

Volume 29, Number 12

Pages 959-1040

June 15, 2004

SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



MATT BLUNT

SECRETARY OF STATE

MISSOURI
REGISTER

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The *Missouri Register* is published semi-monthly by

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ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO
Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER
Office of the Secretary of State
Administrative Rules Division
PO Box 1767
Jefferson City, MO 65102

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 100—Missouri Commission for the Deaf and
Hard of Hearing
Chapter 200—Board for Certification of Interpreters**

EMERGENCY AMENDMENT

5 CSR 100-200.045 [Provisional] Temporary Restricted Certification in Education. The commission is amending the title, Purpose and all sections of the rule.

PURPOSE: This emergency amendment changes the name of the "Provisional" Restricted Certification in Education to the "Temporary" Restricted Certification in Education everywhere that it appears in the rule, and similarly changes the abbreviation "PRCED" to "TRCED" throughout the rule. This emergency amendment allows public school districts to nominate uncertified and unlicensed persons for the TRCED so long as those persons attest that they will begin the application process for certification in the Missouri Interpreters Certification System (MICS) within thirty (30) days, will take the written test in the MICS within sixty (60) days, will take the performance test in the MICS within thirty (30) days after passing the written test, and will submit an application for an interpreting license pursuant to the provisions of 209.319 to 209.339, RSMo within thirty (30) days from the date of issuance of the TRCED.

This emergency amendment makes a TRCED for current certification and license holders good for a term of three (3) years, with a possible extension of another three (3)-year term if and only if the holder is reevaluated during the first term of issuance and achieves the next higher level of MICS certification. This emergency amendment makes a TRCED for persons who are not currently certified and license holders good for a term of one (1) year. This emergency amendment also makes a person eligible for a TRCED twice during their lifetime, limits TRCED holders to interpreting only in preschool, elementary and secondary school settings, and provides for possible revocation of the certification if the holder is later found to have misrepresented anything while applying for the certification.

EMERGENCY STATEMENT: This rule specifies the procedures that must be followed in order for an individual interpreter to be granted a Temporary Restricted Certification in Education. This rule is necessary in order to ensure that public schools in Missouri can secure the services of an adequate number of sign language interpreters during the 2004–2005 school year so as to meet the needs of deaf and hard of hearing students who require interpreters.

In 1997, when the rules for implementing the Missouri Interpreters Certification System were first adopted, rule 5 CSR 100-200.170 was approved by the Missouri Commission for the Deaf and Hard of Hearing. 5 CSR 100-200.170 specified that in order for interpreters to provide services in Missouri public schools they needed to be certified at an Intermediate level or higher, or hold a Restricted Permit in Education—since renamed to a Restricted Certification in Education (RCED). At that time it was decided to delay the effective date of the rule in order to give educational interpreters an opportunity to improve their skills so as to meet the required certification level. Thus, 5 CSR 100-200.170 did not become effective until July 1, 2003. All during those six (6) years interpreters certified at any level could legally provide services in Missouri schools.

During the spring of 2003, the State Committee of Interpreters, within the Division of Professional Registration, adopted a rule (4 CSR 232-3.010(3)) that specified that "An interpreter shall not interpret in a setting beyond his or her certification level, as provided for in 5 CSR 100-200.170." If an interpreter were to do so, it would be a violation of the Ethical Rules of Conduct for Interpreters, and would constitute a sufficient reason for disciplinary action being taken against the interpreter's license. So, as of July 1, 2003, interpreters who were certified at only the Apprentice or Novice level could no longer legally provide interpreting services in Missouri schools.

This situation sometimes presented public school districts in Missouri with a serious problem. Federal law, namely the Individuals with Disabilities Education Act (IDEA), required that school districts provide special education services for students with disabilities, and for many deaf and hard of hearing students that normally takes the form of sign language interpreters. And Missouri law said that school districts could not hire an interpreter unless he or she was certified at the Intermediate level or higher, or had an RCED certification. That presented an immediate difficulty for some schools that were unable to find legally qualified educational interpreters even though they had searched extensively. Those school districts would have to either 1) not provide interpreting services for some deaf and hard of hearing students, and thus be in noncompliance with federal law, or 2) hire interpreters who were certified below the Intermediate level, and thus violate Missouri law. The first option would present an immediate danger to the welfare of some deaf and hard of hearing students by depriving them of legally required special education services and communications access to their educational curricula. And either option would result in schools violating either federal or state law, and there is certainly a compelling governmental interest to see that this does not happen, as

well as to see that deaf and hard of hearing students around the state receive appropriate special education services.

