

Decision ID No. 51503

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

Office of Economics

November 9, 2022

Matthew Mullenax
Executive Director
Hagerstown/Eastern Panhandle Metropolitan Planning Organization
33 W. Washington St. 4th Floor Suite 402
Hagerstown, MD 21740

Re: Waybill Request WB22-54

Dear Mr. Mullenax:

The Surface Transportation Board (STB) has received your request under 49 C.F.R. § 1244.9(c) of October 4, 2022 for permission to access certain fields from the 2019 confidential Carload Waybill Sample (CCWS) with masked revenues. Specifically, from the 2019 CCWS, you requested the volume, commodity and masked revenues fields for records where the traffic originated or terminated in the following counties: Berkeley County-West Virginia, Jefferson County-West Virginia, and Washington County-Maryland. Your request explained that the Hagerstown/Eastern Panhandle Metropolitan Planning Organization has contracted with Michael Baker International and their subcontractor EBP to develop a freight plan to understand the rail activity in the region, and the markets these railways connect to. Notice of your request was published in the *Federal Register* on October 14, 2022, and no objections were received

Based on the complete and sufficiently detailed explanations and justifications contained in your request, your request to access the requested data will be authorized. Specifically, you will have access to the full 913-byte masked 2019 Carload Waybill Sample for traffic that originated or terminated in the counties of Berkeley County-West Virginia, Jefferson County-West Virginia, and Washington County-Maryland. This data may only be used for the purpose detailed in your request. ***This approval becomes effective when signed agreements from the individuals listed below are received by the STB:***

- a) *Dan Szekeres – Michael Baker International*
- b) *Derek Cutler – EBP*
- c) *Jane Haines – EBP*

The expiration date for this agreement is November 30, 2023. Unless you seek and obtain a renewal from the STB, this agreement upon expiration obligates you to return or destroy all copies of the data (see item 6 of the agreement).

Several aspects of the CCWS limit the conclusions that may be drawn from analysis of the CCWS: 1) the CCWS is a sample, and 2) the CCWS is based on terminating shipments from relatively large carriers. Only those railroads with more than 4,500 annual terminating carloads

are included in the sample. The limited sampling of small railroads may have a substantial effect on studies covering areas served predominately by non-sampled railroads. For additional information on the CCWS, see @ <https://www.stb.gov/reports-data/waybill/>.

The rules for release of waybill data are codified at 49 C.F.R. § 1244.9. The CCWS contains confidential shipper and railroad data. As a result, the CCWS is commercially sensitive and has the potential to cause competitive harm to shippers and railroads if disclosed. Therefore, the following agreement must be signed, and a copy of the signature pages returned to the STB, before any waybill data can be used.

Your signature acknowledges your agreement to comply with the following:

1. You will use the CCWS data released to you solely for the purpose requested.
2. Absent permission from the STB, you shall make the information contained in the CCWS (including work product and analyses derived from the CCWS) available only to the individuals identified above. The STB may approve access for additional individuals within your entity working on the particular project or study requiring the waybill data. Each such additional individual must review and sign this agreement, and return a copy of the signature page to the STB.
3. You will not release any CCWS data (including work product and analyses derived from the CCWS) to anyone who has not signed this agreement and been approved for access by the STB until the STB has had the opportunity to review the materials proposed for disclosure to ensure confidentiality.
4. You acknowledge that, in addition to the restrictions described in paragraphs 2 and 3 above, you are bound by the STB's rules governing use and disclosure of CCWS data. These include the confidentiality provisions of 49 C.F.R. §§ 1244.9(f)(1)-(3), which require that "[a]ny shipper data obtained from the Waybill Sample shall not be publicly released unless the data are aggregated to include at least three shippers." In addition, you agree not to disclose CCWS data that permits identification of an individual railroad.
5. You will refer any requests for CCWS data in your possession (including work product and analyses derived from the CCWS) to the STB for processing and will inform the requesting party of such referral to the STB. If you are compelled by law or order of a governmental or judicial body to release CCWS data, you shall notify the Board in writing within three days of any determination that CCWS data must be released, and in no event later than five days before the CCWS data is scheduled to be released.

