DEPARTMENT OF CORRECTIONS

Chapter 2911: Jail Facilities – Hearing Comments, Post-Hearing Comments & Proposed Rule Revisions

Revisor's ID No. R-4445; CAH Docket No. 22-9051-40960

Contents

BACKGROUND

The department published the revisor draft dated March 11, 2026 in the State Register on March 31, 2026. The public comment period for the department's proposed revision to Minnesota Rules, chapter 2911 closed on April 30, 2026. The department received more than 50 comments from the Court of Administrative Hearing eComments page - many of which were multi-page documents with multiple components. The department reviewed all comments received, which were attached as Exhibit I for the hearing and are available on the department's website.

The department then posted a revised public draft on Friday, May 22, 2026, narrowing rule language, restoring prior timelines, removing unnecessary prescriptive requirements, clarifying that facilities retain operational discretion, and distinguishing mandatory minimum standards. This revision also incorporates expertise from the Medication for Opioid Use Disorder in Jails Workgroup Interim Report to the Subcabinet on Opioids, Substance Use, and Addiction[1] and the recent legislative revisions to Minn. Stat. § 241.021, subd. 4f on prescription medication in jails signed into law by Governor Walz on May 18, 2026.[2] This new draft, incorporating input from experts and impacted groups, reinforces the need for modernized jail standards that address medication continuity, withdrawal management, suicide prevention, well-being checks, discharge planning, staffing flexibility, and continuity of care.

The Department of Corrections submitted its responses to the comments and issues raised during the prehearing comment period on May 27, 2026, and has incorporated some of those responses into this post-hearing response document. The post-hearing comment period will close on June 17, 2026, with the rebuttal period ending on June 25, 2026. The department has summarized hearing comments separately and consolidated its preliminary response to both hearing and post-hearing comments collectively as outlined below.

[1] "MOUD in Jails Workgroup: Interim Report to the Subcabinet on Opioids, Substance Use, and Addiction" (January 2025), *available at* https://mn.gov/mmb/assets/moud-in-jails-workgroup-interim-report-to-the-subcabinet-2025_tcm1059-674087.pdf.

[2] Laws of Minnesota 2026, chapter 97, article 4, section 1, *available at* https://www.revisor.mn.gov/laws/2026/0/Session+Law/Chapter/97/.

HEARING COMMENT SUMMARIES

A hearing on the proposed rule was held on May 28, 2026, during which time six individuals provided oral testimony. Hearing comments have been summarized and organized by speaker below. The department responds to each comment in the corresponding topic section later in this document.

Michelle Gross – Communities United Against Police Brutality (CUAPB) Mental Health Group

Ms. Gross communicated that the absence of appropriate medical care places incarcerated people at unnecessary risk of severe harm or death and the cost of *not* implementing the proposed requirements is substantial. Access to adequate medical treatment is a fundamental right because going to jail should not be a death sentence. Further revisions in the following areas are necessary to promote safety to individuals incarcerated in Minnesota jail facilities:

- **Jarvis Order Verification at Admission:** Jails should be required to verify Jarvis orders at the time of admission, and this requirement is already an expectation embedded within the Larry Hill Act. Minnesota jails have access to the Minnesota Court Information System (MNCIS), where Jarvis orders can be verified, a fact she confirmed through her direct communication with multiple sheriff's offices.

- **Opioid Antagonists:** The most recent rule draft includes permissive language - allowing jails to forgo maintaining naloxone on site – and should be revised to *require* all jails to maintain naloxone as part of their standard emergency response resources. This as an acceptable revision and requirement given that naloxone is inexpensive, easy to obtain, and simple to administer with minimal staff training.

Ms. Gross testified a second time, sharing that future litigation costs can be high when standards are not followed, so upfront costs now could save money in the future.

Will Cooley – Minnesota Justice Research Center

The Minnesota Justice Research Center communicated strong overall support for the proposed rule changes, including appreciation for the addition of withdrawal management requirements, medication assisted substance use disorder treatment, and overall medication management that bring the rules into alignment with the Larry Hill Act. They made the following recommendations for further rule revisions prior to adoption as they believe these changes are necessary steps toward improving safety, continuity of care, and long-term recovery for individuals in custody:

- **2911.1300, Subpart 2 – Training**: Training for opioid antagonists should be required, just as opioid antagonists should be required to be maintained in jails in the same manner they are mandated in the Department of Corrections.

- **2911.6500, Subpart 4B – Medication Storage:** Require that opioid antagonists are included in emergency kits.

- **2911.5810 – Withdrawal Management for Substance Abuse:** Jails are encouraged to participate in medication-assisted treatment (MAT) programs to improve outcomes after release; many sheriffs are already reporting positive results in interrupting substance use.

Jason Urbanczyk – Impact Minnesota – Coalition for the Homeless – Justice Impacted Person

Mr. Urbanczyk shared firsthand experience with jail incarceration, noting that his prescribed methadone treatment was abruptly discontinued without tapering or an alternative medication, and that no continuity of care was provided upon release. The point at which an individual enters custody is a critical opportunity to begin meaningful rehabilitation; not at sentencing, not during a transfer, and not once they reach a state facility. When withdrawal, medical needs, or mental health concerns aren't addressed, it creates a cycle of failures that some don't survive. Mr. Urbanczyk made following recommendations to strengthen the current draft rules, including:

- **Demonstrated Compliance:** Counties must demonstrate actual compliance; the existence of written policies alone is insufficient.

- **Substance Use Disorders:** Withdrawal management, medication for substance use disorder treatment, and continuity of care should be mandatory rather than optional components of jail healthcare.

- **Accountability:** There should be clear mechanisms for accountability when there are compliance issues.

Richard Hodsdon – General Counsel for MN Sheriff's Association

Mr. Hodsdon commented on the following topics:

- **Fiscal Analysis:** A key concern remains that the department has not addressed the fiscal impact on local governments, as required in Exhibit K-1. Among the sixteen county facilities that provided cost estimates, implementation of the proposed rules is projected to total approximately $10 million annually. Extrapolated statewide, the estimated impact could reach $100 million per year for local taxpayers. A complete fiscal analysis is necessary to enable county governments to properly plan for these costs.

- **Licensing Sanction Extension:** Should the rules take effect in 2027, it is recommended that no licensing sanctions be imposed until at least 2028. If county boards do not increase funding to support compliance, sheriffs will lack the resources needed to meet the new requirements. Accordingly, the department is urged to delay sanctions to allow counties sufficient time to plan and secure necessary funding.

- **Minimum Standards:** The proposed rules do not reflect true minimum standards, as required under the rulemaking framework and the Statement of Need and Reasonableness (SONAR). While aspirational goals are appreciated, they exceed the scope of a minimum standard. Phrasing such

as “if this is offered” further complicates compliance by creating the appearance that optional enhancements could trigger licensing sanctions, even when facilities exceed minimum expectations.

- **Policies and Procedures:** The requirement that facilities maintain policies and procedures may inadvertently create a strong disincentive to adopt practices beyond the minimum rule language. Facilities risk sanctions for failing to follow their own policies even when such lapses would not violate statute or rule. To address this, it is recommended that the department amend section 2911.0100 to specify that facilities will not face licensing sanctions for violations of their own policies if those policies exceed or go beyond minimum rule requirements. Without such a provision, rulemaking authority is effectively delegated to local governments, conflicting with Chapter 14 of the Administrative Procedure Act.

- **Lack of Medical Community Support**: No clinical or medical documentation has been provided to substantiate that several of the proposed provisions reflect sound practice, and the proposals appear to rely primarily on statutory elements that exceed minimum standards. As drafted, the rules still do not fully align with the Larry Hill Act.

Margaret Zadra – Ombudsperson for Corrections

Ombuds Zadra expressed clear support for the continued discussions surrounding the rulemaking revisions, particularly with respect to the positive improvements reflected in the current proposals. While acknowledging that the changes may require significant upfront investment, it is emphasized that these costs are expected to produce meaningful long-term savings through improved outcomes and more effective system operations.

Eliot Butay – National Alliance on Mental Illness (NAMI) – Minnesota

Eliot Butay invoked the 2016 Office of the Legislative Auditor (OLA) report, noting that numerous report recommendations are reflected in the current proposed rule changes. While these improvements are acknowledged, there is still room for improvement in the current rule draft.

- **Disciplinary Segregation:** International standards consider solitary confinement exceeding 15 days to constitute torture; therefore, segregation should be capped at this limit. The duration thresholds in the current draft appear arbitrary. Although there are legitimate circumstances requiring separation for safety, the use of segregation must be tied to demonstrated effectiveness. Additional evidence is requested to show that extended segregation reduces misconduct or violence.

- **Administrative Review Process:** There is strong support for the proposed rules aimed at reducing harm, including required visits by health care professionals, enhanced housing management and documentation standards, and mandatory mental status examinations. However, concerns remain regarding situations where documentation alone is permitted and whether adequate follow-up or resources are provided.

- **Mental Health Phone Calls:** Minnesota statute requires phone calls to mental health providers, case managers, and insurance providers to be free of charge. This statutory mandate should be explicitly identified in the rule text.

- **Emergency Medications:** There is ongoing concern regarding provisions that appear to allow jail administrators to authorize emergency medication administration without a Jarvis order, which may conflict with legal and clinical standards.

