AMENDMENT TO THE RULES COMMITTEE PRINT

116–7

OFFERED BY MR. HUFFMAN OF CALIFORNIA

Insert after section 8005 the following new section:

SEC. 8006. PROHIBITION ON PARTICIPATION IN MATTER RELATING TO PREVIOUS EMPLOYMENT.

(a) In general.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

“§ 220. Prohibition on participation in matter relating to previous employment

“(a) During the 2-year period beginning on the date an individual is appointed to a covered position at an agency, any such individual who has not received a waiver under subsection (b)—

“(1) who participates in any particular matter involving specific parties that is directly and substantially related to the individual’s former employer or former clients, or

“(2) with respect to any such individual who was a registered lobbyist under the Lobbying Disclosure Act of 1995, or who was not a registered lobbyist under such Act but who engaged in lobbying
activity as defined in subsection (c), during the 2-year period preceding the date of such appointment, who—

“(A) participates in any particular matter on which the individual made a lobbying contact (in the case of a registered lobbyist under such Act), or engaged in such activity, during such 2-year period,

“(B) participates in the specific issue area in which such particular matter falls, or

“(C) seeks or accepts employment with any agency with respect to which the individual made a lobbying contact (in the case of a registered lobbyist under such Act), or engaged in such activity, during such 2-year period,

shall be punished as provided in section 216 of this title.

“(b)(1) The Director of the Office of Management and Budget, in consultation with the Counsel to the President, may waive the requirements of subsection (a) with respect to any individual covered by such subsection if the Director certifies, in writing, to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the appropriate congres-
sional committees of jurisdiction, that it is in the public
interest to grant the waiver.

“(2) For purposes of carrying out paragraph (1)—

“(A) the public interest includes exigent cir-
cumstances relating to public health, public safety,
or national security;

“(B) de minimis contact with an agency shall
be cause for a waiver of subsection (a)(2); and

“(C) any waiver shall take effect when the cer-
tification is published in the Federal Register, ac-
accompanied by a signed statement by the Director de-
scribing in detail the reasons for providing the waiv-
er unless such a description would compromise na-
tional security.

“(c)(1) In this section, the term ‘lobbying activity’
means, with respect to an individual, knowingly making,
with the intent to influence, any communication to or ap-
pearance before any officer or employee of the Federal
Government on behalf of another person as an employee
of a lobbying firm or lobbying organization, in connection
with any matter on which such person seeks official action
by such officer or employee of the Federal Government.
The previous sentence applies only with respect to an indi-
vidual who spends greater than 20% of the individual’s
time as an employee of a lobbying firm or lobbying organization engaged in such lobbying activity.

“(2) In paragraph (1), the term ‘lobbying firm’ means any firm, corporation, or limited liability company in which—

“(A) employees of the firm in the aggregate make 2 or more lobbying contacts at any time on behalf of a particular client; and

“(B) the firm receives or expects to receive from a particular client for matters related to lobbying activities at least the amount specified in section 4(a)(3)(A) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(a)(3)(A)) in the quarterly period during which registration would be made under such Act.

“(3) In paragraph (1), the term ‘lobbying organization’ includes any organization in which—

“(A) employees of the firm in the aggregate make 2 or more lobbying contacts at any time on its behalf; and

“(B) the organization expends in connection with lobbying activities at least the amount specified in section 4(a)(3)(B) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603(a)(3)(A)) in the quarterly period...
period during which registration would be made under such Act.

“(4) In this subsection, the term ‘employee’ has the meaning given such term in section 3(5) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(5)).

“(d) In this section, the following definitions apply:

“(1) The term ‘agency’ means an ‘Executive agency’ (as that term is defined in section 105 of title 5), the Executive Office of the President, the United States Postal Service, and the Postal Regulatory Commission, but does not include the Government Accountability Office.

“(2) The term ‘covered position’—

“(A) means any—

“(i) full-time, non-career position which requires appointment by the President or Vice-President;

“(ii) non-career position within the Senior Executive Service or other SES-type system; or

“(iii) position that has been excepted from the competitive service by reason of being of a confidential or policymaking character, including positions under sched-
ule C of subpart C of part 213 of title 5
of the Code of Federal Regulations; and
“(B) does not include any individual ap-
pointed as a member of the Senior Foreign
Service or solely as a uniformed service commis-
sioned officer.
“(3) The term ‘directly and substantially re-
related to former employer or former clients’ means
matters in which the individual’s former employer or
a former client is a party or represents a party.
“(4) The term ‘former client’ means any person
for whom the individual served personally as agent,
attorney, or consultant, but does include instances
where the service provided was limited to a speech
or similar appearance or clients of the individual’s
former employer to whom the individual did not per-
sonally provide services.
“(5) The term ‘former employer’ means any
person for whom the individual has within the 2
years prior to the date of appointment served as an
employee, officer, director, trustee, or general part-
ner, but does not include any agency or other entity
of the Federal Government, Native American tribe,
or any United States territory or possession.
“(6) The term ‘lobbying contact’ has the meaning given such term in section 3(8) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(8)).

“(7) The term ‘particular matter’ has the meaning given that term in section 207 and section 2635.402(b)(3) of title 5, Code of Federal Regulations, or any successor regulation.

“(8) The term ‘participate’ means to participate personally and substantially.

“(9) The term ‘particular matter involving specific parties’ has the meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, or any successor regulation, except that it shall also include any meeting or other communication relating to the performance of an individual’s official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.”.

(b) CLERICAL AMENDMENT.—The table of sections of chapter 11 of title 18, United States Code, is amended by inserting after the item relating to section 219 the following new item:

“220. Prohibition on participation in matter relating to previous employment.”.

(c) APPLICATION.—The amendments made after subsection (a) shall apply to any individual appointed to a
1 covered position (as that term is defined in section 2 220(d)(2) of title 18, United States Code, as added by 3 such subsection) after the date of enactment of this Act.