

**Stormwater In-Lieu Fee Special Purpose
Revenue Fund
Fiscal Year 2020-2021 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 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 requires 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 use of SRCs or payment of ILF. On-site GI of regulated projects must be operational and/or Offv achieved as of sites' final construction inspection.

In-Lieu Fee Rate

The Stormwater Regulations established a base ILF of \$3.50 per gallon of Offv. Annually, as required by Section 530.2 of 21 DCMR, DOEE adjusts the base ILF to account for inflation using the United States Bureau of Labor Statistic's Urban Consumer Price Index values through June of each year. 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	

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

- Major land disturbing activities: development projects that disturb 5,000 ft² or more of land area, if 2,500 ft² 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 ft² or more, if 2,500 ft² is impervious surface post-project or any area is natural land cover pre-project².

June 2020	257.797	0.65%	TBD	Pending ²
June 2021	271.696	5.39%	TBD	Pending ²

² In September of 2020, DOEE proposed a rulemaking that included a provision to allow DOEE to adjust the ILF for inflation based on the CPI without going through a formal rulemaking process. That rulemaking has not been finalized. DOEE plans to make an adjustment after that rulemaking is finalized, with public notice provided through DOEE's website.

In-Lieu Fee Fund Revenue and Expenditure

To avoid time delays between an ILF payment and 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.

Since program inception, DOEE has used ILF funding to support four projects, summarized below in Table 2. The first project, plan number 3688, was described in prior ILF reports. Three additional projects have also been funded by DOEE. Each of these projects, after receiving DOEE funding, fulfilled the eligibility requirements to generate SRCs. When these projects generated SRCs, DOEE only approved certification of 50% of the SRC-eligible volume. The remaining volume will be used to achieve Offv obligations for projects that pay ILF and is tracked as ILF Gallons Approved in Table 2.

To date, the MS4 funding that DOEE has provided to projects listed in Table 2 is \$575,584. DOEE uses ILF revenue received to reimburse that expenditure of MS4 funding. Since the ILF was established, DOEE has received \$181,671.54 in ILF payments. DOEE has also accumulated \$292.15 of interest in the ILF fund. DOEE has transferred a total of \$161,564.59 of expenditure from the MS4 Enterprise Fund to the ILF Fund. In FY20, 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 3 shows the ILF payments DOEE has received, beginning in FY 2015, and the amount of expenditure transferred from the MS4 Enterprise Fund. Table 3 also shows that in FY20, DOEE received one ILF payment of \$10,017.75, and accrued \$99.39 in interest. As indicated in Table 2, the payment received in FY20 was added to the revenue used to fund plan number 3688, with 2,775 gallons and \$10,017.75 applied to FY2017. DOEE did not receive any ILF payments in FY21. The balance in the ILF fund at the end of FY21 was \$10,181.22.

Table 2: ILF Gallons Generated and Used by DOEE-Funded Projects

Plan Number	DOEE Funding Provided	Retention Year	ILF Gallons Approved	ILF Gallons Used ³	ILF Payment
3688	\$450,858	FY2015	16,090	16,090	\$56,315
		FY2016	16,090	16,090	\$56,315
		FY2017	16,090	13,587	\$48,934.59
5690	\$50,000	FY2019	1,571	0	\$0

³ When an ILF payment is made, DOEE records that a corresponding number of ILF gallons have been used to achieve Offv compliance. DOEE does not record the use of ILF gallons for the transfer of expenditure related to interest accrual since this does not affect Offv compliance.

Plan Number	DOEE Funding Provided	Retention Year	ILF Gallons Approved	ILF Gallons Used ³	ILF Payment
6338	\$25,976	FY2019	1,513	0	\$0
		FY2020	1,513	0	\$0
		FY2021	1,513	0	\$0
6359	\$48,750	FY2019	1,603	0	\$0
		FY2020	1,603	0	\$0
TOTAL	\$575,584	N/A	57,586	42,992	\$161,564.59

Table 3: ILF Revenue and Expenditure

Individual ILF Payments Received	FY Received	Offv Compliance Period ⁴	ILF Used (Expenditure transferred from the MS4 Enterprise Fund)	ILF Reimbursed ⁵	Offv Achieved (gallons)
\$133,819.00	FY 2015	11/30/2015 – 10/07/2016	\$114,387.72	\$19,431.28	32,682 (pro-rated)
\$5,806.76	FY 2016	10/4/2016 – 10/3/2017	\$5,806.76	\$0	1,622
\$1,360.40	FY 2017	1/9/2017 – 1/8/2018	\$1,360.40	\$0	380
\$780.44	FY 2017	3/17/2017 – 5/4/2017	\$104.77	\$675.67	29 (pro-rated)
\$5,855.42	FY 2017	10/4/2017 – 10/3/2018	\$5,855.42	\$0	1,622
\$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
\$898.89	FY 2018	6/26/2018 – 6/25/2019	\$898.89	\$0	249
\$5,855.42	FY 2018	10/4/2018 – 10/3/2019	\$5,855.42	\$0	1,622
\$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

⁴ 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.

⁵ 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.

\$5,855.42	FY 2019	10/4/2019 – 10/3/2020	\$5,855.42	\$0	1,622
\$166.19	FY 2019	Interest	\$166.19	\$0	N/A
\$10,017.75	FY 2020	12/10/19- 12/9/2020	\$10,017.75	\$0	2,775
\$99.39	FY2020	Interest	\$99.39	\$0	N/A

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 that are 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.