Soft Lights Foundation

9450 SW Gemini Drive
PMB 44671
Beaverton, OR 97008

June 24, 2024

BY EMAIL

Anhthu Hoang, Acting Director
Office of External Civil Rights, Environmental Protection Agency
hoang.anhthu@epa.gov

Re: Notice of ADA Requirements and Dangerous Conditions – Light Emitting Diodes

Dear Anhthu Hoang,

This letter serves to provide Constructive Notice that the use of Lighting Emitting Diodes in consumer products, airport tarmacs, airplanes, radio towers, street lighting, parking lot lighting, displays and signs, indicator lights, interior lighting, vehicle lighting, and flashing lights can create dangerous conditions and discriminatory barriers and cause severe damage to the environment. LED lights have been proven to impair vision and cognitive functioning and can cause non-epileptic and epileptic seizures. The US Food and Drug Administration has not vetted LED lights for photobiological, neurological, psychological, or hormonal safety. LED lights are unregulated and can create hazardous, dangerous, and discriminatory conditions.

The US Department of Energy states that LEDs are a "radically new technology" that emit a "directional" light with "unique characteristics".[1] It is the directional, focused nature of LEDs and their unique characteristics that make LEDs unsuitable for most lighting applications because of the dangerous conditions and discriminatory barriers that LED lights create.

28 C.F.R. § 35.151(a)(1) states:

Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.[2]

28 C.F.R. § 35.151(b)(1) states:

Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is

[1] https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_lessons-learned_2014.pdf
[2] https://www.law.cornell.edu/cfr/text/28/35.151

readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

Here is a sampling of reports of neurological, psychological, and physical injury caused by LEDs:

- Minnesota Department of Human Rights – LED RRFB – (https://www.softlights.org/wp-content/uploads/2023/06/74059-6-15-2023-ECP-Memorandum-.pdf)
- LED RRFB – Seizure / Concussion - (https://www.softlights.org/wp-content/uploads/2022/09/MA-Incident-Report.pdf).
- Emergency Vehicle – Seizure Reaction / Panic Attack - (https://www.softlights.org/wp-content/uploads/2021/09/Encounter-with-Emergency-Vehicle.pdf)
- LED Incident Reports - (https://www.softlights.org/led-incident-reports/)

On May 24, 2024, the US Food and Drug Administration issued a decision to not publish performance standards for any LED product, despite the requirements of 21 U.S.C. 360ii. Thus, given the numerous reports of harm and discrimination caused by LED lights and the lack of regulation from the FDA, all LED products must be vetted to ensure that the directional nature and unique characteristics of the LED product do not create a dangerous condition and that a constructed or altered area containing an LED device, including vehicles, is readily accessible and usable by all individuals with disabilities, including, but not limited to, individuals with epilepsy, migraines, autism, EMS, and PTSD.

It is unethical for the Environmental Protection Agency to continue allowing citizens and the environment to be subjected to unregulated LED lights knowing that LED lights are a risk to public health and safety and to the environment. We ask that the Environmental Protection Agency consult and liaise with the Food and Drug Administration to publish performance standards for LED products, as required by 21 U.S.C. 360ii(a)(6).

Sincerely,

/s/ Mark Baker
President
Soft Lights Foundation
mbaker@softlights.org