Stormwater In-Lieu Fee Special Purpose Revenue Fund

Fiscal Year 2022 Summary Report

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Background

The Fiscal Year 2014 Budget Support Act of 2013 established the Stormwater In-Lieu Fee Special Purpose Revenue Fund (ILF Fund), which is administered by the Department of Energy and Environment (DOEE). The fund is codified in DC Code §8-103.09b and DOEE is required to publish an annual report on its website which includes how revenues are spent from the In-Lieu Fee Fund. The ILF Fund is used to install green infrastructure (GI) that captures stormwater runoff and protects District waterbodies. Revenue comes from major development projects that trigger requirements for stormwater retention under the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control (Stormwater Regulations).[1] The Stormwater Regulations require these projects to achieve their Stormwater Retention Volume (SWRv) with on-site GI, Stormwater Retention Credits (SRCs), payment of in-lieu fee (ILF), or a combination of these options. Off-Site Retention Volume (Offv) is the portion of a SWRv that is not retained on-site and must be achieved through the use of SRCs or payment of ILF. On-site GI in regulated projects must be operational and/or Offv achieved before a site's final construction inspection.

In-Lieu Fee Rate

The Stormwater Regulations established a base ILF of $3.50 per gallon of Offv. Previously, as required by Section 530.2 of 21 DCMR, DOEE manually adjusted the base ILF through rulemakings to account for inflation using the United States Bureau of Labor Statistic's Urban Consumer Price Index values through June of each year. In FY22, a rulemaking was passed that established automatic annual adjustments to DOEE's fee schedules to reflect the current rate of inflation. While the ILF rate is rounded to the nearest cent, inflation adjustments are made on non-rounded values. The current ILF rate is available at doee.dc.gov/src. Adjustments to the ILF are summarized in Table 1.

Table 1: Adjustments to the ILF

Date of Scheduled ILF Adjustment	CPI Value	Inflation Rate	In-Lieu Fee	Date Effective
June 2013	233.504	N/A	$3.50	July 19, 2013
June 2014	238.343	2.07%	$3.57	December 5, 2014
June 2015	238.638	0.12%	$3.58	February 5, 2016
June 2016	241.038	1.01%	$3.61	April 21, 2017
June 2017	244.955	1.63%	No adjustment made	
June 2018	251.989	2.87%	$3.78	January 31, 2020
June 2019	256.143	1.65%	No adjustment made	
June 2020	257.797	0.65%	$3.86	March 11, 2020
June 2021	271.696	5.39%	$4.07	April 10, 2022
June 2022	296.311	9.06%	$4.44	August 1, 2022

[1] Two types of development projects trigger requirements for stormwater retention:

- Major land disturbing activities: development projects that disturb 5,000 ft^2 or more of land area, if 2,500 ft^2 is impervious surface post-project or any area is natural land cover pre-project.
- Major substantial improvement activities: renovation or addition projects where the cost of improvement equals at least 50% of the pre-project assessed value of the structure and the combined footprint of the improved area and land disturbance is 5,000 ft^2 or more, if 2,500 ft^2 is impervious surface post-project or any area is natural land cover pre-project[2].

In-Lieu Fee Fund Revenue and Expenditure

To avoid time delays between an ILF payment and the construction of corresponding GI, DOEE funds ILF projects in advance of receiving ILF payments. DOEE funds these projects with the District's Municipal Separate Storm Sewer System (MS4) Enterprise Fund with the expectation that subsequent ILF payments will reimburse the MS4 Enterprise Fund. From an accounting standpoint, this is accomplished by transferring expenditures from the MS4 Enterprise Fund to the ILF Fund.

Table 2 shows the ILF payments DOEE has received beginning in FY15, totaling $217,200.28 in ILF payments. A total of $677.14 was accumulated in interest. DOEE has transferred a total of $152,223.98 of expenditure from the MS4 Enterprise Fund to the ILF Fund. To date, DOEE reimbursed $20,106.95 to projects that switched to using SRCs partway through the year of Offv compliance that had been paid for initially with ILF, enabling DOEE to pro-rate their ILF payment. This is shown in Table 3.

Table 2 also shows that in FY22, DOEE received one ILF payment of $34,851.60. The balance in the ILF fund at the end of FY22 was $45,353.73, which is a total of interest accumulated in FY20 and FY22 plus ILF payments that were received but not transferred to the MS4 Enterprise Fund.

