Rule Summary and Fiscal Analysis (Part A)

Department of Aging
Agency Name

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173-4-05 **NEW**
Rule Number TYPE of rule filing

Rule Title/Tag Line **Older Americans Act nutrition program: nutrition projects.**

RULE SUMMARY

1. Is the rule being filed for five year review (FYR)? **No**

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: **173.01, 173.02, 173.392; Section 305(a)(1)(C) of the Older Americans Act of 1965, 70 Stat. 210, 42 U.S.C. 3001, as amended by the Older Americans Act Reauthorization Act of 2016; 45 C.F.R. 1321.11 (October, 2015 edition).**

5. Statute(s) the rule, as filed, amplifies or implements: **173.392; Sections 331, 336, and 339 of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended by the Older Americans Act Reauthorization Act of 2016.**

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

This rule is part of a larger nutrition rule project. ODA proposes to adopt this new rule to replace the language in OAC173-4-05. For more information, please review the business impact analysis (BIA).

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 new rule would establish general requirements for each nutrition project. It would replace most of OAC173-4-05 and all of OAC173-4-05.1.

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:

The rule refers to the Dietary Reference Intakes (DRIs) which is available to the general public free of charge on http://fnic.nal.usda.gov/.

The rule also refers to the Dietary Guidelines for Americans which is available to the general public free of charge on http://www.health.gov/dietaryguidelines.

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:

ODA did not electronically file the DRIs with the rule because the DRIs are available to the general public free of charge on http://fnic.nal.usda.gov/.

ODA did not file the dietary guidelines because they are available to the general public free of charge on http://www.health.gov/dietaryguidelines.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

On May 2, 2016, ODA made a revised filing of this rule to (1) update references to the Act in the "authorized by" and "amplifies" sections after the rule text and (2) upload a revised public hearing notice for a public hearing on the same date and time and in the same location.

On May 3, 2016, ODA made a revised filing of this rule to replace the comma after "173.392" in the "statutory authority" section of the rule with a semicolon and to delete the comma that appears before the semicolon in the "rule amplifies" section. Also on May 3, 2016, ODA made a subsequent revised filing because ERF did not show that the CSIO documents were uploaded in the previous filing.

12. Five Year Review (FYR) Date:

(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

Adopting the proposed new rule to replace OAC 173-4-05 and 173-4-05.1 (which ODA is simultaneously proposing to rescind) would not impact the biennial budget the Ohio General Assembly established for ODA.

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

GRF-490-411 Senior Community Services.

3220-490-618 Federal Aging Grants.

3M40-490-612 Federal Independence Services.

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:

There would be no cost of compliance directly associated with adopting this new rule to replace OAC 173-4-05 and 173-4-05.1. In fact, the proposed new rule would have a lesser cost of compliance for providers. For information on the cost of complying with the new rule, please review the BIA and its appendices, especially appendix M.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

The proposed new rule would regulate AAA-provider agreements which are necessary to provide meals paid, in whole or in part, with Older Americans Act funds.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

The rule would require documentation and records retention.