

Minnesota Department of Corrections

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendment to Rules Governing Adult Detention Facilities,

Minnesota Rules 2910

I. INTRODUCTION

In 1976 the State Legislature approved legislation which mandated that the Commissioner of Corrections (hereinafter "Commissioner") promulgate rules establishing minimum standards for local secure correctional facilities (jails). These jail rules (standards) were officially adopted on May 1, 1978. These rules were revised three years later with the revisions becoming effective on November 2, 1981.

Since then it has been determined that two new facility classifications - Adult Detention Centers and Jail Annexes - need to be included in the rule. Facilities of these types are currently in operation and play a significant role in the corrections' system. Also, these two facility classifications are likely to increase more than other classifications. These are the major reasons behind this current amendment process which began in 1990.

In that year, in consultation with the Minnesota State Sheriffs' Association (hereinafter "MSA"), the Association of

Minnesota Counties, and others, the Commissioner appointed the Jail Standards Advisory Task Force. This task force first met on February 22, 1990, and concluded its deliberations on amending the jail standards on October 15, 1992. The task force submitted recommendations which were reviewed and accepted by the Commissioner with the understanding that informational meetings be held with Sheriffs, County Commissioners and others affected so that refinements could be made prior to beginning the rule amendment process. These meetings were held during 1993 - 1996, and input from those meetings was incorporated into the proposed amendments.

The proposed amendments to Minnesota Rules, Chapter 2910, are extensive. Throughout the chapter the use of the term "prisoner" is amended to read "inmate."

In Definitions, the proposed amendments increase the number of terms used in the rule and revise and expand the definitions of these terms (Part 2910.0100). The amendments revise the Introduction (Part 2910.0200), the section on Intended Use and Nonconformance with Rules (Part 2910.0300), and Variances (Part 2910.0400).

Under Personnel Standards, the following parts are amended: Screening for Tuberculosis (Part 2910.0500), Extra Duty (Part

2910.0800), and Staffing Requirements (Part 2910.0900). The entire Staff Training section (Parts 2910.1000 through Part 2910.1500) is amended with some parts eliminated, other parts revised, and some new parts added.

Under Staff Deployment, Job Descriptions, Work Assignments, Post Orders, Policies and Procedures, the parts entitled Work Assignments (Part 2910.1700) and Personnel Policies (Part 2910.1900) are eliminated, and the Policy and Procedure Manuals section (Part 2910.1800) is amended and expanded.

Under Records and Reports, Maintenance of Records and Reports (Part 2910.2100) is eliminated and other parts are amended or added. Under Inmate Welfare, all parts (Parts 2910.2500 through 2910.3600) are significantly amended. Under Food Service, most parts (Parts 2910.3700 through 2910.4700) are moderately or slightly amended.

Under Security (Parts 2910.4800 through 2910.5600), most parts are significantly amended. The final section, Environmental - Personal Health and Sanitation (Parts 2910.5700 through 2910.6700), is significantly amended and expanded.

The process used to draft these amendments has included consultation with a task force composed of county commissioners, sheriffs, jail administrators, and ombudsmen. Each proposed rule

change has been reviewed and recommended by the task force.

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## **II. DEPARTMENT'S STATUTORY AUTHORITY**

The Department of Corrections (hereinafter "DOC") is required to promulgate rules establishing minimum standards for all correctional facilities, pursuant to Minnesota Statutes § 241.021. These rules are intended to accomplish the four primary goals of 1) protecting the public, 2) ensuring institutional safety, 3) providing needed services, and 4) providing program opportunities.

## **III. NEED FOR THE RULE AMENDMENTS**

### **A. Proposed Amendments to Minnesota Rules Part 2910.0100,**

#### **DEFINITIONS**

The Jail Standards Advisory Task Force found that definitions need to be included for the two facility classifications - Adult Detention Centers (Class V Facility) and Jail Annex (Class IV Facility). Adult Detention Centers have existed for years, and it was an oversight to have previously

omitted defining this classification.

The Jail Annex classification has resulted from experience since the last amendment. This classification is needed to provide an alternative to building a new facility in some places. This classification is governed by M.S. § 641 which provides separate authority to Jail Annex facilities and personnel, unlike other facilities which are for the most part governed by M.S. § 643. This authority allows jail personnel to determine who is admitted to a jail annex.

Since the task force recommended the deletion of certain terms, the Definitions section needs to be amended to reflect these deletions. The task force also recommended the addition of several definitions. These are needed to add clarity and assist facility administrators and county units of government in understanding distinctions between existing, approved, design, operational, and variance bed capacities. They also clarify what constitutes a crowded and an overcrowded facility.

#### **B. Proposed Amendments to Minnesota Rules Part 2910.0200,**

##### **INTRODUCTION**

The only change needed in this section is the removal of some language regarding comparable care for both genders. It is more appropriately included in Part 2910.0300 which is discussed

in the next paragraph.

**C. Proposed Amendments to Minnesota Rules Part 2910.0300,  
INTENDED USE and NONCONFORMANCE with RULES**

There are four changes in this section. The first change is needed to simply reestablish (from Part 2910.0200) in this section a standard requiring comparable care for male and female inmates.

The second change is significant and is needed to establish in rule what has been a common practice. By establishing an intermediate level of sanctions for the Commissioner to use for noncompliance with mandatory and essential rules, it allows the Commissioner to resolve deficiencies without using statutory sanctions or the administrative law process. Such an approach is a common industry practice, and it has been repeatedly successful in Minnesota over the last several years. It reduces adversarial relationships and avoids the costs of the statutory or administrative law routes. These sanctions are also consistent with the American Corrections Association (hereinafter "ACA").

Third, additional language is needed to articulate acceptable compliance levels with essential rules. Finally, language is needed to establish the appeal process which a facility administrator or governing body may undertake if it

disagrees with a timeline for corrections of deficiencies.

**D. Proposed Amendments to Minnesota Rules Part 2910.0400,**

**VARIANCES**

There are no substantive amendments to subparts 1 and 2. The addition of subparts 3 and 4 of this section is needed to address work stoppage and/or mass arrest situations which may occur in correctional facilities but which have not previously been addressed by the rule. Language is needed to require written plans governing procedures to be followed in each event. There is a need for this based on the experience of local facilities since the amendment of these rules in the early 1980s.

For subparts 5 and 6, language is needed to clarify when a facility may exceed its approved capacity and to require a written plan outlining actions to occur if a facility is forced to exceed its capacity. Language is also needed to stipulate that intermittent sentence contingency plans be prepared. These plans are needed to proactively address fluctuations in populations resulting from persons sentenced on intermittent sentencing status; often weekenders. They are needed to ensure against overcrowding in accommodating such offenders.

