

Tuesday, May 19, 2020

Jill Hunsacker Ryan, Executive Director  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, Colorado 80246

Regarding: Variance request for Bent, Crowley, and Otero Counties from Executive Order 2020 044 and Public Health Order 20-28

Dear Executive Director Ryan:

The counties of Bent, Crowley, and Otero are respectfully requesting a variance from certain provisions of Executive Order 2020 044 and Public Health Order 20-28. As we have collectively looked at the criteria for a variance found in Public Health Order 20-28, Safer At Home, and our local data and situation, we are confident that the granting and implementation of variance provisions will be manageable with negligible impact to morbidity and mortality. If approved, in whole or in part, this alternative COVID-19 suppression plan will go into effect Monday, 6/1/2020. Our timing is very deliberate, as we wanted to allow for at least 2 incubation periods to pass since the relaxation of social distancing requirements in moving from the Stay At Home order to the Safer At Home order. Thus far, we are not experiencing any increased COVID-19 activity during this period. Please be aware that we have selected strict social distancing and the requirement of customers to wear masks as a disease transmission mitigation strategy, and not limiting businesses to a strict customer limit. We want you to especially scrutinize this strategy, as it is somewhat novel compared to the previous state public health orders. If this is not advisable, please suggest possible alternatives.

We now feel ready to move to a less restrictive phase, as the data below will clearly illustrate.

**I. Criteria for Variance Consideration:**

1. 2020 Population Estimates
  - a. Colorado: 5,800,0000
  - b. Bent: 5,857
  - c. Crowley: 5,798
  - d. Otero: 18,403
  - e. Region: 30,058
2. Crowley County Correctional Facility (CCCF) Outbreak: In early May 2020 CCCF (a private prison near the town of Olney Springs) experienced an outbreak with 37 inmates testing positive. The total tests conducted were 299. I consider this an outlier that should not factor into the morbidity calculations and the consideration for a variance. In the calculations that follow, this outbreak IS NOT factored into the equations. I consider this an outlier for the following reasons:

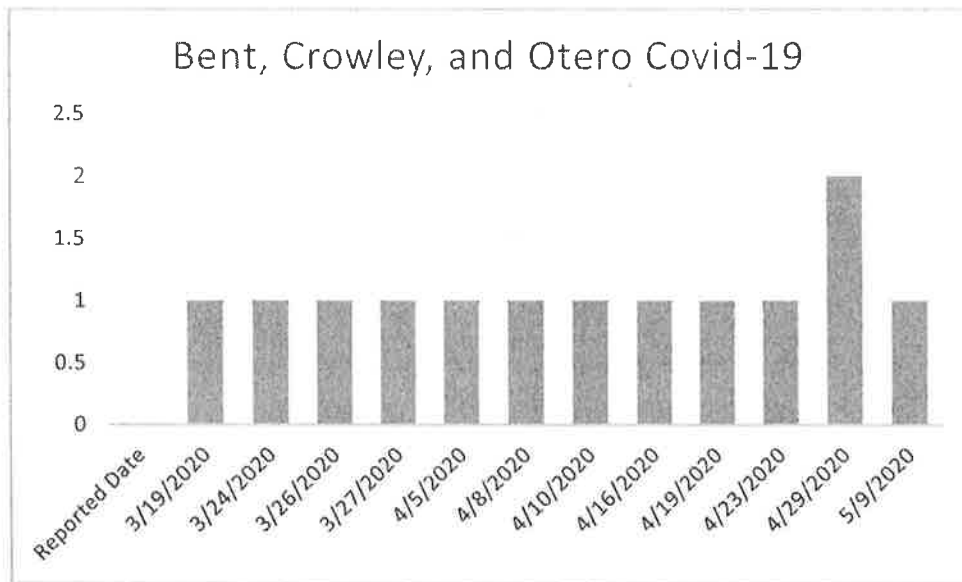
- a. A prison environment, by its very nature, lends itself to outbreaks as the inmates are in a very closed environment and in close proximity to each other.
  - b. The prison environment lends itself very well to containment, as the COVID-19 positive inmates will not, obviously, be visiting any of the local communities as they remain incarcerated.
  - c. The prison is currently under a strict lockdown, with appropriate isolation and quarantine occurring and the close monitoring of inmates and staff.
  - d. At the time of this writing, we have absolutely no evidence of any transmission outside of the prison linked to this facility outbreak.
3. **Not experiencing a high rate of transmission:** The 3 county region of Bent, Crowley, and Otero Counties (hereinafter referred to as “BCO”) have not experienced a high rate of transmission as the data below will attest, and any community transmission that may have occurred has been very limited and contained. To be sure, widespread community transmission has not occurred. A crude baseline for a defined period has been established for BCO to illustrate low transmission, and it is as follows:
- a. The following data DOES NOT include prisoner counts from the CCCF, as detailed in number 2. above.
  - b. The baseline data calculation below encompasses the dates of 3/19/2020 through and including 5/11/2020.
  - c. To date, Bent County has only had 1 laboratory-confirmed case of COVID-19.
  - d. OCHD (Crowley and Otero Counties) had its first laboratory-confirmed case on 3/19/2020.
  - e. From 3/19/2020 through and including 5/11/2020, OCHD has had a total of 12 cases (11 laboratory confirmed, 1 through death certificate review) and Bent County has had 1 case, for a total of 13 cases in the 3 county region.
  - f. 3/19/2020 through and including 5/11/2020 comprise 54 days.
  - g. Crude case baseline: .24 cases per day
    - i. Calculation:  $13 \text{ cases} / 54 \text{ days} = .24$
  - h. Case baselines for the defined period
    - i. Daily: .24 cases
    - ii. Weekly: 1.68 cases
    - iii. Monthly (given 31 days/month): 7.44 cases
  - i. Analysis: For the period defined above, BCO has experienced a very low crude baseline transmission rate of .24 cases per day.
4. **The variance is only to be used when transmission is at a low enough level to be suppressed through the following means:**
- a. Testing: The BCO region has greatly improved its testing capability, thanks to the sufficient supply of viral testing supplies. We are currently enjoying a quick turnaround time at the CDPHE lab of approximately 24 hours. In addition to this, OCHD applied for and received an Abbott rapid

