

December 2, 2023

BY EMAIL

US Representative John James
10th Congressional District, Michigan
Lisa.Brown@mail.house.gov

Re: LED Headlights Need Congressional Oversight

Dear Representative James,

The switch to LED headlights by the auto industry has been done without complying with federal laws. We assert that LED headlights are illegal for numerous reasons and that LED headlights pose an unacceptable risk to public health and safety. This issue is complex and widespread, and we feel that the only way for this issue to be resolved is with Congressional intervention and oversight.

1. **Federal Motor Vehicle Safety Act of 1966**¹ - The Act states, *“Congress determines that it is necessary to establish motor vehicle safety standards for motor vehicles and equipment in interstate commerce.”* and *“Motor vehicle safety” means the performance of motor vehicles or motor vehicle equipment in such a manner that the public is protected against unreasonable risk of accidents occurring as a result of the design, construction or performance of motor vehicles and is also protected against unreasonable risk of death or injury to persons in the event accidents do occur, and includes nonoperational safety of such vehicles.”*

LED headlights present an unreasonable risk of death or injury, and thus do not comply with the Federal Motor Vehicle Safety Act of 1966.

2. **Administrative Procedure Act of 1946 (5 U.S.C. 551-559)**² – No automaker has petitioned the National Highway Traffic Safety Administration for authorization to use LED technology for headlights. NHTSA has not published any petition to the federal register for authorization to use LED technology for headlights and the public has not been given the opportunity to comment. Thus, the automakers have no legal justification for manufacturing or selling vehicles with LED headlights. The Soft Lights Foundation submitted a Request for Interpretation to NHTSA on September 27, 2023³, but NHTSA has not responded.

¹ <https://www.govinfo.gov/content/pkg/STATUTE-80/pdf/STATUTE-80-Pg718.pdf>

² <https://tinyurl.com/4b5t6dak>

³ <https://www.softlights.org/wp-content/uploads/2023/09/NHTSA-LED-Headlight-Interpretation-Request.pdf>

3. **NHTSA FMVSS-108 Table XIX⁴** - A private citizen has measured the intensity of LED headlights for numerous vehicles with OEM LED headlights and has found that every vehicle exceeds the maximum limits set in the Federal Motor Vehicle Safety Standards Section 108 Table XIX for luminous intensity. In addition, the citizen has identified large areas in front of the headlights where NHTSA has set no maximums for brightness, thus allowing LED headlights to cause blinding glare in those areas. NHTSA uses a “self-reporting” mechanism for the auto industry and has not established a comprehensive testing program of its own to ensure that LED headlights comply with existing FMVSS-108 standards.

4. **Food and Drug Administration (21 U.S.C. 360hh – 360ii)⁵** – The only federal agency with the Congressional mandate and authority to regulate electromagnetic radiation from electronic products is the FDA. Every other federal agency has notified the Soft Lights Foundation that they defer to the FDA for publication of performance standards for LED products and that these other federal agencies have no Congressional authority to set standards for LED products to ensure the comfort, health, safety, and civil rights of the public.

This position statement by all federal agencies, that they have no authority to set standards for LED products, is a major change to the existing regulatory structure. The significance of this position statement is that NHTSA has no authority to regulate LED vehicle headlights and that the existing FMVSS-108 standard is not applicable to LED headlights because NHTSA lacks the Congressional authority to set the standards for LED headlights.

The FDA has not published the performance standards for LED headlights as required by 21 U.S.C. 360ii. US Representatives Mike Thompson of California and Mark Pocan of Wisconsin have sent letters to FDA Commission Robert Califf requesting that the FDA comply with 21 U.S.C. 360ii and publish performance standards for LED headlights, but the FDA has not responded.^{6,7} On September 7, 2023, the Soft Lights Foundation submitted citizen petition FDA-2023-P-3828 to the FDA to publish performance standards for LED headlights.⁸ The FDA has not acted on this petition.

5. **Change.org Petition to Ban Blinding Headlights⁹** - The largest number of complaints that NHTSA has ever received previously about a safety issue is 5,000 for halogen headlights. The petition to ban blinding headlights now has over 50,000 signatures and comments from the public and continues to grow. The Soft Lights Foundation has submitted this petition and comments to NHTSA, but NHTSA has not responded.

