

# Environmental Groups Challenge the Constitutionality of Act 96

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On August 23, 2023, a coalition of environmental groups filed a petition for review in the Commonwealth Court of Pennsylvania in which they challenged the constitutionality of Act 96 of 2022, 58 Pa. Cons. Stat. Ann. §§ 2801–2826. See [Verified Petition for Review](#), *Clean Air Council v. Pennsylvania*, No. [379 MD 2023](#) (Pa. Commw. Ct. Aug. 23, 2023). Act 96 amended Title 58 to provide for oil and gas well plugging oversight, bonding, and well plugging funds, and requires an operator to obtain a bond to cover the well and well site in the event the operator fails to remediate the site and plug the well.

Act 96 removed authority from the Environmental Quality Board (EQB) to adjust well bonding amounts for conventional wells for 10 years from the effective date (July 19, 2022) and reserved that authority to the Pennsylvania General Assembly. The Act set the bonding amount for a conventional well at \$2,500 and allows operators to obtain blanket bond coverage for multiple wells for \$25,000, which must be increased by \$1,000 for each additional well drilled, with the total blanket bond not to exceed \$100,000. The environmental groups—Clean Air Council, Earthworks, Citizens for Pennsylvania’s Future, Protect PT, and Sierra Club—allege that the statutory bond amounts are inadequate and do not cover the actual costs of remediation and plugging. As a result, they argue, operators are not incentivized to promptly clean up and remediate oil and gas wells, leaving the costs of addressing abandoned wells to the Pennsylvania taxpayers.

Among the claims for relief, the environmental groups are seeking declarations from the court that (1) unplugged abandoned wells pollute the environment and harm Pennsylvania’s natural resources, (2) the Commonwealth has a trustee obligation to ensure that conventional oil and gas wells permitted by the Commonwealth are promptly plugged and remediated upon abandonment, and (3) wells not plugged in accordance with statutory deadlines violate Pennsylvania citizens’ environmental right to a clean environment guaranteed by the Pennsylvania Constitution’s Environmental Rights Amendment.

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