RESPONSES TO HEARING AND POST-HEARING COMMENTS

The department's consolidated responses to both hearing and post-hearing comments are provided below, arranged by rule topic, with common themes and frequently raised issues addressed collectively. In areas where the department intends to modify the language of the March 31, 2026 published draft in response to hearing and post-hearing comments, it explicitly states why the revisions are needed, reasonable, and not substantially different from the published draft. The Revisor is preparing a clean version of the rules, if adopted as proposed by the department, using the attached Appendix A document, showing the anticipated changes. The department will attach the clean rule to either the post-hearing comment page or the rebuttal page – whichever stage it is received – at the earliest practical opportunity.

DEFINITIONS (2911.0200)

Administrative Separation (2911.0200, subp. 2)

The definition of administrative separation was revised by removing language related to placement decisions, including the requirement to use the least restrictive alternative available. This language was relocated to part 2911.2800, subpart 1B, where it is addressed in greater detail and provides clearer direction regarding placement decisions.

Moving the placement requirements to the substantive section governing administrative separation improves organization and readability. It also allows the rule to more fully describe the factors a facility administrator must consider before making a placement decision, including consideration and exhaustion of appropriate alternative placements.

This amendment is not substantially different from the March 31, 2026, published draft. The published draft already regulated administrative separation, review requirements, and behavioral management planning for incarcerated people housed outside general population. The revision replaces the term "behavioral management plan" with "housing-management plan," limits its use to administrative separation, and clarifies the review process for incarcerated people who remain in administrative separation for more than 60 days. The rule continues to require individualized review, periodic reassessment, and planning related to transition from administrative separation.

The change is within the scope of the notice because it concerns the management and review of incarcerated people in administrative separation. It is a logical outgrowth of comments explaining that "behavioral management plan" is terminology associated with therapeutic settings and does not accurately reflect correctional housing decisions. Stakeholders also expressed concern that such planning requirements were not appropriate in disciplinary segregation. In response, the department retained the planning concept while narrowing its application to administrative separation and adopting terminology more consistent with correctional operations. The amendment therefore refines an existing requirement rather than creating a new regulatory obligation. Facilities had fair warning that the rulemaking proceeding could result in revisions to administrative separation procedures and associated planning requirements because those subjects were expressly addressed in the proposed rule and were the subject of extensive public comment.

Department of Corrections (2911.0200, subp. 28)

The definition was expanded in response to stakeholder comments regarding the use of the word “department” throughout the rule. Commenters indicated that the term could be interpreted ambiguously in some contexts. Adding the word “department” to the definition clarifies that references to the department mean the Minnesota Department of Corrections. This promotes consistent interpretation and application of the rule.

The addition of a definition for "Department of Corrections," "department," or "DOC" is not substantially different from the published draft. The proposed rules repeatedly referenced the department and commissioner throughout the chapter, and the amendment merely defines terminology already used throughout the rule.

The change is within the scope of the published rule, is in character with comments seeking greater clarity and consistency in terminology, and is a logical outgrowth of efforts to improve readability and interpretation of the chapter. The amendment creates no new duties, standards, or enforcement authority.

Response to Resistance (2911.0200, subp. Xx)

A definition was added to clarify what actions are included within the term “response to resistance” and to address questions raised during stakeholder review. Providing a definition promotes consistent understanding and application of the rule while maintaining references to applicable statutory requirements and the policy requirements contained in part 2911.4950. The proposed definition included in the May 22 draft has been modified in response to comments received during the hearing and post-hearing comment period noting the need for use of force language and existing rule language.

The addition of a definition for "response to resistance" is not substantially different from the published draft. The proposed rules already addressed security practices, use of force, staff

training, and facility responses to an incarcerated person's behavior. The current rule already includes the phrase "response to resistance" in its regulations. The amendment defines an operational term already understood and used in correctional practice as encompassing de-escalation, use of force, and related tactics intended to resolve situations using the least amount of force reasonable under the totality of circumstances.

The change is within the scope of the notice because it concerns facility security operations already addressed in the proposed rules. It is a logical outgrowth of comments identifying terms that lacked definitions and could create inconsistent interpretation among facilities. The amendment does not establish new use-of-force authority, create additional reporting requirements, or alter substantive standards. Interested parties had fair warning that operational terminology used throughout the chapter could be clarified through the rulemaking process

Step-down Management (2911.0200, subp. 67a)

The definition and all remaining references to "step-down management" were removed following stakeholder comments and discussions. Stakeholders explained that step-down management is not commonly used in jail settings due to operational differences, including fluctuating populations and shorter lengths of stay. Stakeholders indicated that the underlying principles associated with step-down management can be more appropriately addressed through the review process required under part 2911.2850 related to housing management plans. Removing the term allows facilities flexibility in achieving the same objectives through approaches better suited to jail operations.

The removal of the definition of "step-down management" and related revisions is not substantially different from the published draft. The published draft already regulated disciplinary segregation, administrative separation, review procedures, and transition planning. The amendment reflects stakeholder concerns that jails vary substantially in size, population, and operational structure and that a prescribed step-down framework may not be appropriate in all facilities. The revision preserves review requirements, housing management plans, and transition considerations while providing facilities greater flexibility in how they accomplish those objectives.

The change is within the scope of the notice because it concerns separation, segregation, and transition practices already addressed in the proposed rule. It is a logical outgrowth of comments regarding operational flexibility and the appropriateness of prescribed segregation-management models. The amendment does not introduce new subject matter and does not materially change the rule's effect because facilities remain subject to review requirements intended to monitor health, safety, and progress toward reintegration. Affected parties had fair warning that segregation-management provisions could be modified in response to comments on those sections.

Substance Use Disorder Programming/Services (2911.0200, subp. 68c)

The definition and all remaining references to “substance use disorder programming” were removed following stakeholder comments and discussions. Stakeholders noted that services related to substance use disorders are more accurately described as “services” and that the term “programming” is used differently elsewhere in the rule. Using the term “services” aligns more closely with statutory language and reduces ambiguity regarding the types of interventions and activities being referenced. Corresponding revisions were also made in parts 2911.3100 and 2911.5820 to ensure consistency throughout the rule.

The amendment revising "substance use disorder programming" to "substance use disorder programming services" and clarifying language in the definition is not substantially different from the published draft. The proposed rule already addressed substance use disorder assessment, treatment, recovery support, and service coordination. The revision clarifies terminology in response to extensive stakeholder feedback that different stakeholders interpreted the original terminology differently and that additional specificity was needed regarding what services facilities were expected to provide.

The change is within the scope of the notice because it concerns substance use disorder services already regulated in the proposed rule. It is a logical outgrowth of comments seeking clarification regarding treatment, programming, and recovery-support expectations. The amendment preserves the same subject matter and regulatory objective while improving clarity. Facilities had fair warning that the terminology governing substance use disorder services could be revised because those provisions were extensively discussed during the comment period.

INTENDED USE AND FACILITY SUPPORT PLANS (2911.0300)

Intended Use (2911.0300, subp. 1)

The department received comments and engaged in discussions with stakeholders regarding the definition of substantial compliance and how the department would evaluate compliance with minimum standards. Stakeholders also raised questions about whether facilities could be cited for failing to follow their own policies when those policies exceed the minimum standards established in rule.

The revised language clarifies the department's intent regarding inspections and enforcement. It distinguishes between compliance with minimum standards and compliance with facility policies, while preserving the department's ability to assess whether facilities have appropriately developed and followed required policies and procedures.

The revisions to part 2911.0300, subpart 1.D, are not substantially different from the published draft. The proposed rule already addressed compliance determinations, substantial conformity, inspections, and licensing decisions. The amendment replaces department-created language

regarding substantial conformity with the statutory licensing standard in Minnesota Statutes, section 241.021, subdivision 1(a), and clarifies that minor deviations that do not materially affect compliance, safety, performance, or regulatory objectives do not preclude a determination of substantial conformity.

The change is within the scope of the notice because it directly concerns the standards used during inspections and licensing determinations. It is a logical outgrowth of comments regarding the definition of substantial conformity and requests for greater clarity concerning inspection expectations. The amendment narrows discretion by relying on statutory language already enacted by the Legislature rather than establishing a new regulatory standard. Because the published draft expressly addressed substantial conformity and licensing decisions, affected parties had fair warning that the final rule could clarify or revise those provisions.

Facility Support Plans (2911.0300, subp. 4)

The department's May 22, 2026, draft proposed changing “Corrective Action Plans” to “Facility Support Plans.” During further review and discussions, the department attempted to replace the term “deficiency” with “finding”, though, that language is inconsistent with its authority under section 241.021, subdivision 1(a), and could create inconsistency or confusion when instituting facility support plans as opposed to licensing actions. Distinguishing when deficiencies will result in a facility support plan rather than licensing action is reasonable to reflect the purpose of the subpart on supportive enforcement to help facilities achieve compliance when deficiencies do not rise to the level of licensing action.

The revisions replacing the former sanctions framework with Facility Support Plans are not substantially different from the published draft. The proposed rule already addressed deficiencies, corrective actions, compliance determinations, and department oversight. The amendment creates a collaborative process for identifying deficiencies and areas for improvement before formal licensing sanctions become necessary and expressly states that a Facility Support Plan is not itself a licensing action.

The change is within the scope of the notice because it concerns the department's compliance-review and corrective-action processes already addressed in the published rule. It is a logical outgrowth of stakeholder comments where earlier drafts blurred the distinction between corrective guidance and enforcement actions and of legislative changes to the department's licensing authority enacted in 2021. The amendment does not expand the department's sanction authority and instead clarifies that licensing actions remain governed exclusively by Minnesota Statutes, section 241.021, subdivisions 1a through 1c. Affected parties had fair warning that the corrective-action framework could be modified because the proposed rule specifically addressed correction of deficiencies and sanctions.

