

BEFORE THE CALIFORNIA DEPARTMENT OF MOTOR  
VEHICLES

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PETITION TO PROHIBIT SUPPLEMENTAL LED FLASHING  
LIGHTS ON MOTOR VEHICLES

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SUBMITTED BY  
SOFT LIGHTS FOUNDATION  
ON  
AUGUST 9, 2024

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## **A. CITIZEN PETITION**

The undersigned submits this petition under Title 2, Division 3, Part 1, Chapter 3.5, Section 11340.6 of the California Government Code<sup>1</sup>, to request that the Director of Motor Vehicles issue regulations to prohibit the use of supplemental Light Emitting Diode (“LED”) flashing lights on motor vehicles to ensure the comfort, health, safety, and civil rights of all individuals, as authorized by California Vehicle Code Section 1651.<sup>2</sup>

## **B. STATEMENT OF GROUNDS**

### **I. Introduction and Summary**

The US Department of Energy states that LEDs are a “radically new technology” that emit a “directional” light with “unique characteristics”.<sup>3</sup> It is the directional nature of LEDs and their unique characteristics which cause individuals with disabilities to suffer non-epileptic and epileptic seizures, migraines, vomiting, panic attacks, impaired cognitive functioning, loss of vision, and suicidal ideations when exposed to LED flashing lights such as on police cars, ambulances, fire trucks, utility trucks, garbage trucks, and tow trucks.

A vehicle is manufactured by the Original Equipment Manufacturer (“OEM”). An OEM vehicle may come with flashing turn signals or hazard lights and these lights are regulated by the National Highway Traffic Safety Administration in FMVSS-108. This petition does not address OEM flashing lights. This petition addresses supplemental LED flashing lights which are an alteration to the OEM vehicle and includes the amber and white LED flashing lights on garbage trucks, utility trucks, and tow trucks, and the red, blue, and white LED flashing lights on emergency vehicles. These supplemental LED flashing lights are installed on a vehicle as part of a process to supposedly enhance the conspicuity of the vehicle when parked on the side of the road or in emergency travel situations, but which cause severe and life-threatening adverse neurological reactions for individuals with disabilities.

LEDs can be used to pulse intense, flashing, directed energy visible radiation using electronics that can create synchronous and asynchronous flash patterns with a digital on/off characteristic. Prior to the invention of LEDs, emergency and utility vehicles typically used a tungsten filament bulb as the source of the light and a rotating disc that would create a flashing pattern. The intensity of this type of light source is measured by the metric luminous intensity in candela.

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<sup>1</sup> <https://law.justia.com/codes/california/2022/code-gov/title-2/division-3/part-1/chapter-3-5/article-1/section-11340-6/>

<sup>2</sup>

[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=VEH&division=2.&title=&part=&chapter=1.&article=2.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=VEH&division=2.&title=&part=&chapter=1.&article=2.)

<sup>3</sup> [https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl\\_lessons-learned\\_2014.pdf](https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_lessons-learned_2014.pdf)

As noted above, however, LEDs are a radically new technology, which emit light in directed energy beam which can be turned on and off nearly instantly to generate a digital pulsing pattern. The intensity of an LED source is measured by the metric radiance in Watts per square meter, which is the same metric used to measure the intensity of lasers.

Due to their directional nature, high radiance, digital pulsing, and lack of regulation, LED flashing lights have been documented to cause life-threatening non-epileptic and epileptic seizures, multi-day migraines, anxiety, panic attacks, severely decreased cognitive functioning, impaired vision, and suicidal ideations for individuals with disabilities such as epilepsy, autism, PTSD, migraines, photophobia, and other neurological disabilities.

Because of the severe adverse reactions suffered by individuals with disabilities when exposed to LED flashing lights, the use of LED flashing lights creates a discriminatory barrier, interfering with path-of-travel. Because individuals with disabilities require government protection from the harms of LED flashing lights, the failure of the California Department of Motor Vehicles (“DMV”) to prohibit the use of LED flashing lights is a violation of the 14th Amendment of the U.S. Constitution’s Equal Protection Clause.

This petition requests that the California Department of Motor Vehicles publish regulations prohibiting the use of supplemental LED flashing lights on vehicles to ensure equal protection for individuals with disabilities who cannot neurologically tolerate such intense, digitally pulsing LED flashing lights.

