

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 3 BUSINESS ASSOCIATIONS
PART 4 OTHER BUSINESS ENTITIES

12.3.4.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[12.3.4.1 NMAC - N, 7-15-05]

12.3.4.2 SCOPE: This rule applies to certain legislatively mandated legal entities, unless exempted by law.
[12.3.4.2 NMAC - N, 7-15-05]

12.3.4.3 STATUTORY AUTHORITY: NMSA 1978 Sections 3-29-16, 3-29-17, 3-29-17.1, 3-29-17.2, 3-29-17.4, 3-29-17.5, 3-29-19, 3-29-20, 8-8-4, 53-2-1, 53-4-5, 53-4-6, 53-4-6.1, 53-4-6.2, 53-4-7, 53-4-34 through 53-4-37, 53-4-40, 53-4-41, 53-7-35, 53-7-36, 53-7-39, 53-7-42, 53-19-66, 53-20-3 through 53-20-15, 53-20-17, 62-2-1 through 62-2-3, 62-2-13, and 75-5-2 through and 75-5-5.
[12.3.4.3 NMAC - N, 7-15-05]

12.3.4.4 DURATION: Permanent.
[12.3.4.4 NMAC - N, 7-15-05]

12.3.4.5 EFFECTIVE DATE: July 15, 2005.
[12.3.4.5 NMAC - N, 7-15-05]

12.3.4.6 OBJECTIVE: The purpose of this rule is to facilitate the formation and continuation of certain legislatively mandated entities as provided by law.
[12.3.4.6 NMAC - N, 7-15-05]

12.3.4.7 DEFINITIONS: See 12.3.1.7 NMAC.
[12.3.4.7 NMAC - N, 7-15-05]

12.3.4.8 BUSINESS DEVELOPMENT CORPORATIONS: A business development corporation shall comply with the requirements of the Business Development Corporation Act, NMSA 1978 Sections 53-7-18 through 53-7-46.

A. Filing requirements. A business development corporation shall file all documents required by this section in compliance with 12.3.1 NMAC, General Provisions, and pay all filing fees required by NMSA 1978 Section 53-2-1.

B. Documents required.

(1) Articles of incorporation. Stockholders and members shall file articles of incorporation that meet the requirements for incorporation in NMSA 1978 Section 53-7-23. The corporation may amend the articles by complying with NMSA 1978 Sections 53-7-35 and 53-7-36.

(2) Reports. A business development corporation shall file annual reports on its general financial condition with the director of the financial institutions division of the regulation and licensing department and the commission, pursuant to NMSA 1978 Section 53-7-39.

C. Dissolution. Upon following dissolution requirements of NMSA 1978 Section 53-7-42, the corporation may petition the director of the financial institutions division of the regulation and licensing department for its dissolution. If the director of the financial institutions division of the regulation and licensing department approves the petition, the corporation may file with the commission documentation approving the petition.

[12.3.4.8 NMAC - N, 7-15-05]

12.3.4.9 COOPERATIVE ASSOCIATIONS: A cooperative association shall comply with the requirements of the Cooperative Associations Act, NMSA 1978 Sections 53-4-1 through 53-4-45. Once properly formed, a cooperative association shall be deemed a nonprofit corporation as provided in NMSA 1978 Section 53-4-1.

A. Filing requirements. A cooperative association shall file all documents required by this section in compliance with 12.3.1 NMAC, General Provisions, and pay all filing fees required.

B. Name. A cooperative association shall comply with the name requirements in NMSA 1978

Section 53-4-37, and may use the procedures in 12.3.1.15 NMAC for inquiring about, reserving, formally applying for, or reinstating a name.

C. Documents required.

(1) **Articles of incorporation.** A cooperative association formed in compliance with the Cooperative Associations Act, NMSA 1978 Sections 53-4-1 through 53-4-45, shall file articles of incorporation that meet the requirements of NMSA 1978 Section 53-4-5 with the fee required in NMSA 1978 Section 53-4-6. An association may file amendments to its articles of incorporation with the filing fee as provided in NMSA 1978 Section 53-4-7.

(2) **Certificate of authority.** A foreign cooperative association that meets the requirements of NMSA 1978 Section 53-4-41 may request that the commission issue a certificate of authority to do business in New Mexico.