FACILITY SELF-AUDIT (2911.0310)

The department received comments regarding the facility self-audit process and continued discussions with stakeholders regarding how best to achieve accountability while recognizing differences in facility size, resources, and levels of compliance. Stakeholders noted that the department-provided self-audit checklists are valuable tools but can be time-consuming for facilities that consistently meet minimum standards and are seeking opportunities to improve beyond those standards. In response, the department revised the self-audit process to support continuous improvement, document facility efforts, and align self-audits more closely with the same compliance tools used during inspections.

The amendment is reasonable because it maintains accountability while providing facilities additional flexibility in how they evaluate compliance and identify opportunities for improvement. The revised process allows facilities to focus resources on meaningful quality-improvement efforts while continuing to document compliance with minimum standards. By utilizing the same tools used during inspections, the amendment also promotes consistency between facility self-assessments and department inspections.

This amendment is not substantially different because the published draft already addressed facility self-audits, compliance monitoring, and documentation requirements. The revision concerns the same subject matter and remains within the scope of the Notice of Hearing. The amendment is a logical outgrowth of stakeholder comments regarding administrative burden and opportunities for operational flexibility. The revision does not eliminate the self-audit requirement, create new compliance obligations, or materially alter the department's oversight role. Interested parties had fair warning that self-audit procedures could be refined because those requirements were expressly included in the published draft.

VARIANCES, EMERGENCIES, AND OVERCROWDING (2911.0400)

Variances (2911.0400, subp. 1)

The department is proposing revisions to the variance provisions to expressly reference the statutes governing the variance process. During review of the proposed rules, the department determined that additional statutory references were necessary to ensure consistency between the rule and governing law and to provide clearer direction regarding how variances are requested, evaluated, and granted.

The amendment is reasonable because it promotes consistency between rule and statute, provides greater clarity to facilities regarding applicable legal standards, and helps ensure that variance requests are evaluated using a common framework. The revision improves transparency and predictability without changing the underlying variance process.

This amendment is not substantially different because the published draft already addressed variances and the circumstances under which facilities may seek relief from rule requirements. The revision concerns the same subject matter and merely incorporates additional statutory references governing the existing process. The amendment is a logical outgrowth of the department's review of the rule and stakeholder requests for clarity. It does not expand or restrict variance authority and does not materially alter the rights or obligations of regulated facilities. Interested parties had fair warning that provisions governing variances could be revised to better align with statute.

Overcrowding (2911.0400, subp. 8)

Stakeholders expressed concern regarding removal of the 125-mile radius provision in the overcrowding section. Commenters indicated that removing the provision created uncertainty regarding which facilities must be considered when addressing overcrowding and suggested that the revision could be interpreted as requiring statewide coordination regardless of distance. Stakeholders further noted that overcrowding situations are often temporary and are typically addressed through existing relationships with nearby facilities.

The amendment is reasonable because it restores a standard that facilities are familiar with and that reflects current operational practice. Reinstating the 125-mile radius requirement provides clarity regarding facility expectations while preserving flexibility to address overcrowding through cooperative agreements with nearby facilities. The revision supports safe and efficient management of overcrowding events without imposing unnecessary administrative burdens.

This amendment is not substantially different because overcrowding management and facility planning were already addressed in the published draft. The revision concerns the same subject matter and responds directly to stakeholder comments regarding implementation and operational feasibility. Restoring the 125-mile radius provision is a logical outgrowth of those comments and does not introduce new regulatory subject matter. The amendment largely restores a familiar operational standard and does not create materially different compliance obligations from those reasonably anticipated by affected facilities.

STAFFING (2911.0900)

Staff-to-Inmate Ratios (2911.0900, subp. 15)

Stakeholder discussions identified a need for additional clarity regarding staffing expectations in facilities where staff may be assigned to multiple posts. Commenters noted that language requiring staff to be "at their assigned posts" could be interpreted narrowly and did not clearly communicate that staff must actively perform the responsibilities associated with those assignments.

The amendment is reasonable because it clarifies that custody staff must be fulfilling the responsibilities of their assigned posts rather than merely being physically present. The revision reflects actual operational practice, promotes accountability, and provides clearer guidance regarding staffing expectations without limiting facility flexibility in assigning staff.

This amendment is not substantially different because the published draft already regulated staffing ratios, post assignments, and supervision requirements. The revision concerns the same subject matter and clarifies existing expectations regarding staff responsibilities. The amendment is a logical outgrowth of stakeholder discussions regarding implementation and interpretation. It does not increase staffing ratios, create new staffing positions, or materially alter compliance obligations. Interested parties had fair warning that staffing provisions could be clarified through the rulemaking process.

Reduced Staffing Ratio (2911.0900, subp. 23)

Following publication of the May 22 draft, stakeholders identified ambiguity regarding application of the reduced staffing ratio during scheduled lockdowns. Some facilities questioned whether the language permitted a single staff member to supervise multiple direct-supervision housing units simultaneously during lockdown periods.

The amendment is reasonable because it clarifies the department's original intent and ensures consistent application of staffing requirements. The revision specifies that the reduced staffing ratio applies only when a single direct-supervision housing unit is in scheduled lockdown, preventing misinterpretation while preserving the operational flexibility intended by the provision.

This amendment is not substantially different because staffing ratios and direct-supervision housing units were already addressed in the proposed rule. The revision clarifies application of an existing provision rather than creating a new staffing standard. The amendment is a logical outgrowth of stakeholder questions regarding interpretation and implementation. It does not expand or reduce substantive staffing requirements beyond what was already contemplated by the published draft and therefore would have been reasonably anticipated by interested parties.

TRAINING (2911.1000-2911.1600)

Custody Staff**;** Training (2911.1300)

The department received comments from both advocates and jail facilities regarding training requirements. Advocates requested mandatory opioid antagonist training and broader availability of opioid antagonists. Advocates emphasized the continued prevalence of opioid use and overdose risk among individuals entering custody, noting that many arrive at intake in various stages of withdrawal or with substances still in their system. They argued naloxone is relatively inexpensive, easy to obtain, and requires minimal training. Facilities expressed concerns regarding implementation timelines for CPR training and the availability of regional training

opportunities, in addition to the additional cost in providing opioid antagonists in jails and upon release for individuals receiving withdrawal management and medication assisted substance use disorder treatment.

In 2021, when the legislature directed the department to incorporate specific minimum standards into Rule 2911, it did not mandate that jails stock opioid antagonists. Instead, it required minimum standards related to the clinical management of substance use disorders and procedures for responding to opioid overdose emergencies. In 2023, the Minnesota Legislature enacted additional requirements for certain groups to carry naloxone to expand access and reduce overdose deaths. This mandate applies to K–12 and charter schools, corrections facilities, law enforcement agencies, DHS-licensed treatment and crisis programs, detox and withdrawal management programs, and sober homes; however, it does not extend to county jails. These covered entities are eligible to order bulk, no-cost naloxone through Minnesota Naloxone Ordering Portal but leaves county jails with finding other resources or assuming the cost themselves. Despite all of this, a cursory inquiry conducted with the department's inspectors found that most jails already maintain a supply of opioid antagonists.

The department responded to pre-hearing comments regarding concerns from county jails in relation to additional costs for supplies and training while also maintaining support of policy and procedure provisions for storage and training. The department is again referencing the MOUD in Jails Workgroup Interim Report, which supports our position and acknowledgement that individuals leaving incarceration face dramatically elevated overdose risk, that access to medication for opioid use disorder during incarceration improves outcomes and reduces recidivism, and that standardized statewide practices combined with operational flexibility and implementation support are necessary to improve public safety and health outcomes across Minnesota communities.

As such, the department is actively collaborating with stakeholders and community organizations to develop resources that support the implementation of the adopted rules. The department will continue seeking opportunities to ensure opioid antagonists are readily available and that staff have access to free training. This proactive planning supports the department's ongoing objective of maintaining safe and secure jail facilities, as timely screening, effective withdrawal management, continuity of care, and overdose prevention all reduce the risk of death, suicide, overdose, medical emergencies, and unsafe behavioral crises within correctional settings.

In light of this information, the department is not in a position to require jails to stock naloxone but require training if jails have it available for use. The department also removed the language in part 2911.5810 subp. 4 related to providing opioid antagonists upon release for individuals receiving withdrawal management services but maintained it in part 2911.5820 subp. 4, item F with the revised language qualifying its offering if the facility's resources allow.

The department received stakeholder comments regarding the CPR training requirement and is proposing revised language that allows custody staff to obtain CPR training within their first year of employment, rather than requiring completion before they can be independently assigned a

shift. If a custody staff member has not yet completed the required training and is working independently, another custody staff member on the same shift must be CPR-trained. Except for facilities that operate with only one custody staff member on duty, this revision provides flexibility for facilities that rely on regional training opportunities offered at limited times.

Because CPR training is essential for staff to safely perform independent duties, the department is actively working to develop resources to support implementation of the adopted rules. This includes exploring additional training opportunities through collaboration with other jails and through offerings provided by the department's own training academy for new corrections staff.

The department is also proposing a revision that links the required training for conducting well-being checks to the other rule parts that describe how those checks must be performed. In part 2911.1300, a cross-reference was added to the sections that outline the procedures for well-being checks. This minor change ensures that the training requirements are directly connected to the policies and procedures governing well-being checks, providing clarity and consistency. It also fulfills the 2021 legislative directive requiring specific minimum standards around well-being checks as part of the broader rule revision process.