**E. Proposed Amendments to Minnesota Rules Parts 2910.0500 through**

**2910.0800, PERSONNEL STANDARDS**

The amendments to this section include deleting several standards on recruitment, evaluation, discrimination, and other personnel-related matters. These amendments are needed because the topics are adequately addressed by other agencies and/or in management/labor contracts. Deleting them from these rules would eliminate the need to amend these rules as the other agencies' rules or the contracts change.

An amendment (2910.0700) is also needed to establish that a custody staff person may not work more than 12 hours in any 24-hour period except where unusual circumstances require reasonable and prudent exception. This amendment will reduce the possibility of poor morale and tired employees which could produce serious consequences.

Several amendments are needed in the Staffing Requirements part (2910.0800) to clarify the intent of staffing plan requirements. Many of these changes are needed since ratios alone have become less valid indicators of staff requirements. The classification of inmates has become more sophisticated and facility design has evolved, with a result that, for example, one person may be able to handle several minimum security inmates while a lower ratio may be necessary for more serious offenders.



With the types of offenders changing, with jails getting larger, with greater specialization, and with new facility designs, the task force unanimously agreed that these changes were needed to balance cost vs. utility considerations.

In Subparts 1 and 2, amendments are needed to establish standards requiring facility-specific staffing plans for a facility designed for more than 60 beds. Standards are also needed for facilities of less than 60 beds, and the amendments articulate these standards.

An amendment is needed in Subpart 7 to improve the level of security and backup resource assistance available when the dispatcher/custody staff person is the sole staff person on duty. This amendment is needed to strengthen the requirements for staff response in an emergency situation without jeopardizing the primary goal of protecting the public.

Amendments are needed in Subpart 8 to tighten standards regarding use of facility staff for functions outside of the facility such as bailiff, transport, etc. These are needed to ensure that minimal staffing requirements are maintained at all times within the facility unless emergency conditions exist.

Finally, an amendment is needed in Subpart 9 to make all staffing requirements mandatory. The existing rules only make

custody staff requirements mandatory. The task force is in agreement that all staff requirements are essential to the attainment of goals associated with these rules. Other amendments are needed in Subpart 9 to 1) establish a standard which allows a lower level of custody staff in the facility when offenders are out of the facility on community release status including work release, educational release, and sentencing to service; and 2) establish staffing requirements for facilities which are responsible for the coordination of home detention, electronic monitoring or other nontraditional jail responsibilities.

**F. Proposed Amendments to Minnesota Rules Parts 2910.0900 through 2910.1600, STAFF TRAINING**

These amendments are needed to establish and/or increase the training requirements for clerical/support employees with minimal inmate contact, support employees with regular or daily inmate contact, custody staff, administrative and managerial staff, and program staff. These increases have been recommended by the task force in part because of costly litigation which has resulted from the failure to properly train staff. These training requirements may avoid litigation regarding wrongful death, vicarious liability, and deliberate indifference at a

significant cost savings. These amendments are also needed to strengthen pre-service orientation training requirements and to establish in rule a standard which requires a designated training officer in each facility governed by these rules.

The amendments are needed to establish a standard which allows a waiver of training requirements for personnel if certain conditions are met. More and more community colleges and vocational/technical schools are offering appropriate classes for potential staff, and the ability to acknowledge and give credit for this training will save both time and money.

**G. Proposed Amendments to Minnesota Rules Parts 2910.1700 through 2910.1900, STAFF DEPLOYMENT, JOB DESCRIPTIONS, WORK ASSIGNMENTS, POST ORDERS, POLICIES AND PROCEDURES**

The proposed amendments in this section involve both deletions and additions. The deletions are needed to eliminate the redundancy of personnel policy requirements that are adequately covered by other agencies or management/labor contracts.

The major addition - that of listing precisely the elements to be included in each facility's policy and procedure manual - is needed to ensure uniformity and consistency among state correctional facilities. This amendment is also needed to

clarify a system for reviewing and revising the manual as appropriate.

H. Proposed Amendments to Minnesota Rules Parts 2910.2000 through 2910.2300, RECORDS and REPORTS

The amendments in this section involve deletions, additional language to reflect current technology which is now available for maintaining records, and the establishment of a standard for the DOC's Detention Information System reporting requirements. The deletions regarding the maintenance of records are needed since these requirements are covered in other areas of the standards. Eliminating this redundancy is needed to make the rule more precise.

New language regarding the filing and disposition of inmate records is needed to allow that records may be maintained through advanced technology such as microfiche or computerized record systems. Such storage was not feasible or appropriate when the rule was written. This amendment would allow the rule to authorize the utilization of current technology.

Finally, an amendment to this section is needed to establish that a facility shall have staff responsible for reporting on persons detained or incarcerated. It further is needed to require that the requirements in this section are met in a timely

and accurate manner. Accurate and timely data on persons detained or incarcerated in facilities governed by these rules has become increasingly vital to local and state policy makers.

**I. Proposed Amendments to Minnesota Rules Parts 2910.2400 through 2910.3600, INMATE WELFARE**

There are several amendments to these parts, most of which are needed to clarify the current rule intent and establish standards. There is a need to have information in both English and Spanish available regarding facility rules, etc., and to have available information to non-English/non-Spanish speaking inmates within 24 hours of the admission to the facility. This is needed because of changes in state demographics and because the inspection process clearly shows an increasing percentage of non-English speaking inmates.

Several changes are needed to avoid future litigation which has been costly in the following areas in the past:

- more frequent review of persons on disciplinary and/or administrative segregation by the facility administrator or designee;
- the use of force in facilities;
- equal opportunities for participation in programs and services for males and females housed in the same facility; and

- the nature of religious resources available to inmates.

Changes are needed regarding inmates access to educational programs, vocational counseling, vocational training (when available), and recreational opportunities for several reasons. This is needed primarily because the average length of stay has increased significantly. This means facilities have both a longer opportunity and a greater responsibility to offer inmates opportunities for rehabilitation through education, counseling, and recreation. Also, federal litigation has shown a correlation between programs expectations and length of confinement.

Changes are needed regarding the minimum duration for visiting under normal conditions and arrangements for children to visit parents. These are needed because of deficiencies in the rules promulgated in 1978, and because, based on experience, there has been a great deal of confusion and misunderstanding in these areas.

Amendments are needed regarding correspondence and the type of printed material allowed in the facility because of evolving case law in these areas. There is also a need to require that inspection procedures related to these be established which maintain the order and security of the facility.

Evolving case law has clarified the need for policies

regarding telephone access by inmates. Consequently, Part 2910.3300 is added to articulate that calls may be allowed and that they may be required to be made through collect call telephone access systems.

