



## PUBLIC-COMMENT PERIOD

### TRANSPORTATION

September 10, 2024

ODA proposes to amend rules 173-3-06.6 and 173-39-02.18 of the Administrative Code, rescind forms ODA0008 and ODA0011, and amend form ODA0004.

Please feel free to review the proposed amendments and rescission of forms, then offer recommendations for the rules or forms. Submit recommendations to [rules@age.ohio.gov](mailto:rules@age.ohio.gov) no later than **September 23, 2024** at 11:59PM.



# Common Sense Initiative

Mike DeWine, *Governor*  
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

## Business Impact Analysis

Agency, Board, or Commission Name: **OHIO DEPT. OF AGING**

Rule Contact Name and Contact Information: Tom Simmons [rules@age.ohio.gov](mailto:rules@age.ohio.gov)

Regulation/Package Title (a general description of the rules' substantive content):

### TRANSPORTATION

Chapter 173-3 of the Administrative Code establishes requirements to include in, or exclude from, AAA-provider agreements (i.e., contracts) that are paid, in whole or in part, with Older Americans Act funds.

Chapter 173-39 of the Administrative Code establishes the requirements to become, and to remain, an ODA-certified provider.

Rule Number(s): 173-3-06.6 and 173-39-02.18

Date of Submission for CSI Review: September 10, 2024

Public Comment Period End Date: September 23, 2024 at 11:59PM.

#### Rule Type/Number of Rules:

New/ # rules

No Change/ # rules (FYR? )

Amended/ 2 rules (FYR? )

Rescinded/ # rules (FYR? )

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

#### Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

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**The rule(s):**

- a.  Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b.  Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c.  Requires specific expenditures or the report of information as a condition of compliance.
- d.  Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

**Regulatory Intent**

**2. Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

**173-3-06.6:** This rule establishes requirements to include in, or exclude from, every AAA<sup>1</sup>-provider agreement (i.e., contract or grant) for transportation that is paid, in whole or in part, with Older Americans Act funds.

**173-39-02.18:** This rule establishes the specific requirements to become, and to remain, an ODA-certified provider of non-medical transportation.

**Both Rules:** In response to stakeholder recommendation in #9, ODA proposes to amend each rule to achieve the following:

1. No longer require a daily inspection of a vehicle that never transports consumers/individuals in a wheelchair.
2. No longer require a daily vehicle inspection form.
3. Eliminate the ODA-approved daily vehicle inspection forms ([ODA0008](#) and [ODA0011](#)) because most items are inspected by a certified mechanic during the annual vehicle inspection and because checking these items on a daily basis seems unreasonable since the Board of Emergency Medical, Fire, and Transportation Services (EMFTS) does not require a daily inspection for licensed ambulettes.
4. Require the following daily vehicle inspection for only a vehicle that transports consumers/individuals in a wheelchair:
  - a. An inspection that ensures permanent fasteners, safety harnesses or belts, and access ramp or hydraulic lift are working.
  - b. An inspection of which the provider retains a record. There is no requirement or encouragement to use a form.

This daily inspection of only the workability of wheelchair-related items without a form is comparable to the Ohio Department of Developmental Disabilities' (ODODD's) daily inspection in rules [5123-9-18](#), [5123-9-24](#), and [5123-9-26](#) of the Administrative Code.
5. Add a check to the *annual* vehicle inspection form (ODA0004) to ensure that each vehicle has (1) an isolation and biohazard kit and (2) a 2-way communication device. Adding these items ensures compliance with RC§4766.14. These items are currently listed on forms ODA0008 and ODA0011 for *daily* inspection.

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<sup>1</sup> "AAA" means "area agency on aging."

6. Add a check to the *annual* vehicle inspection form (ODA0004) to ensure that each vehicle has (1) a seatbelt cutter and (2) a first aid kit. These items are currently listed on forms ODA0008 and ODA0011 for *daily* inspection.

Please review ODA's responses to #10 and #16 for more information.

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

173-3-06.6: RC §§ [121.07](#), [173.01](#), [173.02](#), [173.392](#), [4766.14](#), and [4766.15](#).

173-39-02.18: RC §§ [121.07](#), [173.01](#), [173.02](#), [173.39](#), [173.391](#), [173.52](#), [173.522](#), [4766.14](#), and [4766.15](#).

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.**

173-3-06.6: [42 USC 3025](#) says ODA is "primarily responsible" for Older Americans Act policy development in Ohio and [45 CFR 1321.9](#) requires ODA to "develop policies governing all aspects of [Older Americans Act] programs."

173-39-02.18: In order for the Centers for Medicare and Medicaid Services (CMS) to approve Ohio's application for a Medicaid waiver authorizing the state to launch and maintain the Medicaid-funded component of the PASSPORT Program, [42 CFR 441.352](#) requires ODA to establish provider-certification requirements to safeguard the health and welfare of individuals who receive services through the program.

