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

IN THE MATTER OF PROPOSED NEW RULE:
19.20.7 NMAC – TIMBER GRADING CERTIFICATION PROGRAM

HEARING OFFICER REPORT

Introduction

On August 14, 2026, the undersigned Hearing Officer accepted testimony and public comment during a hybrid hearing held in person in Santa Fe and on a virtual platform as part of the information gathering necessary for the Energy, Minerals and Natural Resources Department (EMNRD) to reach a decision on a new rule proposed by the Forestry Division (Division): 19.20.7 NMAC, to implement the Timber Grading Act, NMSA 1978, Sections 68-6-1 through 68-6-4 (Act).

The proposed rule establishes a statewide system through which sawmill owners and sawmill employees may receive certification to grade and label structural timber milled in New Mexico. The program is designed to allow New Mexico-graded timber to be used in residential and commercial construction statewide, consistent with New Mexico building codes. The proposed rule sets out requirements for certification; program training components; qualification standards for program instructors; a state-specific grading and labeling system for structural timber; and grounds and procedures for certificate suspension or revocation.

The hearing was conducted pursuant to the Act, Section 68-6-3, and the procedures set out in NMSA 1978, Section 9-1-5.E, requiring public notice, a public hearing, and an opportunity for interested persons to present their views.

Notice of the hearing and opportunity to provide comment was published in the Albuquerque Journal and the New Mexico Register; posted on the Division webpage and Sunshine Portal; sent to the Legislative Council Service and the Small Business Regulatory Advisory Commission; posted at the EMNRD Santa Fe office and all Division district offices; and sent to interested stakeholders by email, and to the leadership of tribes, nations and pueblos in New Mexico by email through the Forest and Watershed Health Coordinating Group. All public notice requirements were met and exceeded. Affidavits of publication and documentation of the other notice given are in the record.

At the hearing, following introductory remarks by the Hearing Officer, Erin McElroy, Division Forest Resilience Officer, presented the proposed new rule and was available to answer questions by others present.

Public comment was invited from all present and offered by several persons, in addition to several written comments received. The hearing, which was recorded, started at 9:00 a.m. and continued for 40 minutes. Persons in the room during the hearing totaled eight; several more were participating on the virtual platform.

In addition to inviting oral comments, the Hearing Officer stated that the record would be left open for written public comment and any new redline revisions proposed by the Division. The record was closed at the Division's request on August 21, 2026, following the Division's submittal of a final rule (attached to this report), having accepted all redlines proposed at hearing, and having received no additional written comments following the hearing.

Hearing Testimony from the Division

Erin McElroy, Forest Resilience Officer, presented her testimony in support of the proposed new rule. Ms. McElroy described the Timber Grading Act, the process of developing the proposed rule and all public notice, and walked through each section being proposed.

Ms. McElroy noted that the Act had been adopted by the New Mexico Legislature in 2025 to provide authority for the Division to administer a statewide system through which sawmill owners and employees could receive certification to grade and label structural timber milled in New Mexico. The Act creates an opportunity to increase the utilization of New Mexico timber, including lumber, vigas, and beams, and helps create additional markets for timber generated through forest thinning, hazardous fuels reduction, and post-fire restoration projects. New Mexico's forests face threats from drought, insect infestation, disease, and high-severity wildfire. Restoration and fuel reduction generate volumes of material that can be utilized as wood products.

The training curriculum for the certification program will be based on the New Mexico Timber Grading Handbook being developed by the Division and its partners, particularly Matt Labrenz of the University of Alaska. Applicants must complete the required training and pass a written examination; certified graders will be required to renew their certification every five years to ensure continued proficiency.

In response to partner feedback, the rule clarifies that structural timber must be both milled and graded in New Mexico to qualify under the state program. Further, certification is limited to sawmill owners and sawmill employees, but "employee" is

defined broadly to include permanent staff, temporary or seasonal workers, and independent contractors to allow for flexibility of mill sizes and staffing structures while assuring state oversight.

Ms. McElroy and Mr. Labrenz responded to questions by attendees about the definition of “sawmill employee” and heat treating and drying requirements; the details around heat treating will be included in the Handbook.

All Division exhibits were admitted:

Exhibit 1, the Timber Grading Act;

Exhibit 2, the Proposed Rule;

Exhibit 3, Notice of the Proposed Rulemaking;

Exhibit 4, Public Comments received, plus Ms. Rachel Wood’s comment;

Exhibit 5, Record of Notice and Publication;

Exhibit 6, Written Testimony of Erin McElroy;

Exhibit 7, Erin McElroy’s Resume;

Exhibit 8, Citizen Portal Legislative Summary; and

Exhibit 9, 2025 Forest Health Report (EMNRD,USFS).

Following the Division’s testimony, verbal public comment was offered at the hearing by a few attendees:

Miles Conway, New Mexico Home Builders CEO, stated that they support the certification program, as does the Lincoln County Home Builders Association. It will be great to use the wood from forest thinning efforts all over the state. They would also support tax credits as an incentive, and additional attention by the Construction

Industries Division (CID). Much of Denver was built of New Mexico timber. Using New Mexico timber cuts down on carbon emissions by avoiding transport of timber from Canada and the southeastern U.S.

David Old has concerns about log cabins, but those concerns are for CID, not Forestry. Apparently, a stacked log wall does not require a grade stamp. He also noted that the ability to heat treat is expensive; marks and grade stamp will be on the label.

Ultimately, six written comments were received, which were largely supportive: The Forest Stewards Guild supports the proposed rule and appreciates the Division's work. Th Lincoln County Homebuilders Association supports the proposed rule and encourages the Division to move forward with the certification program. WH Moore Cash Lumber, LLC stated that they are willing to become certified and will do their best to participate in the program. The American Lumber Standard Committee and the American Wood Council wrote to urge several revisions in the proposed rule. The Division accepted many of the revisions, aside from two: a narrow definition of "sawmill employee" and mandatory annual unannounced site visits. Rachel Wood, a Professional Forester and consultant, strongly supports the proposed rule, and suggested a revision to reduce administrative redundancy in the application process. The Division agreed to review the rule for redundancy and submit a final redline.

The final proposed rule attached includes all provisions necessary to implement the Act. As established by the Division, it will support wildfire recovery and rebuilding efforts, and strengthen economic opportunities for sawmills and wood-processing facilities throughout the state.

Respectfully submitted,

_____*-original signed on 9/17/26 by-*_____
Felicia L. Orth, Hearing Officer