Part 2910.3400 addressing the utilization of citizens or volunteers in jail programs is needed to clarify practices here. This was accidentally omitted in previous rules but should have been included. Programs with volunteers can contribute to the successful reintegration of inmates to society.

The amendments regarding linens and laundering of personal clothing are needed to clarify procedures here. They are also needed to incorporate by reference the Minnesota Department of Health (hereinafter "MDH") rules regarding laundry.

The amendments regarding reporting requirements for unusual occurrences are needed to provide measures which will meet the requirements for increased performance measurement. This is prompted by legislative interest and a greater legislative emphasis on evaluating unusual occurrences, as well as increasing local interest in such events.

**J. Proposed Amendments to Minnesota Rules Part 2910.3700 through 2910.4700, FOOD SERVICE**

The amendments in this section for the most part are needed

to either expand or clarify what constitutes a serving of a certain food group. These definitions have been developed and reviewed with state nutritionists, and they fully comply with published nutritional requirements.

The other significant amendments are needed to remove language specifying food handling and storage requirements. This removal is reasonable since MR Part 2910.3600 of this section states that "Food service shall be provided in accordance with Minnesota Department of Health Rules (parts 4625.2500 to 4625.5000)." Since these rules already detail requirements for food handling and storage, it is redundant and unnecessary to restate these rules. These amendments also allow any changes in the MDH rules to become immediately applicable to the DOC without further amendment of DOC rules.

**K. Proposed Amendments to Minnesota Rules Part 2910.4800 through 2910.5600, SECURITY**

The amendments in this section are needed to clarify and tighten security standards. Measures for this include requiring written policy and procedures for security which are updated as needed. They also include specifying in rule the policies and procedures which will govern admissions and releases. These changes are needed based on experience and on new requirements



such as M.S. § 243.212 which requires that inmates provide health insurance co-pays and federal code requirement 42 U.S.C. 1381 et. seq. regarding inmates' social security payments. They are also needed to reflect state laws which have been liberalized in recent years regarding what is allowed and what is required. Finally, specifying these details will make it easier to cite and correct deficiencies in a facility.

Amendments are needed to list activities involved in searches, shakedowns, and contraband control; and to add language which requires that written policy and procedure govern the control and use of keys. These amendments are needed to maintain order and security in a facility and to protect public safety.

Amendments are also needed to remove ambiguity and establish standards on the storage and use of flammable, toxic, and caustic materials and on the control and use of tools, culinary and medical equipment. Language previously only required that dangerous materials be properly secured. These amendments are needed both to be more precise about what constitutes dangerous material and also to specify that this material be handled in accordance with applicable laws and regulations for the protection of the public.

These rules have been silent on the area of security equipment. Amendments are needed to establish standards on the issuance, storage, and use of security equipment by custody staff in facilities governed by these rules. Such equipment may include firearms, ammunition, and chemical agents. The amendments are needed to ensure the safety of inmates, facility staff, and the public. The amendments are also needed to require training for personnel using this equipment.

Finally, amendments are needed in this section to strengthen requirements for checking on inmates by custody staff. Such changes are needed both because of suicide-related litigation in the past and because of the changing nature of the inmate population, which has become more dangerous. There are more felony offenders, a greater proportion with multiple problems, and more inmates who are predatory towards others. This is due in part to technological advances which allow less dangerous inmates to be followed through home monitoring and other techniques. Also, these changes are needed to incorporate the new knowledge regarding security procedures which has developed since the rules were last amended in 1981.

**L. Proposed Amendments to Minnesota Rules Part 2910.5700 through**

## 2910.6700, ENVIRONMENTAL - PERSONAL HEALTH and SANITATION

The amendments in this section are needed to articulate that medical and dental resources shall be available in facilities. New language here also meets the need to specify requirements for 1) procedures included in health screening of all inmates on admission; 2) a health appraisal within 14 days of admission; 3) responses to health care requests and sick call; 4) infirmary operation; and 5) informed consent standards related to health care. The health screening procedures (1) are needed based on the best advice of the Minnesota Correctional Nurses Association, which did not exist when the rules were established in 1978. They are also needed to provide oversight and identify situations needing immediate medical attention. Finally, they are needed to reduce costs by enhancing the likelihood that the next medical professional to see the inmate can more rapidly address the situation.

The health appraisal within 14 days (2) will make the rules consistent with ACA recommendations. It is also needed to ensure that inmates with potentially serious conditions are detected before crisis situations develop.

Provisions regarding health care requests and sick call (3) are needed to reduce the potential for overlooking poor health

situations in large facilities. These are also needed based on input from local public health nurses who are increasingly involved in correctional facilities.

Language regarding infirmary operation (4) is needed since some facilities are now operating infirmaries. Virtually no facilities had infirmaries when these rules were last amended.

Language is needed regarding informed consent standards (5) based on case law regarding this area. The Jarvis Rule [citation? 253B.03 Subd. 6c] in particular requires this.

The previous First Aid part (formerly 2910.5700) is revised and incorporated under a new part (2910.6000) entitled Training, which includes First Aid. These changes are needed to provide a clear delineation of the areas of instruction for staff.

The changes in the Medical and Dental Records part (2910.6100) are needed to both incorporate existing language from an earlier part and expand on what the health record shall contain and how it is to be handled. In the Preventive Health Services part (2910.6200), the changes are needed to list what personal hygiene articles shall be available for inmates.

In Part 2910.6300 (formerly 2910.5900) the amendments are needed to require each facility administrator to develop policies and procedures for handling medicine. The changes are needed to

articulate the supervision and training requirements related to medication and the delivery of medication. These changes, as well as those listed below, are based on review, consultation, and recommendations from the MDH and the Minnesota Correctional Nurses Association.

Part 2910.6400 (formerly 2910.6100) is amended to remove the requirement that inmates with a contagious disease be separated from other inmates. This is needed to allow for the most appropriate management of all serious and infectious diseases since not all diseases may require separation from other inmates. The amendments to this part are needed to ensure that new information can be readily applied as it becomes available. They are based on recommendations from the MDH.

The amendments to part 2910.6500, Inmates with Special Needs (previously entitled Mentally Ill Prisoners) are needed to more adequately cover all inmates, i.e., not just those who are mentally ill (both dangerous and not dangerous to the public), but also those defined as mentally retarded, chemically dependent, those with functional impairments, and those with disabilities. These amendments are also needed to provide for emergency admission of the above-described persons who may be in imminent danger of injuring self or others if not immediately

restrained to a more appropriate facility.

Part 2910.6600 (formerly 2910.6300), Housekeeping, Sanitation, and Plant Maintenance, has amendments which are needed to more fully describe conditions which shall be maintained in the physical plant.