**5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

173-3-06.6: This rule does not exceed any federal requirements. It exists to implement the state laws that ODA listed in its response to #2, which require ODA to establish the qualifications for AAA-provider agreements, and the federal law and federal regulation ODA listed in its response to #3, which require ODA to develop policies for all aspects of the Older Americans Act programs in Ohio.

173-39-02.18: This rule does not exceed any federal requirements. It exists to comply with the state laws that ODA listed in its response to #2. Those state laws require ODA to adopt rules to establish requirements for provider certification and the PASSPORT Program.

**6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

173-3-06.6: These rules exist to (1) comply with the state laws mentioned in ODA's response to #3, which require ODA to establish requirements for AAA-provider agreements, and (2) ensure necessary safeguards are in place to protect the health and safety of consumers receiving services paid with Older Americans Act funds.

173-39-02.18: This rule exists to comply with the state laws mentioned in ODA's response to #2. Those state laws require ODA to adopt rules to establish requirements for provider certification and the PASSPORT Program.

**7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

**173-3-06.6:** To ensure compliance fostering the health and safety of consumers receiving services paid with Older Americans Act funds and compliance with monitoring (i.e., auditing) requirements under [45 CFR Part 75, Subpart F](#): (1) ODA regularly monitors AAAs for compliance with this rule and (2) AAAs regularly monitor providers for their compliance with AAA-provider agreements, the rule is judged as being successful when (1) ODA funds few violations in AAA-provider agreements and (2) AAAs find few violations against AAA-provider agreements.

**173-39-02.18:** ODA and its designees monitor providers to ensure compliance for the continued health and safety of individuals receiving services from ODA-certified providers. [173-39-04] ODA will judge the proposed amendments to this rule to be a success when ODA and its designees find few violations against it during structural compliance reviews or investigations of alleged incidents.

**8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

**Development of the Regulation**

**9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

ODA's guide [Participating in ODA's Rule Development](#) and the [main rules webpage](#) on ODA's website encourage stakeholders and the general public to contact ODA's policy-development manager at [rules@age.ohio.gov](mailto:rules@age.ohio.gov) to give input on improving ODA's rules. On August 5, 2024, a provider, Complete Adult Day, emailed ODA to say that many transportation providers view the daily vehicle inspection as an activity that 'does not significantly contribute to our operations.' The provider recommended replacing form ODA0008 with a simpler form that would take less time each day to complete.

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

In response to the outreach from the Complete Adult Day, ODA compared its vehicle-inspection requirements to those of the Board of EMFTS and ODODD, and decided to go further to relieve providers of the daily inspection burden. ODA now proposes to make the 6 changes listed in ODA's response to question #2.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Scientific research is not the impetus for amending each rule.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.***

**173-3-06.6:** [RC§173.392](#) requires ODA to adopt rules to establish requirements for AAA-provider agreements. Additionally, the federal law and regulation ODA listed in its response to #3 require ODA to develop policies for all aspects of the Older Americans Act programs.

**173-39-02.18:** [RC§173.391](#) requires ODA to adopt rules to establish requirements for ODA-certified providers. Additionally, federal rules require ODA to establish adequate requirements for providers to assure the health and safety of individuals enrolled in the PASSPORT Program.

**13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

**173-3-06.6:** [RC§173.392](#) authorizes only ODA to adopt rules to establish requirements for AAA-provider agreements.

**173-39-02.18:** [RC§173.391](#) authorizes only ODA to develop qualifications for ODA-certified providers of services to individuals enrolled in ODA-administered programs.

**14. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

**Both Rules:** Before the proposed amendments take effect, ODA will send an email to subscribers of our rule-notification service to feature the rules.

**173-3-06.6:** Through regular monitoring (i.e., auditing) requirements under [45 CFR Part 75, Subpart F](#): (1) ODA regularly monitors AAAs for compliance with these rules and (2) AAAs regularly monitor providers for their compliance with AAA-provider agreements.

**173-39-02.18:** Through regular monitoring activities, ODA and its designees will monitor ODA-certified providers for compliance. [173-39-04]

**Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

**a. Identify the scope of the impacted business community, and**

**173-3-06.6:** Every provider with an AAA-provider agreement for transportation or for an adult day service, because [rule 173-3-06.1 of the Administrative Code](#) requires adult day transportation to comply with rule 173-3-06.6 of the Administrative Code, unless the provider enters into a contract with another provider who complies with rule 173-3-06.6 of the Administrative Code, or unless the caregiver transports or designates another person or non-provider, other than the center provider, to transport the consumer to and from the center.

**173-39-02.18:** Every ODA-certified provider of non-medical transportation or for an ODA-certified adult day service, because [rule 173-39-02.1 of the Administrative Code](#) requires adult day transportation to comply with rule 173-39-02.18 of the Administrative Code, unless the provider subcontracts with another provider that complies with rule 173-39-02.18 of the Administrative Code, or unless the caregiver transports or designates another person, other than the center's provider, to transport the individual to and from the center.

