

Annex E to the Moorland Association submission to the Environment, Food and Rural Affairs Committee inquiry: Wildfire risk and response 2026

Defra 2007 Heather and Grass Burning Regulations / Regulatory Impact Assessment extracts

Purpose of this annex

1. This document is Annex E to the Moorland Association's submission to the Environment, Food and Rural Affairs Committee inquiry, *Wildfire risk and response*. It summarises relevant extracts from Defra's 2007 material accompanying the Heather and Grass etc. Burning (England) Regulations 2007 and the 2007 Heather and Grass Burning Code.
2. The purpose of this annex is to show that Defra's own earlier policy recognised responsible controlled burning as a legitimate land-management tool; accepted that it can reduce wildfire risk; aimed to maintain a light-touch regulatory framework for responsible burners; and sought to target irresponsible burning rather than remove the tool from land managers.
3. This annex does not argue for unrestricted burning. It shows that a responsible, risk-based and proportionate approach to controlled burning is consistent with Defra's own earlier policy.

1. Source document

4. The source document is Defra's 2007 Regulatory Impact Assessment for the Heather and Grass etc. Burning Regulations 2007 and the Heather and Grass Burning Code 2007. The RIA states that it covered two related measures: the Heather and Grass etc. Burning (England) Regulations 2007, replacing the 1986 Regulations, and the 2007 edition of the Heather and Grass Burning Code, replacing the 1994 Code.
5. The accompanying Explanatory Memorandum states that the 2007 Regulations governed the burning of heather, rough grass, bracken, gorse and vaccinium, particularly in the management of grouse moors and rough grazing land.

2. Defra recognised controlled burning as a long-established land-management tool

6. Defra recognised controlled burning as a long-established land-management practice. The RIA stated that fire had been used in land management for thousands of years and that, in 2007, it was used mainly on moorland and heathland, particularly in upland areas of northern and south-west England. It identified uses by game shooting estates to create patchworks of different-aged heather for grouse, by farmers to improve grazing, and in wildlife management and scrub control.
7. The Explanatory Memorandum similarly stated that controlled burning was used on moorland and heathland, predominantly in the uplands but also in some lowland areas. It recorded that it was used by game shooting estates, farmers, conservation managers, and in scrub and reedbed management. Importantly, it also stated that controlled burning was used in controlling vegetation to reduce risks posed by wildfires.

Relevance to EFRA

8. This is directly relevant to the Committee's inquiry because it shows that Defra previously recognised controlled burning as part of practical land management, including vegetation management for wildfire-risk reduction.

3. Defra's policy was responsible use, not prohibition

9. The 2007 policy was not framed as a policy of removing fire from land management. Defra stated that the Government's general policy was to ensure that burning took place safely; that environmental benefits were maximised and environmental impacts minimised; and that land managers remained free to use fire sustainably for the good of their businesses, rural economies and employment.
10. The Explanatory Memorandum expressed the same policy in slightly different terms: the Government's general policy was to ensure that burning took place safely, that environmental benefits were maximised and environmental impacts minimised, and that land managers were able to use fire responsibly to manage their land and benefit their businesses.
11. Defra's stated objective for the updated Regulations and Code was to secure more responsible controlled burning and less irresponsible burning. The aim was to protect workers, people and property; promote environmentally responsible burning and reduce environmental damage; while leaving land managers with the freedom to use responsible burning for the benefit of their businesses and livelihoods.

Relevance to EFRA

12. This supports a proportionate policy approach: regulate against irresponsible practice, but preserve responsible, site-appropriate fuel management where it contributes to land management, wildfire resilience and rural livelihoods.

4. Defra recognised that responsible burning can reduce wildfire risk

13. Defra expressly recognised wildfire-risk reduction as one of the benefits of responsible burning. The RIA stated that responsible burning can benefit some wildlife, including game birds, and reduce the risk of wildfire. It also stated that controlled burning was thought to reduce both the occurrence and severity of wildfires.
14. The Explanatory Memorandum stated that burning was used in controlling vegetation to reduce risks posed by wildfires. It also recognised that burning, when used with skill and understanding, can benefit agriculture, game birds and wildlife, while carelessness or irresponsible use creates risks.

Relevance to EFRA

15. This shows that Defra previously accepted the basic wildfire-resilience proposition advanced in the Moorland Association's submission: responsible fuel management can reduce the risk that vegetation fires become severe wildfire incidents.

