

Report From Agency

WISCONSIN DEPARTMENT OF CORRECTIONS REPORT FROM AGENCY

CR 24-065 RULEMAKING REPORT TO LEGISLATURE

BASIS AND PURPOSE OF PROPOSED RULE

The Wisconsin Department of Corrections proposes an order **to repeal and recreate** Chapter DOC 346.

SUMMARY OF PUBLIC COMMENTS AND AGENCY RESPONSE

Public Comment or Testimony	Department Response
It's great that you want to establish minimum standards for these kids. One would hope those standards are far above and beyond the minimum standards for the public schools. Obviously, those standards were far too low or juvenile detention facilities would be unnecessary. You should really consider getting rid of them altogether and trying to figure out how to keep kids in school instead. I don't see any reason to destroy a person before they've reached adulthood. It's really better if DOC stays out of this. Juvenile detention is better handled by experienced child psychologists within the school system and child services. There have been far too many deaths in Wisconsin jails and prisons lately to allow DOC to house ANY children within those walls. You failed them in the schools, and now it's time to give them a real chance at life. Confinement should be used as a last resort, reserved for the most violent criminals- the ones who show no prayer of behavioral change. A child has too long a life ahead of him to have it taken by you. You stole enough from them out of fear of COVID-19 already. Make juvenile detention by DOC illegal instead. DPI and DHS should be handling this.	Comment noted.

MODIFICATIONS MADE TO THE PROPOSED RULE AS A RESULT OF PUBLIC COMMENT OR TESTIMONY RECEIVED

No modifications were made to the proposed rule as a result of public comment or testimony received.

PERSONS APPEARING OR REGISTERING AT PUBLIC HEARINGS

A public hearing was held on October 11th, 2024 from 11:00 am – 12:00 pm via Teams and teleconference. No persons appeared or registered at the public hearing.

CHANGES TO RULE ANALYSIS AND FISCAL ESTIMATE

No changes were made to the rule analysis or the fiscal estimate and economic impact analysis.

RESPONSE TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

Legislative Council Comment/Suggestion

Department Response

<p>The department should review the variance process described in s. DOC 346.05, as it appears intended to authorize variance provisions to have the force of law; if this is the department's intent, such alternatives should be promulgated directly through the administrative rule process.</p>	<p>Comment noted. DOC maintains authority under Wis. Stats. 301.36 and 301.37.</p>
<p>As with comment a., above, does the department intend for the policies and procedures contemplated in s. DOC 346.07(3) to apply with the force of law? If so, such items should be promulgated directly through the administrative rule process.</p>	<p>Comment noted. Under s. 301.37(2), Stats., the department has the authority to review the proposed program to be carried out by an institution. Additionally, under s. 938.22(2)(a), Stats., the department has the authority to promulgate rules establishing minimum requirements for the approval and operation of juvenile detention facilities, secured residential care centers for children and youth, and the juvenile portion of county jails.</p>
<p>Throughout the proposed rule, the department should replace passive language, particularly the repeated use of the phrases "there shall be" and "shall not be", and instead use an active voice that first specifies an actor, such as the "facility", and then identifies the required action.</p>	<p>Some of the passive language throughout the proposed rule has been replaced with active language. However, some changes were not made as much of the language is taken directly from currently promulgated DOC administrative rules (DOC 346, 347, and 350). The correctional audience in Wisconsin is familiar with the current wording of the rules. A statewide committee of stakeholders was convened, and as a matter of professional preference due to extensive knowledge in the field, the department desires to maintain some of the current language.</p>
<p>For brevity, consider deleting the lengthy excerpts of statutory text under the "statutory authority" heading in the rule summary, as that section only requires an agency to identify and cite the specific statutes authorizing rule promulgation. To the extent the content of the statutes cited for authority are instructive, such information is more appropriately placed under the "explanation of agency authority" heading.</p>	<p>Excerpts of statutory text have been deleted.</p>
<p>Under the headings of "explanation of agency authority" and "related statute or rule" in the rule summary, modify the format of the citations to be consistent with s. 1.15 (2) (Table), Manual, including inserting "DOC" in the reference to ch. DOC 301, Wis. Adm. Code.</p>	<p>References have been updated.</p>
<p>In the rule summary's plain language analysis, consider explaining why the proposed rule establishes different standards for a facility's physical environment depending on the applicable time period.</p>	<p>This explanation has been added to the rule summary's plain language analysis.</p>
<p>Because the proposed rule governs situations in which youth may be detained in a youth portion of a county jail or a facility collocated with an adult facility, consider whether the rule summary should reference the federal Juvenile Justice and Delinquency Prevention Act, codified as 34 U.S.C. ch. 111, under the heading "summary of, and comparison with, existing or proposed federal statutes and regulations."</p>	<p>The reference to 34 U.S.C. ch. 111 has been added.</p>
<p>Under current law, ch. DOC 346 (Note 2) explains that the chapter applies to both the department and the Department of Children and Families to the extent that agency has authority under specified statutes. The proposed rule contains a similar note but only with respect to subch. VII of ch. DOC 346. Is this consistent with the department's intent? Also, regardless of its location, consider whether the provision should be included in a section describing applicability, give that notes may not include substantive requirements, are not part of the substantive rule, and do not have the effect of law.</p>	<p>This note has been removed from ch. DOC 346.</p>
<p>Both ss. DOC 346.01 and 346.03 reference youth detention facilities, youth portions of county jails, and youth detention portions of a secured residential care center for children and youth, all of which are terms defined individually, and included in the more general definition of "facility", under s. DOC 346.04. However, subch. XIV of ch. DOC 346 is titled "collocated with an adult facility", a concept that is neither referenced in ss. DOC 346.01 and 346.03, nor defined in s. DOC</p>	<p>An 'applicability' provision has been added to this subchapter to clarify the department's intent.</p>