**b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a*

***representative business. Please include the source for your information/estimated impact.***

**Both Rules:** The following are the adverse impacts of each rule:

- General requirements for every AAA-provider agreement or to become and to remain an ODA-certified provider. These include compliance with (1) requirements established in either rule 173-3-06 or 173-39-02 of the Administrative Code, (2) requirements on topics (e.g., background checks) that are referenced in rule 173-3-06 or 173-39-02 of the Administrative Code, but established outside of either rule (e.g., RC §§ [173.38](#) and [173.381](#)), and (3) requirements on topics (e.g., records retention) that are established in rule 173-3-06 or 173-39-02 of the Administrative Code and also outside of either rule (e.g., [45 CFR 75.361](#)).
- Specific requirements unique to transportation: (1) availability, (2) the degree to which drivers help consumers/individuals to transfer between the vehicle and the pick-up location or drop-off location, (3) vehicle requirements, and (4) driver qualifications. ODA's proposed amendments to each rule will reduce the adverse impact of the vehicle requirements. Please review ODA's response to question #2 for a list of the 6 changes to vehicle inspections.

**173-3-06.6:** Providers establish the rate they are paid when they respond to a request for proposal (RFP) by submitting their bid to the AAA for how much they will charge per trip. The amount an AAA pays a provider is an all-inclusive rate. It's intended to cover all costs incurred in providing the project or service, including administration, training, and reporting. Therefore, the provider's bid includes all costs anticipated in providing the project or service. If the provider's bid wins, the provider is paid what it bid during the open and free competition for the AAA-provider agreement (cf., [45 CFR 75.329](#) and rules [173-3-04](#) and [173-3-05](#) of the Administrative Code).

**173-39-02.18:** The amount the PASSPORT Program pays providers for a service is an all-inclusive rate. It's intended to cover the daily costs incurred in the service plus employee-related costs. The costs incurred as a result of this rule are likely calculated as part of a provider's operational budget—the cost of doing business and clerical jobs, such as retaining records and updating policies and procedures. Providers set the prices they bill to the PASSPORT Program. In turn, the PASSPORT Program pays each provider the amount the provider bills, so long as the price billed does not exceed the maximum that the Ohio Dept. of Medicaid (ODM) allows per unit. In the appendix to rule [5160-1-06.1](#) of the Administrative Code, ODM establishes the units of service for the PASSPORT Program..

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

Yes. The 6 changes that ODA listed in its response to question #2 will reduce the adverse impact on providers by (1) eliminating the daily inspection for vehicles that never transport a consumer/individual in a wheelchair and (2) significantly reducing the daily inspection for vehicles that transport consumers/individuals in a wheelchair.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

**173-3-06.6:** [RC§173.392](#) requires ODA to develop rules establishing standards for AAA-provider agreements (i.e., contracts and grants) and [RC§173.01](#) requires ODA to represent the interests older Ohioans. Establishing standards for AAA-provider agreements in this rule ensures the health and safety of the older Ohioans who are consumers of transportation through Older Americans Act programs, which fulfills both statutes. There is no requirement for a provider to enter into an AAA-provider agreement in order to provide transportation in this state. An AAA-provider agreement is not a gateway to doing business in Ohio. Instead, a provider who wants to add the Older Americans Act programs to its lines of business may enter into an AAA-

provider agreement in order for those Older Americans Act programs to pay the provider for the trips it wants to provide to consumers of those programs. Additionally, providers voluntarily bid for AAA-provider agreements. A provider is only required to comply with an AAA-provider agreement if (1) the provider bids on providing transportation to be paid with Older Americans Act funds, and (2) the provider's bid is a winning bid. Providers may provide transportation without entering into an AAA-provider agreement when paid by private pay, third-party insurers, or other government programs that do not use Older Americans Act funds. Additionally, ODA is proposing to reduce the adverse impact.

**173-39-02.18:** ODA is required to develop rules establishing requirements for ODA-certified providers and to ensure the health and safety of individuals enrolled in programs that require ODA's certification (e.g., the PASSPORT Program). Providers voluntarily apply for ODA certification. Certification is not required to provide non-medical transportation unless a provider wants a government program that requires certification to pay the provider. Compliance with these rules is only required if a provider voluntarily chooses to obtain ODA's certification. Additionally, ODA is proposing to reduce the adverse impact.

### **Regulatory Flexibility**

#### **18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

Because the primary purpose of these rules is to ensure the health and safety of consumers/individuals enrolled in ODA-administered programs, the rules treat all providers the same, regardless of their size.

#### **19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

ODA's primary concern is the health and safety of individuals receiving services from ODA-certified providers. Whenever possible, ODA or its designees will treat administrative violations that do not involve health and safety as opportunities for improvement through warning notices and solicitation of corrective action.