## **II. Statement of Facts**

### **A. NHTSA Does Not Regulate Supplemental Flashing Lights**

The National Highway Traffic Safety Administration does not regulate supplemental flashing lights and defers to the States for such regulation.<sup>4</sup>

### **B. 14<sup>TH</sup> Amendment Equal Protection Clause**

The Equal Protection Clause of the 14th Amendment of the U.S. Constitution states:

*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*<sup>5</sup>

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<sup>4</sup> <https://www.nhtsa.gov/interpretations/nht87-233>

<sup>5</sup> [https://www.law.cornell.edu/wex/equal\\_protection](https://www.law.cornell.edu/wex/equal_protection)

The use of supplemental LED flashing lights on vehicles segregates members of the public into two classes: those without disabilities who are provided the purported safety benefits of using supplemental LED flashing lights, and those with disabilities for whom those very same supplemental LED flashing lights cause acute neurological and psychological trauma and an obstruction to path-of-travel. The Equal Protection Clause of the 14th Amendment requires the DMV to provide equal protection to both non-disabled and disabled individuals. While non-disabled individuals may not suffer acute adverse reactions to LED flashing lights and thus may not need DMV regulations, individuals with disabilities are dependent on DMV regulations to protect them from harm. Because no safe level of LED flashing lights (e.g. radiance, spectral power distribution, digital pulsing, number of devices, asynchronous and synchronous flashing), has been established for all individuals with disabilities, the DMV must issue regulations which prohibit LED flashing lights to comply with 14th Amendment Equal Protection requirements to protect individuals with disabilities from harm and discrimination.

### C. Americans with Disabilities Act

The Americans with Disabilities Act was passed in 1990 to protect individuals with disabilities from discrimination. The ADA was further strengthened by the Americans with Disabilities Act Amendments Act of 2008 to ensure that the ADA is broadly interpreted. The US Department of Justice states on its ADA website, “**Title II requires that State and local governments give people with disabilities an equal opportunity** to benefit from all of their programs, services, and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings).” (emphasis added). Supplemental LED flashing lights on vehicles deny individuals with disabilities this equal opportunity and it is thus incumbent on the California DMV, as an ADA Title II entity, to publish regulations that protect individuals with disabilities from the harms and discriminatory barriers created using LED flashing lights.

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

A facility is broadly construed to mean any government operation; thus, the term facility includes vehicles. The alteration of adding a supplemental LED flashing light on a government motor vehicle creates an obstruction to path-of-travel for individuals with disabilities because the individual may suffer a non-epileptic or epileptic seizure, migraine, panic attack, or other acute adverse reaction. Therefore, the California DMV is required to publish regulations that prohibit the use of supplemental LED flashing lights on police cars, fire trucks, ambulances, and other government-controlled vehicles.

Title III regulation 28 C.F.R. § 36.402(a)(1) states:

*Any alteration to a place of public accommodation or a commercial facility, after January 26, 1992, shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.*

A facility is broadly construed to mean any government operation; thus, the term facility includes vehicles. The alteration of adding a supplemental LED flashing light on a motor vehicle owned or operated by a place of public accommodation creates an obstruction to path-of-travel for individuals with disabilities, because the individual may suffer a non-epileptic or epileptic seizure, migraine, panic attack, or other acute adverse reaction. Therefore, the California DMV is required to publish regulations that prohibit the use of supplemental LED flashing lights on tow trucks, garbage trucks, company utility trucks and all commercial vehicles.

A failure by the California DMV to publish regulations prohibiting the use of supplemental LED flashing on vehicles is a violation of DMV's requirements under the 14<sup>th</sup> Amendment Equal Protection Clause.

#### **D. California Government Code**

California Government Code Section 835 states:

*Except as provided by statute, a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:*

- (a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or*
- (b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.*

Local government agencies that receive constructive notice that LED flashing lights on government motor vehicles create a dangerous condition for individuals with disabilities are liable if the agency takes no steps to remove the supplemental LED flashing lights. The Soft Lights Foundation has already submitted a Constructive Notice of Dangerous and Discriminatory Condition to a substantial number of cities in California. (EXHIBIT B). A failure by the California DMV to publish regulations prohibiting the use of supplemental LED flashing lights on motor vehicles will lead to unnecessary, expensive, and time-consuming litigation for each California city, county, and state agency. To protect all individuals and to

establish uniform standards, the DMV must publish state-wide regulations that prohibit the use of supplemental LED flashing lights on all vehicles.