Part 2910.6700, This amendment is needed to reflect more accurately the full range of MDH requirements for Tuberculosis screening of inmates in facilities governed by these rules.

#### **IV. REASONABLENESS OF THE RULE AMENDMENTS**

Minnesota Statutes, Chapter 14, requires the Department to explain the facts establishing the reasonableness of the proposed rules. "Reasonableness" means that there is a rational basis for the Department's proposed action. The reasonableness of the proposed rules is explained in this section.

##### **A. Reasonableness of the Rule Amendments as a Whole**

###### **1. In general**

The task force believes the proposed rule amendments are the most reasonable approach to operating Minnesota correctional facilities. In many cases the amendments are reasonable simply because they establish in rule procedures which are already in practice and which have proved reasonable through experience. In some cases they are reasonable because they

make better use of existing resources, and in other cases they incorporate in rule new findings and/or state-of-the-art technology which did not exist 15 years ago. In some cases, they also reflect the reality of legislation and/or evolving case law which require these amendments be made. Finally, in some cases, they eliminate previous rule language and, by reference, address an area covered by other state rules or labor/management agreements.

## 2. Requirements under Minnesota Statute §14.131

Minnesota Statute §14.131 requires that agencies address six areas in preparing the statement of need and reasonableness for rule amendments. These six areas, listed by subpart, are:

- (1) Describe the classes of persons who will probably be affected by the rules, including those who will bear the costs of the rules and those who will benefit from the rules;
- (2) Estimate the probable costs to the agency and other agencies of implementing and enforcing the rules and any anticipated effect of the rules on state revenues;
- (3) Discuss whether there are less costly or less intrusive methods of achieving the purpose of the rules;
- (4) Describe any alternative ways of achieving the purpose of the rules that the agency seriously considered and the reasons why they were rejected in favor of the proposed rules;
- (5) Estimate the probable costs of complying with the proposed rules; and
- (6) Discuss any differences between rules and existing federal regulations and specifically analyze the need for and

reasonableness of each difference.

Each of these areas as it relates to the amendments to Rule 2910 is discussed below.

(1) The classes of persons who will be most affected by the amendments are county boards; sheriffs; jail staffs including administrators, program personnel, and correctional officers; Community Corrections Act administrators; and the Corrections Ombudsman. Organizationally, the MSA and the Association of Minnesota Counties (two groups which include most of the persons listed above) are most affected by these amendments. Those less directly affected include architects and construction managers; inmates; fire marshals; building code officials; and service providers, such as food service and medical personnel, to inmates in correctional facilities.

Of more than 100 facilities, county boards will provide funding for all except three facilities. Two of these three are operated within St. Paul Ramsey Hospital and are staffed ~~by the State of Minnesota~~, the Ramsey County Sheriff's staff, and hospital staff.

The remaining one is operated and funded by the Volunteers of America, a non-profit organization.

(2) The probable costs to the agency and other agencies are expected to be minimal. For the DOC, they should be limited



to administrative matters such as refining inspection instruments, printing amended rules, and training DOC inspectors. The DOC, through its jail resource center and its Inspection and Enforcement Unit, will dedicate the staff time and effort necessary in training those affected by the rules. This will be accomplished using existing resources.

Costs to other agencies should be minimal or non-existent. Those agencies have been extensively consulted during the drafting process. The Department of Public Safety Fire Marshal's office, the Department of Administration Building Code Division, and the MDH were active participants in drafting the rule amendments. Representatives of public health nurses groups were involved, as were private service providers, such as food service vendors.

There are currently no revenues generated as a result of this rule. Since these amendments would not change this, they would have no anticipated effect on state revenues.

(3) There are no less costly or less intrusive methods of achieving the purpose of these rules. One of the objectives of these amendments is to make the existing rules less intrusive and less costly. This will be accomplished in part by deleting portions of the rules, such as issues related to

fire and life safety, food service, and health, all of which are more appropriately addressed by other agencies.

Secondly, other ways of achieving the rules' purpose have been addressed in statute by the DOC within the last five years. The DOC has moved to biennial inspection (rather than annual) of facilities and the use of self audit processes as a less intrusive and less costly approach for facilities that meet administrative criteria for biennial inspection.

Beyond that, the DOC and the rules drafting task force considered evolving case law standards of decency and determined that the remaining rules were only included if they were needed to ensure that one or more of the four goals (1. protecting the public, 2. ensuring institutional safety, 3. providing needed services, and 4. providing program opportunities) was met. These goals correspond to the legislative intent of MS §241.021, Licensing and Supervision of Institutions and Facilities, Subdivision 1(1)-(5).

(4) An alternative to amending the rules would have been to use the ACA accreditation. With legislative approval, this might have removed the state from the rule making process and assessment of compliance with rules. However, it is unlikely that the legislature would have approved this alternative, for

two other major reasons. First, this process would have been more costly to those affected by the rules. Each jurisdiction would have been required to pay both a fee for initial accreditation and fees for reaccreditation. Second, DOC staff and task force members concluded that some ACA standards were either unattainable or unrealistic, while others were not sufficiently stringent. The DOC staff and task force members believe that amended rules can better achieve the appropriate balance.

Abolishing these rules is also not a viable alternative.

Prior to May 1978, only guidelines existed in this area. Since these did not have the force and effect of law, compliance was poor. Compliance is now good, but it is likely that compliance would decrease if the rules were abandoned. Without the rules, the DOC could not meet the legislative intent of MSS 241.021. Consequently, these rule amendments are crafted to meet what is required by law, rather than also what might be desired. This approach by the DOC and task force makes the best use of increasingly limited fiscal resources, and these amendments are the alternative which best addresses this distinction between required and desired.

(5) The probable costs of complying with the proposed rule

amendments are non-existent for most sections. Consequently, only those sections in which the amendments are likely to have any fiscal impact are discussed below. If a section is not listed, it is either because it contained no substantive changes, because the amendment had no cost impact, or because the amendments reduced the costs to the DOC and those affected by that amendment.

2910.0400 VARIANCES: For Subparts 3 and 4 which require plans to address work stoppage and mass arrest situation, only minimal fiscal resources should be required. These will be needed for staff time to develop such plans. As it stands, the majority of facilities governed by these rules have already developed contingency plans, so there would be no actual cost impact on these facilities. If there is a fiscal impact, it is estimated that such impact will be no more than \$500 per facility. This figure was attained by our belief that a staff person making not more than \$25 per hour salary and fringe ~~benefits~~ can accomplish this effort in 20 or less hours.

Subparts 5 and 6 require steps to be taken when facility populations exceed approved bed capacity. Although per diem costs will accrue to a jurisdiction that uses other DOC-approved facilities when overcrowding occurs, these costs are appropriate

to the overall intent of the rules and are reasonable for enforcing the rules.