#### **20. What resources are available to assist small businesses with compliance of the regulation?**

ODA and its designees are available to help providers of all sizes with their questions. Any person may contact [Tom Simmons](#), ODA's rules and policy administrator, with questions about these rules.



173-3-06.6

**Older Americans Act: transportation.**

(A) Definitions for this rule:

- (1) "Transportation" means a service that transports a consumer from one place to another through the use of a provider's vehicle and driver, and which may, or may not, include providing the consumer with assistance to safely enter and exit the vehicle. "Transportation" does not include the following:
  - (a) Trips otherwise available, or funded by, Ohio's medicaid program or another source.
  - (b) Trips provided through a similar service in this chapter or Chapter 173-4 of the Administrative Code.
- (2) "Board of EMFTS" means the state board of emergency medical, fire, and transportation services created under section 4765.02 of the Revised Code.
- (3) "Bus" has the same meaning as in section 4513.50 of the Revised Code.
- (4) "CLIA-certified laboratory" means a laboratory that ODH lists as a "CLIA Lab" in active status on the "Long-Term Care, Non Long-Term Care, & CLIA Health Care Provider Search" ([http://publicapps.odh.ohio.gov/eid/Provider\\_Search.aspx](http://publicapps.odh.ohio.gov/eid/Provider_Search.aspx)).
- (5) "First responder" has the same meaning as in division (A) of section 4765.01 of the Revised Code.
- (6) "EMT" means any of the emergency medical technicians defined in division (A), (B), or (C) of section 4765.01 of the Revised Code.

(B) Requirements for every AAA-provider agreement for transportation paid, in whole or in part, with Older Americans Act funds:

(1) General requirements:

- (a) The AAA-provider agreement is subject to rule 173-3-06 of the Administrative Code.
- (b) Availability: The provider shall possess a back-up plan that describes the process for transporting or notifying consumers when the driver or vehicle is unavailable.

- (c) Assisted transportation: The AAA-provider agreement shall list situations when drivers need to provide consumers with assistance to safely enter and exit vehicles, pick-up locations, and drop-off locations.

(2) Vehicle requirements:

- (a) Maintenance: The provider shall maintain vehicles according to the manufacturer's maintenance schedule for each vehicle used to transport consumers. If the vehicle includes a wheelchair lift, the provider shall maintain the wheelchair lift according to the manufacturer's maintenance schedule for the wheelchair lift.

- (b) Inspections: The provider shall conduct the following inspections on each vehicle used to transport consumers. ~~If the vehicle includes a wheelchair lift, the provider's inspection shall include inspecting the wheelchair lift:~~

- (i) An annual vehicle inspection on an ODA-approved form. The provider may use a vehicle for transporting consumers only if a mechanic who is certified by the national institute for automotive service excellence (i.e., "ASE-certified"), or another mechanic approved by the AAA, inspected the vehicle no more than twelve months before and answers all questions on the form in the affirmative.

- (ii) A daily ~~vehicle~~ inspection ~~on an ODA-approved form~~ of any vehicle that transports consumers in a wheelchair. The provider may use a vehicle to transport consumers in a wheelchair only if, before providing the first trip of the day, the provider inspected the vehicle ~~and answers all questions on the form in the affirmative~~ to ensure that permanent fasteners, safety harnesses or belts, and access ramp or hydraulic lift are working and only if the provider retains a record of this inspection.

(c) Vehicles deemed to comply:

- (i) A vehicle possessing a current, valid ambulance or ambulette license is deemed to comply with paragraphs (B)(2)(a) and (B)(2)(b) of this rule by providing the AAA with evidence of the vehicle's current, valid ambulance or ambulette license.

- (ii) A bus displaying a current, valid safety-inspection decal issued by

the state highway patrol under Chapter 4501-52 of the Administrative Code is deemed to comply with paragraph (B)(2)(b)(i) of this rule. Providers using a vehicle with a current, valid safety-inspection decal issued under section 4513.52 of the Revised Code may demonstrate compliance with paragraph (B)(2)(b)(i) of this rule by providing the AAA with evidence of the vehicle's current, valid decal.

(3) Driver requirements:

- (a) Statutory requirements to hire: The provider may hire a person to be a driver only if the person meets all the requirements for drivers under divisions (A)(3) and (B) of section 4766.14 of the Revised Code, as amplified in paragraph (A)(8) of rule 4766-3-13 of the Administrative Code, subject to the following conditions:
  - (i) The applicant's first-aid training and cardiopulmonary-resuscitation training came from a training organization approved by the board of EMFTS (<https://ems.ohio.gov/medical-transportation-licensing/help/help>).
  - (ii) The applicant's drug test results came from a CLIA-certified laboratory and declared the applicant to be free of alcohol, amphetamines, cannabinoids (THC), cocaine, opiates, or phencyclidine (PCP).
  - (iii) The provider complies with the background-check requirements in Chapter 173-9 of the Administrative Code, which exempts an applicant for a volunteer driver position and an applicant for a position solely involving transporting consumers while working for a county transit system, regional transit authority, or regional transit commission.
- (b) Additional requirements to hire: The provider may hire a person to be a driver only if the person meets all the following requirements:
  - (i) The applicant has held a current, valid driver's license for at least two years.
  - (ii) The applicant holds any driver's license endorsement necessary to operate the type of vehicle the applicant would drive.

