

**Rule Summary and Fiscal Analysis (Part A)****Department of Aging**

Agency Name

Division

**Tom Simmons**

Contact

**50 West Broad Street 9th floor Columbus OH  
43215-3363**

Agency Mailing Address (Plus Zip)

**614-728-2548**

Phone

Fax

**173-3-06.1**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Adult day service.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **173.02; 173.04; 173.392; Section 305 (a)(1)(C) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. 1321.11**

5. Statute(s) the rule, as filed, amplifies or implements: **173.04; 173.392; Section 321 of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA is proposing to amend rules 173-3-06.1, 173-3-06.6, and 173-38-01 of the Administrative Code as part of a rule package of "odds and ends" or "housekeeping" amendments ODA wanted to propose before the end of 2010, but

that did not fit into any other rule project. In doing so, ODA's goals are to:

1. Amend the rules with the specific amendments stated below.
2. Comply with section 119.032 of the Revised Code, which requires each state agency to review each rule on or before the rule's designated review date.
3. Ensure that ODA continues to write easier-to-read and easier-to-comprehend rules to promote transparency in the agency's regulations by:
  - a. Complying with Chapter 5 of the Legislative Service Commission's "Rule Drafting Manual," as found on [http://www.lsc.state.oh.us/rules/rdm06\\_06.pdf](http://www.lsc.state.oh.us/rules/rdm06_06.pdf)
  - b. Incorporating recommendations from "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. (c) 2007)

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

In addition to the goals mentioned in the introduction to this notice, ODA is proposing to:

1. Add, after "Minimum requirements for an ADS" in paragraph (B) of the rule, "in addition to the mandatory clauses under rule 173-3-06 of the Administrative Code." Each provider of an adult day service under a provider agreement (not as a certified provider) is already required to comply with rule 173-3-06 of the Administrative Code. This just makes the matter clear. It also follows the format of more recently-amended rules. (cf., Rule 173-3-06.6 of the Administrative Code.)
2. Replace "ADL" in paragraph (B)(1)(a)(ii) of the rule with "ADS."

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide

an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

On March 2, 2011, ODA refiled this rule to:

1. Remove "and snacks" from paragraph (B)(1)(i)(ii) of the rule, because ODA cannot require a provider to make snacks meet the meal requirements of rule 173-4-05 of the Administrative Code. ODA does not intend for snacks to constitute a meal and rule 173-4-05 of the Administrative code doesn't regulate snacks.
2. Revise this RSFA.

12. 119.032 Rule Review Date: **11/30/2010**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

ODA anticipates that the adoption of this proposed amended rule will have no impact upon the biennial budget the General Assembly established for ODA.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

3220-490-618 Federal Aging Grants.

3M40-490-612 Federal Independence Services.

GRF-490-411 Senior Community Services.

GRF-490-414 Alzheimer's Respite.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

ODA does not anticipate that the proposed amendment of this rule will have any cost of compliance to any directly-affected person.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**