The waiver in Subpart 5.B. which allows a facility administrator to exceed capacity if no space is available within 125 miles recognizes both fiscal constraints and distance limitations. Such fiscal constraints and distance limitations have been recognized by the legislature in amendments to M.S. 260 as recently as the 1997 session. This is in accordance with current DOC policy, so fiscal costs associated with this section of the amended rules should be minor. Subpart 6, which requires intermittent sentence contingency plans, will have a fiscal impact to the extent that the number of inmates exceeds the facility's approved bed capacity. If there is a fiscal impact it is estimated that such fiscal impact would not exceed \$100 per facility for plan development and \$2,600 per facility for plan implementation. We believe one staff person in each facility may need up to four hours to develop a plan to comply with this requirement and that such staff person would not make more than \$25 per hour salary and fringe benefits. It is our belief that no more than two hours per week of staff time would be necessary to the implementation of the plan to ascertain availability of space within 125 miles. At two hours per week at \$25 per hour

this translates to a cost of \$2,600 per facility that may be effected by the implementation requirement. This is likely to be a small number.

2910.0700 and 2910.0800 PERSONNEL STANDARDS: These are the only changed parts of this section which have any fiscal implications. In 2910.0700, there should be no additional cost to county boards or others since this amendment should reduce costs by reducing the potential for incurring overtime as a result of reactive rather than proactive scheduling of staff.

In 2910.0800 (Staffing Requirements), several subparts are amended to provide clarity, but only the amendments to Subparts 2, 7, 8, and 9 should have any fiscal impact. The amendments to Subpart 2 more fully clarify the intent of the current rule with respect to a separation of administrative and custody responsibilities. Any expense associated with this would be more appropriately associated with failure to previously meet the rules' intent rather than with the amendment. The amendment to Subpart 2.E. should reduce costs by changing the requirement for an administrative staff assistant from an average daily population of 50 to a population of 60. A review of 1996 average daily population data suggests that a minimum of three facilities could have reduced their staffing by one administrative assistant

had this amendment been in place. We estimate their cost savings at \$30,000 minimum per position for salary and fringe benefits or \$90,000 per year for three positions.

Subpart 7.B. may have a slight fiscal impact on a small number of facilities that use the dispatcher/custody position as sole supervision since backup resource assistance is now required for this person in circumstances that require emergency response assistance. This additional cost should be small and is justified given the need to assure public safety and a timely response to emergency circumstances. We believe a backup plan can be prepared with not more than 4 hours of time by a staff person making not more than \$25 per hour in salary and fringe benefits. Consequently we believe the fiscal impact of plan development would be not more than \$100 per effected facility. It is also our belief that implementation can and should involve already existent law enforcement staff such as city police and/or sheriffs department deputies in emergency response assistance. Amendments to Subpart 8 should reduce staffing costs by allowing reduced staffing at facilities of 60 beds or more and by allowing staff ratios greater than one custody officer to 25 inmates through variance considerations appropriate to this section. A review of 1996 data suggests as many as 22 facilities could have

been effected by this proposed amendment had it been in place. If only 25% of those elected to reduce their staffing by one position each at an estimated cost per position of \$27,000 per year salary and fringe benefits the savings would amount to an estimated \$148,500 per year (5.5 positions at \$27,000 per year). Please note that savings would be even greater if one included a shift relief factor in the calculation. Normally shift relief factors for facilities of this type suggest it takes 1.6 - 1.7 staff to cover a post that must be manned seven days a week.

The amendments to Subpart 9 should in total result in reduced costs for facilities. The amendments to this subpart make significant changes, including:

- in small facilities, allowing the coordination of program services to be one of several responsibilities of a staff person, rather than requiring that it be a full-time job, thus reducing costs. 1996 data suggests that six facilities may have been effected had this proposed amendment been in place. They had average daily populations of 25-30. It is our belief that each may have saved up to \$30,000 in salary and fringe benefits through the reduction of one staff person. This results in potential savings of \$180,000 per year.

- reducing staffing costs by reducing requirements for



facilities with average daily populations of 25-60, and by allowing closer attention to several factors before using for staffing the simple ratio formula which has been used in the past. 1996 data suggest that three facilities may have had savings had this amendment been in place. They had average daily populations of 31-60. It is our belief that each may have saved up to \$30,000 in salary and fringe benefits through the reduction of one staff person. This results in potential savings of \$90,000 per year.

- allowing a reduction in staffing for those facilities housing significant numbers of offenders whose primary programs involve community release such as work release, and

- allowing decreased staffing when inmates are on community release status with some limitations.

In several facilities significant numbers of persons are on work or community release status during what might be called normal business hours. We believe that at a minimum twelve facilities would qualify under this proposed amendment for a reduction of a minimum of one staff person during these hours. At \$27,000 per position for salary and fringe benefits this could result in annual savings of \$324,000 (12 positions at \$27,000 each).

Increased costs could result due to amended rules requiring additional staffing where staff are assigned non-traditional jail operational tasks such as oversight of electronic monitoring or home detention programs which reduce staff ability to perform tasks associated with jail operations. Although the fiscal impact of this rule relates to what might be considered a nontraditional jail function and an activity not mandated by rule it is our belief that the fiscal impact should it have an effect would be minimal. We believe not more than ten facilities would be effected. We further believe that one-half time staff at a salary and fringe benefit rate of not more than \$13,500 annually could accomplish the tasks associated with oversight of electronic monitoring or home detention. This would translate to an estimated fiscal impact of up to \$135,000 per year ( 10 one - half time staff at \$13,500 per year).

2910.0900 through 2910.1600 STAFF TRAINING: There will be minimal increased training costs associated with the proposed amendments in these sections, but the task force and the DOC believe these are fully justified as an important measure to reduce the amount and costs of litigation which has resulted from incompletely trained staff. A highly trained staff is needed to meet the basic objectives of correctional facilities, and the

increased training costs should allow some of the staff reduction noted previously in the Personnel Standards section.

Several of the proposed training standards are comparable to or lower than those of nationally recognized leaders, such as the American Correctional Association and Commission on Accreditation for Corrections. Likewise, several facilities are already meeting the amended requirements on a regular basis, in which case there would be no additional fiscal impact. The MSA and DOC jointly fund jailer training programs designed to assist local facilities in achieving current training requirements at minimal costs to local facilities, and the Minnesota Jail Resource Center has developed a large training resources library which may be accessed by local officials at little or no cost. These efforts should further lessen any fiscal impact.

