

identify any specific positions for which it may believe that a permanent waiver would be appropriate in the future. The Securities and Exchange Commission cited as precedent the decision of OGE in 1996 to grant a temporary waiver under 18 U.S.C. 207(c)(2)(C) covering all SES level 4 employees in the executive branch who were unexpectedly placed in "senior employee" status, without any change in the duties of their positions, under the version of section 207(c)(2)(A)(ii) as then worded, as a result of a pay raise under Executive Order 12984. *See* DO-96-001 (January 4, 1996) (original six month waiver); 61 FR 14326-14328 (April 1, 1996) (notice of forthcoming termination of original six month waiver); DO-96-030 (June 6, 1996) (three month extension of waiver); 61 FR 28908-28910 (June 6, 1996) (notice of extension and revocation of waiver after period of extension); all of which are available on OGE's Web site at <http://www.usoge.gov>.

The Office of Government Ethics agreed that the information provided by the SEC satisfied the two-part test for granting waivers under section 207(c)(2)(C). In order to grant a waiver, the Director of OGE must determine both that the imposition of the restrictions of section 207(c) "would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions" and that "granting the waiver would not create the potential for use of undue influence or unfair advantage." 18 U.S.C. 207(c)(2)(C)(i) and (ii). The Office of Government Ethics found the hardship requirement to be satisfied because the information provided by the SEC indicated that the very purpose of the new Congressionally authorized pay plan was to reverse that agency's historical difficulties in recruiting and retaining qualified experts in fields related to the mission of the agency. As OGE provides in its implementing regulations, hardship may be shown by the "payment of a special rate of pay to the incumbent of the position pursuant to specific statutory authority." 5 CFR 2641.201(d)(5)(ii)(A). The Office of Government Ethics also found that the granting of a waiver would not create the potential for undue influence or unfair advantage: the new increase in pay is not accompanied by "any accretion of duties or responsibilities," DO-96-001, and there is no reason to expect that the incumbents at the present time would have any more potential for influence or advantage than they had immediately prior to the pay increase.

Pursuant to 5 CFR 2641.201(d)(4), the effective date of the waiver is the "date of the Director's written response to the designated agency ethics official indicating that the request for exemption has been granted." 5 CFR 2641.201(d)(4). That written response is being issued today. The regulations also specifically state that any waiver "shall not benefit individuals who terminated senior service prior to the effective date of the exemption." *Id.* Consequently, the benefit of the waiver does not extend to any individuals who terminated senior service prior to the date of waiver.

Finally, although the SEC requested that the waiver be effective only until November 19, 2002, OGE is granting a waiver that will extend until November 29, 2002. Under 5 CFR 2641.201(d)(4), the revocation of a waiver cannot be effective until 90 days after the publication in the **Federal Register** of a notice of revocation.

Therefore, pursuant to 5 CFR 2641.201(d)(4), OGE hereby gives notice that the above-referenced post-employment waiver, granted on August 30, 2002, will expire and is revoked effective on November 29, 2002.

Approved: August 26, 2002.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Meeting of the President's Council on Bioethics on September 12-13, 2002

**AGENCY:** The President's Council on Bioethics, HHS.

**ACTION:** Notice.

**SUMMARY:** The President's Council on Bioethics will hold its sixth meeting, at which it will discuss, among other things, stem cells, cloning, the patentability of human organisms, commerce in the human body and its parts, genetic enhancement of human beings, and/or international models of regulation of the new biotechnologies (Europe).

**DATES:** The meeting will take place Thursday, September 12, 2002, from 8:30 a.m. to 4:45 p.m. ET; and Friday, September 13, 2002, from 8:30 a.m. to 12:15 p.m. ET.

**ADDRESSES:** Hotel Monaco, 700 F Street, NW., Washington, DC 20004

**PUBLIC COMMENTS:** The meeting agenda will be posted at <http://www.bioethics.gov>. Members of the

public may submit written statements for the Council's records. Please submit statements to Ms. Diane Gianelli, Director of Communications (tel. 202/296-4669 or e-mail [info@bioethics.gov](mailto:info@bioethics.gov)). The public may also express comments during the hour set aside for this purpose, beginning at 4:30 p.m. ET, on Thursday, September 12, 2002. Comments will be limited to no more than five minutes per speaker or organization. Please give advance notice of such statements to Ms. Gianelli at the phone number given above, and be sure to include name, affiliation, and a brief description of the topic or nature of the statement.

#### FOR FURTHER INFORMATION CONTACT:

Diane Gianelli, 202/296-4669, or visit <http://www.bioethics.gov>.

Dated: August 26, 2002.

**Dean Clancy,**

*Executive Director, The President's Council on Bioethics.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[Program Announcement 02129]

### Public Health Disease Surveillance Initiative; Notice of Award of Funds

#### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the award of fiscal year (FY) 2002 funds for a grant program for the Delaware Department of Health and Social Services for Public Health Disease Surveillance Initiative.

The purpose of this program is to build an integrated data management system that will allow the sharing of core data elements needed by the State of Delaware to effectively fulfill its responsibilities for the surveillance and reporting of communicable diseases. This program addresses the "Healthy People 2010" focus area of Immunization and Infectious Diseases.

#### B. Eligible Applicant

Assistance is provided only to the Delaware Department of Health and Social Services. No other applications were solicited. Eligibility was limited to the Delaware Department of Health and Social Services because fiscal year 2002 federal appropriations specially directs the CDC to award funds to continue the development of the Delaware Electronic Reporting System (DEERS) to track diseases.