## E. Seizure Reactions to LED Flashing Lights

Below are three videos showing LED flashing lights. Each video is labeled with a seizure warning.

1. My LED Lights (epilepsy/seizure warning):  
(<https://www.youtube.com/shorts/qvtmhHbPeMU>)
2. LED Strobe Lights - Blue \*\*Warning May Cause Seizure\*\*:  
([https://youtu.be/K\\_oIWfOMKel](https://youtu.be/K_oIWfOMKel))
3. How to Have a Seizure 101 (Warning Flashing Lights)  
(<https://www.youtube.com/shorts/1fGBrt2D9s4>)

The next four videos demonstrate the use of supplemental LED flashing lights on vehicles. No seizure warning is provided either on the video, or by the government agency or company operating the vehicles.

4. 2015 Dodge Charger Police Car LED Police Lights outfitted by HG2 Emergency Lighting: ([https://youtu.be/KJ\\_1CiNVtTo](https://youtu.be/KJ_1CiNVtTo))
5. Ambulances with Flashing Lights: (<https://youtu.be/amoR1QSIBHw>)
6. Fire Trucks: (<https://youtu.be/r8VdWLIAzr0>)
7. Utility Truck: (<https://youtu.be/ma0hGwHivO4>)
8. Tow Truck: (<https://youtu.be/cJKgMtXJ-IE>)

Seizure reactions are primarily a function of radiance, flash rate, and cycle depth. The higher the radiance, the more risk. The faster the rate, the more risk. The closer to digital pulsing, the more risk. All three factors play a role. A very high radiance LED can cause a seizure with zero flashing. A low radiance light can cause a seizure if the rate is high. A digital on/off has a higher risk of seizure than sine wave.

There is a disconnect between the well-known fact that intense and/or rapidly flashing lights can trigger seizure life-threatening seizure reactions, and the use of those same intense rapidly flashing lights on vehicles that operate in public spaces. While the online videos may post seizure warning labels to alert the viewer, there is no similar warning label for police cars, ambulances, fire trucks, utility trucks, garbage trucks, or tow trucks. There has been a systemic failure by government agencies at all levels which has allowed intense, digitally pulsing LED lights to appear on vehicles, when it has already been well known for decades that such flashing lights are unsafe for individuals with disabilities.

Due to the directionality of LED light, there is no known safe level of pulsed LED light. While it is already known that LED flashing lights create life threatening hazards for individuals with disabilities such as autism, epilepsy, PTSD, and migraines, there is no known

level at which the LED flashing light becomes safe. Therefore, to ensure the safety and equal protection of individuals with disabilities, the DMV must prohibit the use of supplemental LED flashing lights on motor vehicles.

#### **F. LED Flashing Lights Reports of Harm**

Reports of harm due to exposure to LED flashing lights have been documented.

- 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 – Soft Lights Foundation – (<https://www.softlights.org/led-incident-reports/>)
- Petition to Ban Blinding Headlights – (<https://www.change.org/p/u-s-dot-ban-blinding-headlights-and-save-lives>)
- New York State Public Service Commission Case 23-E-0727 – (<https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=23-E-0727>)
- Food and Drug Administration – Accidental Radiation Occurrence Reports (EXHIBIT C)

#### **G. US Food and Drug Administration**

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.<sup>6</sup> In issuing this ruling, the FDA made conclusory statements and failed to show evidence of reasoned decision making, and therefore the FDA’s decision does not comply with the Administrative Procedure Act of 1946 and is subject to litigation. Nevertheless, the FDA’s decision to not regulate LED flashing lights is further proof that regulation of LED flashing lights falls to state agencies such as the California DMV.

Given the numerous reports of harm and discrimination caused by LED flashing lights and the lack of regulation from the FDA, the DMV must prohibit the use of supplemental LED flashing lights to comply with its 14<sup>th</sup> Amendment Equal Protection

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<sup>6</sup> <https://www.softlights.org/wp-content/uploads/2024/05/Final-Response-Citizen-Petitions-FDA-2022-P-1151-FDA-2023-P-0233-FDA-2023-P-3828-FDA-2023-P-3879.pdf>

Clause requirements for individuals with disabilities, including, but not limited to, individuals with epilepsy, migraines, autism, electromagnetic sensitivity, photophobia, and PTSD.

