

Dear Mr. Spencer:

This is in response to the request for public comments contained in Federal Register Notice Volume 78, Number 217, dated November 8, 2013, regarding revising regulations governing how jurisdiction is established over Merit Systems Protection Board (MSPB) appeals.

Members of the Office of the Deputy Assistant General Counsel for Personnel Law and Administrative Litigation in the Department of Energy's Office of the Assistant General Counsel for General Law have reviewed the proposed Options. We recommend that the Board adopt Option C, insofar as it eliminates the requirement to hold an evidentiary hearing on the merits even when there is no genuine issue of material fact to be resolved. We do not recommend the adoption of Option A.

Thank you for providing the opportunity to weigh-in on this important topic.

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