2910.2400 through 2910.3500 INMATE WELFARE: While there are several amendments to these sections, many will have no fiscal impact and thus are not discussed here. Those which do have fiscal implications are as follow:

The amendments to Part 2910.2600 require that information be available to all disabled inmates and non-English speaking inmates. This is a requirement for all governmental agencies, not just jail facilities. While some additional costs here are

unavoidable, there are several resources in place to minimize compliance costs in this area, and some of this may be accomplished with assistance from volunteer groups and/or individuals at no cost. We believe that the worst scenario fiscal impact would be no more than \$600 per facility through the retention of a consultant for this purpose at \$30 per hour for up to 20 hours of work.

The amendments to Part 2910.3000, Inmate Activities, Subpart 2, require that a facility have either a chaplain or community clergy consultant to assist the facility administrator in arranging religious services and counseling of inmates as requested. This will probably not result in additional costs because community religious resources such as ministerial associations have been most willing to assist with inmates' religious needs when contacted in the past.

The amendments to Part 2910.3000, Inmate Activities, Subpart 4, require inmate access to educational programs, vocational counseling, and, when available, vocational training. Several community resources exist to meet these new requirements with little or no fiscal impact on facilities. These include: 1) persons under age 21 are entitled to educational services under existing state/federal requirements; 2) several facilities have

arrangements with community resources to implement ABE and GED-type programs in their jail facilities; and 3) state aid has already funded productive day initiatives in some counties which has resulted in vocational training programs.

Parts 2910.3600 through 2910.4600 FOOD SERVICE: Most changes in this section have no fiscal impact but rather represent current knowledge about nutritional requirements as well as food service standards that have evolved in case law in such areas as religious or medical dietary needs. Those amendments which have fiscal implications are as follow:

- In Part 2910.3800, the requirement that menu content and cycle be reviewed at least annually by a registered dietician or nutritionist is likely to cost each facility less than \$200 per year. In several instances, facilities already contract with food service vendors which provide this service as part of their contract. This requirement will allow the immediate incorporation of new food service knowledge and should also effect seasonal changes in menus which may result in food cost savings.

- Part 2910.3900, which allows brunches in lieu of separate breakfast and lunch meals, may reduce costs for food service staff and food preparation, since staff and preparation will only

be needed for two meals instead of three.

- Part 2910.4100 requires that diets adhering to religious dietary laws be provided. Food services providers have indicated that this requirement can be met with little or no fiscal impact by use of food "substitutes" such as those set forth in Subpart 2910.3700 H.

Parts 2910.4700 through 2910.5500 SECURITY: The amendments to these parts will have no fiscal impact with the possible exception of 2910.4900, Subpart 3, which requires that all newly admitted inmates receive information in a language they can understand. This was commented on earlier.

Parts 2910.5600 through 2910.6600 ENVIRONMENTAL - PERSONAL HEALTH AND SANITATION: The amendments to many parts in this section have no fiscal impact. Those changes which do have fiscal implications are listed below.

Part 2910.5600 Availability of Medical and Dental Resources is amended and greatly expanded to include much more detail for a facility's medical plan, for screening new inmates, and for conducting sick call. At first glance these additional measures might appear more costly. However, based in part on expensive past legal settlements because of inadequate medical care and in part because of medical cost savings which should result from

more accurately assessing inmate health, more clearly identifying preexisting conditions, and more intentionally undertaking preventive health measures, these measures should save or prevent unnecessary expenses.

Also, recent statutory changes provide for inmate use of insurance and an inmate copay for health services. This should allow facilities to recoup costs to a greater extent.

Part 2910.5900 Training expands medical training requirements for personnel. The costs incurred for this training should be more than offset by a reduced need to contact local medical resources and/or a reduction in costly trips to local clinics. This training should enable staff to more effectively manage health and medical resources and to more effectively utilize telephone and/or video conference resources in managing inmate health care needs.

Part 2910.6200 Delivery has no fiscal impact except in the area of ~~refresher~~ training in administration of medications (Subpart 1.C.) which is amended to be required every three years.

However, this cost is well justified by the need to have competently trained personnel.

Finally, Part 2910.6600 Tuberculosis Screening, while it has some fiscal impact, is a statutory requirement of the Minnesota

Department of Health. Likewise, thorough tuberculosis screening should actually be a cost-saving measure by preventing the spread of this highly contagious disease.

(6) There are no differences between these proposed rule amendments and existing federal regulations. The statutory intent of Minnesota during the past twenty years has consistently been to comply with federal regulations. These amendments also take into consideration federal regulations such as the Juvenile Justice Delinquency Prevention Act. They have been crafted with a goal of assisting facility administrators in reducing their liability for violation of federal regulations. They have also been crafted with attention to judicial decisions that have formed the basis for "evolving standards of decency" and case law regarding minimal standards for correctional facilities.

#### B. Reasonableness of Individual Rule Amendments

##### 1. Reasonableness of Proposed Amendments to Minnesota Rules Part 2910.0100, DEFINITIONS

The amendments to this section are reasonable since they add definitions which clarify various terms. This clarity will assist facility administrators and county units of government in understanding distinctions between existing, approved, design, operational, and variance bed capacities; in understanding the



operational, and variance bed capacities; in understanding the two new facility classifications; and in understanding what constitutes a crowded and overcrowded facility.

2. Reasonableness of Proposed Amendments to Minnesota Rules Part 2910.0200, INTRODUCTION

No substantive changes are proposed. The minor changes are reasonable.

3. Reasonableness of Proposed Amendments to Minnesota Rules Part 2910.0300, INTENDED USE and NONCONFORMANCE with RULES

In this section it is reasonable to establish in rule the intermediate level of sanctions which has been the common practice in Minnesota. Using these sanctions for noncompliance with mandatory and essential rules allows the Commissioner to resolve deficiencies without using statutory sanctions or the administrative law process. This is reasonable since such an approach is a common industry practice, and it has been repeatedly successful in Minnesota over the last several years. It reduces adversarial relationships and avoids the costs of the statutory or administrative law routes. These sanctions are also consistent with the ACA.

It is also reasonable to add language which articulates acceptable compliance levels with essential rules and to

establish the appeal process which a facility administrator or governing body may undertake if it disagrees with a timeline for corrections of deficiencies. Past practices have shown that the levels and process outlined here are the most effective approaches.

4. Reasonableness of Proposed Amendments to Minnesota Rules Part 2910.0400,

#### VARIANCES

The addition of subparts 3 and 4 are reasonable in requiring contingency plans for work stoppage and mass arrest situations. Since the last rule amendments, work stoppage situations have occurred in Aitkin and Becker counties, and mass arrests have occurred in the P-9 strike in Austin and the Boise Cascade strike in International Falls. Having plans in place for these types of situations is the most reasonable approach for maintaining order and protecting public safety.

