

**U.S. Food and Drug Administration  
Generic Clearance for the Collection of Qualitative Data on Tobacco Products and  
Communications**

**OMB Control No. 0910-0796**

**SUPPORTING STATEMENT**

Terms of Clearance: FDA will submit a mini-supporting statement for each individual Gen IC submission. The mini-supporting statement must describe the specific purpose of the collection, including the way that the resulting data will be used (i.e., identify the activity that the developmental work will inform, and broader purpose of the activity that is being informed by the developmental work being conducted in the particular Gen IC). When incentives are used, FDA will provide a justification.

**Part A: Justification**

**1. Circumstances Making the Collection of Information Necessary**

FDA's Center for Tobacco Products oversees implementation of the Family Smoking Prevention and Tobacco Control Act, also known as the Tobacco Control Act, signed into law on June 22, 2009. Also, section 505 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355) provides that FDA may take appropriate action to protect the public health when necessary. Section 702 of the FD&C Act (21 U.S.C. 372) authorizes investigational powers to FDA for enforcement of the FD&C Act. Further, the FD&C Act also authorizes FDA to conduct educational and public information programs (21 U.S.C. 393(d)(2)(D)). The Tobacco Control Act also gave FDA the authority to issue a regulation deeming all other products that meet the statutory definition of a tobacco product as subject to FDA regulatory authority (deeming) (section 901(b) of the Federal Food, Drug, and Cosmetic Act (FD&C Act)). On May 10, 2016, FDA issued that rule, extending FDA's tobacco product authority to other newly regulated products (81 FR 28973). In addition to regulating the manufacture, distribution, and promotion of tobacco products, the Center for Tobacco Products also conducts studies to inform regulatory actions and communicates with the public on the health risks of tobacco use.

To ensure that regulatory actions and communications activities have the highest potential to be received, understood, and accepted by those for whom they are intended, FDA's Center for Tobacco Products will conduct research and studies relating to the control and prevention of disease as authorized by section 301 of the Public Health Service Act (42 U.S.C 241(a)). Since this collection was approved originally, FDA now has authority per the deeming rule over many newly regulated products. Therefore, FDA may need to gather more formative research on these newly deemed tobacco products. FDA is requesting approval of this extension for collecting information using qualitative methods (i.e., individual in-depth interviews (IDIs), small group discussions, and focus groups) for studies about tobacco products. Qualitative studies play an important role in exploring areas of research and gathering information because the studies allow for an in-depth understanding of individuals' attitudes, beliefs, motivations, and feelings. This

information will be used to inform the regulatory science knowledge base, as well as to explore concepts of interest and assist in the development of quantitative study proposals, complementing other important research efforts in the agency. This information may also be used to help develop communication messages and educational campaigns related to public health.

FDA will submit individual collections under this generic clearance to the Office of Management and Budget (OMB). Before submission to OMB, individual collections will undergo review by FDA's Institutional Review Board (FDA IRB) and/or a defer to the contractor's Institutional Review Board (IRB), senior leadership in the Center for Tobacco Products, and Paperwork Reduction Act (PRA) specialists. FDA will prepare a report during the OMB collection renewal summarizing the number of hours used, as well as the nature and results of the activities completed under this clearance.

## **2. Purpose and Use of the Information Collection**

In conducting studies relating to the control and prevention of tobacco-related disease, FDA will need to employ qualitative research, including individual in-depth interviews (IDIs), small group discussions, and focus groups to assess knowledge and perceptions about tobacco-related topics with specific target audiences. The information collected will serve two major purposes. First, it will provide critical knowledge about target audiences. FDA must first understand people's knowledge and perceptions about tobacco-related topics prior to developing survey/research questions, stimuli for experimental studies, and draft communication messages directed at consumers. Second, initial testing will allow FDA to assess consumer understanding of survey/research questions and draft messages. These qualitative data collection methods will allow FDA to generate exploratory data on a given research topic or area of research, and to inform survey/research questions and study stimuli while they are still in the developmental stage. FDA will collect, analyze, and interpret information gathered through this generic clearance in order to: (1) better understand characteristics of the target audience—its perceptions, knowledge, attitudes, beliefs, and behaviors—and use these in the development of appropriate survey/research questions, study stimuli, and materials directed to consumers; (2) more efficiently and effectively design survey/research questions and study stimuli; (3) more efficiently and effectively design experimental studies; and (4) gain an in-depth understanding of a pertinent research area and topic.