⁴ <https://www.law.cornell.edu/cfr/text/49/571.108>

⁵ <https://tinyurl.com/2v7fpa9e>

⁶ <https://www.softlights.org/wp-content/uploads/2023/07/Thompson.pdf>

⁷ <https://www.softlights.org/wp-content/uploads/2023/10/LED-headlights-letter-10-3-23.pdf>

⁸ <https://www.regulations.gov/document/FDA-2023-P-3828-0001>

⁹ <https://www.change.org/p/u-s-dot-ban-blinding-headlights-and-save-lives>

6. **Scientific Evidence** – Blue wavelength light is a significant hazard for the eye, causing cell death, and yet the automakers are using 6500 Kelvin LED headlights with extreme levels of this very hazardous blue wavelength light. There are thousands of scientific research papers on this topic.^{10,11} A social media group on Reddit is collecting photo and video evidence from thousands of citizens on the debilitating glare from LED headlights which can serve as data for a study.¹²
7. **Auto Industry Response** – Organizations such as the Insurance Institute for Highway Safety and Mount Sinai Light and Health Research Center blame the blinding glare from LED headlights on “misalignment”. Consumer Reports and the Center for Auto Safety decline to comment. General Motors, Ford, Stellantis, and the other automakers decline to comment.
8. **Media Coverage** – Articles and news stories about blinding LED headlights appear frequently, but generally do not address the actual reasons for LED headlight glare or the lack of FDA and NHTSA regulation for LED headlights. Considering the frequency of articles about dangerous glare, this is an issue that voters care about.

April 12, 2023 - ABC6 Philadelphia¹³ - Video story on the petition to ban blinding headlights. This news story generated 5,000 new signatures on the petition.

May 11, 2023 – NBC Today¹⁴ - Video story on LED headlights show the dangerous glare but makes no mention of the lack of regulations for LED headlights. There are over 9,000 comments on this story such as “It’s about time someone addressed this! I hope people will start trying to do something about it!”

October 12, 2023 – American Association of Retired Persons¹⁵ - This article by AARP does not address the unregulated intensity of LED headlights and lack of NHTSA and FDA standards.

December 1, 2023 – Sacramento Bee¹⁶ – Print story on whether LED headlights are legal. The article does not discuss the lack of FDA and NHTSA regulations.

We request that Congress take the following actions:

General Accountability Office: Request a full investigation into this issue and report to Congress.

Congressional Hearings: Hold hearings on this issue.

¹⁰ <https://www.softlights.org/eye-hazards/>

¹¹ <https://www.softlights.org/human-health/>

¹² <https://www.reddit.com/r/fuckyourheadlights/>

¹³ <https://youtu.be/EKtcNSRySWs>

¹⁴ <https://youtu.be/wOnBIZwUT3s>

¹⁵ <https://www.aarp.org/auto/driver-safety/driving-in-the-dark/>

¹⁶ <https://www.sacbee.com/news/california/article282430598.html?taid=656a38e967e55600014f4d7a>

Send Letters:

FDA: When will the FDA publish performance standards for LED headlights? When will there be limits set on the amount of blue wavelength light and the luminance of LED headlights to ensure public comfort, health, safety, and civil rights?

NHTSA: Why has NHTSA not established a comprehensive testing program to ensure that LED headlights comply with FMVSS-108 Table XIX? Why is NHTSA allowing LED headlights when the automakers have not petitioned NHTSA for authorization? Does NHTSA defer to the FDA for regulation of LED headlights or does NHTSA assert Congressional authority to regulate LED headlights? Why doesn't NHTSA have maximum limits for all areas in front of the headlights?

Ford, General Motors, Stellantis: How do the automakers justify not complying with the Administrative Procedure Act to get authorization to sell vehicles with LED headlights? How do automakers justify selling vehicles that cause dangerous glare?

GEICO, Allstate, Farmers Insurance: How do the insurance companies justify selling insurance policies for vehicles with LED headlights when LED headlights that have not been approved for use?

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

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