346.04. Is this consistent with the department's intent?

In s. DOC 346.04(1), remove the phrase "but not limited to".	This language has been removed.
In s. DOC 346.04(12), consider modifying the definition of "force" to better align with the substantive requirements of s. DOC 346.61 governing use of force by staff. For example, consider replacing "between staff and youth to overcome resistance" with "by staff to overcome a youth's resistance."	Rejected. DOC prefers to keep the definition of "force" as currently written.
In the definition of "youth" under s. DOC 346.04(33), should the defined term "facility" replace "youth detention facility", given that the term "youth" is used in the context of other facilities besides a "youth detention facility" in parts of the proposed rule?	Accepted.
In s. DOC 346.04 (34), the statutory reference should include the source notation "Stats."	Accepted.
The term "gender" is used throughout the proposed rule, but the word "sex" rather than "gender" is required among the identifying information required under s. DOC 346.06(1). Is this consistent with the department's intent?	The language in s. DOC 346.06(1) has been updated.
In s. DOC 346.06(3)(f), the abbreviation "s." should be inserted before the reference to "DOC 346.7(2)."	This language has been updated.
In s. DOC 346.07(3), replace "through" with "to" when referring to the series of code provisions.	This language has been updated.
To avoid duplication, consider whether s. DOC 346.09(3)(c)3. Should be deleted and merged with s. DOC 346.09(3)(d)2. to read: Dayrooms shall provide a minimum of 35 square feet per youth that have access to the dayroom, in addition to the number of square feet of unencumbered space required for sleeping rooms under pars. (3)(a) and (b) and dormitories under par. (3)(c)." Notes, however, that this example assumes that the department intends for the dayroom square footage to be in addition to sleeping room square footage, even though the current proposed rule does not include any language under s. DOC 346.09(3)(a) or (b) that parallels s. DOC 346.09(3)(c)3.	Rejected. These duplications are purposeful.
Consider deleting s. DOC 346.09(3)(c)5. because it governs dayrooms but is located in the paragraph governing dormitories, and because it duplicates s. DOC 346.09(3)(d)3., which is already locked in the paragraph governing dayrooms.	Rejected. These duplications are purposeful.
When referring to adequate lighting in various contexts throughout the proposed rule, the department uses the following styles: "30-footcandles", "10 foot candles", and "10 foot-candles." The department should use the same style throughout the proposed rule for consistency. Also, with respect to lighting, the proposed rule contains several references to "30 inches above the floor" immediately after references to the applicable level of illumination. The proposed rule text could be revised for better clarity that the light fixtures must be located 30 inches above the floor, assuming that is consistent with the department's intent.	The language related to foot-candles has been updated for consistency. The other language has not been updated as the department believes this language is clear to this correctional audience.
In s. DOC 346.09(6)(a), replace "programming and services" with "a multipurpose room" to employ the term defined under s. DOC 346.04(17) to include that phrase.	Rejected. The department prefers this language to stay as currently written.
In both s. DOC 346.09(9)(a) and (10)(a), insert "recreation" before "space" to use the defined term of "recreation space" under s. DOC 346.04(26).	Rejected. The department prefers this language to stay as currently written.
Consider renumbering s. DOC 346.09(10)(b) to (e) to s. DOC 346.09(10)(b) (intro.) and 1. to 4., to read: "(b) The space described in par. (a) must meet the following requirements: 1. Have a minimum of 70 square feet of unencumbered space. 2. Ensure the privacy of the youth. 3. Have a secure perimeter. 4. Have the ability to detect or deter contraband from entering the space." Note that, beyond renumbering and using subunits to avoid repetitive text, this example modifies the current text to	Accepted.