The amendments are reasonable because they balance public safety, operational realities, and implementation feasibility. The CPR revision maintains the training requirement while providing facilities additional flexibility to complete training during the employee's first year of service. The cross-reference to well-being check procedures improves consistency between operational requirements and training expectations. Together, the revisions support facility safety and staff preparedness while reducing unnecessary implementation burdens.

These amendments are not substantially different because the published draft already addressed staff training, CPR certification, well-being checks, emergency response, and substance use disorder-related requirements. The revisions concern the same subject matter and are a logical outgrowth of stakeholder comments regarding implementation, operational feasibility, and consistency. The amendments do not introduce new categories of regulated activity or materially alter the training objectives established in the published draft. Interested parties had fair warning that training requirements could be adjusted in response to comments regarding operational implementation and available resources.

INFORMATION MANAGEMENT (2911.1900-2911.2700)

Information to Inmates (2911.2700)

After reviewing several comments and continuing discussions with stakeholders, it became clear that requiring facilities to make their procedures available - regardless of whether they relate specifically to an incarcerated person's rights - raised significant concerns. The department revised part 2911.2700 by removing the requirement that facility "procedures" be made available to incarcerated people while retaining the requirement that facilities provide information

regarding an incarcerated person's rights, duties, and responsibilities. The revision was necessary because stakeholders consistently expressed concern that operational procedures often contain security-sensitive information regarding facility operations, emergency response, staffing practices, movement protocols, and other matters that are not appropriate for broad dissemination within a correctional setting. The department agrees that the original language could have been interpreted to require disclosure of information beyond what is necessary to inform incarcerated people of their rights and responsibilities. The revision preserves the rule's intended purpose – ensuring incarcerated people receive information necessary to understand facility expectations and available rights – while eliminating potential confusion regarding disclosure of operational procedures.

The revision is reasonable because facilities already provide incarcerated people access to handbooks, orientation materials, forms, and other information describing rights, responsibilities, grievance procedures, communication access, and facility expectations. Requiring disclosure of internal operational procedures would not materially advance understanding while potentially creating security concerns.

The revision is not substantially different from the proposed rule because the underlying subject matter remains unchanged. The rule continues to govern information provided to incarcerated persons and continues to require facilities to communicate rights, duties, and responsibilities. The amendment merely narrows the method of compliance and clarifies the distinction between information intended for incarcerated people and internal operational procedures. Interested parties had fair warning that information requirements could be modified in response to comments concerning institutional security and implementation concerns.

ADMISSIONS, RELEASES, AND DISCHARGE PLANNING (2911.2525-2911.2560)

Admissions (2911.2525)

During the public hearing, an advocate provided oral comments requesting that the rule be further amended to require jails to verify Jarvis orders at the time of admission. According to the SONAR[3], about 26% of people incarcerated in jail "reported experiences that met the threshold for serious psychological distress" and around 17% have been diagnosed with a serious mental illness. In 2025, Minnesota jails recorded 133,861 admissions, and roughly 20 percent of those admissions (26,817 people) were referred for additional mental health review based on data in the department's Portal (with Dakota and Winona Counties not reporting). Because Minnesota does not have a unified statewide system or public database tracking the number of active Jarvis

[3] Hearing Exhibit D

orders, it is difficult to determine how many individuals entering jails with serious mental illness or serious psychological stress were included as part of the 26,817 incarcerated people requiring further mental health review upon admission or how many later met the criteria for involuntary psychiatric medication.

The department acknowledges that verification of an existing Jarvis order could, in some circumstances, expedite access to psychiatric services and continuity of care. However, the department also considered extensive prehearing and hearing comments regarding the cumulative burden associated with newly proposed intake requirements. Facilities consistently expressed concerns regarding staffing limitations, intake-processing times, and the operational challenges associated with completing numerous screening and documentation requirements during the admission process. The department also recognizes that while information regarding Jarvis orders may be available through MNCIS, identifying and reviewing those records for every admission would require additional staff time and resources and could delay completion of other intake functions that address immediate safety concerns.

The department maintains that the proposed admission requirements remain reasonable as drafted. The current intake provisions prioritize the identification of urgent medical, mental-health, withdrawal-management, suicide-prevention, and safety concerns at the earliest stages of incarceration. These are the issues most likely to require immediate intervention and present the greatest risk to the health and safety of newly admitted incarcerated people.

The rule also continues to require follow-up assessment and health-care review under part 2911.5800, subpart 7, providing facilities with a mechanism to identify and address ongoing mental-health needs after admission. By focusing intake requirements on immediate safety concerns while allowing for additional review and continuity-of-care efforts after admission, the rule appropriately balances the interests of incarnated people with the operational realities faced by Minnesota jails.

The department did not adopt the requested amendment. As a result, the admission requirements remain substantially the same as those contained in the March 31, 2026, published draft. The revised rule continues to address admission screening, intake assessment, and identification of immediate safety concerns. No new subject matter has been added, no additional duties have been imposed, and the department has not altered the scope or effect of the proposed admission requirements. The department's decision to retain the published language is fully consistent with the subject matter identified in the Notice of Hearing and the comments received during the rulemaking process.

ADMINISTRATIVE SEPARATION, DISCIPLINARY SEGREGATION, AND MENTAL HEALTH CARE (2911.2790-2911.2880)

Administrative Separation (2911.2800)

The department revised the administrative separation provisions by relocating and expanding language regarding placement decisions and consideration of alternatives before placement in administrative separation. The language in the definition of administrative separation – relative to placement – was removed and expanded upon in part 2911.2800, subpart 1B . The tracked revisions clarify that administrative separation is not intended to be an automatic placement decision and that alternative placements should be considered and exhausted when appropriate before administrative separation is utilized.

The revision was necessary because stakeholders requested additional clarity regarding when administrative separation may be used and how placement decisions should be made. The department determined that language originally contained within the definition section would be more effective if incorporated directly into the operational requirements governing placement decisions. Relocating the language improves usability and provides clearer guidance to facilities responsible for implementing the rule.

The revision is reasonable because it promotes individualized decision-making while preserving a facility's ability to immediately separate incarcerated people when legitimate safety or security concerns exist. The revision supports the department's objective of minimizing unnecessary restrictive housing while maintaining operational flexibility needed to address facility safety concerns.

The revision is not substantially different because the proposed rule already regulated administrative separation, placement criteria, and decision-making processes. The amendment does not create new restrictions or eliminate existing authority; rather, it clarifies how the existing authority should be exercised and provides additional guidance regarding considerations that should occur before placement.

Disciplinary Segregation (2911.2820 – 2911.2850)

The department revised the disciplinary segregation provisions to clarify that disciplinary segregation limits apply to a single behavioral incident regardless of the number of rule violations associated with that incident, remove the separate step-down process, and incorporate relevant review requirements directly into the review provisions. Additional revisions reorganize the rule into a more chronological format and clarify mental-health review requirements.

The revisions were necessary because stakeholders expressed uncertainty regarding how segregation limits should be calculated when multiple rule violations arise from a single event and

indicated that portions of the review process were difficult to follow operationally. The department agreed that clarification was needed to ensure consistent statewide implementation and avoid differing interpretations among facilities.

The revisions are reasonable because they preserve the rule's original purpose of limiting extended segregation while improving procedural clarity and administrative efficiency. The revisions continue to require periodic review, mental-health monitoring, and documentation while reducing unnecessary complexity.

The revisions are not substantially different because they do not alter the underlying regulatory framework governing disciplinary segregation. The proposed rule already addressed segregation limits, review procedures, due-process protections, and mental-health monitoring. The amendments simply clarify application of those requirements and reorganize provisions to improve implementation.

Mental Health Screening for Inmates in Administrative Separation and Disciplinary Segregation (2911.2860)

Eliot Butay from the National Alliance on Mental Illness (NAMI) provided oral comments at the hearing requesting disciplinary segregation be capped at 15 days, noting that international standards define solitary confinement beyond that time frame as “torture”. They expressed concern that the duration thresholds in the current draft appear arbitrary, while also acknowledging that separation may be necessary in certain safety-related circumstances. Additional data was requested to demonstrate that extended segregation meaningfully reduces misconduct or violence.

The department’s Planning and Performance Unit conducted research on the use of disciplinary segregation and published its findings[4] in 2023. That research found that institutional discipline, including violent incidents, appeared to increase both when segregation caps were lowered and when they were later increased, suggesting that segregation limits alone do not determine facility safety outcomes. The study concluded that any reforms should be accompanied by improvements in procedural justice, staff training, educational opportunities, cognitive-behavioral interventions, and other nonpunitive strategies.

The department also determined that additional clarity was needed regarding the health screenings required under part 2911.2860. To address potential confusion, the department

[4] McNeeley, S. (2023). *Did changes to disciplinary segregation policy affect rates of institutional misconduct?* **Criminal Justice and Behavior, 50** (10), 1547–1564. Minnesota Department of Corrections.

revised the language to clarify that the required screenings are specifically mental-health screenings.

The department believes the revisions are reasonable because they recognize the substantial variation among Minnesota jail facilities. Jails differ significantly in size, physical design, staffing levels, programming resources, and population characteristics. A single statewide segregation limit that does not account for those differences could undermine facility safety and operational needs.

The proposed rule continues to limit disciplinary segregation, require periodic review, and provide safeguards intended to reduce unnecessary restrictive housing. At the same time, the rule preserves flexibility for facilities to establish sanctions that are proportionate to the severity of misconduct while remaining within department-established limits. Clarifying that the required screenings are mental-health screenings further promotes consistent implementation and ensures that facilities understand the purpose of the requirement.

