United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAY - 5 2003

Memorandum

To: Deputy Commissioner for Indian Affairs
Director, Bureau of Land Management
Director, National Park Service
Director, Fish and Wildlife Service

From: Assistant Secretary - Policy, Management and Budget PZS

Subject: Wildland Fire Emergency Stabilization and Rehabilitation Policy and Procedures

The wildland fire emergency stabilization and rehabilitation (ESR) policy has undergone changes in the last several years. This memorandum supercedes established policy and establishes interim policy and procedures for wildland fire ESR until a new 620 Departmental Manual (DM) Chapter 3 is issued. This memorandum also provides direction for rewriting the DM, funding of wildland fire ESR projects for the remainder of FY 2003, and provides changes to the funding and documentation of projects in FY 2004.

The magnitude of FY 2002 ESR requests has forced a change in the way projects are approved, see memorandum from Assistant Secretary, Policy Management and Budget (A/S PMB) dated November 6, 2002, attachment 1.

The funding of FY 2003 ESR projects will continue to be from the Wildland Fire Management Appropriation. It should be noted that these funds are no-year funds and may carryover into future years.

The National Burned Area Emergency Stabilization and Rehabilitation Coordinators (National Coordinators) are charged with drafting policy changes to the 620 Departmental Manual Chapter 3, Emergency Stabilization and Rehabilitation. The draft DM is due by September 30, 2003. The National Coordinators are to use the Wildland Fire Leadership Council (WFLC) paper, *BAER/ESR Funding Process* (attachment 2), recommendations from the A/S PMB November 6, 2002 memorandum and the GAO report, *Wildland Fires: Better Information Needed on Effectiveness of Emergency Stabilization and Rehabilitation Treatments* as their direction for policy development, revisions to definitions, establishment of common project selection criteria, and implementation guidance for the program. The National Coordinators will also finalize the BAER Handbook by December 30, 2003 for DOI use in FY 2004.

Below is a description of program transition and policy decisions for the remainder of FY 2003 and FY 2004, until the DM is finalized.

Funding of FY 2003 Projects and Treatments:

All ESR projects and treatments will be funded based on the funding criteria established in the A/S PMB November 6, 2002 memorandum, or as revised by the National Coordinators and approved by the Office of Wildland Fire Coordination (OWFC) to improve program delivery.

All ESR projects and treatments that were postponed based on the criteria from the November 6th memorandum will be funded only if and when funding is made available. Selection for funding of these ESR projects or treatments will be based on the current established Departmental criteria at the time.

If project or treatment funding requests exceed available funding, the National Coordinators will evaluate the requests and set funding priorities by project or treatment in consultation with the OWFC.

All funding approvals for new ESR projects or treatments for the remainder of this fiscal year will be approved by the National Coordinators of each bureau in coordination with the OWFC. Supplemental funds will be apportioned among the bureaus based on expected needs, as identified by the National Coordinators at the time such funds become available.

All field or region/state approvals for new or revised funding are rescinded at this time. Bureaus should continue to approve plans, excluding funding, for potential implementation.

By September 30, 2003, each bureau is to close out all 2000 and prior year ESR plans to make any unobligated funds available for high priority projects.

If funding remains limited, no capitalized equipment may be purchased by the ESR account without the approval of the National Coordinators.

If funding remains limited, no law enforcement or other support actions, beyond life-threatening situations, will be funded by the ESR account for the remainder of this fiscal year.

Funding of FY 2004 Projects and Treatments:

In order to comply with the direction given by the WFLC, the financial tracking of emergency stabilization and rehabilitation treatments must be done independently of each other. The tracking of expenditures for the two subactivities will begin October 1, 2003 (FY 2004). Starting in FY 2004, emergency stabilization treatments, including those approved but not completed in FY 2003, will be funded from a new subactivity called Emergency Stabilization within a new Emergency Operations (formerly Wildland Fire

Suppression) budget activity. This new subactivity, Emergency Stabilization, will need to be created in each bureaus' financial system. Rehabilitation treatments, including those approved but not completed in FY 2003, may be funded, based on availability of funds, by the Burned Area Rehabilitation subactivity which will be within the Other Operations budget activity.

Beginning in FY 2004, past approved projects or treatments will be funded only when consistent with new Departmental policy, including common selection criteria and plan format, and entry into National Wildland Fire Operational Reporting System (NFPORS).