- (iii) The applicant has the ability to understand written, electronic, and oral instructions.
  - (iv) The applicant has the ability to provide transportation assistance.
  - (v) The applicant has the ability to comply with the trip-verification requirements in paragraph (B)(4)(a) of this rule.
- (c) Passenger-assistance training: The provider may retain a driver only if the driver successfully completes a passenger-assistance training course approved by the board of EMFTS (<https://ems.ohio.gov/medical-transportation-licensing/help/help>) no later than six months after the provider hires the driver.
- (d) Professionals deemed to comply: Providers hiring an applicant who is one or more of the following professionals may demonstrate compliance with paragraphs (B)(3)(a), (B)(3)(b), and (B)(3)(c) of this rule by providing the AAA with evidence the applicant is such a professional:
- (i) An ambulette driver.
  - (ii) An EMT or first responder or a candidate to be an EMT or first responder who passed the board of EMFTS' curriculum for an EMT or first responder, but has not yet obtained a current, valid certification for either profession.
  - (iii) A driver for a county transit system, regional transit authority, or regional transit commission.
- (4) Trip verification: The following are the mandatory reporting items for each trip provided that a provider retains to comply with the requirements under paragraph (B)(9) of rule 173-3-06 of the Administrative Code:
- (a) Consumer's name.
  - (b) Type of trip (transportation or assisted transportation).
  - (c) Date of trip.
  - (d) Pick-up location and time of pick-up.

- (e) Destination location and time of drop-off.
- (f) Driver's name.
- (g) The unique identifier of the consumer or the consumer's caregiver to attest to receiving the trip. During a state of emergency declared by the governor or a federal public health emergency, the provider may verify each trip provided without collecting the unique identifier of the consumer or the consumer's caregiver if the provider collects the unique identifier of the driver to attest to providing the trip.

(C) Unit and rate:

- (1) A one-way trip is one unit of transportation.
- (2) The unit rate in an AAA-provider agreement reflects the provider's fully-allocated costs, including administrative and training costs.

173-39-02.18

**ODA provider certification: non-medical transportation.**

(A) Definitions for this rule:

- (1) "Non-medical transportation" (transportation) means using a provider's vehicle and driver to transport individuals from one place to another for a non-medical purpose. "Non-medical transportation" does not include the following:
  - (a) Transportation otherwise available, or funded by, Ohio's medicaid program or another source.
  - (b) Transportation for a non-emergency medical purpose.
  - (c) Transportation being provided through a similar service in this chapter.
  - (d) Transportation that the individual's family, neighbors, friends, or community agencies are willing or legally responsible to provide to the individual free of charge.
  - (e) Escort or transportation by a participant-directed provider. (See rule 173-39-02.4 of the Administrative Code.)
- (2) "Board of EMFTS" means the state board of emergency medical, fire, and transportation services created under section 4765.02 of the Revised Code.
- (3) "Bus" has the same meaning as in section 4513.50 of the Revised Code.
- (4) "CLIA-certified laboratory" means a laboratory that ODH lists as a "CLIA Lab" in active status on the "Long-Term Care, Non Long-Term Care, & CLIA Health Care Provider Search" ([http://publicapps.odh.ohio.gov/eid/Provider\\_Search.aspx](http://publicapps.odh.ohio.gov/eid/Provider_Search.aspx)).
- (5) "EMT" means any of the emergency medical technicians defined in division (A), (B), or (C) of section 4765.01 of the Revised Code.
- (6) "First responder" has the same meaning as in division (A) of section 4765.01 of the Revised Code.

(B) Requirements for ODA-certified providers of non-medical transportation:

- (1) General requirements:

- (a) The provider is subject to the requirements for every ODA-certified provider in rule 173-39-02 of the Administrative Code.
- (b) Availability: The provider shall possess a back-up plan for transporting individuals when an agency provider's driver or vehicle is unavailable or when a non-agency provider or the provider's vehicle is unavailable.
- (c) Transferring: As part of each trip, the driver shall help the individual safely transfer between the pick-up point and the vehicle, safely enter and exit the vehicle, and safely transfer between the vehicle and the destination point.
- (d) Provider types: ODA certifies only agency and non-agency providers to provide the transportation under this rule.