The revisions are not substantially different from the published draft because the rule continues to regulate the same subject matter: disciplinary segregation, administrative separation, review procedures, and mental-health oversight for incarcerated people placed in restrictive settings. The addition of the word "mental" merely clarifies the type of screening contemplated by the rule and does not create a new obligation. The revisions remain within the scope of the Notice of Hearing, are a logical outgrowth of stakeholder comments and departmental review, and do not create materially different effects or obligations for regulated facilities.

INMATE ACTIVITES AND PROGRAMS / VISITATION / CONDITIONS OF CONFINEMENT (2911.3100 – 2911.3650)

Inmate Activities and Programs (2911.3100)

During the public hearing, an advocate described personal experiences involving discontinuation of substance-use-disorder treatment during incarceration and requested stronger requirements related to withdrawal management, medication-assisted treatment, and continuity of care. The department carefully considered these comments along with stakeholder feedback received throughout the rulemaking process regarding the significant variation in treatment resources available across Minnesota jails.

The department agrees that continuity of care, withdrawal management, and access to substance-use-disorder services are important components of correctional health care. However, stakeholders consistently noted that facilities vary substantially in their staffing, funding, treatment-provider availability, and ability to offer formal substance-use-disorder programming. The department therefore revised the rule to improve clarity regarding medication-control requirements, continuity-of-care expectations, and the relationship between rule

requirements and recently amended statutory requirements in Minnesota Statutes, section 241.021, subdivision 4f.

The department also removed the term "substance use disorder programming" and replaced references with language referring to substance-use-disorder services. Stakeholders explained that the term "programming" is used differently throughout the chapter and could create confusion regarding facility obligations.

The revisions are reasonable because they strengthen consistency between rule and statute while recognizing operational differences among facilities. The rule continues to require facilities to develop and follow policies and procedures governing services, treatment, medication management, and continuity of care. At the same time, it avoids imposing programmatic requirements that some facilities currently lack the resources to provide.

The revisions also improve clarity by distinguishing between treatment services and other forms of programming addressed elsewhere in the rule. This terminology better reflects statutory language and allows facilities to demonstrate compliance based on the services they are capable of providing while continuing to encourage access to substance-use-disorder treatment whenever available.

The medication-related revisions further support safe and effective correctional health care by reducing the risk of withdrawal complications, medication errors, untreated medical conditions, overdose, diversion, and preventable medical emergencies.

The revisions are not substantially different from the published draft because they continue to regulate the same subject matter: incarcerated person activities, services, treatment opportunities, continuity of care, and medication-related practices. The amendments do not create a new treatment framework or expand statutory requirements. Instead, they clarify terminology, align rule language with recently amended statutes, and respond to stakeholder concerns regarding implementation and interpretation. These revisions are within the scope of the Notice of Hearing, are a logical outgrowth of the comments received, and do not impose materially different obligations on facilities than those contemplated in the published draft.

Communication Access (2911.3400)

In response to comments raised by Eliot Butay from NAMI-MN, the department revised part 2911.3400 to expressly recognize that calls required to be provided free of charge under Minnesota Statutes, section 641.15, subdivision 2, must remain free of charge.

The revision was necessary in response to hearing comments requesting that the rule expressly acknowledge existing statutory protections for communication with mental-health providers, case managers, insurance representatives, MNsure navigators, and other statutorily protected

services. Because the statutory requirement already exists, incorporating a direct reference promotes awareness and consistency without imposing new obligations.

The revision is reasonable because it improves clarity and helps facilities understand the interaction between statutory and rule requirements. It also assists incarcerated people in maintaining access to services that support mental-health treatment, continuity of care, and successful reentry.

The revision is not substantially different because it merely incorporates an existing statutory requirement into a rule governing communication access. The proposed rule already regulated communication and telephone access. The amendment neither creates a new right nor imposes a new obligation beyond what is already required by law.

REPORTING REQUIREMENTS (2911.3700)

Facilities explained that court-ordered furloughs are treated differently across jurisdictions and that, in many circumstances, incarcerated people placed on furlough are not under the facility's physical custody, supervision, or operational control. Facilities expressed concern that the proposed reporting requirements could require them to report escapes involving incarcerated people whose actions they could neither prevent nor supervise.

The department agreed that the reporting requirement should reflect the actual degree of custody and control exercised by the facility. Requiring facilities to report events that occur when a person is no longer under meaningful supervision could result in inconsistent reporting practices and inaccurate data collection.

The revision is reasonable because it aligns reporting obligations with operational realities. Facilities should be responsible for reporting incidents occurring within their custody and control, not events occurring while an incarcerated person is on a court-authorized status that limits or eliminates facility supervision. The amendment improves consistency in reporting practices while ensuring that the department continues to receive meaningful information regarding actual escapes and custody-related incidents.

The revision is not substantially different because the rule continues to govern reporting requirements related to escapes, unusual incidents, emergencies, and other significant events. The amendment merely clarifies a limited circumstance in which an incarcerated person is not under facility control. The change remains within the scope of the published rule, is a logical outgrowth of stakeholder comments regarding implementation and custody status and does not materially alter the overall reporting framework established in the March 31, 2026 draft.

DIET AND FOOD-SERVICE MANAGEMENT (2911.3800-2911.4600)

The department identified two technical revisions that were necessary to improve clarity and consistency within the food-service provisions. First, the department relocated the reference to nationally adopted dietary guidelines from the annual food-service review requirements in part 2911.4000 to the menu-planning requirements in part 2911.3900. The department determined that dietary guidelines are more directly related to menu development than to annual program review.

Second, during subsequent review of the draft, the department identified conforming revisions that were necessary following the earlier replacement of the term "therapeutic" with "nonreligious." Additional changes in parts 2911.4000 and 2911.4200 were necessary to ensure consistent terminology throughout the food-service provisions.

The revisions are reasonable because they improve organization, readability, and internal consistency. Relocating dietary-guideline language places the requirement in the section where facilities are most likely to use it when developing menus. The conforming terminology revisions ensure that related provisions use consistent language and reduce the potential for confusion regarding dietary accommodations.

These revisions are not substantially different from the published draft because they do not alter the substantive food-service requirements applicable to facilities. The rule continues to require nutritionally adequate meals, menu planning, dietary accommodations, and food-service review. The amendments simply relocate existing language and make conforming terminology changes. The revisions remain within the scope of the Notice of Hearing, are consistent with the subject matter addressed in the published draft, and do not create materially different obligations or effects for regulated facilities.

HEALTH CARE, WITHDRAWAL MANAGEMENT, AND SUBSTANCE-USE DISORDER TREATMENT (2911.5800-2911.5820)

Across Minnesota jails, according to reporting in 2025, there were about 133,861 admissions and 136,546 discharges. Based on SONAR[5] data showing that 82% of jails report more than 30% of their population struggles with substance abuse, it is estimated that more than 40,000 people admitted to and released from Minnesota jails each year have substance abuse issues. (Dakota and Winona Counties did not report data).

[5] Hearing Exhibit D

During the public hearing, several advocates provided oral comments requesting the rule be further amended requiring jails be mandated to utilize opioid antagonists and, correspondingly, that staff training on their use be mandatory rather than optional. Advocates emphasized the continued prevalence of opioid use and overdose risk among individuals entering custody, noting that many arrive at intake in various stages of withdrawal or with substances still in their system. They argued naloxone is relatively inexpensive, easy to obtain, and requires minimal training. Relying on optional training or inconsistent availability of opioid antagonists may place incarcerated people at unnecessary risk. Mandating both the availability of opioid antagonists and consistent staff training would establish a minimum safety standard across all facilities that ensures staff are prepared to respond quickly in life-threatening situations.

The department has already addressed this issue in this response document, as previously discussed in section on opioid antagonist training (see “Training” on page 16).

Collaboration with Health Authority

The department expanded and clarified part 2911.5820 to more explicitly recognize the collaborative responsibilities of the facility administrator and health authority in continuity-of-care planning, assessments, medication-related communications, and related health-care decision making.

The revision was necessary because stakeholders expressed concern that the previous wording could be interpreted as placing clinical decision-making authority solely under facility administration. The department never intended to alter established professional responsibilities or imply that correctional administrators direct clinical practice. The revised language better reflects actual correctional-health operations and clarifies the respective responsibilities of facility leadership and licensed health-care professionals.

The revision is reasonable because continuity of care depends upon coordination between operational and clinical personnel. Clarifying these responsibilities promotes effective communication, improves implementation, and supports appropriate clinical oversight.

The revision is not substantially different because the proposed rule already required continuity-of-care policies, assessments, and coordination with health-care providers. The amendment does not create new substantive duties but instead clarifies how existing responsibilities are shared and implemented

“If” to “When” Revisions

In response to comments from facilities, the department revised several provisions by replacing the word "if" with "when" in reference to substance-use-disorder services. The change was necessary because the previous language could imply that facilities were required to satisfy some

prerequisite condition before offering services. The revised wording more accurately reflects the department's intent that the rule govern facility responsibilities whenever services are available.

Jail facilities expressed concern that the existing rule language could be interpreted as requiring them to maintain an ambulance physically on standby at the facility. This would be unrealistic and burdensome, as most jails rely on community emergency medical services rather than owning or staffing their own emergency vehicles. To address this confusion, facilities requested that the word “services” be added when referencing an emergency vehicle. This clarification makes it clear that the requirement pertains to accessing emergency medical services for transport when needed - not maintaining an ambulance on-site. Adding this language ensures the rule aligns with standard practice and accurately reflects how medical emergencies are handled in correctional settings.

