

SCA-103

April 28, 1972

This is in reply to your letter of April 4, 1972, requesting an opinion regarding the application of a wage determination to a mail haul contract.

It would appear that the contract in question presently involves an individual owner-operator who qualifies for the exemption for such contracts set forth in section 4.6(m)(9) of Regulations, 29 CFR Part 4 (copy enclosed.) The fact that the contract might be renewed as a Star Route contract rather than a Temporary Mail Messenger contract would not in itself alter the application of the exemption for owner-operators. However, if at the time of renewal of the contract it is contemplated that a service employee will be hired for part time, temporary, or full time work to perform the contract services for periods other than short periods of vacation time or for unexpected contingencies or emergency situations such as illness or accident, the contract would no longer be exempt and would become subject to the Service Contract Act and the applicable wage determination issued thereunder. Any employee performing contract work would have to be paid the wage rate contained in the attached wage determination for all hours worked on the contract.

Sincerely,

Warren D. Landis
Assistant Administrator