Thus a rule (5 CSR 100-200.045—Provisional Restricted Certification in Education) was adopted during the past year that would allow schools to hire persons who were certified at the Novice and Apprentice levels for a relative short period of time. It now appears, however, that some schools still occasionally face the problem of not being able to find and hire an interpreter who already holds any kind of certification. Thus, this emergency amendment to rule 5 CSR 100-200.045 is being adopted to allow public school districts that are unable to secure the services of interpreters who are already certified and licensed to hire uncertified and unlicensed interpreters for a period of one (1) year. Furthermore, additional time is being given to interpreters who have either an Apprentice or Novice certification to improve their skills to meet state statutory requirements by making the Temporary Restricted Certification in Education for those individuals good for a term of three (3) years, with the possibility of being extended for another three (3) years if the interpreter in question takes the Missouri Interpreters Certification System performance test during the first three (3) years and achieved a higher certification level than they held when they tested. This will give school districts the needed flexibility to satisfy their interpreting needs for the foreseeable future.

In developing this emergency amendment, representatives of the interpreting community, the deaf and hard of hearing community, and local public school administrators were consulted. In addition, the rule was discussed and approved by the members of the Board for Certification of Interpreters and the members of the Missouri Commission for the Deaf and Hard of Hearing. The commission believes that this rule is fair to all interested persons and parties under the circumstances.

The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. This emergency amendment was filed May 6, 2004, effective June 1, 2004, and expires November 27, 2004.

PURPOSE: This rule outlines how an individual may be granted a [Provisional] Temporary Restricted Certification in Education for interpreting in only elementary and secondary school settings.

(1) The [board] **Board for Certification of Interpreters (BCI)** may grant a [Provisional] **Temporary Restricted Certification in Education (PRCED) TRCED** in emergency situations as determined on a case-by-case basis. The [board] **BCI** [shall] may grant a [PRCED] **TRCED** to an individual when all of the following conditions are met:

(A) The person applying for a [PRCED] **TRCED** must be nominated by a local public school district;

(C) [The individual nominated must possess a current valid certification in the MICS at either the Novice or Apprentice level, and must hold a current valid license to provide interpreting services issued by the Missouri State Committee of Interpreters; and] **The individual nominated must either:**

1. Possess a current valid certification in the MICS at either the Novice or Apprentice level, and hold a current valid license to provide interpreting services issued by the Missouri State Committee of Interpreters; or

2. Attest that he or she will submit an application for certification in the Missouri Interpreters Certification System (MICS) within thirty (30) days from the date of issuance of the TRCED; attest that he or she will take the written test in the MICS within sixty (60) days from the date of issuance of the TRCED; attest that he or she will take the performance test in the MICS within thirty (30) days from the date of notification that they have passed the written test, and attest that he or she will submit an application for an interpreting license pursuant to the provisions of 209.319 to 209.339, RSMo within thirty (30) days from the

date of issuance of the TRCED. Any of these requirements may be waived by the BCI upon presentation of satisfactory evidence that they have already been met.

(2) A [PRCED] **TRCED** shall be issued within ten (10) business days from the date the application is received in the office of the Missouri Commission for the Deaf and Hard of Hearing.

(3) [A PRCED is good for only one (1) school year. It can be extended for one (1) more school year only if the holder is reevaluated during the first year of issuance and achieves the next higher level of MICS certification.] **A TRCED that is issued to a person who then has a current MICS certification and license shall be good for a term of three (3) years. It can be extended for an additional term of three (3) years if and only if the holder is reevaluated during the first term of issuance and achieves the next higher level of MICS certification.**

(4) **A TRCED that is issued to a person who does not then hold a current MICS certification and license is good for only one (1) year.**

[[4]] (5) A [PRCED] **TRCED** can be granted to a given individual [only once] a maximum of two (2) times during their lifetime, once when they have no other MICS certification and once when they have either a Novice or Apprentice certification.

[[5]] (6) A holder of a [PRCED] **TRCED** is limited to providing interpreting services only in preschool, elementary and secondary [school(s) in the local public school district that nominated them] **school settings**, or as allowed by any other valid Missouri certification or license held by the individual.