The revisions are reasonable because it improves readability and reduces the likelihood of misinterpretation.

The revisions are not substantially different because they do not alter any substantive obligation, expand services, or create new requirements. It merely clarifies application of requirements already contained in the proposed rule.

PSYCHIATRIC EMERGENCY & INVOLUNTARY MEDICATION ADMINISTRATION (2911.5840 & 2911.6700)

During the public hearing, Eliot Butay from the National Alliance on Mental Illness (NAMI) provided oral comments with concerns surrounding the use of emergency medication without a Jarvis order. The department believes it’s pre-hearing response to the need and reasonableness of requiring policies and procedures remains relevant because emergency medication administration is allowable under current law and minimum standards regarding emergency medication administration were required by the legislature in 2021.

The department is satisfied with its proposed revisions because they are rationally related to the department’s objective of safe and secure jail facilities because psychiatric emergencies can create immediate risks to incarcerated people, staff, and facility operations. Requiring facilities to maintain policies governing involuntary medication administration, promotes safer emergency decision-making, and protection of an incarcerated person’s constitutional rights while supporting facility security during crises.

The department revised part 2911.6700 to clarify that policies governing emergency psychiatric medication administration must be developed collaboratively with the health authority and implemented through established clinical protocols and professional judgment rather than administrative direction alone.

The revision was necessary because stakeholders expressed concern that the prior wording could be interpreted as allowing facility administrators to direct clinical medication decisions during psychiatric emergencies. The department agrees that emergency psychiatric interventions must remain grounded in clinical judgment and professional standards.

The revision is reasonable because it more accurately reflects correctional-health practice, preserves appropriate clinical authority, and strengthens continuity of care while maintaining institutional safety.

The revision is not substantially different because the proposed rule already regulated emergency psychiatric medication administration and required policies governing those circumstances. The amendment clarifies responsibilities and implementation but does not alter the underlying authority or requirements established in the proposed rule.

MEDICATION CONTROL (2911.6800)

The department revised the medication-control provisions to align more closely with Minnesota Statutes, section 241.021, subdivision 4f that was recently amended by the legislature and to clarify that medication-related decisions must be made by appropriately authorized health-care professionals. The department also revised terminology regarding medication "holds," reflecting stakeholder feedback that temporary medication holds are operationally distinct from permanent discontinuations or medication changes.

The revisions were necessary because correctional health-care stakeholders identified areas where the proposed language could be interpreted inconsistently with established clinical practice or statutory authority. The department determined that additional clarification was necessary to ensure that medication decisions remain within the appropriate scope of professional clinical authority.

The revisions are reasonable because they improve consistency with governing statutes, reduce ambiguity, and better reflect actual correctional-health practices while preserving patient safety.

The revisions are not substantially different because the proposed rule already governed medication management, medication verification, discontinuation procedures, and health-care decision making. The amendments clarify terminology and authority but do not create new substantive medication-management requirements.

POLICY REQUIREMENTS

Stakeholders again expressed concerns about how policies are applied and evaluated at the county level, particularly when facility policies go beyond the minimum standards established in rule. Facilities noted that, during inspections, there is sometimes a perception that they may be

held accountable for meeting every element of their internal policies - even when those policies exceed what the rule requires.

The department addressed these concerns, adding a definition of “develop and follow” and revising the policy-requirements language in part 2911.0300, subpart 1, item E, to clarify that facilities are evaluated for compliance with statutory and rule-based minimum standards and are not subject to licensing action solely because an internal policy exceeds minimum legal requirements. The revisions also clarify the department's assessment authority and recognize that substantial conformity may exist despite minor deviations that do not materially affect safety, compliance, performance, or regulatory objectives.

The revisions were necessary because stakeholders repeatedly expressed concern that facilities could be penalized during inspections for failing to meet every provision of locally adopted policies that exceed state minimum standards. Facilities explained that such an interpretation could discourage innovation and adoption of enhanced local practices.

The revisions are reasonable because they preserve the department's ability to enforce minimum standards while encouraging facilities to adopt policies that exceed those standards when appropriate. The revisions also improve consistency and transparency regarding how inspections and compliance determinations are conducted.

The revisions are not substantially different because the proposed rule already addressed inspections, compliance reviews, corrective actions, and licensing authority. The amendments do not reduce substantive regulatory standards or create a new compliance framework. Instead, they clarify how compliance determinations are made and confirm that facilities will be evaluated against the requirements established by statute and rule rather than optional local enhancements.

RULEMAKING AND MINNESOTA ADMINISTRATIVE PROCEDURES ACT COMPLIANCE

May 22, 2026 Revisions Summary

In addition to the revisions outlined in our response to comments above, the department submitted proposed revisions in its May 22, 2026 draft, entered into the hearing record as Exhibit K-5, incorporating cost-saving changes and operational clarifications in response to stakeholder

concerns, including flexibility through the variance process and revisions to medical and mental-health requirements detailed in the department's prehearing responses[6] and summarized below:

- Health care:
    - Permitting jails to document when a mental status exam cannot be completed for someone in administrative separation, disciplinary segregation, or who screens into the need for the exam;
    - Connecting sick call to more reliable estimates of people housed in the facility for the previous six months of average daily population, rather than design capacity;
    - Clarifying that medication assisted substance use disorder treatment is not required by the rule;
    - Removing requirements to stock opioid antagonists for releasing people receiving withdrawal management care, and only requiring jails to provide opioid antagonists at release for people receiving medication assisted substance use disorder treatment *if facility resources allow;*
    - Removing requirement for critical incident stress management for incarcerated people; and
    - Confirming that prescription medication verification and change/discontinuation procedures do not create any obligation that is not directly aligned with recently revised statutory requirements in Minn. Stat. § 241.021, subd. 4f.

- Staffing
    - Permitting jails with direct supervision locked cell capability to reduce their staffing ratio to 1:120 during lockdown periods
    - Removing CPR certification requirements and only requiring re-training as directed by CPR standards;
    - Distinguishing release requirements (e.g., offer a list of local resources) versus discharge planning required for people with serious and persistent mental illness by statute
    - Removing the behavioral/housing management plan requirements for disciplinary segregation and extended the timeframe for when it is required in administrative separation;
    - Reverting to current monthly equipment inspection period, rather than weekly;
    - Extending well-being check self-audit time period to every six months (as opposed to every three) and removed four-hour requirement for each staff person being reviewed; and

[6] Hearing Exhibit K-4

    - Narrowing the criteria for people requiring more frequent well-being checks at intake who refuse to complete the medical or mental health screening, focusing on those individuals who come in with no information from the arresting or transport officer on their immediate mental health or substance use history.
- Physical plant:
    - Clarifying that segregation areas can include an incarcerated person's cell in a general population housing unit, rather than requiring removal to a separate unit.

May 22, 2026 Revisions Compliance

The final proposed revisions reflect the department's careful consideration of hearing comments, post-hearing comments, stakeholder discussions, statutory changes, operational realities within Minnesota jail facilities, and the department's continuing obligation to establish reasonable minimum standards for the operation of local correctional facilities. Throughout the rulemaking process, the department worked to clarify requirements, reduce unnecessary administrative burden, improve operational flexibility, align rule language with statute, and preserve the underlying objectives of the proposed rule.

The department believes the final proposed revisions demonstrate a balanced approach that incorporates stakeholder feedback while preserving the fundamental purposes of the rulemaking proceeding. The revisions improve clarity, implementation, and consistency without altering the overall scope, purpose, or regulatory effect of the proposed rules.

Explanation of Why the Revisions Are Not Substantially Different

Minnesota Statutes, section 14.05, subdivision 2, authorizes an agency to modify a proposed rule provided the final rule is not substantially different from the rule published in the Notice of Hearing. Under the statute, a modification is not substantially different if:

1. The differences are within the scope of the matter announced in the Notice of Hearing and are in character with the issues raised in that notice;
2. The differences are a logical outgrowth of the contents of the Notice of Hearing and the comments submitted in response to the notice; and
3. The Notice of Hearing provided fair warning that the outcome of the rulemaking proceeding could be the rule in question.

The department has evaluated each proposed revision against these statutory requirements. As discussed throughout these responses, the revisions remain within the scope of the subjects addressed in the March 31, 2026 published draft, including jail administration, facility operations, health care, staffing, training, management of incarcerated people, facility inspections, compliance determinations, and related licensing requirements.

The revisions do not establish a new regulatory program, regulate additional persons, or create materially different obligations than those contemplated by the published draft. Rather, the revisions primarily:

- Clarify terminology;
- Reorganize provisions for readability and implementation;
- Align rule language with existing statutes;
- Restore language removed from earlier drafts after stakeholder concerns were raised;
- Clarify the department's original intent;
- Increase operational flexibility while preserving minimum standards; and
- Incorporate information and concerns raised through the hearing and post-hearing comment process.

The revisions are therefore in character with the issues raised throughout the rulemaking proceeding and directly responsive to stakeholder comments.

The Revisions Remain Within the Scope of the Notice of Hearing

The Notice of Hearing and published draft addressed minimum standards governing the operation, inspection, licensing, staffing, training, health care, security practices, management of incarcerated people, reporting requirements, and administration of Minnesota jail facilities.