test machine. My staff has been trained on this instrument, and it is currently being used for rapid testing, even on weekends and after hours.

- b. **Containment:** Containment has absolutely not been an issue. In general, our epidemiological team has been able to follow up with positive cases and their contacts within minutes of receiving the case information. We have always made case containment top priority, literally “dropping” other considerations to give this our full attention.

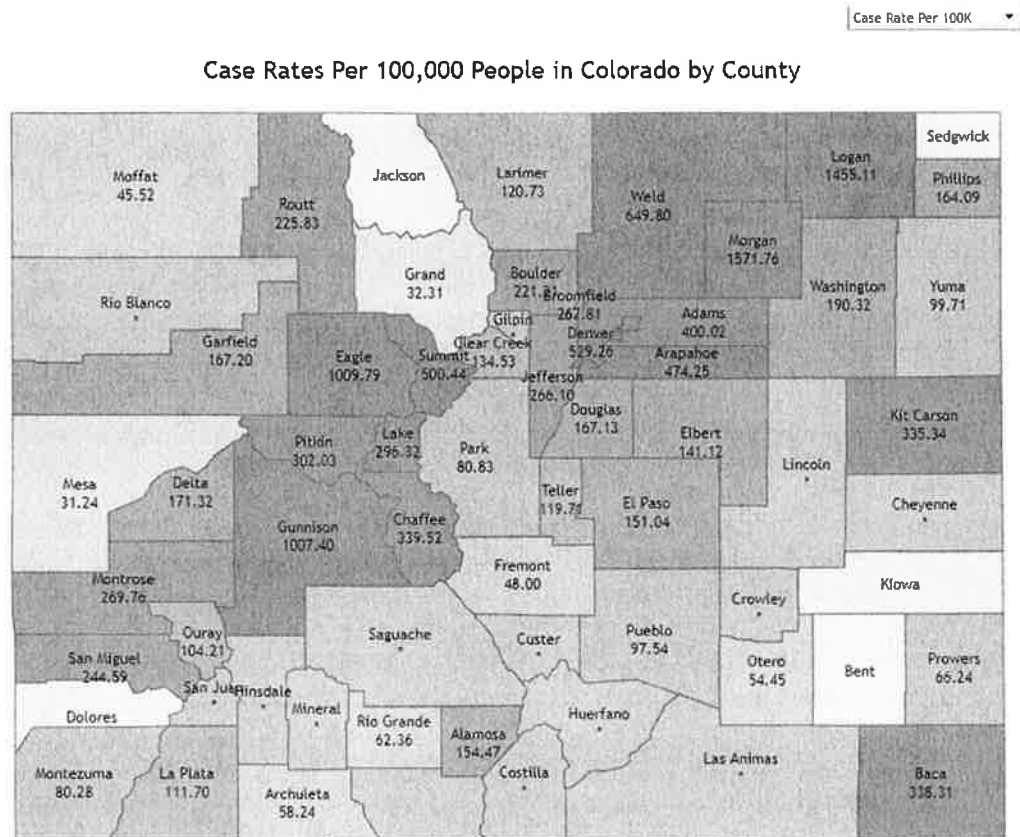
5. **Ensure successful isolation and quarantine of close contacts:** This has always been a top priority and is typically done within minutes of public health staff receiving confirmation of a positive test. In fact, in numerous cases, the primary care providers have put their patients into isolation and appropriate, close patient contacts into quarantine while awaiting test results. In general, there has been very good compliance with isolation and quarantine.