[[6]] (7) A [PRCED shall] **TRCED** may be revoked [when the holder ends their employment with the nominating school district or] **by the board if the person makes any misrepresentations pursuant to paragraph (1)(C)2. above, or if the person commits any of the actions listed in 209.317.1(1)-(5), RSMo, or 209.334.2(1)-(14), RSMo. It [shall] may also be revoked by the board if the holder breaks any of the Ethical Rules of Conduct for interpreters defined in 4 CSR 232-3.010, or fails to obtain the necessary Continuing Education Units required for certification maintenance as detailed in 5 CSR 100-200.130.**

AUTHORITY: sections 209.292(1), RSMo Supp. 2003 and 209.295(1), (3) and (8), and 209.309, RSMo 2000. Emergency rule filed Aug. 8, 2003, effective Aug. 18, 2003, expired Feb. 14, 2004. Original rule filed Aug. 11, 2003, effective Feb. 29, 2004. Emergency amendment filed May 6, 2004, effective June 1, 2004, expires Nov. 27, 2004.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2002.

Executive Order 04-10

WHEREAS, I have been advised by the Director of the Missouri State Emergency Management Agency that a natural disaster of significant proportions has occurred in Northern Missouri, which has been affected by severe weather; and

WHEREAS, the severe weather that began on May 24, 2004, has created a condition of distress and hazards to the safety and welfare of the citizens of the State of Missouri beyond the capabilities of some local jurisdictions, and other established agencies; and

WHEREAS, the Missouri Department of Natural Resources is charged by law with protecting and enhancing the quality of Missouri's environment and with enforcing a variety of environmental rules and regulations; and

WHEREAS, to respond to the emergency and to expedite the cleanup and recovery process, it is necessary to adjust certain environmental rules and regulations on a temporary and short-term basis.

NOW, THEREFORE, I, BOB HOLDEN GOVERNOR OF THE STATE OF MISSOURI by virtue of the authority vested in me by Chapter 44, RSMo, do hereby issue the following order:

The Director of the Missouri Department of Natural Resources is vested with full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under his purview in order to best serve the interest of the public health and safety during the period of the emergency and the subsequent recovery period. The authority granted by the Order shall remain in effect for the duration of the emergency.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 28th day of May 2004.



ATTEST:

Bob Holden
Governor

Matt Blunt
Secretary of State

**Executive Order
04-11**

WHEREAS, a severe storm occurred in the State of Michigan on May 21, 2004, causing electrical outages; and

WHEREAS, the Michigan Department of State has recognized this storm as an emergency situation justifying an emergency exemption from certain federal motor regulations for certain utility repair vehicle contractors, pursuant to the Federal Motor Carrier Safety Regulations, 49 C.F.R. part 390.23; and

WHEREAS, one such company, PAR Electrical Contractors, Inc., is a Missouri contractor whose vehicles may be subject to regulation in the state of Missouri during the period of this emergency; and

WHEREAS, 49 C.F.R. Part 390.23 authorizes the Governor of a State to declare an emergency and exempt motor carriers or drivers operating a commercial vehicle from parts 390 through 399 of the regulations codified at 49 C.F.R.

NOW, THEREFORE, I, BOB HOLDEN, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri as well as 49 C.F.R. Part 390.23 of the Federal Motor Carrier Safety Regulations, hereby declare that a regional state of emergency exists because of the need to speedily repair electrical outages by various contractors, including a Missouri contractor. This Order shall be effective immediately and shall continue through the duration of the emergency as determined by the State of Michigan or 14 days, whichever is less.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 28th day of May, 2004.



ATTEST:



Bob Holden
Governor



Matt Blunt
Secretary of State

**EXECUTIVE ORDER
04-12**

WHEREAS, Executive Order 04-10 issued on May 28, 2004, was necessary to adjust certain environmental rules and regulations to allow the citizens of impacted communities to dispose of debris due to severe weather in an expeditious manner; and

WHEREAS, due to the severe weather conditions existing from May 18, 2004 and thereafter, it is necessary to amend and expand that Executive Order to declare emergency conditions in those and additional counties.

NOW, THEREFORE, I, BOB HOLDEN GOVERNOR OF THE STATE OF MISSOURI by virtue of the authority vested in me by Chapter 44, RSMo, do hereby issue the following Executive Order and declare an emergency in all Northern and Central Missouri Counties.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 4th day of June, 2004.



Bob Holden
Governor





Matt Blunt
Secretary of State

**EXECUTIVE ORDER
04-13**

I, Bob Holden, Governor of the State of Missouri, do hereby declare that Friday, June 11, 2004, shall be a day of mourning in Missouri in respect to the memory of the late Ronald Wilson Reagan, 40th President of the United States; that all state offices shall be closed on said date, and that all flags of the United States and the State of Missouri shall be flown at half staff at all state departments, agencies, institutions and other facilities for a period of thirty days ending July 5, 2004.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 7th day of June, 2004.



Bob Holden
Governor

ATTEST:



Matt Blunt
Secretary of State



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* The listing of publication dates is subject to change until the official publishing of the schedule in the *Missouri Register*.

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