use the defined terms of “unencumbered space” and “secure perimeter.”

In s. DOC 346.09(15) and (16), consider reworking the language to incorporate the phrase “each window” in the introductory text so as to avoid the redundancy of “each window shall” in the subunits. For example, s. DOC 346.09(15) (intro.) could state: “Each window that leads to the exterior of the facility or an area outside of the secure perimeter of the facility must meet all of the following requirements:”.

Accepted.

Under s. DOC 346.09(17), door exits must have a threshold designed to prevent the introduction of contraband, but no such requirement applies to entrances. Is this consistent with the department’s intent?

The department believes the current language is clear to this correctional audience and meets the department’s intent.

The term “youth housing area” appears in s. DOC 346.09(19)(c) and (22) but that term is not defined. Because “youth housing” is the title for s. DOC 346.09(3), it seems that any space contemplated in that subsection would constitute “youth housing.” Depending on the department’s intent, consider cross-referencing to sub. (3) where that term is used in subs. (19) and (22), or creating a definition for that phrase in s. DOC 346.04.

The department believes the current language is clear to this correctional audience.

Under current law, s. DOC 346.02 states that the chapter generally applies to “juvenile detention facilities and juvenile portions or a county jail.” However, with respect to physical environment, current s. DOC 346.02 states: “Unless otherwise specified, s. DOC 346.14 applies only to facilities constructed or substantially remodeled after October 1, 1994.” As noted by the phrase “unless otherwise specified”, current s. DOC 346.14 contains certain requirements that apply only to facilities constructed or substantially remodeled after November 1, 2010, specifically the requirements that upper bunks have an anti-rollout plate and that classroom space be designed in conformity with local or state educational requirements. [See s. DOC 346.14(3)(f)6. and (11), Wis. Adm. Code.] In addition, current s. DOC 346.15(3) specifies certain requirements for “double celling” that differ depending on the time period in which a facility was constructed or substantially remodeled, related specifically to minimum floor areas and anti-rollout plates. Unlike current law, the proposed rule seeks to create stand-alone sections (ss. DOC 346.10 and 346.11) governing facilities based on the various time periods, rather than relying on specific dates being carved as exceptions within a general default rule. While this approach may provide better clarity (particularly in light of the proposed rule creating a third set of regulations for facilities constructed on or after the proposed rule’s effective date), the department should consider the following questions and comments:

