

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

Office of Economics

September 14, 2018

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

Re: Waybill Request WB18-28

Dear Mr. Gray:

The Surface Transportation Board (STB) has received your request under 49 C.F.R. § 1244.9(c) of July 30, 2018 for permission to access the confidential Carload Waybill Sample (CCWS) with masked revenues. Your request explained that the requested data would be used for quantification of data in matters of regulatory economics, econometric models, freight car utilization analyses, measurement of hazardous material movements, and railroad industry data base studies. Specifically, you requested to use portions of the 1972-2017 Waybill Samples. Notice of your request was published in the *Federal Register* on August 30, 2018 and no objections were received.

Based on the complete and sufficiently detailed explanations and justifications contained in your request, you will be authorized to access the requested data. Specifically, you will have access to the 1972-2017 Waybill Samples with masked revenues. The 2017 Waybill Sample will be released when it is ready. 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) *John T. Gray – Association of American Railroads*
- b) *Dr. Christopher Barkan – University of Illinois*
- c) *Dr. Gerard McCullough – Northface Associates*
- d) *Dr. Mark Burton – University of Tennessee*

The expiration date for this agreement is September 30, 2019. 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* [cite to Waybill Reference Guide; Board's website].

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.
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 Alexander Dusenberry 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.

Sincerely,

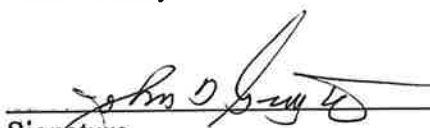
A handwritten signature in black ink that reads "William Brennan". The signature is written in a cursive, flowing style.

William Brennan
Director

Waybill Agreement WB18-28

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: John T. Gray


Signature

JOHN T. GRAY

Name - Please Print

S.V.P. POLICY & ECONOMICS

Title

14 SEPTEMBER 2018

Date

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By: Dr. Christopher Barkan



Signature

Christopher Barkan

Name - Please Print

Professor

Title

14 September 2018

Date

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By: Dr. Gerard McCullough

Gerard J. McCullough
Signature

GERARD L. McCullough
Name - Please Print

President
Title

9/18/18
Date

Waybill Agreement WB18-28

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By: Dr. Mark Burton



Signature

Mark L. Burton

Name - Please Print

Research Associate Professor

Title

September 17, 2018

Date