Amended K.A.R. 82-3-100, -109, -203, -208, and -209.

The proposed amended regulations clarify the difference between the notice requirements for an application and the notice requirements for a hearing. The previous language in the regulations cites only to the hearing notice under K.A.R. 82-3-135, potentially creating confusion for applications that are granted administratively without a hearing because K.A.R. 82-3-135a is the proper notice regulation. The proposed amendments solve this issue by citing K.A.R. 82-3-135a for notice of applications and K.A.R. 82-3-135 for notice of hearings.

The notice changes are essentially clarifications and not substantial changes because the Commission routinely requires applicants to comply with K.A.R. 82-3-135a. The notice requirements for hearings and applications are similar because they both require publication in the official county newspaper and the Wichita Eagle, but only K.A.R. 82-3-135a specifically requires a copy of the application to be served on offset operators and mineral owners. However, the Commission has required an applicant to serve a copy of the application on offset interests under the general language of K.A.R. 82-3-135(c)(3), which requires: “any additional notice required by any rule, regulation or statute which applies to the hearing or is necessary to provide due process to any person whose property may be affected by the hearing.”

Federal law does not mandate this proposed regulation. The Commission does not anticipate an economic impact to any party, because the amendment will match similar notice requirements in other regulations and current agency policy for these regulations. While discussing these regulatory changes internally and with the Oil and Gas Advisory Committee, the Commission staff considered the alternative of making no change to the regulations, but rejected that in favor of clarified regulations to eliminate confusion. The proposed amendments to these regulations will not result in an environmental impact, because they only affect notice requirements.

Amended K.A.R. 82-3-106.

1. Sufficient Annulus for Cement.

The proposed amendment requires an oil or gas well to be drilled 2 ¼” wider than the casing to be installed. The 2 ¼” requirement already exists in Eastern Kansas, and this amendment will expand the requirement to statewide applicability. There are two reasons for this change. First, the 2 ¼” requirement ensures a well’s casing will have at least one inch of cement on all sides prevent corrosion of the casing, prevent leaks in the wellbore, and protect usable water. Second, the 2 ¼” requirement ensures that in the event cement cannot be circulated in the well during installation, tubular goods can be inserted to perform remedial cementing. Insertion of tubular goods for remedial cementing requires one inch of room outside the casing, and the additional quarter-inch represents room needed due to a collar at the top of each joint of casing.
The Commission believes that most wells are currently drilled and completed in a manner that complies with this requirement, and this will reduce the economic impact from this change. The Kansas Independent Oil and Gas Association reached out to three well-respected reservoir engineers who have practiced in Kansas collectively for several decades. These engineers participated in discussions and the regulation development process and were instrumental in assisting the Commission Staff with understanding the amount of cement needed and developing the recommendation for 2 ¼” inches of annulus between the casing and borehole, in conjunction with a petroleum engineer and several licensed petroleum geologists employed by the agency.

The Commission Staff believes that the 2 ¼” requirement conforms to a best practice in the industry in Kansas and should not constitute a substantial deviation from most operators’ current practice. Thus, there should not be much of an economic impact on most operators. Further, 2¼” of annulus is already required in Eastern Kansas counties, and the Commission has not received complaints of an economic burden from this requirement. If an operator does not allow room in the borehole for 2 ¼” of cement to be installed, they may incur a slight additional cement cost from compliance with this requirement. This cost is far outweighed, however, by the cost of pollution to usable water that may otherwise result. If pollution results from insufficient cementing of a well’s casing, substantial remedial costs will be borne by the operator, the affected landowner, or potentially the state. Due to the nature of remediation of groundwater, these costs could be large and could continue for many years. In addition, the cost of a small amount of additional cement is small when compared to the complete cost of drilling and completing an oil or gas well.

2. Casing Centralizers.

The proposed amendment requires installation of casing centralizers, which ensure cement is evenly distributed around the casing to protect usable water from contamination. Centralizers are installed on several joints of the tubing and have prongs which ensure the casing does not rest against any side of the borehole. If the casing is not installed in the center of the borehole, one side of the casing may have less cement between it and the formation. The lack of cement on one side of the casing could result in casing corrosion, leaks in the well, and potential contamination of groundwater.

The cost of centralizers is de minimus compared to the cost of drilling a well, and the Commission believes from discussions with the Oil and Gas Advisory Committee that centralizers are already used in most oil and gas wells as a good business practice. The cost of centralizers will be borne by the operator drilling a well, but the cost of centralizers is much smaller than the potential impact on groundwater, which could otherwise be borne by the operator, the affected landowner, or potentially the state.

3. Completion or Plugging of Well Required.

The proposed amendment requires an operator, upon reaching total depth in a well that is not in Eastern Kansas, to keep the rig on the well until the well has been either completed or plugged. Though uncommon, the Commission Staff has experienced operators reaching total depth in a well in western Kansas and leaving a raw borehole in an incomplete state, potentially resulting in
waste and creating a risk of pollution until the well is completed or plugged. Once the rig has left the well and the area, Commission Staff has experienced delays in getting an operator or contractor back on the well. This proposed amendment should eliminate the problem by specifically requiring a well to be completed or plugged before the rig leaves the well.

This amendment results in basically no economic impact, because operators are already required to complete or plug a well once drilled. This change will simply ensure that completion or plugging is timely, so the well is not left in an incomplete state capable of causing pollution before it is plugged or completed. Any cost incurred through this requirement far outweighs the risk of waste or pollution from an operator or contractor leaving a well in an incomplete state for an extended time, which cost would be borne by the operator, the affected landowner, or potentially the state.

4. Environmental Benefit and Economic Impact.

The Commission believes the changes to this regulation will provide an environmental benefit without creating a substantial economic burden for agencies, industry, or the public. The environmental benefit is the protection of groundwater from contamination by any saltwater and hydrocarbons produced by oil and gas wells. The environmental impact of these regulations does not stem from any detailed studies about risks to the environment or public health, or about the costs and implementation. However, as mentioned above, the proposed amendment has been discussed with the Oil and Gas Advisory Committee with extensive input from three well-respected petroleum engineers that were invited to participate by the Kansas Independent Oil and Gas Association. The determination after this discussion is that 2 ¼” of cement is necessary between casing and the borehole to prevent corrosion of the casing and potential pollution.

The Commission anticipates the cost to an operator to be low compared to the cost of drilling and completing a well, and there should not be any annual costs associated with the changes for operators once the well is drilled and completed. There will not be any economic impact on any agency or the public, and there is no additional paperwork required by any of these changes. There are essentially no implementation costs for the Commission. Some operators may qualify as small employers, although the cost of drilling and completing a well are substantial. The cost to a small operator drilling a well should be basically the same as the cost to a large operator.

If the proposed regulation changes are not adopted, there is an increased risk that oil and gas wells could be drilled and completed in a manner that will not protect groundwater. If groundwater is contaminated and this is discovered by the Commission, the operator will be held accountable for monitoring and remediating any resulting contamination of fresh and usable water. However, if an individual operator is deceased or a corporate operator is no longer in existence, that substantial and continuing cost must be borne by either the affected landowner or the state. The cost of remediating polluted groundwater is substantial and could continue for many years.

Federal law does not mandate this proposed regulation. While discussing these regulatory changes internally and with the Oil and Gas Advisory Committee, the Commission considered and rejected the alternative of making no change to this regulation.