FDA will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low burden for respondents (based on considerations of total burden hours, total number of respondents, or burden hours per respondent) and are low cost for both the respondents and the Federal Government;
- The collections are noncontroversial;
- Personal identifiable information (PII) is collected only to the extent necessary<sup>1</sup> and is not retained or submitted by contractors to FDA;

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<sup>1</sup>For example, collections that collect PII in order to provide remuneration for participants of focus groups and cognitive laboratory studies will be submitted under this request. All privacy act requirements will be met.

- Information gathered will not be used for the purpose of substantially informing influential policy decisions;<sup>2</sup> and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

If these conditions are not met, FDA will submit an Information Collection Request to OMB for approval through the normal PRA process.

To obtain approval for a collection that meets the conditions of this generic clearance, an abbreviated supporting statement will be submitted to OMB along with supporting documentation (e.g., a copy of the interview or moderator guide, screening questionnaire). Before submission to OMB, individual collections will undergo review by FDA's IRB, senior leadership in the Center for Tobacco Products, and PRA specialists.

The types of collections that this generic clearance covers include, but are not limited to:

- Focus groups or small group discussions, which may include 2 to 12 participants
- Individual in-depth interviews (IDIs)
- Moderated, un-moderated, in-person, and/or virtual using webinar conferencing software

### **3. Use of Improved Information Technology and Burden Reduction**

Emphasis will be placed on collecting information electronically using online collaboration tools to reduce burden. At this time, we expect approximately 95 percent of the information collections will be completed using online webinar conferencing software. Virtual interview and focus group participants will access an online webinar platform such as Zoom, GoToWebinar, and other applications, which allow users to meet online and can be accessed using a computer, tablet, or mobile device. Webinar platforms include a number of security protection features including, but not limited to, the ability to lock a meeting so no one else can join, restrict screen-sharing to the host only, enable a waiting room to restrict access to only those who should join, and remove a participant, if needed.

### **4. Efforts to Identify Duplication and Use of Similar Information**

As each new research study is developed, FDA will review existing literature and databases, including pretesting reports on existing messages and materials. FDA will also consult with outside experts to evaluate available information on similar messages with comparable audiences. FDA will work with other HHS agencies responsible for communicating about tobacco use with the general public.

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<sup>2</sup>As defined in OMB and agency Information Quality Guidelines, "influential" means that "an agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions."

However, because communications to consumers, surveys, and studies on the use of tobacco will be diverse and vary by target audience, new data collection instruments generally will be prepared for each qualitative study.

Therefore, data collected by FDA is unique. Coordination with other agencies ensures that duplicative data is not being gathered. Further, no similar data are gathered or maintained by FDA or are available from other sources known to FDA.

**5. Impact on Small Businesses or Other Small Entities**

Small businesses, or other small entities, may be involved in efforts related to collections of information approved under this clearance. However, FDA will minimize the effect and burden on them by sampling appropriately.

**6. Consequences of Collecting the Information Less Frequently**

Often, this qualitative information is used as a first step to explore concepts of interest and assist in the development of quantitative study proposals. The collection of timely data will be important to the development and conduct of ongoing and future research efforts at the agency. Without these types of feedback about consumer knowledge and perceptions, FDA will not have timely information to adjust its survey/research questions, study stimuli, and draft communication messages.

