

SILOS TREATED WITH POLYCHLORINATED BIPHENYLS

Act 220 of 1983

AN ACT to authorize the department of agriculture to acquire for purposes of eminent domain any interests in property necessary to remove and dispose of silos treated with polychlorinated biphenyls; to require the execution of a subrogation agreement under certain circumstances; to create a fund; and to prescribe the powers and duties of the attorney general.

History: 1983, Act 220, Imd. Eff. Nov. 16, 1983.

The People of the State of Michigan enact:

288.451 Legislative declaration and finding; removal and disposition of silo; acquisition of property; just compensation.

Sec. 1. (1) The legislature hereby declares and finds that the removal and disposal of silos treated with polychlorinated biphenyls is to be considered a public necessity; that the contamination of Michigan dairy and meat products by polychlorinated biphenyls creates an imminent threat to the health and safety of the people of this state; and that the legislature must protect human health and the food chain from being exposed to contamination by silos treated with polychlorinated biphenyls.

(2) The department of agriculture may acquire, either by purchase or by eminent domain, any interest in property necessary to remove and dispose of a silo treated with polychlorinated biphenyls.

(3) The acquisition of property authorized by this act is subject to the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws.

(4) The department's appraisal of just compensation under section 5 of the uniform condemnation procedure act for the property authorized to be taken as authorized by this act shall not be less than an amount equal to the market value of the property. In determining market value, contamination of a silo treated with polychlorinated biphenyls shall not be considered as a factor. In addition, the department shall direct any appraiser with whom the department contracts, to allow for further compensation based upon the following factors:

(a) The original cost of any barrier coating applied to the silo.

(b) The cost of repairing after removal of a structure to which the silo was attached.

History: 1983, Act 220, Imd. Eff. Nov. 16, 1983.

288.452 Subrogation agreement; effect of accepting compensation; civil action by attorney general.

Sec. 2. (1) Before the owner of a silo treated with polychlorinated biphenyls may receive any compensation pursuant to the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, the owner shall execute and sign a subrogation agreement assigning to the state the rights in the owner to recover damages for a loss due to the treatment of a silo with polychlorinated biphenyls, up to the amount paid to the owner under the uniform condemnation procedures act.

(2) The acceptance of compensation under the uniform condemnation procedures act for any interest in property which may be acquired as provided in this act does not enlarge or diminish the owner's civil remedy against a person responsible for the owner's loss, except that acceptance does constitute a release of the claim of the owner against this state.

(3) The attorney general may bring a civil action against a person responsible for treating a silo with polychlorinated biphenyls or for selling polychlorinated biphenyls for the treatment of a silo to recover the cost of compensating the owner of the silo as provided in this act and the actual cost of such litigation.

History: 1983, Act 220, Imd. Eff. Nov. 16, 1983.

288.453 Reimbursement program.

Sec. 3. The department of agriculture shall establish a program to reimburse the owners of silos identified as treated with polychlorinated biphenyls who have removed or disposed of those silos before the effective date of this act. Reimbursement to landowners pursuant to this section shall be at an amount not less than the amount paid for reimbursement for silos treated with polychlorinated biphenyls existing after the effective date of this act.

History: 1983, Act 220, Imd. Eff. Nov. 16, 1983.

288.454 Polychlorinated biphenyls contamination fund; creation; purpose; report.

Sec. 4. The department of agriculture shall create and establish a fund, referred to as the polychlorinated biphenyls contamination fund, for payment to landowners in accordance with the provisions of this act and the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws. The department shall report semiannually each calendar year. The first report shall be due no later than March 31, 1984, to the clerk of the house of representatives and the secretary of the senate. The report shall include a complete and cumulative accounting of the expenditures from the fund during the past period and a cumulative statement of its proposed and projected activities for condemnation, removal and disposal of silos treated with polychlorinated biphenyls.

History: 1983, Act 220, Imd. Eff. Nov. 16, 1983.

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