30 expiration of the grant of access in WB20-22, I will authorize your continued access to the data already in your possession for 90 days to permit you to submit a new request.

Sincerely,

William Brennan

William Brennan, PhD
Chief Economist & Director,
Office of Economics

² Although the waybill request here is similar to AAR requests that have been approved in prior years, it is important for the STB to ensure ongoing compliance with its waybill access regulations and decisions.