5. Defra distinguished responsible and irresponsible burning

16. Defra did not treat all burning as benign. The RIA recognised that irresponsible burning could harm people and property, damage wildlife, cause soil erosion and exposure, contribute to biodiversity decline, release greenhouse gases from peat soils and pollute watercourses.
17. Defra also distinguished between burn types. The RIA stated that "fast and cool" burns were generally good practice, while "hot and slow" burns were more likely to harm the environment and should be avoided.
18. The Explanatory Memorandum made the same distinction in policy terms: most burners were thought to burn responsibly, although there was room for improvement, while a minority burned irresponsibly in ways that could harm wildlife, sensitive habitats, soils, peat carbon and watercourses.

Relevance to EFRA

19. The MA's submission does not argue for unrestricted burning. It argues for a risk-based framework that permits responsible, site-appropriate fuel management while retaining safeguards against irresponsible practice.

6. Defra recognised that risk depends on local and operational factors

20. The RIA stated that the level of risk from burning depends on many factors, including burner competence, terrain, wind strength and direction, dryness of vegetation and soil, woodiness of vegetation, amount of combustible vegetation, relative heat of burn, proximity to people, property and wildlife, and available equipment.

Relevance to EFRA

21. This supports the Moorland Association's recommendation for regional wildfire resilience planning and site-specific assessment. The risk of a burn, and the wildfire risk created by not managing vegetation, both depend on local circumstances. A national one-size-fits-all approach cannot adequately reflect terrain, fuel structure, moisture, access, suppression opportunities or proximity to homes and infrastructure.

7. Defra described the framework as light-touch and proportionate

22. Defra described the existing legislative framework for burning as "light-touch", with potentially tighter controls on Sites of Special Scientific Interest. It also recorded that good practice was encouraged through the voluntary Heather and Grass Burning Code, site-specific agreements and agri-environment schemes.
23. After consultation, Defra proposed to reduce red tape and maintain light-touch regulation for responsible burners, while introducing targeted new prohibitions aimed at irresponsible burning that risked significant soil exposure and erosion. It also proposed to improve awareness and enforcement of existing legislation applying to controlled burning.
24. The RIA stated that this work had been taken forward in close consultation with Natural England and in line with the Government's principles of better regulation. It also said the details of the policy had been developed with key representatives of the burners directly affected by the policy.

Relevance to EFRA

25. This is consistent with the approach proposed in the MA submission: proportionate regulation, partnership with land managers, targeted enforcement against harmful practice, and retention of practical fuel-management tools where they can be used responsibly.

8. Defra recognised that most burners acted responsibly

26. The RIA stated that Defra thought the large majority of burners burned responsibly, although there was room for improvement and anecdotal evidence that many had not read the voluntary Code for some time. It identified the problem as a minority of burners acting irresponsibly, particularly where burning harmed wildlife and sensitive habitats or exposed and eroded soils, including carbon-rich peat soils.
27. The Explanatory Memorandum similarly stated that the vast majority of burning in England was conducted safely and that the risk to people and property was low, largely due to the responsible behaviour of most burners.

Relevance to EFRA

28. This matters because policy should not treat all active fuel management as inherently irresponsible. Defra's earlier approach recognised responsible land managers as partners in sustainable land management, while targeting the minority of harmful practice.

9. Defra recognised that alternatives to burning are not always viable

29. The RIA recognised that alternatives to controlled burning may not always be viable because they may not be practically possible, may not produce the desired result, or may not be economical. It identified cutting as a possible alternative but noted that it is only possible where land is accessible to tractors and not too rocky, which excludes many upland areas. It also noted that cutting tends to be more expensive than burning and that the environmental pros and cons compared with burning were arguable.
30. The RIA also stated that grazing management may be a substitute for burning in some circumstances, but would not necessarily produce the conditions desired by grouse moor managers and could create environmental risks if increased grazing pressure harmed the environment.

Relevance to EFRA

31. This supports the MA's argument that government should maintain a site-appropriate toolkit. Cutting, grazing, rewetting and prescribed burning all have potential roles, but none is a universal substitute for the others.

10. Defra acknowledged scientific uncertainty and future wildfire risk under climate change

32. The RIA stated that scientific knowledge of the environmental effects of moorland and heathland management, including burning, was growing. It expected further evidence on peat soils, carbon, climate change and the implications of a changing climate. It expressly raised the question whether more controlled burning might be needed to limit increased risks from wildfires and arson.
33. Defra and Natural England said they would monitor emerging evidence and take action as necessary, including possible future changes to the Heather and Grass Burning Regulations and Code.

Relevance to EFRA

34. This is especially important in the context of EFRA's inquiry. Defra's own 2007 material anticipated that climate change could increase wildfire risk and that more controlled burning might be needed to limit that risk. It also accepted that policy should respond to emerging evidence rather than assume that restrictions are always the safer course.

