

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

Agency Name

Division

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**173-3-06.6**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Transportation 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? **Yes**

Bill Number: **HB1**General Assembly: **128**Sponsor: **Sykes**

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; 173.392; 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: **173.392; Sections 321, 414, and 416 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:

On February 15, 2009, ODA adopted rule 173-3-06.6 of the Administrative Code as a replacement for rule 173-3-02 of the Administrative Code, which ODA

simultaneously rescinded. Both the rule that ODA rescinded and the new rule required each provider to subject each vehicle to an annual vehicle inspection and stated in each rule that the Ohio Highway Patrol Inspection Unit and the Ohio Medical Transportation Board were acceptable entities for performing the inspections.

After adopting this rule, the Ohio State Highway Patrol notified ODA that it no longer wants ODA to list the Ohio State Highway Patrol Inspection Unit as an acceptable entity for performing the annual vehicle inspections required under the rule. This was because the inspection unit said it does not have the expertise to inspect all the items required by the rule's annual vehicle inspection(e.g., tire balance, alignment, shocks, properly welded/clamped exhaust system joints), although ODA added no new items to the inspection list.

Likewise, the Ohio Medical Transportation Board also indicated that it no longer wants ODA to list it as an acceptable entity for performing the annual vehicle inspections required under the rule.

Therefore, ODA is filing this proposed amended rule so that it no longer lists the Ohio Highway Patrol Inspection Unit and the Ohio Medical Transportation Board as acceptable entities for performing annual vehicle inspections.

Additionally, ODA is stating in the rule that a certified mechanic is an ASE-certified mechanic and also making minor language improvements.

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:

This proposed amended rule regulates a transportation service for a non-certified provider who is paid through means of entering into a provider agreement with an AAA. Specifically, the rule:

1. Defines the term "transportation service";
2. Itemizes the minimum requirements for a transportation service, including general requirements, vehicle-inspection requirements, and driver qualifications. In the vehicle-inspection requirements, ODA is proposing to no longer consider the Ohio Highway Patrol Inspection Unit or the Ohio Medical Transportation Board as acceptable entities for performing annual vehicle inspections. Also, in the vehicle-inspection requirements, ODA replaced "inspection was conducted" with "inspected it" and "conducted the inspection" with "inspected it"; and,
3. Establishes the unit of a transportation service.

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 July 21, 2009, ODA revised this rule to:

1. Change the "rule amplifies" language at the end of the rule to reflect the change brought about by H. B. No. 1 (128th G.A.), which discontinued funding the Jewish Community Family Services line item that appeared in Section 213.20 JCFS COMMUNITY of Am. Sub. H. B. No. 119 (127th G.A.).

2. Update this RSFA.

12. 119.032 Rule Review Date: **7/10/2009**

(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

The adoption of this proposed amended rule would have no impact upon the biennial budget (or continuing budgets) established for ODA by the Ohio General Assembly.

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

322-490-618 Federal Aging Grants.

3M3-490-611 Federal Aging Nutrition.

3M4-490-612 Fedeal Independence Services.

GRF-490-411 Senior Community Services.

GRF-490-414 Alzheimer's Respite.

GRF-490-416 Jewish Community Family Services (JCFS) Elderly Transportation.

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 estimates that there will be no cost of compliance to any directly-affected consumer as a result of the proposed adoption of this amended rule because a consumer is not required to pay for a transportation service and, thus, has no cost of compliance.

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ODA estimates that there will be no cost of compliance to any directly-affected provider as a result of the proposed adoption of this amended rule if the provider uses a certified mechanic to perform the required annual vehicle inspection.

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ODA estimates that there will be no cost of compliance to any directly-affected provider as a result of the proposed adoption of this amended rule if the Ohio Highway Patrol Inspection Unit or the Ohio Medical Transportation Board had been performing the annual vehicle inspection to the provider's vehicles free of charge. That is because the Ohio Highway Patrol Inspection Unit and the Ohio Medical Transportation Board no longer perform the annual vehicle inspection, whether or not ODA mentions them in a rule. ODA cannot require the Ohio Highway Patrol Inspection Unit or the Ohio Medical Transportation Board to perform the required annual vehicle inspections for free, and because those entities are no longer willing to perform the free inspections, ODA estimates that, in effect, a directly-affected provider will incur no cost of compliance as a result of the adoption of this proposed amended rule because the Ohio Highway Patrol Inspection Unit and the Ohio Medical Transportation Board have eliminated the provider's option of using their free services--even ODA's current rule mentions them.

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**