(2) Vehicle requirements:

- (a) Maintenance: The provider shall maintain vehicles according to the manufacturer's maintenance schedule for each vehicle used to transport individuals. If the vehicle includes a wheelchair lift, the provider shall maintain the wheelchair lift according to the manufacturer's maintenance schedule for the wheelchair lift.
- (b) Inspections: The provider shall conduct the following inspections on each vehicle used to transport individuals. ~~If the vehicle includes a wheelchair lift, the provider's inspection shall include inspecting the wheelchair lift:~~
  - (i) An annual vehicle inspection on an ODA-approved form. The provider may use a vehicle for transporting individuals only if a mechanic who is certified by the national institute for automotive service excellence (i.e., "ASE-certified") or another mechanic approved by ODA's designee, inspected the vehicle no more than twelve months before and answers all questions on the form in the affirmative.
  - (ii) A daily ~~vehicle~~ inspection ~~on an ODA-approved form~~ of any vehicle that transports individuals in a wheelchair. The provider may use a vehicle to transport individuals in a wheelchair only if, before the first trip of the day, the provider inspected the vehicle ~~the provider answers all questions on the form in the affirmative~~ to ensure that permanent fasteners, safety harnesses or belts, and

[access ramp or hydraulic lift are working and only if the provider retains a record of this inspection.](#)

(c) Exemptions:

- (i) A vehicle possessing a current, valid ambulette license is deemed to comply with paragraph (B)(2)(b)(i) of this rule by providing ODA or its designee with evidence of the vehicle's current, valid ambulette license.
- (ii) A bus displaying a current, valid safety-inspection decal issued by the state highway patrol under Chapter 4501-52 of the Administrative Code is deemed to comply with paragraph (B)(2)(b)(i) of this rule.

(3) Driver requirements:

- (a) Statutory requirements to hire: The provider may hire a person to be a driver only if the person meets all the requirements for drivers under divisions (A)(3) and (B) of section 4766.14 of the Revised Code, as amplified in paragraph (A) (8) of rule 4766-3-13 of the Administrative Code, subject to the following conditions:
  - (i) The applicant's first-aid training and cardiopulmonary-resuscitation training came from a training organization approved by the board of EMFTS (<http://www.ems.ohio.gov/medical-transportation-faq.aspx>).
  - (ii) The applicant's drug test results came from a CLIA-certified laboratory that declared the applicant to be free of alcohol, amphetamines, cannabinoids (THC), cocaine, opiates, or phencyclidine (PCP).
  - (iii) The provider complies with the background-check requirements in Chapter 173-9 of the Administrative Code.
- (b) Additional requirements to hire: The provider may hire a person to be a driver only if the person meets all the following requirements:
  - (i) The applicant has held a current, valid driver's license for at least two years.



- (ii) The applicant holds any driver's license endorsement necessary to operate the type of vehicle the applicant would drive.
  - (iii) The applicant understands written and oral instructions.
  - (iv) The applicant has the ability to comply with paragraph (B)(1)(c) of this rule.
  - (v) The applicant has the ability to conduct the daily vehicle inspection in paragraph (B)(2)(b)(ii) of this rule.
  - (vi) The applicant has the ability to collect the mandatory reporting items under paragraph (B)(4) of this rule.
- (c) Passenger-assistance training: The provider may retain a driver only if the driver successfully completes a passenger-assistance training course approved by the board of EMFTS (<http://www.ems.ohio.gov/medical-transportation-faq.aspx>) no later than six months after the provider hires the driver.
- (d) Exempted professionals: Providers hiring an applicant with a current, valid license or certificate to be one or more of the following professionals may demonstrate compliance with paragraphs (B)(3)(a), (B)(3)(b), and (B)(3)(c) of this rule by providing ODA or its designee with evidence the applicant possesses a current, valid license or certificate as one of the following professionals:
- (i) An ambulette driver.
  - (ii) An EMT or first responder who passed the board of EMFTS' curriculum for an EMT or first responder, but does not necessarily hold a current, valid certification for either profession.
  - (iii) A driver for a county transit system, regional transit authority, or regional transit commission.
- (4) Trip verification: The following are the mandatory reporting items for each trip provided to comply with the requirements under paragraph (B)(10)(a)(i) of rule 173-39-02 of the Administrative Code:

- (a) Individual's name.
- (b) Date of trip.
- (c) Pick-up point and time of the pick up.
- (d) Destination point and time of the drop off.
- (e) Driver's name.
- (f) Unique identifier of the driver to attest to providing the trip.
- (g) Unique identifier of the individual to attest to receiving the trip.

(C) Jobs and rates:

- (1) For the PASSPORT program, the appendix to rule 5160-1-06.1 of the Administrative Code lists the following for a job of non-medical transportation:
  - (a) The job as one trip, whether a one-way or round trip.
  - (b) The maximum rate allowable for a job.
- (2) For the PASSPORT program, rule 5160-31-07 of the Administrative Code establishes the rate-setting methodology for non-medical transportation.