#### **H. Administrative Procedure Act**

The California Administrative Procedure Act (“APA”), codified as California Government Code Section 11350 et seq., requires that the DMV render its decision on this petition using reasoned decision making. A decision to not prohibit the use of supplemental LED flashing lights may not be arbitrary or capricious and the DMV may not use conclusory statements that are not supported via evidence provided in the DMV’s response.

For example, to conclude that the DMV does not have a 14<sup>th</sup> Amendment requirement to provide equal protection to individuals with disabilities and is not required to publish regulations prohibiting the use of supplemental LED flashing lights on vehicles, the DMV would need to provide well-reasoned arguments in support of that position.

As another example, if the DMV were to conclude that this petition does not provide enough evidence of the harm to individuals with disabilities caused by supplemental LED flashing lights on motor vehicles, the DMV would need to provide strong evidence that LED flashing lights are safe for individuals with disabilities and that LED flashing lights do not cause seizures, do not cause panic attacks, and do not impair cognitive functioning in individuals with disabilities.

This petition makes clear that when reasoned decision-making is applied, the DMV is required to act to protect individuals with disabilities from the harms and discriminatory barriers created by supplemental LED flashing lights on vehicles, and that, because these harms and discrimination are already occurring, the DMV must act promptly to implement regulations that prohibit the use of supplemental LED flashing lights to protect the lives of individuals with disabilities who are already suffering life-threatening non-epileptic and epileptic seizures, migraines, anxiety, panic attacks, impaired cognitive functioning, and suicidal ideations from LED flashing lights on police cars, ambulances, fire trucks, garbage trucks, tow trucks, and utility vehicles.

### **III. Conclusion**

In this petition, we have shown the following:

1. Supplemental LED flashing lights on motor vehicles must be regulated at the state level by the California DMV.
2. Supplemental LED flashing lights on motor vehicles have been shown to cause serious adverse reactions to individuals with disabilities, including non-epileptic and



- epileptic seizures, anxiety, panic attacks, vomiting, impaired cognitive functioning, and suicidal ideations.
3. The alteration of adding supplemental LED flashing lights to motor vehicles creates a discriminatory barrier to path-of-travel for individuals with disabilities, in violation of the Americans with Disabilities Act's statutes and regulations.
  4. The California DMV is required under the U.S. Constitution's 14<sup>th</sup> Amendment Equal Protection Clause to ensure equal protection of individuals with disabilities and therefore the DMV must prohibit the use of supplemental LED flashing lights on motor vehicles.

### **C. PROPOSED REGULATIONS**

Petitioner requests that the DMV issue regulations which prohibit the use of supplemental LED flashing lights on vehicles.

Respectfully Submitted By:

/s/ Mark Baker

President  
Soft Lights Foundation  
9450 SW Gemini Drive PMB 44671  
Beaverton, OR 97008  
mbaker@softlights.org

## APPENDIX A - Bibliography

1. Visually Sensitive Seizures: An Updated Review by the Epilepsy Foundation. - <https://onlinelibrary.wiley.com/doi/10.1111/epi.17175> - Flashes brighter than 20 candela per square meter create a risk of seizure.
2. IEEE Recommended Practices for Modulating Current in High-Brightness LEDs for Mitigating Health Risks to Viewers. - [https://www.bio-licht.org/02\\_resources/info\\_ieee\\_2015\\_standards-1789.pdf](https://www.bio-licht.org/02_resources/info_ieee_2015_standards-1789.pdf) - Flasher brighter than 20 nits and greater than 1 Hz is creates a high risk of seizure.
3. Flashing Lights Induce Prolonged Distortions in Visual Cortical Responses and Visual Perception. - [Flashing Lights Induce Prolonged Distortions in Visual Cortical Responses and Visual Perception - PMC \(nih.gov\)](#) - A flashing light induces an anomalously delayed response in the primary visual cortex of mice, rats, and humans.
4. Hazardous Effects of Light Stimulation in the Central Nervous System - <https://austinpublishinggroup.com/clinical-neurology/fulltext/ajcn-v1-id1010.php> - High-temporal-frequency visual stimuli can yield hazardous responses in the central nervous system.
5. Associations Between the Pupil Light Reflex and the Boarder Autism Phenotype in Children and Adults - <https://www.frontiersin.org/journals/human-neuroscience/articles/10.3389/fnhum.2022.1052604/full> – An individual with autism has a slower pupil light reflex, causing difficulty reacting to LED flashing lights.
6. Hyper-focus, sticky attention, and springy attention in young autistic children: Associations with sensory behaviors and cognitive ability - <https://onlinelibrary.wiley.com/doi/10.1002/aur.3174> - Individuals with autism may not be able to disengage from LED flashing lights.