1. The provisions of ss. DOC 346.10 and 346.11 use terms that are defined under current ch. DOC 346 but are not defined in the proposed rule, such as “juvenile”, “cell”, and “juvenile detention facility”, among others. To the extent the department seeks to allow for continued application of definitions otherwise repealed by the proposed rule, it should include all relevant definitions to achieve consistency and clarify relevant terminology.
2. Because titles are not substantive, add a subsection to both ss. DOC 346.10 and 346.11 that substantively expresses the applicability of those respective sections, similar to s. DOC 346.09(1).
3. In the proposed rule, s. DOC 346.10 appears to essentially mirror the text of ss. DOC 346.14 and 346.15 under current law, but by doing so, continues to

1. Rejected. These terms are defined in Wis. Stat. 938.
2. Accepted.
3. Rejected. The department believes the current language is clear to this correctional audience.
4. Rejected. The department believes the current language is clear to this correctional audience.
5. Rejected. DOC 346 has been promulgated at various times over the years which correspond to the different dates stipulated in the rule. This allows those facilities constructed at different time periods to maintain their authorization for occupancy as the physical environments under the different versions of DOC 346 changed over the past decades. Without the grandfathering of the facilities built under the rule at the time, the county would have to meet the physical environment standards of this proposed rule which is neither realistic or practical.
6. Rejected. DOC 346 has been promulgated at various times over the years which correspond to the different dates stipulated in the rule. This allows those facilities constructed at different time periods to maintain their authorization for occupancy as the physical environments under the different versions of DOC 346 changed over the past decades. Without the grandfathering of the facilities built under the rule at the time, the county would have to meet the physical environment standards of this proposed rule which is neither realistic or practical.

reference dates that are no longer within the applicable scope of s. DOC 346.10 or are no longer necessary to state. For example, s. DOC 346.10(3)(c)1. a. and b. reference dates that are no longer within the scope of the specific section, but instead are covered under s. DOC 346.11. Also, s. DOC 346.10(3)(c)6., (4)(f)6., and (12) include dates that are unnecessary to restate in light of the section's applicability.

4. Similarly, s. DOC 346.11(3)(c)1. specifies a date that seems unnecessary in light of that section's applicability.
5. Under current law, s. DOC 346.14 applies to facilities constructed or substantially remodeled after October 1, 2014, without specifying any end date, other than the few references to November 1, 2010, mentioned above. In other words, the date of November 1, 2010 is significant in very few contexts under current ch. DOC 346, with the remaining substance of s. DOC 346.14 applying, then, to facilities constructed or substantially remodeled after October 1, 2014 to present. In the proposed rule, the creation of two stand-alone provisions governing the different time periods results in a lengthy rule, with many of the provisions of ss. DOC 346.10 and 346.11 being the same. To reduce the rule's length, the department could consider creating one stand-alone section governing the physical environment for all facilities constructed or substantially remodeled after October 1, 2014, and before the rule's effective date, with another, much shorter, section that lists the limited exceptions to which the general rule would not apply.
6. If the department maintains the two stand-alone section, it should confirm that the provisions are identical where intended, as it seems some substantive differences exist among ss. DOC 346.10 and 346.11 that do not exist under current ch. DOC 346 for those time periods. Is this consistent with the department's intent? For example, under current law, s. DOC 346.14(15) requires all facilities constructed or substantially remodeled after October 1, 1994, to provide "sufficient space for visitation." This provision does not contain any other date limitations. However, under the proposed rules, s. DOC 346.10(16) contains this requirement, but no such provision is included in s. DOC 346.11, meaning that under the proposed rule, sufficient space for visitation is only required in facilities constructed on or after November 1, 2010.

Is s. DOC 346.11(12) intended to replace other requirements of s. DOC 346.11, or apply in addition to those other requirements?	This provision, as written, maintains what was previously required.
Throughout the proposed rule, use defined terms to avoid confusion. For example, in s. DOC 346.12, the defined term "youth detention facility" is used in sub. (1), but the broader defined term of "facility" is used in the remainder of the section. In addition, the phrase "the facility" is used exclusively in ss. DOC 346.13 to 346.48. Other sections do not use a specified term, making it unclear to whom the section's requirements apply, such as s. DOC 346.17, particularly with the use of the passive "shall be" phrasing.	Accepted in part. Classification is a cornerstone principle in every correctional setting and does not require further clarification.
Consider dividing the text of s. DOC 346.19(1) into separate subsections, due to length but also to better specify the facility's obligation to complete the form at admission. Similarly, consider moving the section sentence of s. DOC 346.19(2) to its	Rejected. The department believes the current language is clear to this correctional audience.

own subsection, as it applies regardless of whether screening occurs within one hour of admission. Also, in that sentence, consider replacing “youth screens positive” to “youth’s screening indicates” to use the language of s.DOC 346.23.