(3) **Statement designating registered agent and office.** A cooperative association shall have and continuously maintain on file with the commission a registered agent and office that meet the requirements in NMSA 1978 Sections 53-4-6.1 and 53-4-6.2, and shall pay the fee provided in NMSA 1978 Section 53-2-1 for filing the required notice.

(4) **Reports.** A cooperative association shall file annual reports and supplemental reports and pay the filing fee as required by NMSA 1978 Section 53-4-34, and is subject to the forfeiture and penalty requirements of NMSA 1978 Section 53-4-35 for failure to report.

D. Merger and conversion.

(1) **Converting to cooperative association.** Any group incorporated under the laws of New Mexico may convert to a cooperative association by complying with, and filing amended articles as required by, NMSA 1978 Section 53-4-40.

(2) **Reorganizing under sanitary projects act.** A cooperative association may reorganize as a sanitary projects act association by complying with, and filing a certificate of association as required by, NMSA 1978 Section 3-29-20.

E. Dissolution. A cooperative association may voluntarily dissolve by complying with NMSA 1978 Section 53-4-36, and may file with the commission a statement indicating compliance.

F. Administrative revocation and forfeiture. The commission may administratively revoke a cooperative association by sending a notice of forfeiture under the circumstances provided in, and following the requirements of, NMSA 1978 Section 53-4-35. If the commission administratively revokes a cooperative association, the association may apply for reinstatement by complying with the applicable requirements in NMSA 1978 Section 53-4-35.

[12.3.4.9 NMAC - N, 7-15-05]

12.3.4.10 FOREIGN BUSINESS TRUSTS: A foreign business trust shall comply with the requirements of the Foreign Business Trust Registration Act, NMSA 1978 Sections 53-20-1 through 53-20-17.

A. Filing requirements. A foreign business trust shall file all documents required by this section in compliance with the 12.3.1 NMAC, General Provisions, and shall pay filing fees required by NMSA 1978 Section 53-20-17.

B. Name. A foreign business trust shall meet the requirements for names in NMSA 1978 Sections 53-20-4 and 53-20-5, and may use the procedures in 12.3.1.15 NMAC for inquiring about, reserving, formally applying for, or reinstating a name.

C. Documents required.

(1) **Certificate of authority.** In order to transact business in New Mexico, a foreign business trust must obtain a certificate of authority by complying with the application requirements and process in NMSA 1978 Sections 53-20-6 and 53-20-7. A foreign business trust may amend or change its certificate of authority by filing the documents required by NMSA 1978 Section 53-20-8.

(2) **Statement designating registered agent and office.** A foreign business trust shall have and continuously maintain on file with the commission a registered office and agent that meet the requirements in NMSA 1978 Sections 53-20-9, 53-20-10, and 53-20-11.

D. Withdrawal. A foreign business trust authorized to do business in New Mexico may withdraw by obtaining a certificate of withdrawal from the commission following the process required by NMSA 1978 Sections 53-20-12 and 53-20-13.

E. Administrative revocation. The commission may revoke the certificate of authority for a foreign business trust for the reasons listed and following the process provided in NMSA 1978 Sections 53-20-14 and 53-20-15.

[12.3.4.10 NMAC - N, 7-15-05]

12.3.4.11 DOMESTIC LIMITED LIABILITY COMPANIES: A domestic limited liability company shall comply with the requirements of the Limited Liability Company Act, NMSA 1978 Sections 53-19-1 through 53-19-74.

A. Filing requirements. A domestic limited liability company shall file all documents required by this section in compliance with NMSA 1978 Section 53-19-9 and 12.3.1 NMAC, General Provisions, and pay applicable fees required in NMSA 1978 Section 53-19-63.

B. Name. A domestic limited liability company shall meet the requirements for names in NMSA 1978 Sections 53-19-3 and 53-19-4, and may use the procedures in 12.3.1.15 NMAC for inquiring about, reserving, formally applying for, or reinstating a name.

C. Documents required. A domestic limited liability company shall execute the documents required by this section in compliance with the general provisions in NMSA 1978 53-19-12.

(1) Articles of organization. A person may form a limited liability company by complying with the requirements of NMSA 1978 Section 53-19-7 and filing articles of organization required by NMSA 1978 Sections 53-19-8, 53-19-9, and 53-19-10. A domestic limited liability company may amend or restate its articles of organization by complying with NMSA 1978 Section 53-19-11.

