

TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES
PART III - EMPLOYEES
Subpart B - Employment and Retention
CHAPTER 31 - AUTHORITY FOR EMPLOYMENT
SUBCHAPTER II - THE SENIOR EXECUTIVE SERVICE

§ 3134. Limitations on noncareer and limited appointments

- (a) During each calendar year, each agency shall—
- (1) examine its needs for employment of noncareer appointees for the fiscal year beginning in the following year; and
 - (2) submit to the Office of Personnel Management, in accordance with regulations prescribed by the Office, a written request for authority to employ a specific number of noncareer appointees for such fiscal year.
- (b) The number of noncareer appointees in each agency shall be determined annually by the Office on the basis of demonstrated need of the agency. The total number of noncareer appointees in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.
- (c) Subject to the 10 percent limitation of subsection (b) of this section, the Office may adjust the number of noncareer positions authorized for any agency under subsection (b) of this section if emergency needs arise that were not anticipated when the original authorizations were made.
- (d) The number of Senior Executive Service positions in any agency which are filled by noncareer appointees may not at any time exceed the greater of—
- (1) 25 percent of the total number of Senior Executive Service positions in the agency; or
 - (2) the number of positions in the agency which were filled on the date of the enactment of the Civil Service Reform Act of 1978 by—
 - (A) noncareer executive assignments under subpart F of part 305 of title 5, Code of Federal Regulations, as in effect on such date, or
 - (B) appointments to level IV or V of the Executive Schedule which were not required on such date to be made by and with the advice and consent of the Senate.
- This subsection shall not apply in the case of any agency having fewer than 4 Senior Executive Service positions.
- (e) The total number of limited emergency appointees and limited term appointees in all agencies may not exceed 5 percent of the total number of Senior Executive Service positions in all agencies.

(Added Pub. L. 95-454, title IV, § 402(a), Oct. 13, 1978, 92 Stat. 1159.)

References in Text

The date of enactment of the Civil Service Reform Act of 1978, referred to in subsec. (d)(2), is the date of enactment of Pub. L. 95-454, which was approved Oct. 13, 1978.

Level IV or V of the Executive Schedule, referred to in subsec. (d)(2)(B), are set out in sections 5315 and 5316 of this title.