Guidelines for the FY 2004 Emergency Stabilization Program:

All funds approved for emergency stabilization projects or treatments will be expended within 365 days from the control date of the fire. Consideration of additional funding for unsuccessful stabilization projects or treatments beyond the first year, requires an approved written project plan, including monitoring documentation, and entry into the NFPORS rehabilitation module prior to funding approval. Emergency stabilization funding may be used to repair or replace failed structures or treatments for up to three years from the date of fire control where failure to do so would imperil watershed functionality or result in serious loss of downstream values. However, emergency stabilization funding cannot be used to continue seeding, planting and invasive plant treatments beyond one year.

Guidelines for the FY 2004 Rehabilitation Program:

All rehabilitation projects or treatments will be funded on a priority basis as established by the National Coordinators in consultation with OWFC. Funding will be prioritized using common criteria. All projects or treatments will be reviewed at the end of the fiscal year and funded with the next fiscal years funds. The National Coordinators will establish and use common selection criteria to create a priority listing of projects or treatments. Rehabilitation projects or treatments may be planned for up to three years. Funding of planned projects or treatments will be in one year increments. Each approved project or treatment will have monitoring conducted as established in the plan. All funds will be expended in the fiscal year in which the project or treatment is approved. Any funding not expended within that time frame will be returned to the subactivity for redistribution based on new project or treatment priorities in the following year. All rehabilitation projects or treatments must be entered into NFPORS prior to funding approval. Future year funding of projects or treatments must be resubmitted for funding approval. Any rehabilitation project or treatment for years 2 or 3 without written monitoring documentation will not be funded.

Guidelines for the FY 2004 Support Funding:

Beginning October 1, 2003 new equipment, equipment or supply rental, repair or use rate charges that are for specific ESR approved uses may be funded from the benefitting emergency stabilization or rehabilitation subactivity. Training, workshops and support travel may also be funded from the benefitting subactivity.

United States Department of the Interior
Office of Policy, Management and Budget
Washington, D.C. 20240

NOV - 6 2002

Memorandum

To: Director, Bureau of Land Management
Director, Fish and Wildlife Service
Director, National Park Service
Deputy Commissioner, Bureau of Indian Affairs

From: P. Lynn Scarlett, Assistant Secretary - Policy, Management and Budget

Subject: Emergency Stabilization and Rehabilitation Funding
Action due: November 20, 2002

The $20 million provided in both the House and Senate Interior appropriations bills for the Emergency Stabilization and Rehabilitation (ESR) subactivity of the Wildland Fire Management account for FY2003 is significantly less than recent appropriations. The Department must change its business practices in response to the reduced funding level. The ESR program is not currently able to meet all the objectives set forth in the Departmental Manual (620 DM 3, Burned Area Emergency Stabilization and Rehabilitation).

The proposed funding level plus carryover from 2002 will provide the ESR program with almost $35 million in FY 2003. Proposed ESR funding requests for fires that occurred from 2000 through 2002 are estimated to be in the $35 million to $40 million range. Emergency stabilization and rehabilitation costs for fires that will occur in the coming year will add to the funding requirement.

A conference call was held on October 15, 2002 with your bureau ESR and fire budget managers to determine a course of action for this fiscal year. The following decisions were made during the conference call.

- Criteria were established for ranking projects and treatments to determine which ones can be funded this fiscal year. The criteria follow.
    1. Required Health and Safety Treatments
        A. Health and safety (imminent danger, immediate threat to **life**)
        B. Health and safety (imminent danger, immediate threat to **property**)
        C. Municipal water source loss of capacity

2. Resource Protection Treatments
   A. Threatened and endangered species habitat treatments (not enhancements)
   B. Cultural heritage treatments to prevent further erosion of site (not inventory or mitigation of the site)
   C. Treatments to prevent invasive plant establishment
   D. Resource protection treatments (site stabilization of soil)
3. Other Rehabilitation Treatments from 2000, 2001 or 2002

- Each bureau must evaluate each of its project plans to determine if the plan, or any portion of the plan, can be funded at this time. Review of all plans must be completed by November 20, 2002.
- Current and proposed ESR plans can only be implemented if they meet the criteria and if funds are available. However, contracts that have been awarded as of the date of this memorandum may continue.
- Funding for implementing fiscal year 2000, 2001, or 2002 ESR plans must be deferred until the plans are rated against the ESR criteria.
- Each bureau is to close out all 1999 and prior fiscal year ESR plans to make any unobligated funds available for high priority projects in FY 2003.
- As of the date of this memorandum, all project approvals will be restricted to the state/regional or national level offices. State/regional offices must receive approval of funding availability prior to committing and approving any project plans.
- Only those projects or treatments that meet the criteria #1 or #2 for 2002, 2001, or 2000 fires may be funded immediately.
- Projects or treatments that do not meet the criteria #1 or #2, will be funded as a second priority only if funding is available.
- If additional funding is obtained, criteria will be established to fund any outstanding project plans or treatments.
- A sum of up to $5 million will be held in reserve to fund future plans.
- No equipment will be purchased by the ESR account without the approval of the ESR national bureau coordinators.
- No law enforcement or other support assistance actions beyond life-threatening situations will be funded.