6. **Low number of new cases per day:** Current data clearly reveals that BCO sees a very low number of cases per day, and that low baseline number is .24 (see item 3.h. above). Additionally, please see the graph below that our Regional Epidemiologist generated:



The 2 cases reported on 4/29/2020 were very close contacts, and our epidemiological investigation leads us to firmly believe that the first case contracted COVID-19 out of the region and transmitted it to their very close contact upon returning to home within the region.

7. **Low case rate:** The image (from CDPHE’s website) directly below was captured on 5/8/2020 at approximately 3:00 pm, before being updated with the CCCF prison outbreak data. As can clearly be seen, the BCO region had one of the lower case rates (case rate per 100,000) in Colorado. When considering the CCCF prison outbreak as an outlier, this low case rate has not changed appreciably by the time of this writing (Monday, 5/11/2020).



8. **Cases declining for the past 14 days:** Based upon the rationale in item 3.h. above, our crude baseline extrapolates 3.36 new cases per 2 week period ( $1.68 \times 2 = 3.36$ ). Within the past 14 days (4/28/2020 though and including 5/11/2020) BCO has seen the following new cases (excluding any inmate counts following the rationale found in item 2. above:
- a. Bent: 1
  - b. Crowley/Otero: 2
  - c. Total: 3

Applying the same calculation methodology as found in item 3. above, 3 cases/14 days = .21 cases/day; Now, multiplying .21 cases/day by 14 days yields 2.94 cases/2 week period. This represents a slight decrease over the established crude baseline of 3.36 cases/2 week period.

9. **Low and stable case growth rate or equivalent:** As the aforementioned information clearly illustrates, the BCO region continues to experience a very low and stable COVID-19 growth rate.
10. **Early warning system to detect an increase in community spread or outbreaks:** On 4/2/2020, OCHD implemented and has maintained a respiratory illness syndromic surveillance system with primary care providers, please see the accompanying document entitled “Syndromic Surveillance” for details.
11. **Triggers for tightening restrictions to prevent a breach of local hospital system capacity:** The regional hospital for the BCO region is the Arkansas Valley Regional Medical Center (AVRMC), which is a critical access hospital. Under non-emergency conditions, AVRMC has a bed capacity of 25. However, AVRMC has been granted an 1135 Waiver increasing its bed capacity to 35. After consultation with AVRMC on 5/11/2020, the following AVRMC criteria would be considered “trigger points” for reverting back to a more restrictive phase:
  - a. 4 ICU patients.
  - b. A current census of 20 COVID-19 and non-COVID-19 patients.
  - c. Diversion to other hospitals is not possible.
  - d. COVID-19 patient diversion is not possible to the regional Alternate Care Facility (ACF) in Pueblo at St. Mary Corwin.
  - e. The local ACF (housed at Otero Junior College in La Junta) is being activated and preparing to receive patients.

Decisions would be situation specific, and any one or combination of the above trigger points could be used to revert back to a more restrictive phase.

