

January 25, 2025

BY EMAIL

Office of Administration
Federal Highway Administration
FOIA.Officer@dot.gov

Re: FOIA Request – Rectangular Rapid Flashing Beacons

Dear Office of Administration,

In 2008, the Federal Highway Administration (“FHWA”) provided an interim approval for a pedestrian signaling device called a Rectangular Rapid Flashing Beacon (“RRFB”). This device emits high-intensity, digitally pulsing light into the eyes of drivers and others to compel them to stop.

The Soft Lights Foundation alleges that RRFBs are a defective product, emitting hazardous and dangerous light which impairs driver vision and cognitive functioning, possibly causing eye damage, and triggering non-epileptic and epileptic seizures, migraines, and panic attacks, and that the use of RRFBs creates an unlawful discriminatory barrier that interferes with path-of-travel for individuals with disabilities, and that the use of RRFBs violates the 14th Amendment Equal Protection Clause.

On June 29, 2022, three individuals submitted a civil rights complaint to the FHWA regarding RRFBs.¹

On October 19, 2022, the FHWA rejected the June 29, 2022, complaint.²

On November 3, 2022, the Soft Lights Foundation submitted a regulatory petition to the FHWA to repeal the RRFB interim approval.³

In December 2023, the FHWA approved the use of RRFBs in the MUTCD.

The FHWA approved the RRFB despite knowing that RRFBs impair driver vision and cognitive functioning, and despite knowing that RRFBs trigger seizures, migraines, and panic

¹ https://www.softlights.org/wp-content/uploads/2022/06/FHWA-RRFB-Filing_Redacted.pdf

² <https://www.softlights.org/wp-content/uploads/2022/10/Baker-CL-2022-0375.pdf>

³ <https://www.softlights.org/wp-content/uploads/2023/08/Petition-to-Repeal-RRFB.pdf>

attacks. The FHWA did not liaison with the FDA to test and evaluate RRFBs and establish performance standards for RRFBs to ensure public health and safety, as required by 21 U.S.C. 360ii(a)(6)(A).

Therefore, in preparation for an Administrative Procedure Act lawsuit against the FHWA, the Soft Lights Foundation hereby requests the following documents from 2005 through 2024 related to RRFBs under the Freedom of Information Act. In the list below, the term “documents” shall mean all documents, research, test results, emails, agreements, memos, meeting minutes, justifications, public comment, and publications.

1. All documents related to the decision by the FHWA to approve the RRFB in the MUTCD.
2. All documents related to the FHWA decision to reject the June 29, 2022, civil rights request.
3. All documents related to the decision by the FHWA to ignore the Soft Lights Foundation petition to repeal the RRFB interim approval.
4. All documents involving the FHWA, the FDA and RRFBs, including documents related to the decision by the FHWA to liaison or not liaison with the FDA on testing, evaluating and setting performance standards for RRFBs.
5. All documents involving the FHWA, Access Board and RRFBs, including documents related to the decision by the FHWA to liaison or not liaison with the Access Board on establishing protection for individuals with disabilities from the impacts of RRFB light.
6. All documents related to testing and evaluating RRFBs for health and safety, including, but not limited to, impacts on individuals with disabilities and light sensitivity.
7. All documents related to reports of harm from exposure to RRFB light.
8. All documents related to setting limits on intensity and digital pulsing for RRFBs.
9. Provide a Vaughn Index for any documents that are not released.

These documents will create the administrative record for the APA lawsuit.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

mbaker@softlights.org