If you have any questions concerning this topic please contact Wally Josephson, Office of Wildland Fire Coordination on 202-606-3053.

Wildland Fire Leadership Council

National Fire Plan

January 13, 2002

Topic: BAER/ESR Funding Process

Issue: The DOI and USDA FS have the same definitions and timeframe requirements at the Department level for emergency stabilization and rehabilitation (ESR/BAER) of burned areas but differing funding mechanisms.

Background: In the OMB FY04 budget pass back, OMB expressed concern with the broad definition of emergency stabilization and the potential for funding non-emergency items out of the emergency account. They directed DOI to identify options for remedying this problem by March 3, 2003.

In subsequent discussions, OMB stated that:

- only emergency stabilization (ES) actions should be funded from emergency wildland fire suppression accounts.
- it favored limiting ES to the immediate post-fire period (i.e. about 1 year)
- rehabilitation actions should be charged to either non-emergency, non-suppression, fire accounts or non-fire accounts.
- ES costs should be tracked separately from suppression costs within the emergency account.
- the Secretaries' emergency budget transfer authority for wildland fire should be used only for suppression and ES, not rehabilitation.
- rehabilitation should be limited to about 3 years.
- Agriculture and Interior should agree on definitions and timeframes for ES and rehabilitation.

GAO conducted an audit of the Departments' ESR/BAER programs in 2002 and their findings will be published in early 2003. They do not plan to address the funding issue in their report.

In 1999, both Departments developed and agreed to the current ESR/BAER policy. The DOI adopted the ESR policy in 2000, revised its manual and developed the Interagency Burned Area Emergency Stabilization and Rehabilitation Handbook. The USDA FS planned to update its manual and handbook to reflect the policy change, but this work has not been completed. This, in part, has contributed to the inconsistencies between the Departments in implementing these programs.

Inherent in eliminating inconsistencies in funding, is the adoption of standard definitions and timeframes for ESR/BAER work. While recent negotiations have reconciled the definitions and timeframes at the Department level, manuals do not reflect the new direction. The standardized definitions and timeframes are enclosed as part of this document.

Key Points:

FS:

1) Burned Area Emergency Rehabilitation (BAER) is funded out of suppression funds associated with the fire incident but is tracked separately from suppression costs.
2) BAER work is directed toward emergency stabilization that focuses on the first year following the fire incident.
3) Other work can be associated with emergency stabilization if conditions warrant. The most common treatment beyond the first year that can be approved and funded from emergency funds is work associated with noxious and/or invasive species treatments, which may last up to three years from the initial treatment.

4) Monitoring can be approved and funded from emergency funds on an annual basis for up to three years.
5) Other types of rehabilitation and restoration work, such as replacement of permanent infrastructure and silvicultural treatments, are funded from normal operational funding and/or National Fire Plan funding.

DOI:

1) Emergency Stabilization and Rehabilitation (ESR) is funded from the Wildland Fire Operations Account, separately from suppression.
2) Emergency stabilization actions are basically the same as FS BAER activities, except DOI allows these to continue up to 2 growing seasons post-fire. ES may include efforts to reestablish native species or minimize the establishment of non-native species only where immediate action is required.
3) Rehabilitation, which consists of long-term efforts to repair or improve lands unlikely to recover naturally from wildland fire damage, or to repair or replace minor fire-damaged facilities, is funded up to 3 years post-fire. This frequently involves efforts to control noxious and/or invasive species.
4) Monitoring can be approved on an annual basis for up to three years.
5) Restoration work, e.g. replacement of major facilities, and efforts to improve ecosystems beyond three years are funded from non-fire operating accounts. National Fire Plan funding cannot be used (DOI does not distinguish between normal wildland fire funding and national fire plan funding).
6) Addresses OMB concerns # 4 and # 6.