Table 2: ILF Revenue and Expenditure

Individual ILF Payments Received	FY Received	Offv Compliance Period[2]	ILF Used (Expenditure transferred from the MS4 Enterprise Fund)	ILF Reimbursed[3]	Offv Achieved (gallons)	Unspent ILF
$133,819.00	FY 2015	11/30/2014 – 10/07/2015	$114,387.72	$19,431.28	32,682 (pro-rated)	$0
$5,806.76	FY 2016	10/4/2016 – 10/3/2017	$5,806.76	$0	1,622	$0
$1,360.40	FY 2017	1/9/2017 – 1/8/2018	$1,360.40	$0	380	$0
$780.44	FY 2017	3/17/2017 – 5/4/2017	$104.77	$675.67	29 (pro-rated)	$0
$5,855.42	FY 2017	10/4/2017 – 10/3/2018	$5,855.42	$0	1,622	$0
$5.47	FY 2017	Interest	$5.47	$0	N/A	
$1,404.29	FY 2018	12/18/2017 – 12/17/2019	$1,404.29	$0	389	$0

[2] The Offv compliance period indicates the time period that the ILF payment will be used to meet the Offv requirement. In some cases, the ILF payment may be paid in the fiscal year that precedes the start of the Offv compliance period.
[3] In some cases, DOEE will pro-rate and reimburse ILF payments if SRCs are used partway through an Offv compliance period. DOEE transfers expenditure to the ILF Fund to account for all ILF payments with the intention that if an ILF reimbursement is necessary in the future, the corresponding expenditure can be transferred back to the MS4 Enterprise Fund.

$898.89	FY 2018	6/26/2018 – 6/25/2019	$898.89	$0	249	$0
$5,855.42	FY 2018	10/4/2018 – 10/3/2019	$5,855.42	$0	1,622	$0
$21.10	FY 2018	Interest	$21.10	$0	N/A	
$10,017.75	FY 2019	12/10/18 – 12/9/19	$10,017.75	$0	2,775	$0
$5,855.42	FY 2019	10/4/2019 – 10/3/2020	$5,855.42	$0	1,622	$0
$166.19	FY 2019	Interest	$166.19	$0	N/A	
$10,017.75	FY 2020	12/10/19-12/9/2020	$0	$0	0	$10,017.75
$99.39	FY2020	Interest	$99.39	$0	N/A	
$34,851.60	FY2022	12/31/2021-1/1/2023	$0	$0	0	$34,851.60
$384.99	FY2022	Interest	$384.99	$0	N/A	
Totals						
$217,200.28	**N/A**	**N/A**	**$152,223.98**	**$20,106.95**	**42,992**	**$44,869.35**

Since program inception, DOEE has used ILF funding to support four projects, summarized below in Table 3. The first project, plan number 3688, was described in prior ILF reports. DOEE has also funded three additional projects. After receiving DOEE funding, each project fulfilled the eligibility requirements to generate SRCs. When these projects generated SRCs, DOEE only approved 50% of the SRC-eligible volume certification. The remaining volume will be used to achieve Offv obligations for projects that pay ILF and is tracked as ILF Gallons Approved in Table 3.

The MS4 funding that DOEE has provided to projects listed in Table 3 is $575,584. DOEE uses ILF revenue received to reimburse that expenditure of MS4 funding.

Table 3: ILF Gallons Generated and Used by DOEE-Funded Projects[4]

Plan Number	DOEE Funding Provided	Retention Year	ILF Gallons Generated through DOEE Funding	ILF Gallons Used to Meet Offv
3688	$450,858	FY2015	16,090	16,090
		FY2016	16,090	16,090
		FY2017	16,090	16,090
5690	$50,000	FY2019	1,571	1,571
		FY2023	1,571	0
		FY2024	1,571	0
		FY2025	1,571	0
6338	$25,976	FY2019	1,513	1,513

[4] This table includes previous fiscal years' ILF gallons that were inadvertently excluded from previous reports. Previous versions of the table can be found in prior annual ILF reports on DOEE's website.

Plan Number	DOEE Funding Provided	Retention Year	ILF Gallons Generated through DOEE Funding	ILF Gallons Used to Meet Offv
		FY2020	1,513	1,513
		FY2021	1,513	1,513
		FY2023	1,513	0
		FY2024	1,513	0
		FY2025	1,513	0
6359	$48,750	FY2019	1,603	1,603
		FY2020	1,603	575
		FY2022	1,603	0
		FY2023	1,603	0
TOTAL	$575,584	N/A	70,044	54,987

More Information

The ILF Fund is managed by the Green Infrastructure Incentives and Assessment Branch in DOEE's Regulatory Review Division. Please visit doee.dc.gov/src for more information, including DOEE's SRC and Offv Registry, which lists sites using SRCs or paying ILF to meet their Offv obligations. Additional questions may be directed to Regan Wilhelm, Environmental Protection Specialist, at (202) 671-5004 or regan.wilhelm@dc.gov.