

3 AAC 48.091(l) is repealed and readopted to read:

(l) Notwithstanding the time specified in (c) of this section, the time to file in opposition to or in support of a motion under 3 AAC 48.141 – 3 AAC 48.145 concerning discovery is five business days unless the presiding officer establishes a different time for response.

Notwithstanding the time specified in (e) of this section, the time to file a reply to a response to a motion under 3 AAC 48.141 – 3 AAC 48.145 concerning discovery is two business days unless the presiding officer establishes a different time for reply. (Eff. 4/13/2000, Register 154; am 2/16/2012, Register 201; am 8/18/2013, Register 207)

Authority: AS 42.04.080 AS 42.05.151 AS 42.06.140
AS 42.05.141

3 AAC 48 is amended by adding new sections to read:

3 AAC 48.141. Scope of discovery. A party may obtain discovery from another party regarding any matter, not privileged, that is relevant to the subject matter of the proceeding, if the matter is admissible in evidence under 3 AAC 48.154 or appears reasonably calculated to lead to the discovery of admissible evidence. Upon motion by a party the presiding officer may limit discovery otherwise obtainable if the moving party establishes that the burden and expense of the requested discovery outweighs its likely benefit. (Eff. 8/18/2013, Register 207)

Authority: AS 42.05.141 AS 42.05.671 AS 42.06.445
AS 42.05.151 AS 42.06.140

3 AAC 48.142. Service of discovery. Discovery requests and responses to discovery requests must be served electronically as provided in 3 AAC 48.090(b)(2), (4), and (5), unless electronic filing has been waived under 3 AAC 48.095(l). If electronic filing has been waived the parties shall determine how discovery is served. Responses to discovery requests may be shared among the parties by means other than electronic mail, if all parties agree. If the parties cannot agree on how discovery is served, the presiding officer will determine how discovery is served. Discovery requests and responses to discovery requests are not filed with the commission when served. (Eff. 8/18/2013, Register 207)

Authority: AS 42.05.141 AS 42.05.671 AS 42.06.445
AS 42.05.151 AS 42.06.140

3 AAC 48.143. Discovery requests and responses. (a) A party may obtain discovery from another party through interrogatories, requests for production, and requests for admission. A party may notice and conduct a deposition only upon agreement of all parties or with permission of the presiding officer upon motion and a showing that the information sought cannot be efficiently obtained through a less burdensome form of discovery.

(b) A party from whom discovery is requested shall address each discovery request by answering the discovery request, furnishing the documents requested, objecting to the discovery request, or asserting privilege. A party responding to a discovery request shall identify in its response each person who supplied the information contained in the response.

(c) If a party objects to a discovery request, the party shall state the basis for the objection and the facts justifying the objection and respond to the discovery request to the extent the discovery request is not objectionable. If a party asserts privilege, the party shall specify the privilege and respond to the discovery request to the extent the response is not privileged.

(d) A party shall promptly amend or supplement its response to a discovery request if, during the proceeding, the party determines that the response was inaccurate or incomplete or finds additional information responsive to the discovery request. (Eff. 8/18/2013, Register 207)

Authority: AS 42.05.141 AS 42.05.671 AS 42.06.445
AS 42.05.151 AS 42.06.140

3 AAC 48.144. Discovery procedure. (a) A party may obtain discovery from another party before a procedural schedule is established. After the presiding officer establishes a procedural schedule specifying discovery times, a party may request discovery only when permitted by the procedural schedule unless, upon motion and a showing of good cause, the presiding officer permits discovery outside the times established in the procedural schedule.

(b) In proceedings under AS 42.05 a party shall serve its response to a discovery request on all other parties not later than 10 days after service of the discovery request except that, if a discovery request concerns reply testimony, a party shall serve its response not later than seven days. The parties may agree to or the presiding officer may direct a shorter or longer time for response.

(c) In proceedings under AS 42.06 a party shall serve its response to a discovery request on all other parties not later than 30 days after service of the discovery request except that, if a discovery request concerns reply testimony, a party shall serve its response not later than 20 days. The parties may agree to or the presiding officer may direct a shorter or longer time for response.

(d) If a dispute arises concerning discovery, the requesting party and the party from whom discovery is requested shall confer in good faith to resolve the dispute before filing a motion concerning discovery.

(e) A requesting party receiving an objection to its discovery request may file a motion for an order compelling the objecting party to respond to the discovery request, if attempts to resolve the dispute with the objecting party fail. A motion to compel discovery must describe the efforts made to resolve the discovery dispute. A party filing a motion to compel discovery shall attach the discovery request and all responses made to the discovery request.

(f) A party receiving a discovery request may file a motion for an order limiting the discovery requested if discussions with the requesting party to limit the discovery requested fail. A motion to limit discovery must describe the efforts made to resolve the discovery dispute. A party filing a motion to limit discovery shall attach the discovery request it seeks to limit.

(g) Any motion filed under 3 AAC 48.141 – 3 AAC 48.145 is a motion concerning discovery. The provisions of 3 AAC 48.091 apply to a motion concerning discovery except to the extent modified by 3 AAC 48.091(*l*).

(h) A party filing a motion concerning discovery shall include language stating that the motion concerns discovery and a response must be filed in five business days.

(i) The presiding officer shall rule on a motion concerning discovery. The presiding officer may require oral argument before ruling on a motion concerning discovery and may rule on the motion at the oral argument. (Eff. 8/18/2013, Register 207)

Authority: AS 42.05.141 AS 42.05.671 AS 42.06.445
AS 42.05.151 AS 42.06.140

3 AAC 48.145. Confidential discovery. After notice to the other parties, a party may request that the presiding officer issue an order governing the production in discovery and use by parties of confidential information. A party expecting to produce confidential information in discovery shall request issuance of a confidentiality order. Upon request, the presiding officer shall issue a confidentiality order appropriate to the proceeding. The parties may agree on the terms of a confidentiality order and submit the proposed order to the presiding officer for issuance. (Eff. 8/18/2013, Register 207)

Authority: AS 42.05.141 AS 42.05.671 AS 42.06.445
AS 42.05.151 AS 42.06.140