# ANNUAL VEHICLE INSPECTION

VEHICLE ID	
ODOMETER READING	
INSPECTION DATE	
CERTIFIED MECHANIC	(NAME of ASE-certified mechanic)
	(COMPANY NAME: e.g., Buckeye Auto Repair Shop)
	(ADDRESS)
	(SIGNATURE)

GENERAL EMERGENCY EQUIPMENT	Yes	No
Horn operates properly?		
3 red reflectors <u>or flares</u> stored in vehicle?		
5-lb. ABC fire extinguisher secured in vehicle?		
<u>Isolation and biohazard kit or the following contents (at minimum) stored in vehicle?</u>		
<ul style="list-style-type: none"> <li>• <a href="#">Safety shield/mask.</a></li> <li>• <a href="#">Impervious gown.</a></li> <li>• <a href="#">Disposable gloves.</a></li> <li>• <a href="#">Bio-waste bag.</a></li> <li>• <a href="#">Antimicrobial hand wipes.</a></li> <li>• <a href="#">Disposal bag with ties.</a></li> <li>• <a href="#">Germicidal disinfectant with dry wipes.</a></li> <li>• <a href="#">Pick-up scoop with scraper.</a></li> <li>• <a href="#">Solidifying agent.</a></li> </ul>		
<u>2-way communication device (radio/cell) in vehicle?</u>		
<u>Seatbelt cutter stored in vehicle?</u>		
<u>First aid kit stored in vehicle?</u>		

EMERGENCY DOOR (for bus-type vehicles)	Yes	No
Opens to maximum width without catching or binding?		
Free of obstructions?		
Free of padlocks or other security devices while vehicle is in motion?		
Each handle permanently installed?		
Operating instructions permanently affixed to inside of door?		
Safety buzzer sounds when door opens?		
Safety buzzer placed in driver's area?		

VISIBILITY	Yes	No
Wipers and washer operate properly?		
Wiper blades in driver's field-of-vision clean?		
Wiper blades in working order?		
Rear-view mirror properly secured and properly placed?		
Each side-view mirror properly secured and properly placed?		
Convex blind-spot mirror installed?		
Each mirror reflects a clean image without cloudiness, a crack, or another obstacle?		
Each light operates properly?		

HEATER and DEFROSTER	Yes	No
Heater, defroster, and AC operate properly?		
Each hose in good state (e.g., no cracks/leaks)?		

CHASSIS	Yes	No
The steering gear assembly, power steering unit, brackets, and mounting bolts securely fastened?		
Steering column moves less than 1/2 an inch when pulled upwards?		
Power steering operates properly and has correct fluid levels and belt tensions?		
Tie rod ends function properly?		
Each tire has full range-of-motion without rubbing chassis or body?		
Each tire has at least 1/16 <sup>th</sup> of an inch of tread?		
Steering axle free of retreaded tires?		
Each tire free of irregular wear, a cut, or a bruise?		
Each tire balanced?		
Each wheel aligned?		
Each lug nut present and properly tightened?		
Each shock/spring properly mounted and intact?		
Gas tank free of rust, damage, or a leak?		
Gas tank securely mounted?		
Exhaust system operates properly?		
Exhaust sections properly welded/clamped?		
Exhaust manifold free of cracks or missing bolts?		

INTERIOR	Yes	No
Each seat securely fastened to floor?		
Seating area free of broken tubing, protruding metal, or debris?		
Floor made of metal?		
Floor intact and free of holes?		

BODY	Yes	No
Free of any broken part that could cause injury?		
Each window free of chips or cracks and securely mounted without exposed edges?		
No Plexiglas in place of safety glass?		

