

§6113. Water supply protection fund

1. Water supply protection fund. A consumer-owned water utility may establish a water supply protection fund to which a sum may be credited annually from surplus funds. The annual credit may not exceed 5% of the prior year's total revenue.

[PL 2003, c. 529, §3 (AMD).]

2. Water supply protection fund maximum. Except as provided in subsections 5 and 7, the maximum amount that may be accumulated in a water supply protection fund is 15% of the most recent year's annual revenue of the utility or \$100,000, whichever is greater. When the water supply protection fund is at the maximum amount permitted, credit may not be made to the fund from surplus funds.

[PL 1993, c. 30, §1 (NEW).]

3. Use of water supply protection fund. Except as provided in subsection 4, a water supply protection fund may be used by a consumer-owned water utility only for the protection of a public water supply in accordance with this subsection. A consumer-owned water utility may use a water supply protection fund to acquire interests in real property reasonably necessary for the protection of the public water supply, including, but not limited to, the acquisition of conservation easements, access easements, other permanent interests in land or long-term leases of at least 99 years. A consumer-owned water utility may also use a water supply protection fund to assist a holder in acquiring a fee interest in real property or a conservation easement if that acquisition is reasonably likely to result in or contribute to the protection of a public water supply. If a consumer-owned water utility assists a holder in acquiring a conservation easement and the utility does not acquire through the transaction a fee interest in the property, consumer-owned water utility shall obtain a 3rd-party right of enforcement with respect to that easement. If a consumer-owned water utility assists a holder in acquiring a fee interest in real property, the utility shall acquire a conservation easement unless the holder conveys a conservation easement to another holder, in which case the utility shall obtain a 3rd-party right of enforcement with respect to that conservation easement. For purposes of this subsection, "protection of public water supply" includes watershed protection, groundwater protection or wellhead protection reasonably necessary to minimize the potential for contamination of the consumer-owned water utility's water supply. If the consumer-owned water utility has adopted a watershed control program pursuant to 40 Code of Federal Regulations, Section 141.71 and that program has been approved by the Department of Health and Human Services, any expenditures from the water supply protection fund pursuant to this section for the purposes of watershed protection must be in conformity with that watershed control program. For purposes of this subsection, "conservation easement" has the same meaning as in Title 33, section 476, subsection 1; "holder" has the same meaning as in Title 33, section 476, subsection 2; and "3rd-party right of enforcement" has the same meaning as in Title 33, section 476, subsection 4.

[PL 2023, c. 137, §1 (AMD).]

4. Withdrawal of money from the fund. A consumer-owned water utility that has accumulated money in its water supply protection fund may remove money from the fund and return that money to the unappropriated retained earnings account if the utility determines that the removal would be in the best interest of the utility's customers.

[PL 1993, c. 30, §1 (NEW).]

5. Commission review. If a consumer-owned water utility needs to accumulate more than the maximum amount allowed in the water supply protection fund to acquire interests as provided in subsection 3, the utility shall obtain the approval of the commission before any sum may be allotted to the fund that would cause the fund to exceed the maximum.

[PL 1993, c. 30, §1 (NEW).]

6. Accounting treatment of fund. Money in a water supply protection fund is not considered unappropriated retained earnings for the purpose of section 6112, subsection 5, nor is such money considered in determining reasonable revenue requirements under section 310 or 6104.

[PL 1993, c. 30, §1 (NEW).]

7. **Interest.** Except as provided in subsection 4, interest earned on money in a water supply protection fund must remain in the fund and be used solely for the purposes of the fund, notwithstanding the maximum amount permitted in the fund.

[PL 1993, c. 30, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 30, §1 (NEW). PL 2003, c. 529, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2023, c. 137, §1 (AMD).

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