In s. DOC 346.20(1), delete the phrase “by qualified health care professional”, as the definition of “health care assessment” under s. DOC 346.04(13) includes that requirement.

Rejected. The department believes the current language is clear to this correctional audience.

Consider modifying s. DOC 346.23(1) (title) to read “RISK OF SUICIDE OR SELF-HARM” to be consistent with other terminology throughout that section and s. DOC 346.19.

Accepted.

In s. DOC 346.28(5), consider replacing “non-privileged letters” with “letters that are not privileged mail” to employ the term “privileged mail” defined under s. DOC 346.04(21).

Rejected. The department believes the current language is clear to this correctional audience.

Because s. DOC 346.09(9) and (10) require recreation spaces that can accommodate “a variety of individual and group aerobic and large-muscle exercise activities and physical education”, the department could consider similar language when describing the types of activities to which youth must have access under s. 346.37(2)(b).

Rejected. The department believes the current language is clear to this correctional audience and does not want to list all the different types of exercise. This would be reflected in the school’s handbook as well.

Consider adding an active requirement to s. DOC 346.38(3) relating to tool control, such as: “The facility shall establish protocols for tool control.” As written, that provisions seem to define the scope of tool control, and does not actively require a facility to engage in tool control.

Rejected. The department believes the current language is clear to this correctional audience.

The purposes for which a facility may use administrative confinement under s. DOC 346.40(1)(a) to (c) appear to be broader than the definition of “administrative confinement” under s. DOC 346.04(1). Consider revising one or both of the provisions for consistency.

Rejected. S. DOC 346.04(1) is the definition while 346.40. (1)(a) to (c) is the operational plan outline requirements. The requirements do not need to be included within the definition.

Consider clarifying the term “room confinement” that appears in ss. DOC 346.40(7)(c) and 346.46(4), but is not defined. For example, it is unclear whether the department intends that term to be synonymous with “administrative confinement” or whether it is a specific type of “administrative confinement” that is required to occur in a youth’s room. If the latter, is the term “room” intended to be synonymous with “sleeping room”, as defined in s. DOC 346.04(28)?

Rejected. The department believes the current language is clear to this correctional audience.

Consider deleting the adjective “physical” throughout s. DOC 346.41(1), in light of the definition of “force” under s. DOC 346.04(12). Also, if the department does not modify the definition of “force” as suggested in comment 2.i. above, then consider modifying s. DOC 346.41(1)(a) to use active voice and specify that “Staff may not use force as...”

Accepted.

Section DOC 346.49 contains terms that are not defined in the proposed rule, such as “youth shelter or detention facilities” and “adjudicated delinquent.” Consider creating defined terms or cross-referencing statutory definitions.

Rejected. The department believes the current language is clear to this correctional audience.

Given the title, it seems the department intends for subch. XIII of ch. DOC 346 to apply to a “youth detention portion or a secured residential care center for children and youth” based on the definition of that term in s. DOC 346.04(35). However, that defined term is neither used in the title nor throughout the subchapter. Consider modifying the title to use the defined term and further modifying the subchapter’s sections to use the defined term where appropriate.

Accepted.

Related to comment 2. g and similar to comment 2. kk above, subch. XIV of ch. DOC 346 is titled “Collocated within an Adult Facility” but that term is neither defined nor referenced in that subchapter or more broadly in the proposed rule. While it seems that term may be intended to encompass a “youth portion of a county jail”, subch. XII of ch. DOC 346 already governs such facilities and contains nearly identical provisions.

Accepted; revisions were made to this subchapter.

