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Customs and Border Protection proposes expansion of Biometric Fee for H-1B and L-1 visa petitions

By Will Krasnow
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U.S. Customs and Border Protection [has proposed a new rule](#) for the 9-11 Response and Biometric Entry-Exit Fee for H-1B and L-1 Visa Petitions. Under the proposal, the fee requirement would be expanded to nearly all covered H-1B and L-1 petitions.

Current versus proposed

Currently, initial filings (including change of employer petitions) for individuals who work for “covered employers” must include a 9-11 Response and Biometric Entry-Exit Fee. The Biometric Fee is \$4,000 for H-1B petitions and \$4,500 for L-1 (intra-company transferee) petitions. This is in addition to other applicable fees.

An employer is “covered” if it has 50 or more employees in the United States, *and* if more than 50 percent of its employees are in H-1B or L-1 status.

Under the current rule, the Biometric Fee is not required for H-1B or L-1 extensions of stay.

The proposed rule would require payment of the applicable Biometric Fee not only for initial filings, but also for extension of stay requests (for example, when the individual needs an extension to continue employment with the same employer). Petitioners filing an amended petition without an extension of stay request would not be subject to a Biometric Fee.

The Biometric Fee is in addition to the \$500 Fraud Prevention and Detection Fee, to fees under the American Competitiveness and Workforce Improvement Act of 1998 (applicable to H-1B petitions), and to the [increased fees that took effect on April 1 of this year](#).

The proposed expansion of the Biometric Fee would apply to petitions filed on or before September 30, 2027.



Background

After the terrorist attacks on September 11, 2001, the 9/11 Commission recommended assessing a Response fee to help pay for biometric entry and exit programs. A national security statute was enacted, with updated versions in 2010 and 2015.

Next steps for covered employers

The CBP is accepting comments about the proposed rule through July 8, and the rulemaking process can take several months. Assuming the proposed rule becomes final, covered employers will be looking at significantly increased costs associated with their employment of H-1B and L-1 workers.

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