This information may also be used to help develop materials directed at consumers. FDA is using a variety of messages and materials to inform and educate the public about the risks of tobacco use. Communicating effectively about the risks of using tobacco products involves conveying complex concepts, and without detailed data from qualitative testing, FDA cannot fully ensure that tobacco messages and materials directed at consumers are serving their intended purpose. As a result, FDA could spend a large amount of money on communications, surveys, or other studies that are ineffective in achieving the intended purpose of reducing tobacco-associated costs to people's lives and to the government.

**7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5**

There are no special circumstances for this collection of information. The information collected will be voluntary and will not be used for statistical purposes.

**8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency**

In accordance with 5 CFR 1320.8(d), FDA published a 60-day notice for public comment on the proposed collection of information in the FEDERAL REGISTER of September 29, 2020 (85 FR 60999). FDA received two comments however, only one was PRA related.

(Comment) The comment expressed support for FDA's collection of qualitative research on tobacco products. The comment stated further that while FDA indicates that this research will

meet the “narrowly defined need for direct and informal public opinion on a specific topic”, the Agency has recently used this work for broader purposes, including informing the Proposed Rule for graphic health warnings.””

(Response) FDA appreciates the support for conducting qualitative research on tobacco products. FDA disagrees with the comment suggesting that the agency has used its qualitative generic collection for “broader purposes” than contemplated by the generic collection. Review of a generic collection occurs in two stages: (1) a full PRA review of the generic clearance ICR, which includes the general approach and methodology, at least once every three years; and (2) an expedited review of the individual collections that fall within the scope of the generic clearance. OMB reviewed the individual collection[s] that this comment cites and approved the collection, having determined that it was appropriately within the scope of the generic clearance.

## **9. Explanation of Any Payment or Gift to Respondents**

It is standard practice in commercial market research to offer recruited respondents some form of remuneration for the time they spend engaged in a personal interview activity. Instances for offering a small incentive will be determined on a case-by-case basis (depending on the information collection design). Small amounts of money may be offered as an incentive for participation in interviews and focus groups. Incentives for in-person activities, including cognitive interviews and focus groups, will not be more than \$40 for 60 minutes or more than \$75 for 90 -120 minutes. FDA will provide empirical evidence to justify proposed incentives beyond these standards. Lower incentives for virtual web-based or telephone interviews and focus groups maybe offered. In certain instances of difficult-to-recruit populations, FDA may propose incentives at a higher rate if evidence is provided that larger incentives are necessary for successful recruitment.

## **10. Assurance of Confidentiality Provided to Respondents**

In developing this study, CTP consulted the agency Privacy Officer to identify potential risks to the privacy of participants and other individuals whose information may be handled by or on behalf of FDA in the performance of this study. FDA designed the study to minimize privacy risks in keeping with the Fair Information Practice Principles (FIPPs) and applying controls selected from the National Institute of Standards and Technology (NIST), Special Publication 800-53, Security and Privacy Controls for Federal Information Systems and Organizations. CTP also identified privacy compliance requirements and coordinated with FDA’s Privacy Officer to ensure responsible offices in CTP satisfy all in accordance with law and policy. FDA received approval of a Privacy Impact assessment by the Department of Health and Human Services.

### **Privacy Act Applicability**

The information collection is not subject to the Privacy Act of 1974. Hence, no Privacy Act Statement is required to be displayed on the form, website, mobile application, or other point at which information is collected.

## **PII Collection**

For respondent enrollment, PII will be collected on an as needed basis during the enrollment/screening process. Mailing address and/or e-mail addresses may be collected for contacting the respondent regarding enrollment details (e.g. directions, schedule). PII will be collected during the screening process to assess study eligibility. PII collected as part of the respondent enrollment will not be maintained or linked to other study information. Contractors and subcontractors that collect data on behalf of FDA never transfer any PII to the agency. For these collections, no PII is transferred to or stored on FDA network servers. For studies involving virtual interviews and focus groups, the webinar platform collects information that a participant gives them to access the platform (e.g. name, email address and/or phone number, etc.). Webinar platforms also collect additional data once the platform is accessed such as IP address, MAC address, and device type. FDA staff and contractors will not have access to any data that participants provide to use the webinar platform or any data that the webinar platform collects while the platform is in use. Furthermore, FDA staff and contractors will not have the ability to link data obtained from the webinar platform to any participant.