Depending on the department's intent, the proposed rule should be modified to reconcile the concepts of "youth portion of a county jail" and "collocated with an adult facility."

In s. DOC 346.02, the referenced statutes differ from those specified in the relevant portions of the rule summary. For consistency, consider whether to modify the rule's text, the rule summary, or both.

Accepted.

Section DOC 346.21(1) references s.938.505(1), Stats., which specifies certain duties of the department or the county department, as applicable, including to provide "ordinary medical and dental care for the juvenile, subject to the rights, duties, and responsibilities of the guardian of the juvenile and subject to any residual parental rights and responsibilities and the provisions of any court order." While this statute applies regardless of the code's provisions, the department could consider whether s. DOC 346.21 should acknowledge any applicable rights of a youth's parent or guardian, as contemplated under s. 938.505(1), Stats., and s. DOC 346.23(1) under current law. This same comment applies to s. DOC 346.22, in terms of considering whether to acknowledge circumstances in which a parent or guardian may have authority over related decisions under state law.

Accepted in part; some revisions were made to these provisions

For clarity, consider adding cross-references, where applicable, to other rules in s. DOC 346.23. For example, it may be helpful to clarify the relationship with the screening requirement in s. DOC 346.19. In other words, is the requirement under s. DOC 346.23(1)(a) in addition to the screening requirement under s. DOC 346.19? As another example, is the requirement under s. DOC 346.23(1) required at the time of admission as part of the health screening referenced under s. DOC 346.12(6)?

Rejected. The department believes the current language is clear to this correctional audience.

After the phrase "corresponding wellness checks" in s. DOC 346.42(4), consider adding a cross-reference to s. DOC 346.39(1)(c) to provide clearer guidance as to the meaning of "corresponding" nature of those checks, assuming the department intends for that phrase to refer to the "continuous personal observation" required under s. DOC 346.39(1)(c) when a youth is mechanically restrained for non-routine purposes.

Accepted.

In s. DOC 346.44(2), consider adding an internal cross-reference to the dispositional exceptions provided later in that section, such as "...violations, subject to sub. (7)."

Rejected. The department believes the current language is clear to this correctional audience.

Because s. DOC 346.44(6)(a) and (b) describe the procedural requirements for restricting a youth's privileges based on a rule violation, the department could consider deleting the subunits and instead cross-referencing the nearly identical requirements of s. DOC 346.45(2) to (5). For example, sub. (6) could read: "Staff may restrict a youth's privileges for a rule violation only after complying with the requirements under [insert appropriate cross-references.]"

Rejected. There is a need for duplication within the rule, including this reference. It is our intent to ensure and emphasize proper procedures when reviewing youth discipline.

Section DOC 346.51 cross-references other code chapters governing physical requirements. The department may consider adding similar cross-references to ch. DOC 347 in subch. XII of ch. DOC 346, and to ch. DOC 350 in subch. XIV of ch. DOC 346 (but see comment 2. kk) assuming the application of those standards are consistent with the department's intent.

Rejected. The department believes the current language is clear to this correctional audience. Administrative rule, DOC 347, does not address this matter in the context of the language of the proposed rule as there is no reference of a youth portion of county jail outside of the current DOC 346. Administrative rule, DOC 350, does not address this matter in the context of the language of the proposed rule as there is no reference of a youth portion of county jail outside of the current DOC 346.

In the last paragraph of the rule summary's plain language analysis, insert "for" prior to "the collocation with an adult facility" for grammatical consistency among the listed settings. Alternatively, insert "and" after "county jail."

Accepted; change made.

