To amend the Lobbying Disclosure Act of 1995 and the Foreign Agents Registration Act of 1938 to restrict the lobbying activities of former political appointees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2017

Mr. DeFazio (for himself and Ms. Slaughter) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Lobbying Disclosure Act of 1995 and the Foreign Agents Registration Act of 1938 to restrict the lobbying activities of former political appointees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Deter Revolving-door Appointments In our Nation; Stop Washington Appointees from becoming Manipulative Petitioners Act” or the “DRAIN the SWAMP Act”.

SEC. 2. RESTRICTIONS ON LOBBYING ACTIVITIES OF FORMER POLITICAL APPOINTEES.

(a) 5-Year Post-Employment Ban on Serving as Registered Lobbyist.—

(1) In general.—Section 207 of title 18, United States Code, is amended by striking subsections (c) and (d) and inserting the following:

“(c) Restrictions on Senior Personnel of the Executive Branch and Independent Agencies.—

“(1) Restrictions.—In addition to the restrictions set forth in subsections (a) and (b), any person who is a political appointee of the executive branch of the United States (including an independent agency), and who, within 5 years after the termination of his or her service or employment as such a political appointee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

“(2) Political Appointee.—The term ‘political appointee’ means an individual who is—
“(A) employed in a position described under sections 5312 through 5316 of title 5, United States Code (relating to the Executive Schedule);

“(B) a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5, United States Code; or

“(C) employed in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

“(3) WAIVER.—At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in paragraph (2) in such department or agency if the Director determines that—

“(A) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or
agency in obtaining qualified personnel to fill such position or positions; and

“(B) granting the waiver would not create the potential for use of undue influence or unfair advantage.”.

(2) CONFORMING AMENDMENTS.—Section 207 of such title is amended—

(A) in subsection (f)(1), by striking “subsection (c), (d), or (e)” and inserting “subsection (c) or (e)”;

(B) in subsection (h)(2), by striking “subsection (c)(2)(A)(i) or (iii)” and inserting “subsection (c)(2)(A) or (C)”;

(C) in subsection (i)(1)(A), by striking “subsections (a), (c), and (d)” and inserting “subsections (a) and (e)”.

(b) LIFETIME BAN ON SERVING AS AGENT OF FOREIGN GOVERNMENT.—

(1) REGISTRATION AS AGENT.—The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) is amended by adding at the end the following new section:
“SEC. 12. PROHIBITING REGISTRATION BY FORMER POLITICAL APPOINTEES.

“(a) Prohibition.—No individual may register under this Act or otherwise serve as the agent of a foreign principal if the individual at any time served as a political appointee (as defined in subsection (b)).

“(b) Political Appointee.—The term ‘political appointee’ means an individual who is—

“(1) employed in a position described under sections 5312 through 5316 of title 5, United States Code (relating to the Executive Schedule);

“(2) a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5, United States Code; or

“(3) employed in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.”.

(2) Other representation as foreign entity.—Section 207(f)(1)(A) of title 18, United States Code, is amended by inserting after “within 1 year” the following: “(or, in the case of a person who is subject to the restrictions contained in subsection (e), at any time)”.
(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to any individual whose service as a political appointee terminates on or after the date of the enactment of this Act.

(2) DEFINITION.—In paragraph (1), the term “political appointee” has the meaning given such term in section 207(c)(2) of title 18, United States Code (as amended by subsection (a)(1)), and section 12(b) of the Foreign Agents Registration Act of 1938 (as added by subsection (b)(1)).