11. Defra retained the burning season to manage safety and environmental risk

35. The 2007 Regulations retained the burning season, limiting burning to colder and wetter months unless licensed. The Explanatory Memorandum stated that the main aim was to limit burning to the colder, wetter months when the risk of fires burning out of control is much lower.
36. The RIA records that the burning season was one of the most debated issues in the review. Defra decided to leave the season as it was for the time being, partly because the Science Panel advised there was no clear evidence to justify shortening it, and partly because other wildlife protections already applied. Defra also recognised that understanding of climate-change effects was developing and said Defra and Natural England would keep the matter under review.

Relevance to EFRA

37. Defra's earlier approach recognised the need to control timing and conditions, but did not remove the tool. It used seasonal regulation to reduce risk while allowing responsible winter burning.

12. Defra's enforcement approach was intended to be targeted and risk-based

38. The RIA proposed targeted new controls aimed at irresponsible burning that risked significant soil exposure and erosion, rather than blanket heavy regulation of all burners. It also identified a new notification power for Natural England where it reasonably believed a burner had previously acted contrary to the Regulations. This was intended to improve awareness of when and where higher-risk burning was taking place and enable targeted, risk-based site inspections.
39. The Regulations also continued requirements that burns be controlled for the entire period of the operation, that sufficient people and equipment be available, and that all reasonable precautions be taken to prevent injury or damage to adjacent land, persons or property.

Relevance to EFRA

40. This supports a proportionate enforcement model. The relevant policy question is not whether safeguards should exist; they should. The question is whether safeguards are targeted at real risk, or whether restrictions prevent responsible fuel management in ways that may increase wildfire severity.

13. Summary of Defra 2007 principles relevant to EFRA

41. Taken together, Defra's 2007 material supports the following principles:
1. controlled burning is a long-established land-management tool;
 2. responsible burning can reduce wildfire risk;
 3. fire should be used with skill, understanding and safeguards;
 4. irresponsible burning can cause serious environmental harm and should be controlled;
 5. the level of risk depends on local conditions, fuel, weather, terrain, competence and equipment;
 6. alternatives to burning are not always practical, economical or environmentally preferable;
 7. regulation should be proportionate, targeted and light-touch for responsible burners;
 8. policy should be developed in consultation with affected land managers and practitioners;
 9. emerging evidence and climate-change-related wildfire risk should be kept under review;
 10. government should distinguish responsible fuel management from harmful or careless practice.

14. Relevance to the Moorland Association's recommendations

14.1 Wildfire policy should be severity-led

42. Defra's 2007 material recognised that controlled burning can reduce the occurrence and severity of wildfires. That supports the MA's recommendation for a statutory Wildfire Severity Reduction Duty.

14.2 A site-appropriate fuel-management toolkit should remain available

43. Defra recognised that alternatives to burning may be impractical, uneconomic or not able to produce the desired result in some circumstances. That supports the MA's recommendation for a toolkit including grazing, cutting, mowing, bracken and scrub control, rewetting where feasible, and prescribed burning where appropriate and lawful.

14.3 Regulation should be proportionate and targeted

44. Defra's 2007 approach sought more responsible burning and less irresponsible burning, maintaining light-touch regulation for responsible burners while targeting harmful practice. That supports the MA's proposed fast public-safety consent route for fuel-reduction work and a risk-based approach to permissions.

14.4 Evidence should remain open to reassessment

45. Defra recognised that scientific knowledge was developing and expressly raised the possibility that more controlled burning might be needed to limit increased wildfire and arson risks under a changing climate. That supports the MA's recommendation for transparent evidence assurance and adaptive, monitored management.

15. Conclusion

46. Annex E shows that Defra's 2007 approach was based on responsible use, proportionate regulation and partnership with land managers. It recognised that controlled burning can reduce wildfire risk, that most burners were responsible, that risk depends on local factors, and that regulation should target irresponsible practice.
47. The MA relies on these extracts not to argue for unrestricted burning, but to show that a risk-based policy framework is consistent with Defra's own earlier approach. In the context of growing wildfire risk, the Committee should ask whether current policy has moved too far away from responsible, site-specific fuel management towards restrictions that may increase fuel continuity and wildfire severity.
48. The policy lesson from the 2007 material is clear: the objective should be more responsible fuel management and less irresponsible practice, not the removal of practical tools from land managers whose decisions, staff and equipment help determine whether an ignition remains controllable or becomes a severe wildfire.