# Exhibit B



9450 SW Gemini Drive  
PMB 44671  
Beaverton, OR 97008

August 7, 2024

## **BY EMAIL**

Hydee Feldstein Soto, City Attorney  
Los Angeles, California  
cityatty.help@lacity.org

## **Re: Notice of Dangerous and Discriminatory Conditions – LED Flashing Lights**

Dear Hydee Feldstein Soto,

The US Department of Energy states that LEDs are a “radically new technology” that emit a “directional” light with “unique characteristics”.<sup>1</sup> It is the directional nature of LEDs and their unique characteristics which cause individuals with disabilities to suffer non-epileptic and epileptic seizures, migraines, vomiting, and panic attacks when exposed to LED flashing lights such as on police cars and RRFBs.

The Equal Protection Clause of the 14<sup>th</sup> Amendment of the U.S. Constitution states:

*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*<sup>2</sup>

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.*<sup>3</sup>

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*

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<sup>1</sup> [https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl\\_lessons-learned\\_2014.pdf](https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_lessons-learned_2014.pdf)

<sup>2</sup> [https://www.law.cornell.edu/wex/equal\\_protection](https://www.law.cornell.edu/wex/equal_protection)

<sup>3</sup> <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.*

California Government Code Section 835 states:

*Except as provided by statute, a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:*

*(a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or*

*(b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.*

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/>)
- NYSpsc LED Streetlight Case 21-02623 Public Comments: (<https://tinyurl.com/3b9farmy>)

Below are several examples of LED flashing light videos and their titles:

1. My LED Lights (epilepsy/seizure warning): (<https://www.youtube.com/shorts/qvtmhHbPeMU>)
2. LED Strobe Lights - Blue \*\*Warning May Cause Seizure\*\*: ([https://youtu.be/K\\_oIWfOMKel](https://youtu.be/K_oIWfOMKel))
3. How to Have a Seizure 101 (Warning Flashing Lights)  
(<https://www.youtube.com/shorts/1fGBrt2D9s4>)
4. Edmonds, WA RRFB installation: (<https://youtu.be/bdabrTTnf3w>)
5. 2015 Dodge Charger Police Car LED Police Lights outfitted by HG2 Emergency Lighting:  
([https://youtu.be/KJ\\_1CiNVtTo](https://youtu.be/KJ_1CiNVtTo))
6. LVT Manual Strobe and Flood Light: (<https://youtu.be/FVqCqBi5wY>)

Seizure reactions are primarily a function of radiance, flash rate, and cycle depth. The higher the radiance, the more risk. The faster the rate, the more risk. The closer to digital pulsing, the more risk. All three factors play a role. A very high radiance LED can cause a seizure with zero flashing. A low radiance light can cause a seizure if the rate is high. A digital on/off has a higher risk of seizure than sine wave. As can be seen in the videos, the first three videos are marked with seizure warnings, whereas the other LED flashing lights are in public places, are unavoidable, are triggering seizures, but are not marked with seizure warnings.

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.

The use of LED flashing lights by a city segregates members of the public into two classes, those without disabilities who are provided the purported safety benefits of using LED flashing lights, and those with disabilities for whom those very same LED flashing lights cause acute neurological and psychological trauma and an obstruction to path-of-travel. This segregation into two separate classes is a violation of the Equal Protection Clause of the 14<sup>th</sup> Amendment, and a violation of the Americans with Disabilities Act. 28 C.F.R. 35.151(b)(1) requires that any alteration ensure that the altered area be readily accessible and usable by individuals with disabilities. The alteration of adding an LED flashing light, whether on a city sign or on a city vehicle, creates an obstruction to path-of-travel for individuals with disabilities, and therefore is prohibited by 28 C.F.R. 35.151(b)(1).

Therefore, on behalf of MarieAnn Cherry, an individual diagnosed with epilepsy, Donald Berry, an individual diagnosed with PTSD, and Mark Baker, an individual diagnosed with autism, the Soft Lights Foundation is notifying the city of Los Angeles that Ms. Cherry, Mr. Berry, and Mr. Baker may be injured and discriminated against if they encounter LED flashing lights. The Soft Lights Foundation therefore requests removal of city-operated LED flashing lights such as on police vehicles and RRFBs to ensure the safe and equal access to city services for Ms. Cherry, Mr. Berry, Mr. Baker, and all individuals with disabilities. Failure to remove LED flashing lights may result in an injury liability claim against the city and/or discrimination lawsuit.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

[mbaker@softlights.org](mailto:mbaker@softlights.org)

# Exhibit C

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Food and Drug Administration  
Center for Devices and Radiological Health

Form Approved:  
OMB Number 0910-0025  
Expiration Date: August 31, 2023  
See Burden Statement on page 5.

