§ 37.45 Background checks for covered employees.

(a) Scope. States are required to subject persons who are involved in the manufacture or production of REAL ID driver’s licenses and identification cards, or who have the ability to affect the identity information that appears on the driver’s license or identification card, or current employees who will be assigned to such positions (“covered employees” or “covered positions”), to a background check. The background check must include, at a minimum, the validation of references from prior employment, a name-based and fingerprint-based criminal history records check, and employment eligibility verification otherwise required by law. States shall describe their background check process as part of their security plan, in accordance with §37.41(b)(4)(ii). This section also applies to contractors utilized in covered positions.

(b) Background checks. States must ensure that any covered employee under paragraph (a) of this section is provided notice that he or she must undergo a background check and the contents of that check.

(1) Criminal history records check. States must conduct a name-based and fingerprint-based criminal history records check (CHRC) using, at a minimum, the FBI’s National Crime Information Center (NCIC) and the Integrated Automated Fingerprint Identification (IAFIS) database and State repository records on each covered employee identified in paragraph (a) of this section, and determine if the covered employee has been convicted of any of the following disqualifying crimes:

(i) Permanent disqualifying criminal offenses. A covered employee has a permanent disqualifying offense if convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction, of any of the felonies set forth in 49 CFR 1572.103(a).

(ii) Interim disqualifying criminal offenses. The criminal offenses referenced in 49 CFR 1572.103(b) are disqualifying...