Past practices have shown subparts 5 and 6 to be the most reasonable approaches to addressing when a facility may exceed its approved capacity and when intermittent sentence contingency plans should be prepared. These plans reasonably address fluctuations in populations resulting from persons sentenced on intermittent sentencing status or weekenders, and they reflect

limited use agreements with local officials.

#### 5. Reasonableness of Proposed Amendments to Minnesota Rules

##### Parts 2910.0500 through 2910.0800, PERSONNEL STANDARDS

The amendments to this section which delete several standards on recruitment, evaluation, discrimination, and other personnel-related matters are reasonable because the topics are adequately addressed by other agencies and/or management/labor contracts. Eliminating this redundancy eliminates the need to amend these rules as the other agencies' rules or the contracts change. This is a reasonable approach to reducing duplicative state activities.

The amendment (2910.0500) establishes that a custody staff person may not work more than 12 hours in any 24-hour period except where unusual circumstances require reasonable and prudent exception. This should reduce the likelihood of tired employees and situations in which mistakes could occur. Established medical studies, past practice, and contractual agreements suggest that this is the most reasonable approach.

The amendments to the Staffing Requirements part (2910.0600) are reasonable. In Subparts 1 and 2, it is reasonable to establish standards requiring facility-specific staffing plans, both for a facility designed for more than 60 beds and for

facilities of less than 60 beds. These standards provide clarity to administrators and agreement by all parties on staffing levels.

The amendment to Subpart 7 improves the level of security and backup resource assistance available when the dispatcher/custody staff person is the sole staff person on duty and strengthens the requirements for staff response in an emergency situation. This is reasonable since it reflects current practice and best protects public safety.

The amendments in Subpart 8 tighten standards regarding use of facility staff for functions outside of the facility such as bailiff, transport, etc. They would ensure that minimal staffing requirements are maintained at all times within the facility unless emergency conditions exist. In the past, alternative approaches have jeopardized public safety with non-compliant situations. Consequently, this is the most reasonable approach.

Finally, the amendment in Subpart 9 makes all staffing requirements be mandatory. The existing rules only make custody staff requirements mandatory. It is reasonable in Subpart 9 to 1) establish a standard which allows a lower level of custody staff in the facility when offenders are out of the facility on

community release status including work release, educational release, and sentencing to service; and 2) establish staffing requirements for facilities which are responsible for the coordination of home detention, electronic monitoring or other nontraditional jail responsibilities. Experience has shown that other arrangements are detrimental, and that this approach is consequently the most reasonable. It best ensures order in a facility and protects public safety.

**6. Reasonableness of Proposed Amendments to Minnesota Rules Parts 2910.0900 through 2910.1600, STAFF TRAINING**

This section establishes and/or increases the levels of training required for persons working in facilities governed by these rules. It also establishes training requirements for clerical/support employees with minimal inmate contact, for support employees with regular or daily inmate contact, and for program staff, and it clarifies expectations and contributes to uniform performance standards. This is a reasonable approach since it ensures statewide consistency, addresses the increased complexity of the jobs, meets requirements resulting from case law, and should reduce litigation.

For similar reasons, it is reasonable to establish in rule a standard which requires a designated training officer in each

facility governed by these rules; a standard which allows a waiver of training requirements for personnel if certain conditions are met; and a standard which requires that in-service training plans provide documentation which indicates that training for individual employees takes into consideration their length of service, position within the organization and previous training completed. These standards are very comparable to ACA standards and are already being met by many facilities.

**7. Reasonableness of Proposed Amendments to Minnesota Rules**

**Parts 2910.1700 through 2910.1900, STAFF DEPLOYMENT, JOB DESCRIPTIONS, WORK ASSIGNMENTS, POST ORDERS, POLICIES AND PROCEDURES**

The deletions in this part are reasonable in that they eliminate from these rules the redundancy of personnel policy requirements that are adequately covered by other agencies or management/labor contracts. The major addition involves listing precisely the elements to be included in each facility's policy and procedure manual. This is a reasonable method to ensure uniformity and consistency among state correctional facilities. This amendment is also reasonable in that it establishes a system for reviewing and revising the manual as appropriate.

**8. Reasonableness of Proposed Amendments to Minnesota Rules**

**Parts 2910.2000 through 2910.2300, RECORDS and REPORTS**

The amendments in this section involve deletions, additional language to reflect current technology which is now available for maintaining records, and the establishment of a standard for the DOC's Detention Information System reporting requirements. The deletions regarding the maintenance of records are reasonable since these requirements are covered in other areas of the standards. Eliminating this redundancy will make the rule more precise.

It is reasonable to add new language regarding the filing and disposition of inmate records. This will allow records to be maintained through advanced technology such as microfiche or computerized record systems, storage which was not feasible or appropriate when the rule was written. This amendment is reasonable since it would allow the rule to reflect current technical realities.

Finally, it is reasonable to amend this section to establish that a facility shall have staff responsible for reporting on persons detained or incarcerated. It further is reasonable to require that the requirements in this section are met in a timely and accurate manner. These amendments contribute to the order and security of a facility.

## 9. Reasonableness of Proposed Amendments to Minnesota Rules

### Parts 2910.2400 through 2910.3500, INMATE WELFARE

These amendments require that separate housing be provided for various categories of inmates and that inmates be classified with consideration of several factors. These amendments are reasonable based on established practices and on the need to ensure both inmate and public safety.

These amendments also require that information be available to inmates in both English and Spanish regarding facility rules, etc.; and that understandable information be available to non-English/non-Spanish speaking inmates within 24 hours of the admission to the facility. These are reasonable because of Minnesota demographic data which shows an increase in non-English speaking residents and because of experience in both urban and rural Minnesota.

It is reasonable to require that a more frequent review of persons on disciplinary and/or administrative segregation be made by the facility administrator or designee since increasing the frequency should provide a better awareness of an inmate's mental state. This improved awareness should also enhance an institution's ability to intervene and contribute to the least restrictive environment.



Further, it is reasonable to establish standards regarding the use of force in facilities, to require equal opportunities for participation in programs and services for males and females housed in the same facility, to address the nature of religious resources which shall be available to inmates, and to stipulate that inmates shall have access to educational programs, vocational counseling, and, when available, vocational training. These requirements are reasonable because the average inmate's length of stay has increased and because they aid an inmate's assimilation into a community, reduce the likelihood of recidivism, and avoid future litigation.

Because of past litigation and evolving case law, it is reasonable to articulate minimum duration for visiting under normal conditions; arrangements for children to visit parents; the type of written material allowed in a facility; and inspection procedures related to these. These are a reasonable way to address deficiencies in the rule since 1978. Based on experience, there has been a great deal of confusion and misunderstanding in these areas. These are reasonable ways to maintain the order and security of a facility.