## ACCIDENTAL RADIATION OCCURRENCE REPORT

**Note:** Items with an asterisk (\*) require a response.

### SUBMITTER INFORMATION

If you are not submitting this report representing the manufacturing establishment for the radiation-emitting product causing the problem, you may enter your own company name under Establishment Identification and Submitter Address, or enter N/A and provide your home or other address.

#### Contact Information

Contact Name (Title, first name, last name)\*

Occupation Title

Email Address\*

#### Establishment Identification (Manufacturer of the radiation-emitting product being reported, if known)

Establishment Name

Division Name

#### Submitter Address

Address

Telephone Number\*

Street\*

City\*

State\*

Zip Code\*

Fax Number

### INFORMATION REGARDING PRODUCT MANUFACTURER

Product Manufacturer Name (If known)

Product Manufacturer Address (If known)

Street (Line 1)

Street (Line 2)

City

Territory, Province, or State

Country

Zip or Postal Code

Product Model Designation (If known)

Model Name or Number

Model Family Designation

Brand Name

Please provide any other information known regarding the manufacturer of the product that was involved in the accidental radiation exposure incident.

If you are aware that the manufacturer was informed about the incident, please provide the contact information below.

Contact Information (Including whom you contacted and address)

Date Contacted

**PRODUCT INFORMATION**

**Product Types** (Please select the best match (only one). Note that product types are grouped into radiation categories.)

**Acoustic Radiation**

- Therapeutic Ultrasonic Devices (Including diathermy and stimulators)
- Ultrasonic Medical Devices (Miscellaneous) (Including lithotriptors)
- Diagnostic Ultrasound Devices
- Sonic Medical Products (Including hearing aids and vibrators)
- Ultrasound Non-Medical Products (Including jewelry cleaners and intrusion security systems)
- Sonic Non-Medical Products
- Veterinary Diagnostic Ultrasonic Products
- Veterinary Therapy Ultrasonic Products
- Other Sonic or Ultrasonic Product

**Ionizing Radiation**

- Personnel Security Systems (Including backscatter and transmission x-ray systems)
- Cargo Non-Intrusive Security Systems
- Cabinet X-Ray Systems, Non-Medical (Including baggage x-ray systems)
- Industrial X-Ray Systems (Excluding Cabinet)
- Analytical X-Ray Systems, Non-Medical
- High Voltage Vacuum Switches
- Industrial Particle Beam Systems
- TVs and video monitors (Not including flat-screen TVs)
- Medical Diagnostic X-Ray Equipment
- Dental Diagnostic X-Ray Equipment
- Therapeutic X-Ray Systems
- Veterinary X-Ray Systems
- X-Ray Bone Densitometers
- X-Ray Film and Film Processing Materials
- Cabinet X-Ray Systems, Medical
- Medical Accelerators
- Non-Medical Accelerators
- High Voltage Vacuum Tubes
- Cathode Ray Tube (Without Electronics Chassis)
- Cold-Cathode Gas Discharge Tubes
- Other X-Ray Product

**Microwave EMF Radiation**

- Microwave Ovens (Food Prep)
- Microwave Hyperthermia Therapy Devices
- Microwave Diathermy Machines

**Microwave EMF Radiation (Continued)**

- Microwave Identification, Safety, Security, and Surveillance Products
- Industrial Dielectric Heaters
- Microwave Medical Products
- Microwave Heating and Drying Products
- Microwave Communication, Data Transmit, and Measurement Products (Including CB radios, cell phones, walkie-talkies, household remote controllers)
- Nuclear Magnetic Resonance Devices
- Household ELF Products (Including electric blankets)
- Other Microwave Product

