

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
FORESTRY DIVISION**

PROPOSED RULE 19.20.7 NMAC, TIMBER GRADING CERTIFICATION PROGRAM

Written Testimony of Erin McElroy

My name is Erin McElroy and I am the Forest Resilience Officer for the Forestry Division of the Energy, Minerals and Natural Resources Department (EMNRD). I have been with the Forestry Division since 2023, and as the Forest Resilience Officer, my responsibilities include providing oversight and strategic direction for the Division's forest markets and industry relations initiatives, including efforts aimed at advancing wood utilization, strengthening market development, and supporting statewide efforts to improve forest-based economic opportunities. I have a Bachelor of Science in Environmental Science from Washington State University and a Masters in Environmental Management from Portland State University and bring experience in ecological restoration from both public and private sectors dating back to 2015.

My testimony will provide the context within which EMNRD proposes to adopt rule 19.20.7 NMAC, Timber Grading Certification Program. The rule is under the authority of the Timber Grading Act, NMSA 1978, Sections 68-6-1 through 68-6-4 (Exhibit 1).

EMNRD does not expect significant adverse effects to small businesses from the proposed action. The Small Business Regulatory Advisory Commission was informed as required by law. The Timber Grading Certification Program is designed to expand economic opportunities by supporting the use of New Mexico-produced structural timber in residential and commercial construction. By providing a clear training and certification pathway, the rule is expected to increase market access, support sawmills and wood-processing facilities, and strengthen statewide utilization of locally produced wood products.

My testimony (Exhibit 6), resume (Exhibit 7), and associated documentation, including references and public notices, as well as comments received to date (Exhibit 4) are located on file within the EMNRD, Forestry Division and are available online via the Forestry Division website. In addition, all relevant files are located on the shared EMNRD L Drive folder in the Timber Grading Act folder. Required rulemaking materials, such as the notice of proposed rulemaking (Exhibit 3) and the proposed rule text (Exhibit 2), are also posted on the Sunshine Portal.

CONTEXT FOR THE PROPOSED RULE:

The Timber Grading Act was enacted by the New Mexico Legislature in 2025 and directed the Forestry Division to establish a Timber Grading Certification Program. The Act provides the authority for the Forestry Division to develop and administer a statewide system through which sawmill owners and sawmill employees may receive certification to grade and label structural timber milled in New Mexico.

The need for the Timber Grading Act arose from the opportunity to increase the utilization of timber produced in New Mexico forests and processed by New Mexico sawmills (Exhibit 8). The Act creates

a framework for locally produced lumber, vigas, and beams to be certified for structural use in residential and commercial construction. By expanding the use of New Mexico wood products, the Act helps create additional markets for timber generated through forest thinning, hazardous fuels reduction, and post-fire restoration projects. The Act also supports wildfire recovery and rebuilding efforts, strengthens economic opportunities for sawmills and wood-processing facilities throughout the state, and promotes the utilization of New Mexico forest products in local communities.

New Mexico's forests face threats from drought, insect infestation, disease, and high-severity wildfire (Exhibit 9). Forest restoration and hazardous fuels reduction treatments generate volumes of material that can be utilized for wood products. The Timber Grading Act supports greater utilization of these locally produced materials by establishing a pathway for structural timber produced and graded in New Mexico to be used in residential and commercial construction consistent with New Mexico building codes.

INTRODUCTION TO THE PROPOSED RULE:

The proposed rule establishes the framework needed to implement and administer the Timber Grading Certification Program. Specifically, the rule provides the requirements for certification, training components of the program, qualification standards for program instructors, a state-specific grading and labeling system for structural timber, and procedures for the suspension or revocation of certificates.

The Timber Grading Certification Program includes training on state-specific grading criteria for lumber, vigas, and beams; labeling requirements; and the legal standards associated with the use of structural timber produced in New Mexico. The training curriculum will be based on the NM Timber Grading Handbook being developed by the Forestry Division and partners. Applicants must complete the required training and pass a written examination, and certified graders will be required to renew their certification every five years to ensure continued proficiency.

The proposed rule also clarifies two important elements of the program in response to partner feedback received prior to the public comment period. First, structural timber must be both milled and graded in New Mexico to qualify under the state program. Timber milled in-state but graded elsewhere cannot be represented as certified structural timber under this rule. Second, certification is limited to sawmill owners and sawmill employees; however, the rule defines 'employee' broadly to include permanent staff, temporary or seasonal workers, and independent contractors. This approach ensures appropriate oversight of state-specific grading activities while allowing flexibility for mills of different sizes and staffing structures.

The proposed rule also includes accountability measures through procedures for certificate suspension and revocation, ensuring program integrity and compliance with the Timber Grading Act.

Sections 19.20.7.1 through 19.20.7.8 establish the administrative foundation of the program, including the responsible agency, the scope and statutory authority of the rule, its duration and effective date, the overall purpose of the certification program, and key definitions. These sections

also outline the Forestry Division's responsibilities in creating, administering, and overseeing the statewide grading program.

Sections 19.20.7.9 through 19.20.7.16 establish the operational components of the Timber Grading Certification Program.

- **Section 19.20.7.9 – Eligibility and Application Requirements:** Defines who may become certified, including age requirements, the need to be a sawmill owner or employee, and the requirement to submit a completed application that includes training documentation and fees.
- **Section 19.20.7.10 – Training Curriculum and Instructor Qualifications:** Describes the mandatory training components such as state-specific grading criteria, species identification, moisture content measurement, labeling procedures, legal requirements, and recordkeeping, as well as minimum qualifications for instructors delivering the training.
- **Section 19.20.7.11 – Fee Structure:** Establishes allowable fees for certification, renewal, mid-term evaluations, and reinstatement, and allows approved training institutions to charge their own additional fees.
- **Section 19.20.7.12 – Certification Issuance and Renewal:** Details the five-year certification period, renewal requirements, potential mid-term evaluations or continuing-education obligations, and expectations for maintaining active certification status.
- **Section 19.20.7.13 – Labeling Requirements:** Outlines the required elements of structural timber labels, clarifies that timber must be milled and graded in-state to qualify under the program, and specifies that labels may substitute for grade stamps in building inspections.
- **Section 19.20.7.14 – Recordkeeping and Quality Control:** Explains record-retention requirements for both certified graders and the Division, including retention periods, and authorizes unannounced site visits and check-grading for quality control.
- **Section 19.20.7.15 – Liability Disclaimer:** Clarifies that certification does not guarantee the structural performance of timber and outlines the responsibilities of certified graders and the limits of the Division's liability.
- **Section 19.20.7.16 – Suspension and Revocation Procedures:** Provides grounds for disciplinary action, such as violations of the Act or failure to meet program requirements, and describes procedures for notice, hearings, and final decisions under the Uniform Licensing Act.

The Forestry Division believes the proposed rule provides the standards necessary to implement the Timber Grading Act and establish a consistent statewide certification program for state-specific grading and labeling structural timber. The rule is intended to ensure that certified participants receive appropriate training, apply state-specific grading standards consistently, and support the use of New Mexico-produced structural timber in residential and commercial construction consistent with applicable building codes.