12. **Epidemiological Trigger points:** After consultation with the local epi team on 5/11/2020, the BCO region’s epi capacity would begin to be breached after exceeding 10 cases per day. The current crude baseline daily rate is .24 (please see item 3.h. above). Increasing from .24 cases per day to 10 cases per day represents an extremely large 4,067% increase in daily cases.
  - a. Calculation for percent change:  $[(10-.24)/.24] * 100 = 4,067$

As can be clearly seen from available data, the BCO region is currently far removed from this trigger point that would necessitate the need of outside assistance and the possible reversion to a previous, more restrictive state.

13. **COVID-19 Testing Capacity:** The BCO region continues to increase its testing capacity, and currently that capacity can be qualified as very good. Regarding testing capability, both standard (CDPHE Lab and private labs) and rapid testing are available. Turnaround time on the standard tests are approximately 24 hours, and the rapid test is approximately 20 minutes. Our testing sites are distributed throughout the 3 county region, and they are at the following locations:

- a. Otero County Health Department, La Junta office (Rapid testing)
- b. Arkansas Valley Regional Medical Center (Standard testing)
- c. Arkansas Valley Family Practice (Standard testing)
- d. Valley Wide Health Systems La Junta office (Standard testing)
- e. Valley Wide Health Systems Rocky Ford office(Standard testing)
- f. Valley Wide Health Ordway office (Standard testing)
- g. Valley Wide Health Las Animas office (Standard testing)

CDPHE has previously adopted a testing target of 10,000 tests per day. Adjusting for population, that testing target would be 51.8 tests per day in the BCO region.

✓ Calculation:  $(10,000 \text{ tests} / 5,800,000 \text{ CO pop}) = (x \text{ tests} / 30,058 \text{ BCO pop})$ ;  $x = 51.8241$

Analysis: In the OBC region, there are 7 testing sites. Dividing 51.8 by 7 yields 7.4 tests per site daily, which is manageable. This is contingent upon continued availability of testing supplies.

**II. Bent, Crowley, and Otero Counties Alternative COVID-19 Suppression Plan:**

In the information preceding this section we have used data to support our belief that the BCO region is ready to loosen the current state Safer at Home restrictions, and we hope you agree. Now for the more difficult part, matching the proposed, revised public health requirements below to our current data and situation as detailed above. We desperately want to get this right. As mentioned in the introductory paragraph, "...we have selected strict social distancing and the requirement of customers to wear masks as a disease transmission mitigation strategy, and not limiting businesses to a strict patron limit. We want you to especially scrutinize this strategy, as it is somewhat novel compared to the previous state public health orders. If this is not advisable, please suggest possible alternatives." The following is our specific variance request:

**Specific Variance Request**

Beginning at 12:01 am on Monday, June 1<sup>st</sup>, 2020 the specific establishments, as detailed below, can allow customers on their premises contingent upon the stated requirements being completely and consistently met.

- a. **Effective Date and Term:** Beginning at 12:01 am on Monday, June 1<sup>st</sup>, 2020 and extending through and including 11:59 pm on Tuesday, June 30<sup>th</sup>, 2020 unless extended, modified, or abrogated.
- b. **Less Strict Option:** Any business/organization/activity that falls under the purview of this variance may be stricter than the provisions of this variance (i.e., continuing to follow a stricter state public health order currently in place). However, the business/organization/activity MAY NOT be less strict. Additionally, if a state public health order is issued during the term of this variance that is less strict than this variance, then the business/organization/activity may follow the less strict state public

health order UNLESS it is explicitly and expressly directed to do otherwise by a stricter local public health order.

- c. **Severability:** The terms, conditions, and provisions of this variance are severable, meaning that if one term, condition, and/or provision is found to be invalid or is altered due to current, local public health circumstance, the remaining terms, conditions, and provisions may remain valid.
  
- d. **Reversion to a Stricter Phase:** If data becomes available including, but not limited to, a substantial increase in COVID-19 cases over the established crude baseline, a substantial increase in population-adjusted case rates, concerns of a surge situation at the hospital, etc., then the Local Public Health Agencies (LPHA) for the respective jurisdiction has the authority, pursuant to Colorado Revised Statutes (CRS) 25-1-506 et. seq. to abrogate all or parts of this variance as it deems necessary for the protection of the public's health. This abrogation, in whole or in part(s), will only take place after the LPHA(s) have consulted, at a minimum, with their respective county commissioners and the hospital.
  