Because s. DOC 346.03 lists a series of three defined terms, delete the first use of "and" and insert a comma after each term

Accepted; change made.

except the last.	
In s. DOC 346.04(4), consider using “classification system” as the defined term, for better clarity and grammar when used in the context of s. DOC 346.13.	Rejected. The department believes the current language is clear to this correctional audience.
In the definition of “secure perimeter” under s. DOC 346.04(27), replace “center” with “facility” to use the defined term. Also, for grammatical consistency, insert “of” or “outer boundary of” after the first use of the word “or.” Finally, consider whether this definition uses other intended defined terms.	Accepted; changes made.
In s. DOC 346.04(29), use the singular, rather than the plural, form of the defined term itself and the individuals included in the definition. Also, consider replacing “family member” with “relative given that term’s use throughout ch. 938, Stats., as defined in s. 938.02(15), Stats.	Accepted; changes made.
In s. DOC 346.09(2)(s), the phrase “locking mechanism housings” is unclear. Does the department intend for this to apply to both locking mechanisms and their housings, or just the housings?	Rejected. The department believes the current language is clear to this correctional audience.
In s. DOC 346.06(3) (intro.), replace “occur” with “occurs” for proper subject-verb agreement.	Accepted; change made.
Throughout the proposed rule, is the use of the term “substantially remodeled” sufficiently clear so as to inform the reader which time-specific provisions of the rule will apply to a particular facility?	Yes. The department works closely with the counties and works with them on any construction projects from design to occupancy. Based upon the department’s professional judgement of the nature of a proposed project, a determination of substantially remodeled is made in conjunction with the county entity.
When describing the square footage requirements for holding rooms in ss. DOC 346.09(5)(a) and 346.11(10)(c)3., consider using the phrasing used in s. DOC 346.10(6)(b)3. for better readability.	Accepted for DOC 346.09; rejected for DOC 346.11.
Fix the typographical error in s. DOC 346.09(12) by replacing “melas” with “meals.”	Accepted; changes made.
Consider rephrasing s. DOC 346.09(14) for clarity. Is the intent to require each facility to provide a dedicated visitation space that allows for contact among youth and visitors?	Accepted; changes made.
Is s. DOC 346.09(19)(c), replaced “are to” with “shall.” Also, is the directive that interior walls be constructed “tight to the structure” sufficiently instructive?	Accepted; correction made to shall. The department believes the language regarding “tight to the structure” is clear to this correctional audience.
In s. 346.12, what is the standard for proficiency that would trigger subs. (4) and (5)?	This is determined by the county and the needs of the individual youth.
In s. DOC 346.12(7), through the use of “both”, does the department intend for a youth to be provided a written and verbal orientation or a video orientation, or a written and verbal orientation or written and video orientation?	The department’s intent is known to the counties and believes that there are no concerns with the current language.
In s. DOC 346.15, modify the subunits to eliminate passive voice, and in sub. (5), insert a verb to match the structure of the other subunits. For example, sub. (5) could read: “A supervisor or designee shall be physically on site during every shift at the facility.”	Rejected. The department believes the current language is clear to this correctional audience.
In s. DOC 346.16, replace “including” with “that includes.”	Accepted.
Modify s. DOC 346.17(title) to be written with only an initial capital letter.	Accepted.
In s. DOC 346.17, is “sharps” intended to be a noun? Consider clarifying the nature of the type of items that a facility must document and account for inventory.	The term “sharps” is universal in the corrections profession for both jails and prisons. There is no need for a definition that would have to expound on items that, currently, is indefinite, and will only expand over the years unfortunately.
In s. DOC 346.18, replace “are” with “shall be” or rework the sentence to avoid passive voice and state “The facility shall...”	Accepted; changes made.
In s. DOC 346.23, consider replacing “a suicide or self-harm risk” with “at risk for suicide or self-harm” to avoid creating a noun designation and for consistency with other phrasing	Rejected. The department believes the current language is clear to this correctional audience.

throughout the action.

For clarify, consider specifying the types of communication contemplated under s. DOC 346.29.

Rejected. The department does not want to limit and define types of communication as technology continue to expand.

Modify s. DOC 346.41(2)(d) to read "...the role of, notification to, and follow-up by qualified..."

DOC does not want to limit and define types of communication as technology continue to expand.

FINAL REGULATORY FLEXIBILITY ANALYSIS

The Department of Correction has determined that the rule will not have a significant economic impact on a substantial number of small business since the rule does not regulate small businesses as that term is defined in s. 227.114, Stats.