U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210

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

Dear Mr. Baker:

Thank you for your July 22, 2023, and July 1, 2024, letters requesting OSHA contact the Food and Drug Administration to "consult and liaise to develop performance standards for LED products so as to minimize the emissions of, and exposure to, unnecessary Visible Light electromagnetic radiation."[1] Your letters contend that OSHA is required to engage in this consultation under 21 U.S.C. 360ii(a)(6) (Section 532(a)(6) of the Federal Food, Drug, and Cosmetic Act (the "Act")).

OSHA cannot be in violation of Section 532(a)(6) of the Act because this provision does not apply to OSHA. Moreover, we are aware that in a letter dated May 24, 2024, FDA denied your requests that the agency develop performance standards for various LED products pursuant to the Electronic Product Radiation Control provisions (Sections 531 through 542) of the Act. As explained in FDA's letter, although section 532(a)(6)(B) of the Act, 21 U.S.C. 360ii(a)(6)(B), directs FDA to consult and maintain liaison with other appropriate federal departments and agencies on the development of performance standards to control electronic product radiation, that provision applies *if* FDA determines, pursuant to section 534(a) of the Act, 21 U.S.C. 360kk(a), that such standards are necessary for the protection of the public health and safety.

Thank you again for contacting OSHA and for your interest in occupational safety and health.

Sincerely,

Andrew Levinson

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Date: 2024.08.15 14:48:11 -04'00'

Andrew Levinson, MPH
Director, Directorate of Standards and Guidance

[1] To the extent your July 2023 letter renews your earlier request that OSHA engage in rulemaking under the OSH Act to regulate LED devices, we refer you to our previous response, dated September 7, 2022.