For data quality management, PII in the form of audio recordings (biometric identifiers) may be used as a means of quality control and/or data assurance. Permission (active consent) for this type of PII is obtained from all respondents. Respondents must agree to have study activities audio recorded. Audio files are used to produce a transcript for the purpose of developing a report and then destroyed. Audio recordings, including any transcripts made from the audio recordings, will not be linked to any other PII or transmitted to FDA.

For study implementation, PII in the form of e-mail and IP addresses and/or zip codes may be collected on an as needed basis for study implementation. This type of PII may be checked against respondent data to avoid duplicates and reduce fraudulent activity. If multiple e-mails have the same IP address, researchers will review the data, retain the first recorded response, and remove duplicates from the final analytical dataset. Researchers may also contact respondents to convey follow-up information about the study or if there is an issue with incentive delivery. PII collected as part of the study implementation will not be included in the dataset used for analysis or maintained. There will be no secondary uses, PII will only be used to for primary study purposes.

FDA has minimized the risk of unnecessary access, disclosure, use, or proliferation of PII about respondents. FDA and other parties involved in the study collect and maintain study records containing PII only as long as required. For many studies the information is not retained once the study is completed (e.g., email addresses needed to re-contact participants for the follow-up session of a study). PII is always removed before any data is sent to FDA. PII may be linked to data by a code, only when necessary, or more commonly fully disassociated from the data.

## **Notice and Transparency**

Neither FDA nor direct contractors, including third parties, share PII gathered via this collection with any other individuals or entities.

All participants are provided notice regarding the collection and use of the information they submit. A panel provider may collect IP addresses when participants register for the panel, but FDA does not receive IP addresses. FDA and its contractors will notify participants if IP addresses are recorded. In some cases, FDA sponsorship of the study will not be made known to respondents prior to data collection out of concern for the potential introduction of bias to study results. In such cases, FDA sponsorship will be made known after the data are collected.

## **Individual Participation and Control**

While anonymity of respondents generally cannot be assured unless there is a statutory requirement associated with the information collection, information provided by respondents will be kept private and anonymous, to the extent allowable by law. This will be communicated to respondents by means of introductory letters, explanatory texts on the cover pages of questionnaires, scripts read prior to focus groups, telephone interviews, and consent forms. Respondents also will be advised of the following: the nature of the activity; the purpose and use of the data collected; FDA sponsorship (when appropriate); and the fact that participation is voluntary at all times. Because responses are voluntary, respondents will be assured there will be no penalties if they decide not to respond to the information collection as a whole or to any particular questions.

## **Data Security**

Contractors are required to maintain appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of collected data. User roles and responsibilities will determine the type and content of data access necessary for job function (both PII and non-PII). Role-based access will determine who will have access to PII on an as needed basis.

Access to the system is restricted on the business need to ensure minimum extent necessary.

Only personnel from a contractor conducting the information collection will have access to focus group or interview data. All project staff from a contractor conducting the information collection must take required measures to ensure the privacy and anonymity of data. PII will be limited to information that may be required in the process of respondent enrollment. PII will be accessible to contractors on an as needed basis and will not be linked to interview data. All PII will be

destroyed following data collection at the completion of the study. Neither FDA employees nor any Federal employee of another agency will have access to this information.