- e. **Definitions**
  - 1. "Must": This is a requirement.
  - 2. "Should": This is not a requirement, but strongly recommended.
  - 3. "Cannot": This is a requirement.
  - 4. "Establishment": In the contest of this variance, "establishment" indicates and refers to restaurants, bars, places of worship, fitness facilities/gyms, dance studios, movie theaters, auctions, and motorsports racetracks.
  - 5. "Customer": In the contest of this variance, "customer" indicates and refers to any individual that is not employed, a volunteer, and organizer of/for the establishment, and is present at the establishment to purchase goods, services, or view an event.
  - 6. Congregant: In the contest of this variance, "congregant" indicates and refers to any individual that is not employed, a volunteer, and organizer of/for the establishment.
  
- f. **Restaurants & Bars**
  - 1. Establishment MUST reconfigure their respective dining areas to allow for a MINIMUM of 6 feet between tables, booths, etc. (i.e., cordoning off every other table for nonuse, as long as that distance is equal to or greater than 6 feet).
  - 2. Establishment MUST require customers to wear face coverings when entering the establishment and until seated at their tables, and when leaving their table for any reason (restroom visit, exiting the establishment, etc.) and a notice to this effect MUST be posted by the establishment in a conspicuous place(s).

3. Establishment CANNOT allow customers to congregate in a lobby/waiting area while waiting for a table, customers must be strongly urged make reservations by phone or online. Every effort should be made to notify customers via text or phone call when their table is ready so no waiting in a lobby area is necessary (i.e., they may wait in their cars until a text is sent informing them their table is ready).
4. Customers MUST be advised that if they are experiencing any COVID-19 symptoms they must not enter the establishment. This advisement MUST be posted conspicuously at all entrances and the establishment SHOULD verbally inform customers.
5. Establishment employees who are symptomatic MUST be excluded from the workplace, and required to isolate 10 days.
6. Establishment SHOULD make accommodations for high risk groups (i.e. specified hour(s)).
7. Self-service stations MUST remain closed.
8. Buffets MUST have employees serving the food, no self-serving allowed.
9. Establishment employees and contract workers MUST wear a face covering when interacting with other employees and the customers.
10. The establishment SHOULD implement and maintain physical barriers for high contact settings (i.e. cashiers).
11. Establishment SHOULD implement touchless payment methods.
12. Establishment MUST perform frequent cleaning and disinfection of all high-touch surfaces.
13. THE ESTABLISHMENT IS SOLELY RESPONSIBLE AND ACCOUNTABLE FOR ENSURING COMPLIANCE, BOTH FROM CUSTOMERS AND FOR THE ESTABLISHMENT ITSELF.

**g. Places of Worship**

1. Establishment MUST designate seating to allow a minimum of 6 feet between different households. In other words, individuals living under the same roof (household) may sit closer together, but congregants from other households MUST sit a minimum of 6 feet away.
2. Establishment MUST require congregants to wear face coverings when entering the place of worship and until seated, and when leaving their seat for any reason (restroom visit, exiting the place of worship, etc.). A notice to this effect MUST be posted by the establishment in a conspicuous place(s).
3. Due to the increased chance of aerosolizing the virus through singing, establishment SHOULD refrain from singing and choral activities. If the establishment decides to engage in singing and choral activities, the social distancing requirement found in



Number 1. above MUST be followed, and all singers MUST be masked while singing.

4. Congregants MUST be advised that if they are experiencing any COVID-19 symptoms they MUST not enter the establishment. This advisement MUST be posted conspicuously at all entrances and the establishment SHOULD verbally inform congregants.
5. Establishment SHOULD implement touchless offering and communion options.
6. Establishment employees and volunteers who are symptomatic MUST be excluded from the establishment, and required to isolate 10 days.
7. Establishment employees and volunteers MUST wear a face covering when interacting with other employees, volunteers, and the congregants except when delivering sermons from the pulpit. The location of the pulpit MUST allow for social distancing of a minimum of 6 feet.
8. Establishment MUST perform frequent cleaning and disinfection of all high-touch surfaces.
9. Establishment SHOULD make accommodations for high risk groups (i.e. specified hour(s)).
10. THE ESTABLISHMENT IS SOLELY RESPONSIBLE AND ACCOUNTABLE FOR ENSURING COMPLIANCE, BOTH FROM CONGREGANTS AND FOR THE PLACE OF WORSHIP ITSELF.