**Optical Radiation**

- Medical Laser Products (Including surgical devices and laser therapy)
- Surveying, Leveling, Alignment Laser Products (Including laser pointers, laser levels)
- Laser Light Show/Display Products
- Toy, Novelty, Play Laser Products
- Safety, Security, Surveillance Laser Products (Including night vision systems, traffic speed systems and intrusion detection systems)
- Research, Scientific, Laboratory Laser Products
- Material Processing Laser Products (Including welders, cutters, engravers)
- Data Measurement, Transmit, Control Laser Products (Including fiber optic communication systems, laser vision systems and process control systems)
- Utility/Peripheral Laser Products (Including laser printers, bar code scanners, CD and DVD systems)
- In Vitro and Other Medical Laser Products (Including Veterinary devices)
- Patient Positioning Medical Laser Products
- Other Laser Products
- Sunlamp Products (Including sunlamps and tanning beds)
- Mercury Vapor Lamps
- Ultraviolet Medical Products
- Ultraviolet Commercial/Consumer Products
- Ultraviolet Surveillance & Detection Products
- Ultraviolet Hygiene Products (Including UV sanitizers)
- General Optical Products, Medical (Including surgical lamps)
- General Optical Products, Non-Medical (Including LEDs and fluorescent lamps)

**PRODUCT INFORMATION (Continued)**

**Product Description**

Description of product and its intended use

**ACCIDENTAL RADIATION OCCURRENCE INFORMATION**

**Location of Occurrence**

Please provide the physical location where the Accidental Radiation Occurrence took place (e.g., at a residence, a factory, a tanning salon, school, restaurant, airport, etc.). If you do not know the exact address, provide responses to the best of your ability, or enter "Unknown."

Location or Establishment Name

Specific Section of Location or Establishment (If applicable)

Address			Telephone Number	
Street				
City		State	Zip Code	Fax Number
Date of Event*	From	To	Web Address	

**Persons Involved**

Number of people exposed in the Accidental Radiation Occurrence*	Number of people adversely affected*	Number of unexposed people who were involved*	Number of potentially exposed people who have not exhibited any adverse reactions*
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Type of reportable event  Death  Serious Injury  Malfunction  Other \_\_\_\_\_ .

Description of the nature and magnitude of exposure and/or injuries



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**ACCIDENTAL RADIATION OCCURRENCE INFORMATION (Continued)**

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**Description of the Radiation Occurrence**

Is this a new Accidental Radiation Occurrence (ARO) report or a supplement to a previous ARO report filed by you or your organization?  
(Please select one.)\*

New ARO report

Supplement to previous ARO report (Enter date of previous report below.)

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Date of previous ARO report, if applicable (mm/dd/yyyy) (Required entry\* only if "Supplement to previous ARO report" is selected.)

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Description of circumstances surrounding the accidental radiation occurrence (Please include a description of the activities leading up to the event and actions that occurred during the event, as well as any suspected causes of the occurrence.)\*

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**Actions Taken**

The actions described below are those taken to control, correct, or eliminate the causes and to prevent reoccurrence. If unknown, you may state "Unknown" below.

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Description of specific actions, to date, taken by the manufacturer in response to the Accidental Radiation Occurrence\*

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**ACCIDENTAL RADIATION OCCURRENCE INFORMATION (Continued)**

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**Actions Taken (Continued)**

Description of future actions to be taken by the manufacturer, if known, in response to the Accidental Radiation Occurrence (*If this is a preliminary ARO report from the manufacturer, please indicate that further investigation is ongoing.*)\*

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If this involved a medical device, has a Medical Device Report (MDR) been submitted to FDA?\*

Yes     No     N/A     Unknown

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**Other Important Information (Please enter below)**

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Feel free to send in medical documentation regarding the incident and injuries.

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**Please mail this completed FORM FDA 3649  
to the address to the right:**

U.S. Food and Drug Administration  
Center for Devices and Radiological Health  
Document Mail Center – WO66-G609  
10903 New Hampshire Avenue  
Silver Spring, MD 20993-0002

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This section applies only to requirements of the Paperwork Reduction Act of 1995.

**\*DO NOT SEND YOUR COMPLETED FORM TO THE PRA STAFF EMAIL ADDRESS BELOW.\***

The burden time for this collection of information is estimated to average 2 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden, to:

Department of Health and Human Services  
Food and Drug Administration  
Office of Chief Information Officer  
Paperwork Reduction Act (PRA) Staff  
[PRASStaff@fda.hhs.gov](mailto:PRASStaff@fda.hhs.gov)

*“An agency may not conduct or sponsor,  
and a person is not required to respond to, a  
collection of information unless it displays a  
currently valid OMB number.”*