§ 406.139 Joint procedural or discovery schedule.

(a) General. The parties may agree to submit a schedule for filing all pre-hearing motions or for conducting discovery or both.

(b) Form and content of schedule. If the parties agree to a joint procedural or discovery schedule, one of the parties must file with the Federal Docket Management System and serve the joint schedule, setting forth the dates to which the parties have agreed. One of the parties must draft an order establishing a joint schedule for the administrative law judge.

(1) The joint schedule may include, but need not be limited to, times for requests for discovery, any objections to discovery requests, responses to discovery requests, submission of pre-hearing motions, responses to pre-hearing motions, exchange of exhibits to be introduced at the hearing, and lists of witnesses that may be called at the hearing.

(2) Each party must sign the original joint schedule.

(c) Time. The parties may agree to submit all pre-hearing motions and responses and may agree to close discovery in the proceedings under the joint schedule within a reasonable time before the date of the hearing, but not later than 15 days before the hearing.

(d) Order establishing joint schedule. The administrative law judge must approve the joint schedule filed by the parties by signing the joint schedule and filing it with the Federal Docket Management System.

(e) Disputes. The administrative law judge must resolve any dispute regarding discovery or regarding compliance with the joint schedule as soon as possible so that the parties may continue to comply with the joint schedule.

(f) Sanctions for failure to comply with joint schedule. If a party fails to comply with the order establishing a joint schedule, the administrative law judge may direct that party to comply with a motion to compel discovery; or, limited to the extent of the party’s failure to comply with a motion or discovery request, the administrative law judge may:

(1) Strike that portion of a party’s pleadings;

(2) Preclude pre-hearing or discovery motions by that party;