The standards for telephone access by inmates are reasonable based on evolving case law. Being able to require that calls be

made through collect call telephone access systems provides a cost savings to facilities.

Language addressing the utilization of citizens or volunteers in jail programs was accidentally omitted in previous rules. It is reasonable to include it based on past and current practices and based on experience which shows that volunteers can contribute to the successful re-integration of inmates to society.

The provisions regarding linens and the laundering of personal clothing incorporate by reference the MDH rules regarding laundry. This is the most reasonable approach since there are no good reasons not to comply with these MDH rules. This is also reasonable since it allows any changes in MDH rules to be effective without requiring an amendment process for these rules.

Finally, the provisions for reporting unusual occurrences are the most reasonable response to legislative interest and the increased legislative emphasis on evaluating unusual occurrences.

Both local and state governments are requiring more performance measurement, and this is the most reasonable way to address those concerns.

#### 10. Reasonableness of Proposed Amendments to Minnesota Rules

Parts 2910.3600 through 2910.4600, FOOD SERVICE

The amendments to the Food Service section (Parts 2910.3600 through 2910.4500) are reasonable because the nutritional requirements which they elaborate comply with established nutritional standards. They add cheese as a food which will satisfy the definition of a serving of meat or protein; specify that a serving of a vitamin A source must be served four times per week; list foods included as vitamin A; and increase the daily servings of grain, cereal or bread products from four to five. They also list substitutes which may be used to accommodate religious diets and require that a registered dietician or nutritionist shall review menu content at least annually.

Amending the Food Service section by deleting Parts 2910.4500 and 2910.4600 which deal with storing and transporting food is reasonable since Part 2910.3500, Food Handling Practices, requires that "Food service shall be provided in accordance with Minnesota Department of Health Rules (parts 4625.2500 to 4625.5000)." These rules already detail appropriate practices regarding food, and this deletion thus avoids redundancy. It is also a reasonable amendment because it avoids the requirement of amending DOC rules if the MDH rules change.

#### 11. Reasonableness of Proposed Amendments to Minnesota Rules

**Parts 2910.4700 through 2910.5500, SECURITY**

It is reasonable for the Commissioner to clarify and tighten security standards by requiring written policy and procedures for security. These should be updated as needed. It is also reasonable to specify in rule the policies and procedures which will govern admissions and releases; to list activities involved in searches, shakedowns, and contraband control; and to add language which requires that written policy and procedure governing the control and use of keys. Requiring that each facility address these is the most reasonable approach to enhance inmate safety and ensure public safety.

It is reasonable to establish standards on the storage and use of flammable, toxic, and caustic materials and on the control and use of tools, culinary and medical equipment. Language previously only required that dangerous materials be properly secured. This is somewhat ambiguous, and it is reasonable to be more precise about what constitutes dangerous material. It is also reasonable to specify that this material be handled in accordance with applicable laws and regulations.

These rules have been silent regarding security equipment, such as firearms, ammunition, and chemical agents. It is reasonable to establish standards on the issuance, storage, and

use of security equipment by custody staff in facilities governed by these rules, and it is reasonable to ensure that inmates do not have weapons of any sort and to provide more options for intervention.

It is also reasonable to require training for personnel using this equipment since training is vital to ensuring the de-escalation rather than escalation in situations involving weapons. Training is also crucial to the desired outcome of the least restrictive use of force.

Finally, it is reasonable to strengthen requirements for checking on inmates by custody staff. This strengthening is reasonable because of past litigation, because of more inmates with multiple problems, and because of enhanced capabilities to better monitor inmates.

**12. Reasonableness of Proposed Amendments to Minnesota Rules Parts 2910.5700 through 2910.6700, ENVIRONMENTAL-PERSONAL HEALTH and SANITATION**

The amendments in this section are reasonable in that the requirements they specify are important to good medical practice in institutional facilities. They should reduce both the need to contact local medical resources and the need for costly trips to local clinics. Thus, it is reasonable to revise the previous

First Aid part and incorporate it under a new part (2910.6000) entitled Training since first aid is part of health care training for personnel.

The amendments in the Medical and Dental Records part (2910.6100) and in the Preventive Health Services part (2910.6200) are reasonable in incorporating existing language from an earlier part, expanding on what the health record shall contain and how it is to be handled, and listing what personal hygiene articles shall be available for inmates. In Part 2910.6300 the amendments are reasonable in allowing each facility administrator to develop policies and procedures for handling medicine. All these parts should help facilities avoid litigation and better ensure healthy inmates.

The amendments to Part 2910.6400 are reasonable in that they will allow for the most appropriate management of all serious and infectious diseases. Not all diseases may require separation from ~~other inmates~~, and these amendments make it possible to ensure that new information can be readily applied as it becomes available. This amendment incorporates recommendations from the MDH.

The amendments to part 2910.6500, Inmates with Special Needs, are reasonable in that they more adequately reflect various

inmates, i.e., not just those who are mentally ill (both dangerous and not dangerous to the public), but also those defined as mentally retarded, chemically dependent, those with functional impairments, and those with disabilities. Providing for emergency admission of the above-described persons who may be in imminent danger of injuring self or others if not immediately restrained is reasonable in that it helps the DOC protect the public and avoids litigation. It also addresses the facts that the average stay for inmates has increased and that more inmates have multiple problems.

The amendments to Part 2910.6600, Housekeeping, Sanitation, and Plant Maintenance, are reasonable in mandating fire safety provisions and other conditions which shall be maintained in the physical plant. These provisions ensure both facility security and public safety, and they represent recommendations from state fire and health officials.

By ~~deleting~~ Part 2910.6700, Tuberculosis Screening, from the Personnel Standards section and amending it to this section, all Personal Health issues are combined in one section and reflect more accurately the full range of MDH requirements for Tuberculosis screening in facilities governed by these rules. This consolidation is both reasonable and efficient.

**V. ADDITIONAL NOTICE**

Notice of these proposed changes has been sent to \_\_\_\_\_.

Notice has also gone to \_\_\_\_\_.

**VI. COMMISSIONER OF FINANCE REVIEW OF CHARGES**

Minnesota Statutes, section § 16A.1285 does not apply because the rule amendments do not set or adjust fees or charges.

**VII. LIST OF EXHIBITS**

Regarding the need for and reasonableness of the proposed rule amendments, the Department has received the following statements of support which are attached as Exhibits:

Exhibit A - letter of support from [? for example?]

Minnesota Sheriffs Association

Minnesota Department of Health

Minnesota Correctional Nurses Association

**\_\_\_ CONCLUSION**

Based on the foregoing, the proposed rules are both needed and reasonable.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gothriel J. La Fleur,

Commissioner