

comparison as well as the extent to which the advertised vehicle's driving range differs from other models. Because it is highly unlikely that advertisers can substantiate all reasonable interpretations of these claims, advertisers making general driving range claims should disclose the advertised vehicle's EPA driving range estimate.

*Example 1:* An advertisement for an electric vehicle states: "This car has a great driving range." This claim likely conveys a variety of meanings, including that the vehicle has a better driving range than all or almost all other electric vehicles. However, the EPA driving range estimate for this vehicle is only slightly better than roughly half of all other electric vehicles on the market. Because the advertiser cannot substantiate that the vehicle's driving range is better than all or almost all other electric vehicles, the advertisement is likely to be deceptive. In addition, the advertiser may not be able to substantiate other reasonable interpretations of the claim. To address this problem, the advertisement should disclose the vehicle's EPA driving range estimate (e.g., "EPA-estimated range of 70 miles per charge").

(1) *Use of Non-EPA Estimates.*—(1) *Disclosure Content:* Given consumers' reliance on EPA estimated fuel economy values over the last several decades, fuel economy and driving range estimates derived from non-EPA tests can lead to deception if consumers confuse such estimates with fuel economy ratings derived from EPA-required tests. Accordingly, advertisers should avoid such claims and disclose the EPA fuel economy or driving range estimates whenever possible. However, if an advertisement includes a claim about a vehicle's fuel economy or driving range based on a non-EPA estimate, advertisers should disclose the EPA estimate and disclose with substantially more prominence than the non-EPA estimate:

(i) That the fuel economy or driving range information is based on a non-EPA test;

(ii) The source of the non-EPA test;

(iii) The EPA fuel economy estimates or EPA driving range estimates for the vehicle; and

(iv) All driving conditions or vehicle configurations simulated by the non-EPA test that are different from those used in the EPA test. Such conditions and variables may include, but are not limited to, road or dynamometer test, average speed, range of speed, hot or cold start, temperature, and design or equipment differences.

(2) *Disclosure format:* The Commission regards the following as constituting "substantially more prominence":

(i) *For visual disclosures on television:* If the fuel economy claims appear only in the visual portion, the EPA figures should appear in numbers twice as large as those used for any other estimate, and should remain on the screen at least as long as any other estimate. Each EPA figure should be broadcast against a solid color background that contrasts easily with the color used for the numbers when viewed on both color and black and white television.

(ii) *For audio disclosures:* For radio and television advertisements in which any other estimate is used only in the audio, equal prominence should be given to the EPA figures. The Commission will regard the following as constituting equal prominence: the EPA estimated city and/or highway MPG should be stated, either before or after each disclosure of such other estimate, at least as audibly as such other estimate.

(iii) *For print and Internet disclosures:* The EPA figures should appear in clearly legible type at least twice as large as that used for any other estimate. The EPA figures should appear against a solid color, and contrasting background. They may not appear in a footnote unless all references to fuel economy appear in a footnote.

*Example 1:* An internet advertisement states: "Independent driving experts took the QXT car for a weekend spin and managed to get 55 miles-per-gallon under a variety of driving conditions." It does not disclose the actual EPA fuel economy estimates, nor does it explain how conditions during the "weekend spin" differed from those under the EPA tests. This advertisement likely conveys that the 55 MPG figure is the same or comparable to an EPA fuel economy estimate for the vehicle. This claim is likely to be deceptive because it fails to disclose that fuel economy information is based on a non-EPA test, the source of the non-EPA test, the EPA fuel economy estimates for the vehicle, and all driving conditions or vehicle configurations simulated by the non-EPA test that are different from those used in the EPA test.

*Example 2:* An advertisement states: "The XZY electric car has a driving range of 110 miles per charge in summer conditions according to our expert's test." It provides no additional information regarding this driving range claim. This advertisement likely conveys that this 110 driving range figure is comparable to an EPA driving range estimate for the vehicle. The advertisement is likely deceptive because it does not clearly state that the test is a non-EPA test; it does not provide the EPA estimated driving range; and it does not explain how conditions referred to in the advertisement differed from those under the EPA tests. Without this information, consumers are likely to confuse the claims with range estimates derived from the official EPA test procedures.

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[CPCLO Order No. 005-2016]

#### Privacy Act of 1974; Implementation; Extension of Comment Period

**AGENCY:** Federal Bureau of Investigation, United States Department of Justice.

**ACTION:** Notice of proposed rulemaking; extension of comment period.

**SUMMARY:** The Department of Justice (Department or DOJ), Federal Bureau of Investigation (FBI), is extending the comment period for its proposal to exempt "The Next Generation Identification (NGI) System," JUSTICE/FBI-009, from certain provisions of the Privacy Act, published in the **Federal Register** on May 5, 2016 (81 FR 27288). The original comment period is scheduled to expire on June 6, 2016. The Department is now extending the time period for public comments by 30 days. The updated comment period is scheduled to expire on July 6, 2016. This action will allow interested persons additional time to analyze the proposal and prepare their comments.