Every revision contained in the final draft concerns one or more of these same topics. No new subject matter has been introduced. The department has not expanded the scope of the rulemaking proceeding beyond the areas identified in the published draft. Instead, the revisions refine provisions already contained within the proposed rule and remain directly related to the same operational and regulatory subjects that were presented to the public for review and comment.

The Revisions Are a Logical Outgrowth of the Published Draft and the Public Comments

The revisions are a logical outgrowth of both the published draft and the extensive stakeholder participation that occurred throughout the rulemaking process.

The department received substantial comments regarding:

- Administrative separation and segregation procedures;
- Housing-management requirements;
- Staffing ratios;
- Training requirements;
- Compliance and inspection expectations;

- Substance use disorder services;
- Medication management;
- Reporting requirements;
- Overcrowding planning;
- Facility self-audits;
- Corrective-action processes;
- Terminology and definitions; and
- Operational flexibility.

Many of the final revisions directly address concerns raised by sheriffs, jail administrators, medical providers, advocates, correctional professionals, and other stakeholders. In numerous instances, the revisions narrow requirements, clarify expectations, restore previous language, or provide greater flexibility than appeared in the published draft.

Because the revisions respond directly to issues raised during the comment process and remain focused on the same regulatory objectives identified in the proposed rule, they constitute a logical outgrowth of both the Notice of Hearing and the rulemaking record.

Interested Parties Received Fair Warning

The published draft provided fair warning that the final rule could take the form reflected in the revised draft.

Persons affected by the rulemaking understood that the proceeding would determine:

- Minimum standards for jail operations;
- Health-care requirements;
- Staffing and training expectations;
- Segregation and management practices of incarcerated people;
- Inspection and licensing standards;
- Reporting requirements; and
- Compliance and enforcement procedures.

These subjects remained the focus of the final revisions.

The revisions do not create fundamentally different effects than those reasonably anticipated from the published draft. Facilities are not subject to new categories of regulation, new licensing structures, or new enforcement authorities that were not already contemplated in the proposed rule. To the contrary, many revisions reduce ambiguity, preserve operational discretion, clarify existing obligations, or lessen potential administrative burdens.

A reasonably interested person reviewing the March 31, 2026 published draft, the SONAR, and the issues raised throughout the comment process would have anticipated that the department could adopt revisions of the type reflected in the final draft of the proposed rule.

Fiscal Analysis Requirement under the MAPA

As discussed in the SONAR and in the department's Chapter 2911 Prehearing Comments and Revisions, the MAPA requires agencies to consult with the commissioner of Minnesota Management and Budget (MMB) to help evaluate the fiscal impact and fiscal benefits to the proposed rule on units of local government.[7] MMB is the state agency responsible for evaluating fiscal impacts of policy and regulatory changes, including proposed rules. As part of the statutory rulemaking process, MMB reviews how proposed rules may fiscally affect government entities, including county jails. As part of this review, MMB identifies where new mandates in proposed rules might trigger new costs, increase or decrease existing costs and mitigate future costs.

Department of Corrections and MMB Compliance with the MAPA

As previously stated, and detailed in its pre-hearing comment response,[8] the department affirms that it has fulfilled the statutory requirements regarding fiscal analysis of the proposed rules. Specifically, and pursuant to Minnesota Statutes, section 14.131, the department requested consultation with MMB via email on November 26, 2025.[9] The department provided MMB with copies of the Governor's Office Proposed Rule and SONAR form, the October 1, 2025 Revisor's draft of the proposed rule and the November draft of the SONAR for reference and review.[10] In January of 2026, the department also provided MMB with an additional resource to support their review, the 2024 MN Regional County Jails Consolidation Study Final Report.[11] MMB reviewed this information and provided their response to the department via letter dated March 3, 2026.[12] The department included a discussion of the MMB analysis in its SONAR as required by Chapter 14.

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[7] Minn. Stat. § 14.131.

[8] Hearing Exhibit K-4 (available at Meetings / Department of Corrections).

[9] Lauricella, A. (2025, November 26). *Chapter 2911 Local Gov Impact request* [Email to Minnesota Management and Budget].

[10] The department's Pre-Hearing Comment Response contains a typo on p. 30. MMB did not review the March 11, 2026 Revisor draft of the rule; rather they were sent and reviewed the October 1, 2026 Revisor draft of the rule, the most current draft available when the MMB consultation was requested.

[11] Lauricella, A. (2026, January 9). *RE: 2911 Rules Review* [Email to Minnesota Management and Budget].

[12] Hearing Exhibit K (available at Meetings / Department of Corrections).

MMB found that the proposed rule may have a fiscal impact on local government.[13] The potential costs include staffing and training, small equipment and supplies, contracts for health care services and professionals, food, transportation, and health care supplies and medication. The MMB review further noted that the proposed rules establish minimum standards for basic care with the goal of preventing injury and death which may reduce costs to local governments for litigation and legal settlements. Further, MMB evaluated the proposed rules and found possible fiscal benefits as well. Specifically, MMB found that the proposed rule may improve treatment and quality of life for incarcerated people which may reduce the likelihood of re-offense, decreasing overall costs for reincarceration, and as a result reducing local jail costs. As discussed in the SONAR, MMB noted that the proposed rules are flexible to allow jails to manage costs within their budgets while meeting the intent and requirements of the proposed rules.

MSA counsel's post-hearing comment asserted that "the DOC and its state partner at the office of Management and Budget appear to be unable or unwilling to follow what we believe to be the requirements of law, including Minn. Stat. Chpt. 14, to provide information on the specific fiscal impact for these rules."[14] The department disagrees. Both the Department of Corrections and MMB complied with the statutory requirements set forth in the MAPA. As described above, the department engaged with MMB for consultation, MMB completed and communicated its fiscal review to the department, and the department included MMB's findings in their SONAR discussion and as a supporting exhibit. Based on its analysis and that of MMB, the SONAR identified how the proposed rule changes could increase medical, nutritional, or other costs and how they could reduce long-term risks and costs for facilities.

The fact that these costs and savings were not specifically ascertainable across the wide variety of facilities in Minnesota does not mean department and MMB did not complete a thorough and comprehensive review, utilizing their expertise and resources. Nor does disagreement with the outcome of the consultation between MMB and the department mean that the department has failed to comply with the statutory requirement under the MAPA . The MMB partners with state agencies during the rulemaking process to *help* evaluate the fiscal impact and benefits of proposed rules on local governments and this consultation requirement is just part of the important fiscal review conducted under Chapter 14. Additionally, the MMB review supports the fiscal analysis conducted by the department on the proposed rules, demonstrating that the rules will have fiscal impact as well as benefit local jails.

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[13] *See* the department's pre-hearing comment response for a more detailed discussion of the MMB review and potential costs of the proposed rule, pages 30-32.

[14] *See* amended Post-Hearing Comment submitted by Rick Hodson, representing the MN Sheriff's Association, pages 1-2.

MAPA requires that the department consult MMB on fiscal impacts and benefits and, to the extent the department can ascertain through reasonable effort, include the probable costs of compliance and probable costs of not adopting the rule. In *Builders Ass'n of Twin Cities v. Bd. of Elec.*, 965 N.W.2d 350, 359 (Minn. Ct. App. 2021), a petitioner challenging the adopted code argued, much like MSA counsel here, that the fiscal analysis asserting that many variables in each building project ultimately will affect the costs of compliance lacked necessary detail because it failed to highlight changes that would apply to all the construction projects. The court rejected that position, noting that because "the board is statutorily required to adopt an entire electrical code, and that each project involves multiple variables, the cost analysis proposed by Housing First - a project-by-project comparison of costs under the 2017 and the 2020 codes - would be a monumental task." *Id.* For that reason, "the board was not required to perform this type of analysis in the SONAR, which is intended to be a summary of the evidence and rationale in support of a proposed rule." *Id.*

Similarly, in *Water in Motion, Inc. v. Minnesota Dep't of Lab. & Indus.*, No. A16-0335, 2016 WL 7041978, at *7 (Minn. Ct. App. Dec. 5, 2016), the Plumbing Board was alleged to have failed to sufficiently identify and articulate costs associated with adopting the Uniform Plumbing Code. The board had noted that probable costs of implementation and enforcement would be minimal because the new rules replaced an entire plumbing code which already had ongoing costs of training and compliance, acknowledged that there may be increased costs associated with complying with particular provisions, noted lower costs in complying with others, and anticipated the overall costs to be "neutral." *Id.* The court acknowledged "the difficulty in quantifying the costs of adopting an entire model code, as opposed to particular provisions of a code." *Id.* at *8. It could "envision endless permutations in cost comparison, depending on the particular work that a particular business owner desires to undertake on a particular property." *Id.* For that reason, it was "not persuaded that the board was required to undertake such a complex and hypothetical analysis." *Id.* (citing Minn. Stat. § 14.131) (emphasizing that the information to be included in the SONAR is that, "to the extent the agency, *through reasonable effort*, can ascertain") (emphasis in original).

There are 82 county jail and adult detention centers serving the 87 counties in Minnesota. They vary significantly in size and scale of operation, from a maximum capacity of 20 to a maximum capacity of over 700. Even if it were possible to obtain the information from every facility necessary, and the costs were reasonably ascertainable, that would take something well beyond what could be considered reasonable effort. It would also convert the SONAR from a summary document to a massive, unwieldy tome. Nevertheless, the department and MMB took significant steps to identify where costs would likely be affected and included detail in the SONAR to the extent feasible. This analysis also provided direction that would help the county facilities project for themselves the likely impacts, which many estimated and provided in comments based on the information from Department of Corrections and MMB. The very fact that some facilities submitted estimates of their anticipated costs is evidence that department and MMB complied

with MAPA to identify how the proposed rule changes could increase medical, nutritional, or other costs and how they could reduce long-term risks and costs for facilities.