(2) Statement designating registered agent and office. A domestic limited liability company shall have and continuously maintain on file with the commission a registered agent and office that meet the requirements in NMSA 1978 Sections 53-19-5.

D. Conversion and merger.

(1) Converting to corporation, partnership, or limited partnership. Members or managers may convert a domestic limited liability company to a corporation, partnership or limited partnership by meeting the requirements in, and filing a statement, articles of incorporation or a certificate as required by, NMSA 1978 Section 53-19-60.1.

(2) Converting to limited liability company. Shareholders or partners may convert a corporation, partnership, or limited partnership into a domestic limited liability company by complying with, and filing articles of organization as required by, NMSA 1978 Section 53-19-60.

(3) Merging with other entities. A domestic limited liability company may merge with or into one or more domestic limited liability companies, foreign limited liability companies, corporations, foreign corporations, partnerships, foreign partnerships, limited partnerships, foreign limited partnerships or other domestic or foreign entities by meeting the requirements of NMSA 1978 Section 53-19-61 and 53-19-62 and shall file articles of merger as required by NMSA 1978 Section 53-19-62.1.

E. Dissolution. A domestic limited liability company is dissolved when any of the events listed in NMSA 1978 Section 53-19-39 occur. On dissolution, persons designated with authority in NMSA 1978 Section 53-19-42 shall file, and may amend, articles of dissolution as required by NMSA 1978 Section 53-19-41. A person authorized in the articles of dissolution may revoke the articles of dissolution by filing a revocation statement in compliance with NMSA 1978 Section 53-19-41.

F. Administrative revocation and reinstatement. The commission may administratively revoke a domestic limited liability company by issuing a certificate of revocation under the circumstances provided in NMSA 1978 Section 53-19-66.1. If the commission administratively revokes a domestic limited liability company, it shall notify the company of its right to reinstatement. A domestic limited liability company may apply to the commission for reinstatement following the process, and within the time period provided, in NMSA 1978 Section 53-19-66.2. [12.3.4.11 NMAC - N, 7-15-05]

12.3.4.12 FOREIGN LIMITED LIABILITY COMPANIES: A foreign limited liability company shall comply with the applicable requirements of the Limited Liability Company Act, NMSA 1978 Section 53-19-1 through 53-19-74.

A. Filing requirements. A foreign limited liability company shall file all documents required by this section in compliance with 12.3.1 NMAC, General Provisions, and pay applicable fees required in NMSA 1978 Section 53-19-63.

B. Name. A foreign limited liability company shall comply with name requirements in NMSA 1978 Section 53-19-50, and may use the procedures in 12.3.1.15 NMAC for inquiring about, reserving, formally applying for, or reinstating a name.

C. Documents required.

(1) Certificate of registration. Before transacting business in New Mexico, a foreign limited liability company shall register with the commission as required by NMSA 1978 Sections 53-19-48 and 53-19-49,

and may amend its certificate of registration pursuant to NMSA 1978 Section 53-19-51.

(2) Statement designating registered agent and office. A foreign limited liability company shall have and continuously maintain on file with the commission a registered agent and office that meet the requirements in NMSA 1978 Sections 53-19-5.

D. Cancellation of registration. A foreign limited liability company may cancel its registration by complying with the requirements of NMSA 1978 Section 53-19-52.

E. Merger and conversion. A foreign limited liability company may file with the commission a certified copy of merger or conversion documents filed and approved in its state of organization and the filing fee required in NMSA 1978 Section 53-19-63.

F. Administrative revocation and reinstatement. The commission may administratively revoke a foreign limited liability company by issuing a certificate of revocation under the circumstances provided in NMSA 1978 Section 53-19-66.1. If the commission administratively revokes a foreign limited liability company, it shall notify the company of its right to reinstatement. A foreign limited liability company may apply to the commission for reinstatement following the process and within the time period provided in NMSA 1978 Section 53-19-66.2. [12.3.4.12 NMAC - N, 7-15-05]

12.3.4.13 SANITARY PROJECTS ACT ASSOCIATIONS: A Sanitary Projects Act association shall comply with the requirements of the Sanitary Projects Act, NMSA 1978 Sections 3-29-1 through 3-29-20.

A. Filing requirements. A sanitary projects act association shall file all documents required by this section in compliance with 12.3.1 NMAC, General Provisions.