All electronic and hard copy data will be maintained securely throughout the information collection and data processing phases. While under review, electronic data will be stored in locked files on secured computers and hard copy data will be maintained in secure building facilities in locked filing cabinets. As a further guarantee of privacy and anonymity, all presentation of data in reports will be in aggregate form, with no links to individuals. Reports will be used only for research purposes and for the development of communication messages.

Before data are collected, FDA researchers will obtain either an exemption or a full approval for all research from FDA's Institutional Review Board (FDA IRB).

Minors (or children) are persons who have not attained the legal age for consent to treatments or procedures described in the study are covered under the applicable law of the jurisdiction in which the research will be conducted. Where FDA's IRB determines that minors are capable of giving assent, the IRB will determine whether adequate provisions are made for soliciting assent. Generally, assent to the research requires securing the signature of a minor in a separate assent form, in addition to the consent form the parent or legal guardian signs. An assent document should contain an explanation of the study, a description of what is required of the subject (e.g., what the child will experience (in what setting the interview or focus group will take place, whether the child's parents will be with him or her, etc.)), an explanation of any risks or mental anguish associated with the study topic, and an explanation of the benefits to the child or others.

Administrative safeguards include user training; system documentation that advises on proper use; implementation of Need to Know and Minimum Necessary principles when awarding access, and others. Technical Safeguards include use of multi-factor access authentication, firewalls, and network monitoring and intrusion detection tools. Physical controls include that all system servers are located at facilities protected by guards, locked facility doors, and climate controls. Other appropriate controls have been selected from the National Institute of Standards and Technology's (NIST's) Special Publication 800-53, as determined using Federal Information Processing Standard (FIPS) 199.

## **11. Justification for Sensitive Questions**

Some studies require the inclusion of people who match selected characteristics of the target audience that FDA is trying to reach. Efforts to match characteristics may require asking a question about race/ethnicity, income, education and/or health status on the initial screening questionnaire used for recruiting. Potential participants are informed that this is being done to make sure that FDA speaks with the kinds of people for whom its messages are intended. Again, respondents are assured that the information is voluntary and will be treated as private and anonymous. All information on race/ethnicity will comply fully with the standards of OMB



Statistical Policy Directive No. 15, October 1997 (<https://www.gpo.gov/fdsys/pkg/FR-1997-10-30/pdf/97-28653.pdf>).

Because FDA research activities may be concerned with the prevention of premature mortality or morbidity or other risks from tobacco use, some projects may involve asking questions about (or discussing) how one perceives his/her own personal risk for serious illness. This information is needed to gain a better understanding of the target audience so that the messages, strategies, and materials designed will be appropriate and sensitive. Questions of this nature, while not as personal as those about sexual behavior or religious beliefs, still require some sensitivity in how they are worded and approached. In face-to-face data collections, questions of this kind are generally asked later in the interview or group discussion, when respondents are more comfortable with the interview situation and are more at ease with the interviewer/moderator. Participants are informed prior to actual participation about the nature of the activity and the voluntary nature of their participation. The interviewer/moderator makes it clear that they do not have to respond to any question that makes them uncomfortable.

FDA tobacco research and communications may also be concerned with discouraging tobacco use by adolescents before they start. FDA acknowledges the sensitivity of questions about the purchase and use of tobacco, which is now illegal for anyone under the age of 21. Because questions are being asked of teenagers, interviews will be conducted by moderators specifically trained for interaction with adolescents.

Raw data from data collections that may include sensitive information (for example, screening questionnaires and audio tapes) are not retained once the data have been extracted and aggregated. The information never becomes part of a system of records containing permanent identifiers that can be used for retrieval.

## **12. Estimates of Annualized Burden Hours and Costs**

A variety of instruments and platforms will be used to collect information from respondents. The annual respondent burden hours requested (14,934) are based on the number of collections we expect to conduct over the requested time frame for this clearance.