Continued Fiscal Analysis Conducted by the Department of Corrections

In response to MSA counsel's comment and in efforts to show that the department has complied with the MAPA and is also committed to a careful and intentional fiscal analysis of the proposed rules, the department has conducted further detailed assessment of the potential cost implications of the proposed revisions by asking our internal stakeholders to estimate the approximate time or monetary savings associated with those areas of the rule. These estimated impacts are discussed in part in the SONAR and in our assessment below. The department has provided an overview of potential impacts related to costs and time, and has attempted to highlight examples where the rule requirements:

1. Reflect current practice and therefore generate little or no new cost;
2. Implement legislative mandates and must be incorporated regardless of fiscal impact; and
3. May generate new costs depending on facility size, staffing structure, health-care arrangements, or regional service availability.

This additional analysis provides further analysis of where incremental costs might occur and where certain impacts may have appeared higher than they are in practice. It has also allowed the department to make targeted revisions – such as clarifying expectations, reducing documentation burdens, adjusting medical requirements, or offering flexibility through variance options – to ensure the standards remain workable and proportional to the department's safety objectives. Through this combination of statutory review, rule applicability analysis, and supplemental cost evaluation, the department continues to demonstrate both compliance with rulemaking requirements and a good-faith effort to accurately assess and mitigate cost impacts.

Assessment of Anticipated Operational Impacts to Supplement the Fiscal Analysis

Revisions to chapter 2911 are expected to increase the time required of jail staff to complete their duties, and some may lead to a need for additional medical, mental health, or security personnel. Although training requirements broaden in both frequency and scope, these adjustments are relatively modest – such as the addition of four hours annually for ongoing training – and reflect updates mandated by recent legislation. It is also worth noting that, while limited, several revisions may offer opportunities for time or cost savings. The department has reviewed these rule changes and summarized their potential effects on jail operations. These anticipated impacts have been evaluated across three dimensions:

- Cost Increase / Cost Decrease
- Time Increase / Time Decrease
- Comments / Rationale

Admissions & Orientation

Enhanced intake and screening requirements are expected to increase the amount of staff time needed during the admissions process. These revisions introduce additional documentation steps, expanded screening obligations, and new procedures for situations where incarcerated people are unwilling or unable to complete intake. While some facilities may need additional nursing hours or contracted medical support, the more consistent impact across facilities is increased time rather than significant new staffing costs, particularly because many jails already perform several of these activities as part of their existing intake workflow and within the proposed timeframe.

Examples:

- The rule requires facilities to screen individuals for medical, substance use, and mental health concerns, which will increase staff time. Many facilities already meet many of the added requirements as discussed in the SONAR.
- Orientation remains a required part of the rule, but the added elements will require additional time. This is estimated to take up to 10 minutes per booking.
- Documentation required when an individual is unable or unwilling to participate may add some additional staff time to the process and potential placement on more frequent well-being checks. The documentation is estimated to take up to 10 minutes per refusal.

Medical and Mental Health Coverage Needs

Several rule provisions are expected to increase the demand for medical and mental health staffing, as multiple sections point to a need for expanded coverage in these areas.

Examples:

- Screening for mental health or SUD conditions (pre-booking) is roughly estimated to take 10-30 mins per incarcerated person. Some facilities can manage this without issue, while for others it will create additional work that may require additional staff.
- The estimated increase of screenings and withdrawal management provided will vary by facility. Costs would vary by facility and their medical contracts.
- Increased frequency of reviews in disciplinary segregation went from monthly to weekly reviews.
- Additional reporting requirements for medical encounters vary but likely align with other reporting timeframes.

Training Requirements

Training requirements expand across multiple areas, resulting in additional time commitments and increased training-related costs for both staff and volunteers.

Examples:

- Facilities indicate the 20-hour annual training requirement is usually exceeded through other county-mandated training expectations.

- While mandated volunteer training is minimal, a facility's ability to offer consistent training to maintain a volunteer pool may vary depending on the number of volunteers they consistently utilize.
- Medication-related training required more frequently (annual vs. every 3 years).
- Critical incident debriefing may carry a high up-front cost and require debriefings that last up to two hours; however, this training (or trained person) will provide ongoing critical incident debriefing resources at the facility.

Administrative Responsibilities

Policy development and documentation responsibilities increase, resulting in additional administrative time. Several rules require facilities to create or update policies, add new reporting obligations, and complete more detailed documentation to meet the revised standards. These changes collectively contribute to a greater administrative workload for jail staff.

Examples:

- New or updated policies (e.g., Code of Conduct)
- Additional reporting like those required for unusual occurrences are estimated to take 10 minutes per incident.
- Documentation when an incarcerated person cannot complete admissions.

Potential Cost Savings

A small number of rule revisions ease existing requirements and may offer limited cost or time savings for facilities. These include changes that streamline certain processes – such as simplifying bedding requirements or reducing the number of facilities subject to specific staffing ratios – which can lessen operational demands and potentially reduce associated expenses.

Examples:

- Staffing ratio adjustments
    - Reduced staffing for direct supervision units during lockdown.
- Bedding requirement simplified
    - No longer need two sheets + blanket.
    - One case of Bob Barker sheets costs $178.31 and there are 12 sheets per case.
- Variance renewals streamlined
    - The department manages renewals annually or during inspections, which reduces administrative responsibilities.
- There are free resources for training and supplies related to opioid antagonists that could provide financial relief for some jails.
- While there are an additional four (4) hours of annual training for some staff, the rule incorporated a reduced timeframe for CPR completion – which may offset costs of sending new staff to training that isn't offered locally.

- The Department of Corrections has engaged with multiple programs who offer free resources related to rule or implementation topics. One of those is offered through Direct Care and Treatment (DHS).
    - Their *Jail Consultation Services* program is a free, and often underutilized, resource that provides consultation, training, technical assistance and policy development to enhance behavioral health services and support compliance with operational standards and requirements.
    - They provided on-site training to jail staff in Minnesota jails during varying shifts – which provides a benefit jails where staff work non-traditional hours.

MAPA Obligations Have Been Met

The Department of Corrections recognizes that implementation of the proposed rules may require additional effort and resources from counties and has therefore proposed a 180-day delayed implementation date. It is important to note that many of the proposed changes are required by statute, and the rulemaking process has been underway for more than four years, providing counties with significant advance notice and opportunities to identify potential operational and fiscal impacts.

In addition to the consultation required by statute, the department conducted a detailed assessment of potential impacts on jail facilities, including consideration of county budgeting practices. Counties generally establish budgets on an annual cycle, with preliminary budgets and levy limits adopted in the fall and final budgets approved near the end of the calendar year. The department recognizes that counties may have limited ability to absorb new expenditures outside of an established budget cycle. The delayed implementation date is intended to provide counties with additional time to evaluate any impacts and incorporate necessary expenditures into future budgets. The department also recognizes that some counties may face challenges implementing certain requirements within their current budget cycle and is willing to work with counties through the existing variance process, where appropriate, to allow reasonable time for compliance while maintaining progress toward the rule requirements.

In summary, the Department of Corrections has met its fiscal analysis obligations under the MAPA through consultation with MMB and incorporation of MMB's findings into the SONAR. The MAPA does not require agencies to calculate facility-specific dollar amounts, and MMB's analysis appropriately identified both potential fiscal impacts and benefits. The department's assessment, combined with cost information provided by jail facilities during the rulemaking process, will help counties evaluate and plan for implementation of the proposed rules. Taken together, the statutory consultation process, the department's assessment of impacts, the extended rulemaking timeline, consideration of county budgeting cycles, the delayed implementation date, and the availability of variances where justified demonstrate that the department has thoroughly considered the fiscal impacts of the proposed rules and completed the required fiscal analysis.

CONCLUSION

The department's proposed revisions to chapter 2911 reflect a clear legislative mandate to strengthen jail standards to better protect the health, safety, and welfare of both staff and justice-involved individuals. The updated minimum standards – in both the initial and subsequent drafts of the rule – support the department's mission to enhance safety and security across Minnesota communities, clarify ambiguous requirements, and reinforce essential jail policies and procedures.

The department has carefully reviewed all hearing comments, post-hearing comments, stakeholder feedback, statutory developments, operational concerns, and implementation considerations. The resulting revisions are necessary to improve clarity, consistency, statutory alignment, and practical implementation of the proposed rules.

The revisions are reasonable because they remain rationally related to the department's statutory responsibility to establish minimum standards for jail facilities while preserving operational flexibility and responding to legitimate stakeholder concerns.

The revisions are not substantially different from the March 31, 2026 published draft because they remain within the scope of the Notice of Hearing, are logical outgrowths of the published draft and the comments received, and were reasonably foreseeable to affected parties. The revisions do not introduce new subject matter, create a new regulatory framework, regulate additional persons, or impose materially different obligations than those contemplated by the proposed rule.

These changes affect jail administrators, staff, and incarcerated populations, who will also bear the primary implementation responsibilities and costs. At the same time, these groups - and the broader public - stand to benefit from safer, more consistent operational practices. The consequences of not adopting the proposed rule would include continued ambiguity, inconsistent practices, and unmet legislative obligations. Collectively, these factors demonstrate that the final revisions are needed, reasonable, and not substantially different from those originally proposed.