B. Name. A sanitary projects act association shall not use a name that is the same as, or confusingly similar to, the name of another association or corporation in New Mexico, and may use the procedures in 12.3.1.15 NMAC for inquiring about, reserving, formally applying for, or reinstating a name.

C. Documents required.

(1) Certificate of association. A sanitary projects act association shall file a certificate of association that meet the requirements of NMSA 1978 Sections 3-29-16 and 3-29-17 with a filing fee of twenty-five dollars (\$25.00). A sanitary projects act association may file amendments to its articles of incorporation as provided in NMSA 1978 Section 53-29-19 with a filing fee of twenty dollars (\$20.00).

(2) Statement designating registered agent and office. A sanitary projects act association shall have and continuously maintain on file with the commission a registered agent and office that meet the requirements in NMSA 1978 Sections 3-29-17.1 and 3-29-17.2.

D. Dissolution. A sanitary projects act association may voluntarily dissolve by complying with the requirements for amending its certificate of association provided in Subsection C of this section. [12.3.4.13 NMAC - N, 7-15-05]

12.3.4.14 SANITARY PROJECTS ACT ASSOCIATION ANNUAL AND SUPPLEMENT REPORT:

A sanitary projects act association shall file, together with a filing fee of ten dollars (\$10.00), annual and supplemental reports as required by NMSA 1978 Sections 3-29-17.4 and 3-29-17.5 on the following commission-prescribed form available as provided in 12.3.1 NMAC.

RETURN TO:
NM PUBLIC REGULATION
COMMISSION
CORPORATIONS BUREAU
P.O. BOX 1269
SANTA FE NM 87504-1269

**SANITARY PROJECTS ACT ASSOCIATION
ANNUAL REPORT _____**

SUPPLEMENTAL REPORT _____
For taxable year ending ____/____/____

Please see instructions on back of page.

1	State or country of incorporation		

2	EXACT	Name	
----------	--------------	------	--

	ASSOCIATION NAME AND U.S. MAILING ADDRESS	Address	
		City, State, Zip	

3	REGISTERED AGENT AND OFFICE LOCATION WITHIN NEW MEXICO FOR SERVICE OF PROCESS (Filing corporation cannot be its own agent)		
	Name		
	Street Address		
	City, Zip		

4	BRIEF STATEMENT OF CHARACTER OF AFFAIRS BEING CONDUCTED

5	DIRECTORS AND OFFICERS List the names and addresses of ALL the directors and officers and identify every title each director holds. The association's board of directors shall have 5 members.			
	Office/Title	Name	Address	(optional) Additional Titles
	Director			
	Director			
	President			
	Vice President			
	Secretary-Treasurer			
<i>Attach schedule of additional directors and officers if needed</i>				

6	SIGNATURES Under penalties of perjury, we declare and affirm that we have examined this report, including the accompanying schedules and statements, and that all statements contained therein are true and correct.			
	Date	Printed Name	Signature	Title

7	PAYMENT OF FILING FEE AND LATE FILING PENALTY		NMPRC USE ONLY	
	a	Report filing fee	\$ 10.00	
	b	Late filing penalty (\$10.00) <i>IRS or PRC extension, if any, must be submitted with this report</i>		Amount Remitted
	c	TOTAL AMOUNT DUE with corporate report (lines a + b)	\$	Postmark Date
		PLEASE DO NOT SUBMIT CASH FOR PAYMENT		

INSTRUCTIONS

This report is required by, and must comply with the requirements of, NMSA 1978 Sections 3-29-17.4 and 3-29-17.5 and 12.3.4.14 NMAC. At the top right of the form, indicate whether the report is an annual report or a supplemental report. If an annual report, fill in the closing date of the taxable year for the report.