Advantages of both Departments adopting the FS funding rules for BAER:

1. Shortens the timeframe of completing emergency stabilization to prevent unacceptable loss of soil productivity and sedimentation of streams and lakes.
2. Easier to defend treatments as a response to ***emergency*** conditions.
3. Reduces the need for environmental analysis since emergency stabilization is associated with suppression activities.
4. Complies with the NEPA requirements and other applicable laws for environmental analysis for rehabilitation and restoration activities.
5. Eliminates inconsistencies and confusion in the budget process, and in implementing interagency BAER activities.
6. Addresses OMB concerns #1, 2, 3, 5, and 7 above.

Advantages of both Departments adopting the DOI funding rules for BAER:

1. BAER/ESR funding process the same for both programs.
2. 2 growing season time limit on ES would provide managers more time to conduct thorough post-fire damage assessments prior to initiating mitigation treatments
3. Provides more flexibility to use wildland fire funds to initiate rehabilitation treatments until non-fire funds can be secured.
4. Helps to restore healthy ecosystems by aggressively combating noxious, invasive species within the first 3 years post-fire.
5. Eliminates inconsistencies and confusion in the budget process, and in implementing interagency BAER activities.

Recommendation:

Adopt the following interagency policy for ESR/BAER treatments:

1. Limit initial treatment ES to 1 year post-fire.
2. Monitor, using emergency funds, the effectiveness of ES treatments for 3 years post-fire.

3. Repair or replace ES structures or other treatments for 3 years post-fire (e.g. check dams, trash racks, sediment catch basins, and other erosion control treatments) where failure to do so would imperil watershed functionality or result in serious loss of downstream values.
4. Fund ES and monitoring from an emergency ES/BAER account for tracking purposes, not directly from the incident suppression account.
5. Supplement ES funding using the Secretaries' emergency transfer authority for wildland fire if annual appropriations plus carryover funds are insufficient to implement emergency treatments.
6. Fund rehabilitation treatments for up to 3 years post-fire from a non-emergency, non-suppression, wildland fire account.
7. Do not supplement fund rehabilitation treatments using the Secretaries' emergency transfer authority for wildland fire.
8. Adopt the enclosed ESR/BAER definitions and timeframes table dated 8/15/02.

Rationale:

1. Addresses all OMB concerns.
2. Eliminates inconsistencies and confusion in the budget process, and in implementing interagency ESR/BAER activities.
3. ES is still covered under the emergency provisions of NEPA.
4. Complies with the NEPA requirements and other applicable laws for rehabilitation. Treatments would have to be covered under normal EAs and EISs for management plans.
5. Allows both Departments to develop a single, standardized ESR/BAER handbook, training, and field operations guide.
6. Provides sufficient flexibility for managers to initiate limited post-fire ecosystem rehabilitation while eliminating potential abuse of emergency accounts.

Interagency BAER/ESR Program Definitions
8/15/02

Emergency Stabilization	Rehabilitation	Restoration
Planned actions within one year of a wildland fire to stabilize and prevent unacceptable degradation to natural and cultural resources, to minimize threats to life or property resulting from the effects of a fire, or to repair/replace/construct physical improvements necessary to prevent degradation of land or resources	Post-fire efforts (<3 years) to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire	The continuation of rehabilitation beyond the initial three years of rehabilitation funding or the repair or replacement of major facilities damaged by the fire. Restoration is funded using appropriated or supplemental funding (for DOI from other than the wildland fire appropriation).
*Seeding/mulching to prevent erosion. *Seeding to prevent permanent impairment of critical habitat for Federal and state listed, proposed or candidate threatened and endangered species. *Seeding to prevent establishment of invasive plants. *Direct treatment of invasive plants. *Structural measures to slow soil & water movement. *Stabilize critical heritage resources. *Protective fences or barriers to protect treated or recovering area. *Replacing/repairing (minor) facilities essential to public health and safety. *Conducting assessments of habitat and significant heritage sites in those areas affected by emergency stabilization treatments. *Patrolling, camouflaging, burying significant heritage sites to prevent looting. *Increasing road drainage frequency and/or capacity to handle additional post-fire runoff.	*Tree planting to reestablish burned habitat, reestablish native tree species lost in fire, regenerating Indian trust commercial timberland. *Repair damage to minor facilities (campgrounds, exhibits, fences, guzzlers, etc) *Habitat restoration *Invasive plant treatment *Road/trail maintenance *Heritage site restoration *Fence replacement	*Replacement of major infrastructure (visitor center, residences, administration offices, work centers) burned in the fire. *Watershed restoration