

**AMENDMENT TO THE RULES COMMITTEE PRINT**

**116-7**

**OFFERED BY MR. HUFFMAN OF CALIFORNIA**

Insert after section 8005 the following new section:

1 **SEC. 8006. PROHIBITION ON PARTICIPATION IN MATTER**

2 **RELATING TO PREVIOUS EMPLOYMENT.**

3 (a) IN GENERAL.—Chapter 11 of title 18, United  
4 States Code, is amended by inserting after section 219 the  
5 following new section:

6 **“§ 220. Prohibition on participation in matter relat-**  
7 **ing to previous employment**

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

12 “(1) who participates in any particular matter  
13 involving specific parties that is directly and sub-  
14 stantially related to the individual’s former employer  
15 or former clients, or

16 “(2) with respect to any such individual who  
17 was a registered lobbyist under the Lobbying Disclo-  
18 sure Act of 1995, or who was not a registered lob-  
19 byist under such Act but who engaged in lobbying

1 activity as defined in subsection (c), during the 2-  
2 year period preceding the date of such appointment,  
3 who—

4 “(A) participates in any particular matter  
5 on which the individual made a lobbying contact  
6 (in the case of a registered lobbyist under such  
7 Act), or engaged in such activity, during such  
8 2-year period,

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

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

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

17 “(b)(1) The Director of the Office of Management  
18 and Budget, in consultation with the Counsel to the Presi-  
19 dent, may waive the requirements of subsection (a) with  
20 respect to any individual covered by such subsection if the  
21 Director certifies, in writing, to the Committee on Over-  
22 sight and Government Reform of the House of Represent-  
23 atives, the Committee on Homeland Security and Govern-  
24 mental Affairs of the Senate, and the appropriate congres-

1 sional committees of jurisdiction, that it is in the public  
2 interest to grant the waiver.

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

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

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

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

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

1 time as an employee of a lobbying firm or lobbying organi-  
2 zation engaged in such lobbying activity.

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

6 “(A) employees of the firm in the aggregate  
7 make 2 or more lobbying contacts at any time on be-  
8 half of a particular client; and

9 “(B) the firm receives or expects to receive  
10 from a particular client for matters related to lob-  
11 bying activities at least the amount specified in sec-  
12 tion 4(a)(3)(A) of the Lobbying Disclosure Act of  
13 1995 (2 U.S.C. 1603(a)(3)(A)) in the quarterly pe-  
14 riod during which registration would be made under  
15 such Act.

16 “(3) In paragraph (1), the term ‘lobbying organiza-  
17 tion’ includes any organization in which—

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

21 “(B) the organization expends in connection  
22 with lobbying activities at least the amount specified  
23 in section 4(a)(3)(B) of the Lobbying Disclosure Act  
24 of 1995 (2 U.S.C. 1603(a)(3)(A)) in the quarterly

1 period during which registration would be made  
2 under such Act.

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

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

7 “(1) The term ‘agency’ means an ‘Executive  
8 agency’ (as that term is defined in section 105 of  
9 title 5), the Executive Office of the President, the  
10 United States Postal Service, and the Postal Regu-  
11 latory Commission, but does not include the Govern-  
12 ment Accountability Office.

13 “(2) The term ‘covered position’—

14 “(A) means any—

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

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

21 “(iii) position that has been excepted  
22 from the competitive service by reason of  
23 being of a confidential or policymaking  
24 character, including positions under sched-

1                   ule C of subpart C of part 213 of title 5  
2                   of the Code of Federal Regulations; and

3                   “(B) does not include any individual ap-  
4                   pointed as a member of the Senior Foreign  
5                   Service or solely as a uniformed service commis-  
6                   sioned officer.

7                   “(3) The term ‘directly and substantially re-  
8                   lated to former employer or former clients’ means  
9                   matters in which the individual’s former employer or  
10                  a former client is a party or represents a party.

11                  “(4) The term ‘former client’ means any person  
12                  for whom the individual served personally as agent,  
13                  attorney, or consultant, but does include instances  
14                  where the service provided was limited to a speech  
15                  or similar appearance or clients of the individual’s  
16                  former employer to whom the individual did not per-  
17                  sonally provide services.

18                  “(5) The term ‘former employer’ means any  
19                  person for whom the individual has within the 2  
20                  years prior to the date of appointment served as an  
21                  employee, officer, director, trustee, or general part-  
22                  ner, but does not include any agency or other entity  
23                  of the Federal Government, Native American tribe,  
24                  or any United States territory or possession.

1           “(6) The term ‘lobbying contact’ has the mean-  
2           ing given such term in section 3(8) of the Lobbying  
3           Disclosure Act of 1995 (2 U.S.C. 1602(8)).

4           “(7) The term ‘particular matter’ has the  
5           meaning given that term in section 207 and section  
6           2635.402(b)(3) of title 5, Code of Federal Regula-  
7           tions, or any successor regulation.

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

10          “(9) The term ‘particular matter involving spe-  
11          cific parties’ has the meaning as set forth in section  
12          2641.201(h) of title 5, Code of Federal Regulations,  
13          or any successor regulation, except that it shall also  
14          include any meeting or other communication relating  
15          to the performance of an individual’s official duties  
16          with a former employer or former client, unless the  
17          communication applies to a particular matter of gen-  
18          eral applicability and participation in the meeting or  
19          other event is open to all interested parties.”.

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

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

24          (c) APPLICATION.—The amendments made after sub-  
25          section (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.