**DAILY VEHICLE INSPECTION**

VEHICLE ID	LAST SIX DIGITS OF VIN	MAKE & MODEL

INSPECT THE FOLLOWING ITEMS BEFORE PROVIDING THE FIRST TRIP OF THE DAY

WEEK OF ___/___/___		SUN		MON		TUES		WED		THURS		FRI		SAT	
ODOMETER READING		-----		-----		-----		-----		-----		-----		-----	
INSPECTION ITEMS		Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
EXTERIOR	Ground under vehicle free of leaked fluids?														
	Auto body free of new damage?														
	Clean windows and mirrors?														
	Windshield wipers/washers appear OK?														
TIRES APPEAR OK?	Properly inflated?														
	Free of visible damage?														
UNDER THE HOOD As checked before starting vehicle.	Adequate clean oil?														
	Hoses appear OK? (e.g., no cracks, leaks)														
	Belts appear OK? (e.g., no fraying)														
	Adequate windshield washer fluid?														
ITEMS STORED IN VEHICLE?	Current, valid insurance ID card?														
	Current, valid vehicle registration?														
	Isolation and biohazard disposal kit or the following contents (at minimum)?														
	<ul style="list-style-type: none"> <li>• Safety shield/mask.</li> <li>• Impervious gown.</li> <li>• Disposable gloves.</li> <li>• Bio-waste bag.</li> <li>• Antimicrobial hand wipes.</li> <li>• Disposal bag with ties.</li> <li>• Germicidal disinfectant with dry wipes.</li> <li>• Pick-up scoop with scraper.</li> <li>• Solidifying agent.</li> </ul>														
	First-aid kit?														
	Seatbelt cutter?														
	Flares or reflective triangles?														
	Fire extinguisher?														
	Blanket? ( <i>winter only</i> )														
	ITEMS INSPECTED FROM THE INTERIOR APPEAR OK?	Seat belts?													
Seats hazard-free (tears, loose armrests)?															
Floor free of hazards?															
Clean interior?															
Mirrors adjusted properly?															
Doors operate from inside and outside?															
Door locks?															
Gauges? (e.g., oil, fuel, temp.)															
Fuel level adequate?															
No warning lights (e.g., check brakes) lit?															
2-way communication device? (e.g., radio/cell)															
Horn?															
Back-up alarm (if equipped)?															
Brakes?															
Heater, defroster, and AC?															
LIGHTS WORKING PROPERLY?	Each headlight (high & low beam)?														
	Each tail light and marker light?														
	Each brake light?														
	Each turn signal?														
	Each back-up light?														
	Hazard lights (front and rear)?														
	License plate light?														
Interior lights?															
WHEELCHAIR LIFT and RAMP APPEAR OK? (if installed on vehicle)	Operate through complete cycle?														
	Properly secured to vehicle?														
	Proper number of restraints?														
	Free of physical damage or leaking fluid?														
	Free of dirt, mud, gravel, salt, etc.?														
	Lack need for repair?														

TO RESCIND

ATTESTATION: I hereby verify that the inspection findings above are accurate.

(PRINT NAME)

(SIGNATURE)

Form ODA0008 (Rev. 07/01/2023)

TO RESCIND

**DAILY VEHICLE INSPECTION**

VEHICLE ID	LAST SIX DIGITS OF VIN	MAKE & MODEL

**INSPECT THE FOLLOWING ITEMS BEFORE PROVIDING THE FIRST TRIP OF THE DAY**

DATE	
ODOMETER READING	

INSPECTION ITEMS		Yes	No
EXTERIOR TIRES APPEAR OK?	Ground under vehicle free of leaked fluids?		
	Auto body free of new damage?		
	Clean windows and mirrors?		
	Windshield wipers/washers appear OK?		
	Properly inflated?		
UNDER THE HOOD As checked before starting vehicle.	Free of visible damage?		
	Adequate clean oil?		
	Hoses appear OK? (e.g., no cracks, leaks)		
	Belts appear OK? (e.g., no fraying)		
ITEMS STORED IN VEHICLE?	Adequate windshield washer fluid?		
	Current, valid insurance ID card?		
	Current, valid vehicle registration?		
	Isolation and biohazard kit or the following contents (at minimum)?		
	<ul style="list-style-type: none"> <li>• Safety shield/mask.</li> <li>• Impervious gown.</li> <li>• Disposable gloves.</li> <li>• Bio-waste bag.</li> <li>• Antimicrobial hand wipes.</li> <li>• Disposal bag with ties.</li> <li>• Germicidal disinfectant with dry wipes.</li> <li>• Pick-up scoop with scraper.</li> <li>• Solidifying agent.</li> </ul>		
	First-aid kit?		
	Seatbelt cutter?		
	Flares or reflective triangles?		
	Fire extinguisher?		
	Blanket? ( <i>winter only</i> )		
ITEMS INSPECTED FROM THE INTERIOR APPEAR OK?	Seat belts?		
	Seats hazard-free (tears, loose armrests)?		
	Floor free of hazards?		
	Clean interior?		
	Mirrors adjusted properly?		
	Doors operate from inside and outside?		
	Door locks?		
	Gauges? (e.g., oil, fuel, temp.)		
	Fuel level adequate?		
	No warning lights (e.g., check brakes) lit?		
	2-way communication device? (e.g., radio/cell)		
	Horn?		
	Back-up alarm (if equipped)?		
Brakes?			
Heater, defroster, and AC?			

**TO RESCIND**

INSPECTION ITEMS		Yes	No
<b>LIGHTS WORKING PROPERLY?</b>  The provider shall use a second person to inspect lights that he/she cannot inspect. (e.g., brake lights and back-up lights)	Each headlight (high & low beam)?		
	Each tail light and marker light?		
	Each brake light?		
	Each turn signal?		
	Each back-up light?		
	Hazard lights (front and rear)?		
	License plate light?		
	Interior lights?		

INSPECTION ITEMS		Yes	No
<b>If equipped WHEELCHAIR LIFT and RAMP APPEAR OK?</b>	Operate through complete cycle?		
	Properly secured to vehicle?		
	Proper number of restraints?		
	Free of physical damage or leaking fluid?		
	Free of dirt, mud, gravel, salt, etc.?		
	Lack need for repair?		

**TO RESCIND**

<b>ATTESTATION:</b> I hereby verify that the inspection findings above are accurate.	_____
	_____

(PRINT NAME)

(SIGNATURE)