**h. Fitness facilities/gyms**

1. Establishment MUST reconfigure their respective public use areas to allow for a MINIMUM of 6 feet between benches, equipment, machines, etc. (i.e., cordoning off areas for nonuse, as long as that distance is equal to or greater than 6 feet).
2. Establishment MUST require customers to wear face coverings when entering the establishment and until they begin physical activity, and when leaving the establishment and/or visiting a restroom. A notice to this effect MUST be posted by the establishment in a conspicuous place(s).
3. Customers MUST be advised that if they are experiencing any COVID-19 symptoms they MUST not enter the establishment. This advisement MUST be posted conspicuously at all entrances and the establishment SHOULD verbally inform customers.
4. Establishment employees who are symptomatic MUST be excluded from the workplace, and required to isolate 10 days.
5. The establishment SHOULD make accommodations for high risk groups (i.e. specified hour(s)).
6. Establishment employees and contract workers MUST wear a face covering when interacting with other employees and the customers.

7. The establishment MUST perform frequent cleaning and disinfection of all high-touch surfaces.
8. Establishment employees MUST clean and disinfect shared equipment between customer uses.
9. THE ESTABLISHMENT IS SOLELY RESPONSIBLE AND ACCOUNTABLE FOR ENSURING COMPLIANCE, BOTH FROM CUSTOMERS AND FOR THE ESTABLISHMENT ITSELF.

**i. Dance Studios**

1. The establishment MUST reconfigure their respective dance areas to allow for a MINIMUM of 6 feet between customers and instructors, as well as any others in attendance (i.e., parents).
2. The establishment MUST require students to wear face coverings when entering the establishment and until they begin physical activity, and when leaving the establishment and/or visiting a restroom. Any others in attendance, not engaged in dance activities, MUST wear a face covering. A notice to this effect MUST be posted by the establishment in a conspicuous place(s).
3. Students, parents/guardians, and any others accompanying them MUST be advised that if they are experiencing any COVID-19 symptoms they MUST not enter the establishment. This advisement MUST be posted conspicuously at all entrances and the establishment SHOULD verbally inform those in attendance.
4. Establishment employees who are symptomatic MUST be excluded from the workplace, and required to isolate 10 days.
5. The establishment SHOULD make accommodations for high risk groups (i.e. specified hour(s)).
6. Establishment employees and contract workers MUST wear a face covering when interacting with other employees and the students, parents, guardians, etc. This provision does not apply when dance instructors are engaged in physical activity while maintaining at least 6 foot separation from students and any other attendees.
7. The establishment MUST perform frequent cleaning and disinfection of all high-touch surfaces.
8. THE ESTABLISHMENT IS SOLELY RESPONSIBLE AND ACCOUNTABLE FOR ENSURING COMPLIANCE, BOTH FROM STUDENTS/ATTENDEES AND FOR THE ESTABLISHMENT ITSELF.

**j. Movie Theaters**

1. Seating **MUST** be designated to allow a minimum of 6 feet between different households. In other words, individuals living under the same roof (household) may sit closer together, but customers from other households **MUST** sit a minimum of 6 feet away.
2. Establishment **MUST** require customers to wear face coverings when entering the establishment and until seated, and when leaving their seat for any reason (restroom visit, exiting the theater, etc.). A notice to this effect **MUST** be posted by the establishment in a conspicuous place(s).
3. Customers **MUST** be advised that if they are experiencing any COVID-19 symptoms they **MUST** not enter the establishment. This advisement **MUST** be posted conspicuously at all entrances and the establishment **SHOULD** verbally inform customers.
4. Establishment **SHOULD** implement touchless payment methods.
5. Establishment employees and volunteers who are symptomatic **MUST** be excluded from the establishment, and required to isolate 10 days.
6. Establishment employees and volunteers **MUST** wear a face covering when interacting with other employees, volunteers, and the customers.
7. Establishment **MUST** perform frequent cleaning and disinfection of all high-touch surfaces.
8. Establishment **SHOULD** make accommodations for high risk groups (i.e. specified hour(s)).
9. **THE ESTABLISHMENT IS SOLELY RESPONSIBLE AND ACCOUNTABLE FOR ENSURING COMPLIANCE, BOTH FROM CUSTOMERS AND FOR THE ESTABLISHMENT ITSELF.**

