

The following is a list of states composed by Tom Allman that have adopted or are in process of adopting rules regarding electronic discovery.

Alaska

The Alaska Supreme Court is currently considering proposals to adopt amendments based on the Federal Amendments.

Arizona

Effective January 1, 2008, the Arizona Supreme Court has adopted a comprehensive set of e-discovery rules in response to a petition which largely mirror the Federal Amendment. See [Arizona State Rules](#)

Arkansas

The Supreme Court has published for comment an which would presumptively eliminate a claim of privilege or work product waiver.

California

The California Judicial Council withdrew its proposed amendment (SPR06-13) which would have amended Section 212 of the California Rules of Court to require that parties “meet and confer” about preservation prior to the civil case management conferences. A lawyer for the Council was quoted as stating that it was dropped because of concern the conference would come too late for the parties to start talking about e-discovery production.

Colorado

The Committee on Rules of Civil Procedure agreed early in 2007 to wait and see how the federal amendments were working before taking any action. See [Colorado State Rules](#).

Delaware

A member of the relevant Delaware Bar Committee reports that the State Rules Committee sees no need to act at this time.

District of Columbia

The District of Columbia is required by law to follow the Federal Rules of Civil Procedure. The District of Columbia Court of Appeals has stayed the deadline for compliance to enable the Superior Court and its advisory committee time to revise the local rules.

Florida

A Subcommittee of the Rules Committee has been considering possible amendments based on the 2006 Federal Amendments.

Idaho

Idaho amended the Idaho Rules of Civil Procedure effective July 1, 2006 to include

provisions modeled on the 2006 Amendments and Tex. R. Civ. P. 196.4. See [Idaho State Rules](#).

Illinois

A subcommittee of the Judicial Conference is reported to be evaluating the adaptability of the 2006 Amendments with recommendation expected to the Rules Committee in November, 2007 and public comments set for January, 2008.

Indiana

The Indiana Supreme Court has adopted E-Discovery Amendments largely replicating the Federal Amendments which will become effective on January 1, 2008. See [Indiana State Rules](#).

Iowa

Effective May 1, 2008, the state of Iowa has adopted amendments largely modeled on the Federal Amendments for use in e-discovery. See [Iowa State Rules](#).

Kansas

The procedural subcommittee of the Judicial Council approved a motion in May, 2007 to recommend adoption of the Federal Amendments for Kansas, without the changes to Rule 26(f) or 26(a)(1) which have no counterpart in Kansas.

Louisiana

On June 25, 2007, the Governor signed Act No. 140 passed by the legislature to embody some, but not all, of the 2006 Federal Amendments. See [Louisiana State Rules](#).

Maryland

Effective January 1, 2008, the highest court in Maryland, the Court of Appeals, has adopted amendments which largely mirror the Federal Amendments See [Maryland State Rules](#).

Massachusetts

The Advisory Committee on Rules has discussed the need for e-discovery rules and has decided to monitor experience under the Federal rules as well as experience in the state courts. In the meantime, the Chief Justice has distributed and posted copies of the Guidelines issued by the Conference of Chief Justice Guidelines.

Michigan

Reportedly the State Bar Representative Assembly has prepared a draft of possible e-discovery amendments based on the FRCP. It is unclear whether or to what extent this has been presented to the Supreme Court for action.

Minnesota

Effective July 1, 2007, The Minnesota Supreme Court adopted amendments to its Rules of Civil Procedure which mirror the Federal Amendments and include unique comments. See [Minnesota State Rules](#).

Mississippi

Mississippi adopted e-discovery amendments in 2003 to its Rule 26 (“General Provisions Governing Discovery”).

Missouri

The Judicial Rules Committee has decided to examine the issue of the need for e-discovery rules but has delayed action until 2008.

Montana

Effective January 1, 2007, the Supreme Court of Montana has adopted amendments to its civil rules which incorporated all of the 2006 Amendments except the modifications to the “meet and confer” obligations, which have no counterpoint under Montana law. See [Montana State Rules](#).

Nebraska

The Supreme Court sought public comment by August 31 on its limited proposal to amend Rules 33 and 34 to parallel the federal amendments. See [Nebraska State Rules](#).

Nevada

There are no current ongoing efforts to consider e-discovery rules.

New Hampshire. Superior Court Rule 62 was amended effective March 1, 2007 to require discussion of key e-discovery topics at meet and confers. See: [Nevada State Rules](#).

New Jersey

The Supreme Court of New Jersey, effective September 1, 2006, has adopted the Federal Amendments with certain minor exceptions. See [New Jersey State Rules](#).

New York

The Advisory Committee on Civil Practice has reportedly determined that there is no need to add e-discovery rules. The Rules of Practice for the Commercial Division of the Supreme Court (trial level courts) were amended in 2006 (§202.70) to require consultations regarding e-discovery issues prior to a preliminary conference.

New Mexico

The Rules Committee is working on series of proposed e-discovery amendments based on the Federal Amendments.

North Carolina

Reportedly there is no interest at the Supreme Court in developing statewide e-discovery rules at this time. The North Carolina Business Courts have include provisions relating to discussion of e-discovery issues in their rules. See [North Carolina State Rules](#).

North Dakota

Effective March 1, 2008, North Dakota has enacted amendments mirroring the Federal Amendments. See [North Dakota State Rules](#).

Ohio

The Supreme Court has published proposed e-Discovery rules with some changes from the Federal Amendments. Public comments are due by November 14, 2007. See [Proposed Amedments to the Ohio Rules of Appellate Procedure, Ohio Rules of Criminal Procedure and Ohio Rules of Civil Procedure](#).

Oregon

The Judicial Council has discussed reviewing the issue of e-discovery in the next rulemaking cycle.

South Carolina

The South Carolina Bar Practice and Procedure Committee has created a subcommittee to study and evaluate the issue of e-discovery amendments.

Tennessee

The Tennessee Supreme Court and its Advisory Commission on Rules of Practice and Evidence has prepared draft of e-discovery rules which blend the Chief Justice Guidelines with the Federal Rule Amendments. It is unclear what the status of the proposal is, but reportedly action is anticipated by January, 2008.

Texas

Texas was the first state to enact e-discovery rules, having added §§196.3 and 196.4 to its Civil Procedure code in 1999.

Utah

The Utah Supreme Court has approved, effective November 1, 2007, a set of e-discovery amendments largely based on the Federal Rules. See: [Utah State Rules](#).

Vermont

The Rules Committee plans to take up consideration of e-discovery amendments in early 2008.

Virginia

The Advisory Committee on Rules of the Judicial Council requested comments by September 1, 2007 on the possibility of recommending the adoption of amendments based on the 2006 Amendments. See the illustrative proposals at [Virginia Proposed Rules](#).

Washington

A subcommittee of the Washington State Rules Committee has proposed adoption of the provisions of the Federal Amendments. The proposal will not be considered by the Supreme Court until 2008 and would not come into effect until 2009 at the earliest.

Tom Allman served as co-chair of the E-Discovery Committee of the Lawyers for Civil Justice and serves on the Steering Committee of the Sedona Conference® Working Group One and on the Advisory Board of the Georgetown Law Center Advanced E-discovery Institute. He is an Editor of the Sedona Principles (Second Edition) and writes and speaks widely on e-discovery, corporate compliance and information management. Mr. Allman received his J.D. from Yale Law School. He provides regular updates to state rules changes to Fios and other interested parties.