**DATES:** Comments on the notice of proposed rulemaking published May 5, 2016 (81 FR 27288) must be submitted on or before July 6, 2016.

**ADDRESSES:** Address all comments to the Privacy Analyst, Privacy and Civil Liberties Office, National Place Building, 1331 Pennsylvania Ave. NW., Suite 1000, Washington, DC 20530-0001 or facsimile 202-307-0693. To ensure proper handling, please reference either this CPCLO Order No., or the CPCLO Order No. from the original notice of proposed rulemaking (CPCLO Order No. 003-2016) on your correspondence. You may review an electronic version of the proposed rule at <http://www.regulations.gov>. You may also comment via the Internet to either [ProposedRegulations@usdoj.gov](mailto:ProposedRegulations@usdoj.gov); or by using the <http://www.regulations.gov> comment form. When submitting comments electronically, you must include the CPCLO Order No., as described above, in the subject box.

Please note that the Department is requesting that electronic comments be submitted before midnight Eastern Daylight Savings Time on the day the

comment period closes because <http://www.regulations.gov> terminates the public's ability to submit comments at that time. Commenters in time zones other than Eastern Time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

**Posting of Public Comments:** Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov> and in the Department's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Department's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

**FOR FURTHER INFORMATION CONTACT:** Roxane M. Panarella, Assistant General Counsel, Privacy and Civil Liberties Unit, Office of the General Counsel, FBI,

Washington, DC 20535-0001, telephone 304-625-4000.

**SUPPLEMENTARY INFORMATION:** On May 5, 2016, the Department requested comments on its proposal to modify an existing FBI system of records notice titled, "Fingerprint Identification Records System (FIRS)," JUSTICE/FBI-009, and its proposal to amend the Department's Privacy Act regulations by establishing an exemption for records in this system of records from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k).

Both the notice of a modified system of records notice and notice of proposed rulemaking for this system of records originally provided that comments must be received by June 6, 2016. The Department has received requests to extend these comment periods. The Department believes that extending the comment periods would be appropriate in order to provide the public additional time to consider and comment on the proposals addressed in these notices. Therefore, the Department is extending both public comment periods for 30 days, until July 6, 2016. Elsewhere in the **Federal Register**, the Department is extending the comment period for the accompanying notice of modified system of records.

Dated: June 1, 2016.

**Erika Brown Lee,**

*Chief Privacy and Civil Liberties Officer, U.S. Department of Justice.*

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**BILLING CODE 4410-02-P**

## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Part 4231**

**RIN 1212-AB31**

### **Mergers and Transfers Between Multiemployer Plans**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend PBGC's regulation on Mergers and Transfers Between Multiemployer Plans to implement section 121 of the Multiemployer Pension Reform Act of 2014. The proposed rule would also reorganize and update the existing regulation.

**DATES:** Comments must be submitted on or before August 5, 2016.

**ADDRESSES:** Comments, identified by Regulation Identifier Number (RIN) 1212-AB31, may be submitted by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the Web site instructions for submitting comments.

- **Email:** [reg.comments@pbgc.gov](mailto:reg.comments@pbgc.gov).

- **Fax:** 202-326-4112.

- **Mail or Hand Delivery:** Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

All submissions must include the Regulation Identifier Number for this rulemaking (RIN 1212-AB31).

Comments received, including personal information provided, will be posted to [www.pbgc.gov](http://www.pbgc.gov). Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington DC 20005-4026, or calling 202-326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.)

**FOR FURTHER INFORMATION CONTACT:**

Joseph J. Shelton ([shelton.joseph@pbgc.gov](mailto:shelton.joseph@pbgc.gov)), Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington DC 20005-4026; 202-326-4400, ext. 6559; Theresa B. Anderson ([anderson.theresa@pbgc.gov](mailto:anderson.theresa@pbgc.gov)), Attorney, Office of the General Counsel, 202-326-4400, ext. 6353.

**SUPPLEMENTARY INFORMATION:**

### **Executive Summary—Purpose of the Regulatory Action**

This rulemaking is needed to implement statutory changes under the Multiemployer Pension Reform Act of 2014 (MPRA) affecting mergers of multiemployer plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The proposed rule also would reorganize and update the existing regulatory requirements applicable to mergers and transfers between multiemployer plans.

PBGC's legal authority for this action is based on section 4002(b)(3) of ERISA, which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA, and section 4231 of ERISA, which sets forth the statutory requirements for mergers and transfers between multiemployer plans.

### **Executive Summary—Major Provisions of the Regulatory Action**

Section 121 of MPRA amends the existing rules under section 4231 of ERISA by adding a new section 4231(e), which clarifies PBGC's authority to