Waybill Agreement WB22-54

6. In order to retain access to the CCWS beyond the expiration date specified above, you must submit a written request for an annual extension of the agreement no later than thirty days prior to the expiration date and the renewal request must be approved by the Office of Economics. **If an annual agreement is not signed and approved, you must certify by no later than the expiration date that all CCWS data (including all work product and analyses derived from the CCWS) obtained under this agreement has been destroyed or returned to the STB.**
7. Failure to request an extension (if necessary), or destroy or return CCWS data when required, may prevent any future release of CCWS data to you. Violations of this agreement may subject you to sanctions by the Board.

After all parties have signed and returned this agreement, please contact Mr. Dusenberry (202) 245-0319 to make the necessary arrangements to have a copy of the data sent to you. The STB will provide the data by email through file transfer protocol. Prior payment of processing and mailing cost of **\$180 (\$60 per confidentiality agreement)** is required. Payment can be made through the Board's electronic payment system, Pay.gov. Your payment through Pay.gov will generate a unique Pay.gov transaction number, which you will need to provide with your signed agreement. Pay.gov accepts payment through bank accounts, credit cards, debit cards with a MasterCard or Visa logo, and digital wallet. Payment can also be made directly to the Board via check or money order.

Sincerely,

William Brennan

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

Waybill Agreement WB22-54

I have read and understand the conditions for release of the CCWS data. I agree to comply fully with these conditions and the provisions of this confidentiality agreement. No later than thirty days before the agreement expires, I will request an extension of this agreement, if necessary. If no extension is requested, I will return or destroy all CCWS data and certify that I have done so. I have the authority to sign this agreement.

By: Dan Szekeres

A handwritten signature in cursive script, appearing to read "Dan Szekeres", written in black ink.

Signature

Waybill Agreement WB22-54

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By: Derek Cutler

Derek Cutler

Signature

Waybill Agreement WB22-54

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By: Jane Haines

A handwritten signature in cursive script that reads "Jane Haines". The signature is written in black ink and is positioned above a horizontal line.

Signature



Hagerstown/Eastern Panhandle Metropolitan Planning Organization

33 W. Washington St., 4th Floor, Suite 402, Hagerstown, MD 21740

Phone: 240-313-2080, Fax: 240-313-2084

www.hepmpo.net

Attention: William Brennan, PhD Chief Economist & Director

Office of Economics
Surface Transportation Board
395 E. Street SW,
Washington, DC

October 4, 2022

Request to Access the Confidential Waybill Sample Data

Dear Dr. Brennan,

I am writing you to request access to the confidential waybill sample under 49 CFR 1244.9 (c) Other Users, in support of research being conducted by their contractor Michael Baker International (MBI) and their subcontractor EBP (EBP | EBP | US (ebp-us.com)) on behalf of the Hagerstown/Eastern Panhandle Metropolitan Planning Organization. I am the Executive Director.

The research these data are looking to be applied in is in support of a freight plan for the metropolitan planning organization centered around understanding rail activity in the region, and the markets these railways connect to. FHWA's provisional FAF database – the Freight Analysis Framework (FAF) data is unable to cover rail volumes at a granular enough detail to facilitate regional analysis of rail, so a more granular source is being sought. Public versions of the STB Waybill are too aggregate and suppressed to enable rigorous analysis of localized rail movements and their role in the local economy, necessitating this request.

The critical variables needed are as follows:

- Origin – Destination County region sufficient to cover freight activity in and around the Hagerstown region
 - Berkeley County West Virginia
 - Jefferson County West Virginia
 - Washington County Maryland
- Expanded tonnage
- International harmonized system code / STCC commodity classification
- Year – 1 year (2019): sufficient for understanding volumes of rail activity

We are requesting access to the masked data to try and represent the most accurate depiction of goods movement as possible without unnecessary detail involving sensitive cost/price. The data itself would not be published – any results stemming from the analysis would not be circulated subject to any concerns you might have on divulging information. We will abide by all strict storage and use requirements.



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Only the consultant team would have access to the data. The following individuals would be using the data and therefore need access: Dan Szekeres of MBI; Derek Cutler; Jane Haines of EBP. Derek Cutler is the lead researcher on this project; he can be reached at derek.cutler@ebp-us.com for any further questions on the use of the data.

Please let us know the next steps in the process to get the confidential agreement in place for all the individuals needing to access the data and any other requirements.

If you have further questions, please contact me.

Thanking you in advance for your assistance in this critical work.

Sincerely,

Matthew Mullenax

Executive Director

Hagerstown/Eastern Panhandle Metropolitan Planning Organization,
240-313-2081; mmullenax@washco-md.net