

**Stormwater In-Lieu Fee Special Purpose
Revenue Fund
Fiscal Year 2018 Summary Report**

Tommy Wells, Director
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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 (2013 Stormwater Rule).¹ The 2013 Stormwater Rule 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. Just as the on-site GI of regulated projects must be operational as of sites' final construction inspection, their Offv must be met at the same time.

In-Lieu Fee Rate

The Rule 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 ILF Calculation | 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% | \$3.67 | N/A ² |
| June 2018 | 251.989 | 2.87% | \$3.78 | Pending ³ |

In-Lieu Fee Fund Revenue and Expenditure

¹ Two types of development projects trigger requirements for stormwater retention. The first type, major land disturbing activities, are development projects that disturb 5,000 ft² or more of land area. The second type are major substantial improvement activities, which are 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 $\geq 5,000$ ft².

² DOEE did not complete the rulemaking process to adjust the ILF based on the June 2017 CPI value, but DOEE is including this increase as part of the increase based on the June 2018 CPI value, which is part of a larger rulemaking DOEE has undertaken related to these regulations. DOEE determined that it was administratively more expedient and easier for stakeholders to review a single rulemaking rather than 3 separate rulemakings related to the same regulations.

³ DOEE proposed an inflation adjustment to \$3.78 on February 15, 2019. See the note above on the combination of the 2017 and 2018 increases. As of the publication of this report, DOEE has not finished the rulemaking process to adjust the ILF based on the June 2018 CPI value.

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 one major project, the installation of a rainwater harvesting system at Brookland Middle School in northeast Washington, DC. This site drains via the MS4 to the Northwest Branch of the Anacostia River. The project was funded with \$450,858.00 from the MS4 Enterprise Fund. The cistern provides 16,090 gallons of stormwater retention capacity annually. In FY 2015, DOEE approved 48,270 gallons of ILF retention over a three-year certification period. Of the total \$450,858.00 from the MS4 Enterprise Fund used to build the cistern, DOEE has transferred a total of \$135,700.24 of other expenditure from the MS4 Enterprise Fund to the ILF Fund since receiving the first ILF payment in FY 2015. This includes \$8,179.70 in FY 2018 and \$127,520.54 in prior fiscal years. Of the total 48,270 gallons of ILF retention DOEE has certified from the ILF-funded cistern, 38,595 gallons have been used for compliance at regulated sites that have paid ILF as of the end of FY 2018.

Table 2 shows the ILF payments DOEE has received, beginning in FY 2015, and the amount of expenditure transferred from the MS4 Enterprise Fund. DOEE received 3 ILF payments in FY 2018 totaling \$8,158.60, for which DOEE transferred a corresponding \$8,158.60 of expenditure from the MS4 Enterprise Fund to the ILF Fund. The ILF Fund also accrued \$21.10 of interest.

Table 2: ILF Revenue and Expenditure

| Individual ILF Payments Received | FY Received | Offv Compliance Period | ILF Used (Expenditure transferred from the MS4 Enterprise Fund) | ILF Reimbursed⁴ | 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 |

⁴ 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.

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|------------|---------|----------------------------|------------|-----|-------|
| \$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 |

More Information

The ILF Fund is managed by the Water Resources Protection and Mitigation 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 Matthew Espie, Environmental Protection Specialist, at (202) 715-7644 or matthew.espie@dc.gov.