

MVD Procedural Quick Update

#131rev

RE: Do not title any vehicle or vessel in the name of a d/b/a business.
Effective date: Immediate

Date: November 28, 2011
To: All MVD
From: Mac Lewis, MVD Policy and Procedures Manager

[This is the latest in a series of procedural updates. These updates deal with specific MVD procedures and practices. Managers and Supervisors should consistently distribute the updates to all personnel and integrate them into regular information and training sessions.]

Effective immediately, MVD agents, including state, county-municipal and PRA offices and title service companies (TSCs) may not title any vehicle or vessel in the name of a business that is not an actual legal entity such as a corporation or LLC.

According to TRD's Legal Services Bureau, a vehicle or vessel should **never** be titled in the name of a business that is not an actual legal entity such as a corporation or LLC. In other words, we should never permit a person to apply for and obtain a certificate of title in the name of a "doing business as" (d/b/a or dba) business, such as "Sunset Towing Service." If "Sunset Towing Service" is a proprietorship, the vehicle must be titled in the name of the individual owner of the business.

Section 66-3-4 of the Motor Vehicle Code requires registration of vehicles by the "owner." A d/b/a cannot be an "owner" because it does not have any legal existence and does not have the legal capacity to own anything. The title to a vehicle owned by John A. Smith who does business as XYZ Tires may show ownership by "John A. Smith," or by "John A. Smith, dba XYZ Tires," but can **never** be simply "XYZ Tires."

If a business entity owner is a corporation or an LLC (limited liability company), the corporation and LLC laws require that the entity use words or letters in its name indicating its status as an artificial entity. A legal business entity must generally include in its name a formal indication of the type of business entity it is. But there are always exceptions. For example, an incorporated business may use "company" or "co." instead of "incorporated" or "inc."

Examples of acceptable business entity owner names are:

1. For a corporation:
ABC Corporation; ABC, Incorporated; ABC, Inc.; ABC Company; or ABC Co.
2. For a limited liability company or limited partnership:
ABC, Limited Liability Company; ABC, LLC; ABC, Limited Partnership; or ABC, L.P.

If you have any question about the legal status of the entity being proposed as the title owner, you may request that the applicant provide proof of the entity's legal existence and status, or check the web site (at <http://www.nmprc.state.nm.us/>) of the New Mexico Public Regulation Commission (PRC).

Field office managers and supervisors should refer any comments or questions regarding this Procedural Quick Update to their Bureau Chiefs, with cc to mac.lewis@state.nm.us. Others are encouraged to direct comments or questions directly to Mac Lewis.