1. Indicate the state or country in which the Sanitary Projects Act association was formed and filed its certificate of association. For further instructions regarding New Mexico associations, consult NMSA 1978 Sections 3-29-15, 3-29-16, and 3-29-17.
2. Provide the exact name of the association. If available, attach a mailing label from the Public Regulation Commission.
3. Indicate the address of the registered office of the association in New Mexico, and the name of its registered agent at that address. For additional information on the requirements for registered office and agent, see NMSA 1978 Sections 3-29-17.1 and 3-29-17.2. If within a municipality, the address must be a street address; if outside a municipality, you must include geographic location, including well-known landmarks.
4. Provide a brief statement of the character of the affairs that the association is actually conducting. Attach additional pages if necessary.
5. Indicate the names and respective addresses of the directors and officers of the association. You must indicate who is the President, Vice President, and Secretary-Treasurer. If the association's certificate of association or by-laws confer additional titles on the officers, you may provide these in the right column, but this is not required.
6. Any two of the members of the association, or a receiver or trustee if the association is in the hands of a receiver or trustee, must sign and swear to the statements in the report.
7. An annual report is due on or before the fifteenth day of the fifth month following the end of the association's taxable year; a supplemental report is due within thirty (30) days of a change listed in NMSA 1978 Section 3-29-17.5. If not filed by this date, you owe a late penalty of ten dollars (\$10.00), unless the Commission granted an extension pursuant to the terms of NMSA 1978 Section 3-29-17.5. If the report is late and the Commission did not grant an extension, insert ten dollars (\$10.00) into box 7b and total the fees owed. Payment of fees must accompany this report or the Commission will not accept it for filing. You may pay by check or money order made out to the New Mexico Public Regulation Commission. If the Commission granted an extension, you must attach a copy of the extension to this report.
[12.3.4.14 NMAC - N, 7-15-05]

12.3.4.15 WATER USERS ASSOCIATIONS: A water users association shall comply with the requirements in NMSA 1978 Sections 73-5-1 through 73-5-9.

A. Filing requirements. A water users association shall file all documents required by this section in compliance with 12.3.1 NMAC, General Provisions.

B. Name. A water users association shall comply with the name requirements of NMSA 1978 Section 73-5-2, and may use the procedures in 12.3.1.15 NMAC for inquiring about, reserving, formally applying for, or reinstating a name.

C. Certificate of organization required. A water users association shall file a certificate of organization that meets the requirements of NMSA 1978 Section 73-5-2 in accordance with NMSA 1978 Section 73-5-3 with a filing fee of twenty-five dollars (\$25.00). An association may file amendments to its certificate of organization as provided in NMSA 1978 Section 73-5-5 with a filing fee of twenty dollars (\$20.00).

D. Dissolution. A water users association may voluntarily dissolve by complying with the requirements for amending its certificate of organization provided in Subsection C of this section.

[12.3.4.15 NMAC - N, 7-15-05]

12.3.4.16 WATERWORKS CORPORATIONS: A waterworks corporation shall comply with the requirements of NMSA 1978 Sections 62-2-1 through 62-2-22.

A. Filing requirements. A waterworks corporation shall file all documents required by this section in compliance with 12.3.1 NMAC, General Provisions.

B. Required articles of incorporation. A waterworks corporation shall file articles of incorporation that meet the requirements of NMSA 1978 Sections 62-2-1, 62-2-2, and 62-2-3 with the fees required in NMSA 1978 Section 53-2-1, which may be amended by filing in the same manner as the original articles were filed.

C. Dissolution. A waterworks corporation shall comply with the requirements for dissolution

provided in NMSA 1978 Sections 62-2-13, and may file the court order or decree of dissolution with the commission, for which no filing fee is required.
[12.3.4.16 NMAC - N, 7-15-05]

HISTORY OF 12.3.4:

Pre-NMAC History. The material in this part was derived from that previously filed with the State Records Center: Docket No. 83-1-CORP, In the Matter of Rules and Regulations for the Corporation and Franchise Tax Department, 2-22-83.

SCC-84-1-CF, Regulations of the Corporations and Franchise Tax Department, 3-15-84.

SCC 84-3, In the Matter of the Amendment of Regulations of Corporations and Franchise Tax Department, 11-8-84.

History of Repealed Material.

SCC-84-1-CF, Regulations of the Corporations and Franchise Tax Department (filed 3-15-84), repealed 7-15-05.

SCC 84-3, In the Matter of the Amendment of Regulations of Corporations and Franchise Tax Department (filed 11-8-84), repealed 7-15-05.

Other History.

Only those applicable portions of SCC-84-1-CF, Regulations of the Corporations and Franchise Tax Department (filed 3-15-84) and SCC 84-3, In the Matter of the Amendment of Regulations of Corporations and Franchise Tax Department (filed 11-8-84) were replaced by 12.3.4 NMAC, Other Business Entities, effective 7-15-05.