**k. Auctions**

1. Establishment **MUST** allow a minimum of 6 feet between different households. In other words, individuals living under the same roof (household) may sit/stand closer together, but customers from other households **MUST** sit/stand a minimum of 6 feet away regardless of whether the auction takes place inside or outside.
2. Establishment **MUST** require customers to wear face coverings during the auction.
3. Establishment **MUST** advise (both verbally and with signs) customers that if they are experiencing any COVID-19 symptoms they **MUST** not participate in the auction and must exit the auction.
4. Establishment **SHOULD** implement remote and online auction options whenever possible.
5. Establishment employees who are symptomatic **MUST** be excluded from the auction(s), and required to isolate 10 days.

6. Establishment employees and volunteers MUST wear a face covering when interacting with other employees, volunteers, and customers except when verbally auctioneering. The location of the auctioneer MUST allow for social distancing of a minimum of 6 feet.
7. Establishment MUST perform frequent cleaning and disinfection of all high-touch surfaces.
8. Establishment SHOULD make accommodations for high risk groups (i.e. specified hour(s)).
9. THE ESTABLISHMENT IS SOLELY RESPONSIBLE AND ACCOUNTABLE FOR ENSURING COMPLIANCE, BOTH FROM CUSTOMERS AND FOR THE ESTABLISHMENT ITSELF.


**1. Motorsports Race Tracks**

1. Establishment MUST allow a minimum of 6 feet between different households. In other words, individuals living under the same roof (household) may sit/stand closer together, but customers from other households MUST sit/stand a minimum of 6 feet away.
2. Establishment MUST require customers to wear face coverings if they are outside of a vehicle.
3. Establishment MUST advise (both verbally and with signs) customers that if they are experiencing any COVID-19 symptoms they MUST not participate in the event and must exit the event.
4. Establishment SHOULD implement remote and online viewing options whenever possible (i.e., webcasting).
5. Establishment employees who are symptomatic MUST be excluded from the event, and required to isolate 10 days.
6. Establishment employees and volunteers MUST wear a face covering when interacting with other employees, volunteers, and the customers except when servicing a car during a pit crew stop.
7. Establishment MUST perform frequent cleaning and disinfection of all high-touch surfaces.
8. Establishment SHOULD make accommodations for high risk groups (i.e. specified hour(s)).
9. THE ESTABLISHMENT IS SOLELY RESPONSIBLE AND ACCOUNTABLE FOR ENSURING COMPLIANCE, BOTH FROM CUSTOMERS AND FOR THE ESTABLISHMENT ITSELF.

By signing this document, the signatories below affirm the following:

- ✓ The local public health agencies serving this region endorse the plan;
- ✓ The hospital serving this region verifies that it has the capacity to currently serve all people needing their care; &
- ✓ The county commissioners of Bent, Crowley, and Otero Counties have voted affirmatively to adopt the alternative plan in place of the state's Safer At Home order.

**Bent County Public Health**

 Executive Director  
Signature & Title

5/19/20  
Date

**Otero County Health Department (serving Crowley and Otero Counties)**

 Exec. Dir.  
Signature & Title

5-19-2020  
Date

**Arkansas Valley Regional Medical Center**

 CEO  
Signature & Title

5/18/2020  
Date

**Bent County Commissioners**

Jean Sykes  
Signature

5-19-20  
Date

Kin MacDonnell  
Signature

5/19/20  
Date

Chuck Attkisson  
Signature

5-19-20  
Date

**Crowley County Commissioners**

[Signature]  
Signature

5/18/20  
Date

[Signature]  
Signature

5/18/20  
Date

[Signature]  
Signature

5/18/2020  
Date

Otero County Commissioners

  
Signature

5-18-2020  
Date

  
Signature

5/18/2020  
Date

  
Signature

5/18/2020  
Date