### **12a. Annualized Hour Burden Estimate**

Table 1.-- Estimated Annual Reporting Burden<sup>1</sup>

Type of Interview	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
In-Person Individual In-depth Interviews	1,092	1	1,092	1	1,092
In-depth Interview (IDI) Screener	1,800	1	1,800	0.083 (5 minutes)	150
Focus Group Screener	19,385	1	19,385	0.25 (15 minutes)	4,846
Focus Group Interviews	5,897	1	5,897	1.5	8,846
Total					14,934

The number of respondents to be included in each new pretest may vary, depending on the nature of the material or message being tested and the target audience. Table 1 provides examples of the types of studies that may be administered and estimated burden levels during the 3-year period. Time to read, view, or listen to the message being tested is built into the ‘‘Hours per Response’’ figures.

**12b. Annualized Cost Burden Estimate**

The general public will complete the majority of data collections. The average hourly compensation for this group as of January 2021 is \$25.14 (BLS). The estimated annualized annual cost for the general public in this information collection for 14,934 hours of reporting time is \$708,294.36. The number of respondents and length of response was determined on the basis of FDA’s prior experience with communications testing and an estimate of the communication needs of the Center for Tobacco Products. The actual numbers will vary depending upon the topic of interest

<u>Type of Interview</u>	<b>Total Burden Hours</b>	<b>Average Rate</b>	<b>Total Respondent Cost</b>
In Person Individual In-depth Interviews	1,092	\$25.14	\$27,452.88
In-depth Interview Screener	1,800	\$25.14	\$45,252

Focus Group Screener	19,385	\$25.14	\$487,338.90
Focus Group Interviews	5,897	\$25.14	\$ 148,250.58
TOTAL			00

**13. Estimates of Other Total Annual Costs to Respondents and/or Recordkeepers/Capital Costs**

There are no capital, start-up, operating, or maintenance costs associated with this information collection.

**14. Annualized Cost to Federal Government**

FDA incurs costs to set up IDIs and focus groups, including potentially hiring a contractor to provide a facilitator/moderator, rent meeting space, travel to conduct the groups, and provide respondents with minimum payment cost in the form of a token stipend.

Costs will include contractor expenses for designing and conducting information collection activities, including recruiting participants, training interviewers, collecting and analyzing information, and reporting findings. Contractor expenses may vary from \$20,000-\$250,000 depending on the size of the study. Therefore, in a given year it is anticipated that approximately \$1 million in contractor expenses will be expended to fund at least two large scale studies and eight smaller scale studies.

In addition, government staff costs may be incurred for monitoring by the government Project Officer and Senior Analyst, projected to be about 25 percent of an FTE's time per year (522 hours). Given an FDA average personnel cost of \$50.69 per hour, \$26,460.18 would be spent annually on government staff salaries.

The total estimated annual cost to the government for this collection of information is \$1,026,460.18 (which is equal to the total of contractor expenses (\$1 million) plus FDA government staff salary cost (\$26,460.18)).

**15. Explanation for Program Changes or Adjustments**

Our estimated burden for the information collection reflects an overall increase of 5,641 hours and a corresponding increase of 16,585 responses. The burden is now estimated to be 14,934 hours. This is based on our experience over the last three years and forecasting the generics to be submitted during the next approval. Additionally, we have also updated the cost burden estimate based on current Bureau of Labor and Statistics salary figures.

**16. Plans for Tabulation and Publication and Project Time Schedule**

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. Findings will be used to inform experimental research, public education, or communication activities.

FDA will disseminate the findings when appropriate, strictly following FDA's "Guidelines for Ensuring the Quality of Information Disseminated to the Public," and will include specific discussion of the limitation of the qualitative results discussed above.

**17. Reason(s) Display of OMB Expiration Date is Inappropriate**

We are not requesting an exemption to this requirement. The OMB expiration date will be displayed.

**18. Exceptions to Certification for Paperwork Reduction Act Submissions**

These information collection activities comply with the requirements in 5 CFR 1320.9 and involve no exception to the Certification for Paperwork Reduction Act Submissions.