UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Mark Baker,

vs.

United States Food and Drug Administration,

CASE NO: 2:26-CV-02776-DJC-CSK

SUMMONS IN A CIVIL CASE

TO: *(Defendant's Name and Address)*

United States Food and Drug Administration

YOU ARE HEREBY SUMMONED.

A lawsuit has been filed against you. Within 30 days after service of this summons on you (not counting the the day you received it) you must serve on the plaintiff at the address below an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure and file the answer or motion with the Clerk of Court.

Mark Baker
1520 E. Covell Blvd.
Suite 5 – 467
Davis, CA 95616

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.

KEITH HOLLAND
CLERK

/s/ O. Mendez Licea
(By) DEPUTY CLERK

ISSUED ON 2026-08-13 14:08:51
CLERK, USDC EDCA

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Mark Baker

(b) County of Residence of First Listed Plaintiff Yolo County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Mark Baker (In Pro Per)
1520 E. Covell Blvd. Suite 5-467
Davis, CA 95616 Ph: 503-272-1188

DEFENDANTS

United States Food and Drug Administration

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

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- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
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- ☐ 862 Black Lung (923)
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V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
Freedom of Information Act (5 U.S.C. § 552)

Brief description of cause:
FOIA - Failure to Produce Records

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
August 13, 2026

SIGNATURE OF ATTORNEY OF RECORD
Mark Baker

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Mark Baker
1520 E. Covell Suite 5 - 467
Davis, CA 95616
mbaker@moonlightadvocacy.org
503-272-1188
Pro Se

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MARK BAKER,

Plaintiff,

vs.

UNITED STATES FOOD AND DRUG ADMINISTRATION,

Defendant.

Case No.: 2:26-CV-2776 DJC CSK (PS)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. FREEDOM OF INFORMATION ACT, (5 U.S.C. § 552)

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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

(Freedom of Information Act, 5 U.S.C. § 552)

1. Plaintiff Mark Baker, appearing pro se, brings this action against Defendant U.S. Food and Drug Administration ("FDA") ("Defendant") under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and alleges as follows:

I. NATURE OF THE ACTION

2. This is an action to compel Defendant to comply with FOIA's statutory deadlines and to produce records unlawfully withheld from Plaintiff in response to a FOIA request submitted on March 30, 2025 and assigned FOIA Control No. 2025-3046 (the "Request").

3. Defendant has failed to make a determination on the Request within the time periods required by 5 U.S.C. § 552(a)(6)(A), and Plaintiff is therefore deemed to have exhausted his administrative remedies under 5 U.S.C. § 552(a)(6)(C)(i).

4. As of the date of this Complaint, more than 340 business days have elapsed since Defendant received the Request, and Defendant has informed Plaintiff that his Request will not be completed until approximately January 15, 2027 — nearly twenty-one months after the statutory deadline for a determination expired.

5. Plaintiff also seeks judicial review of Defendant's April 4, 2025 denial of his request for expedited processing under 5 U.S.C. § 552(a)(6)(E)(iii).

II. JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

7. Venue is proper in this district under 5 U.S.C. § 552(a)(4)(B) because Plaintiff resides in Yolo County, California, within the Eastern District of California, Sacramento Division.

8. This Court is authorized to grant declaratory relief under 28 U.S.C. §§ 2201–2202.

III. PARTIES

9. Plaintiff Mark Baker is an individual residing in Yolo County, California. Plaintiff submitted

the Request in his individual capacity as a consumer.

10. Defendant U.S. Food and Drug Administration is a federal agency within Health and Human Services (HHS) and is an agency within the meaning of 5 U.S.C. § 552(f)(1). FDA has possession, custody, and control of the records sought in the Request.

IV. STANDING

11. The Request that gives rise to this action was submitted in dual capacity: Plaintiff submitted the underlying request both in his individual capacity, identifying himself as a "Consumer" requester, and, in a cover letter accompanying the same submission, in his capacity as President of the Soft Lights Foundation, a nonprofit corporation. Both signature blocks appear on the letter accompanying the Request.

12. Plaintiff brings this action solely in his individual capacity. Plaintiff does not purport to represent, and is not appearing on behalf of, the Soft Lights Foundation in this action, and no claim asserted herein is brought on the Foundation's behalf.

13. Plaintiff is a proper party to bring this action in his individual capacity because he is a "person" within the meaning of 5 U.S.C. § 552(a)(3)(A) and 5 U.S.C. § 551(2) who made a request for records and has been aggrieved by Defendant’s failure to respond within the time required by law. Plaintiff's individual capacity as a requester is independently established by FDA's own records, which identify the requester as "Mark Baker," an individual "Consumer," with Plaintiff's personal mailing address, phone number, and email address.

14. The Soft Lights Foundation is not a party to this action. As a corporate entity, the Soft Lights Foundation may appear in federal court only through licensed counsel; it cannot appear pro se, including through its president or any other officer acting without a law license. See *Rowland v. California Men's Colony*, 506 U.S. 194, 201–02 (1993) ("It has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel."); *United States v. High Country Broadcasting Co.*, 3 F.3d 1244, 1245 (9th Cir. 1993) (affirming default judgment against a corporation that attempted to proceed through its unlicensed president). Plaintiff accordingly brings this action in his

individual capacity only, and any relief obtained will run to Plaintiff individually.

15. The Soft Lights Foundation's status as an additional signatory on the cover letter accompanying the Request does not render the Request a single, inseverable joint submission that must be prosecuted jointly or not at all. The operative record before the agency — the FDA FOIA Request Form itself, on which FDA's control number and all subsequent correspondence are based — identifies the requester as "Mark Baker," describes the requester as a "Consumer," and lists Plaintiff's individual mailing address, telephone number, and email address as the sole point of contact. To the extent the accompanying letter also referenced Plaintiff's role as President of the Soft Lights Foundation, that reference does not convert Plaintiff's individual request into a request that can be vindicated only by the Foundation, or only jointly with the Foundation.

16. The Soft Lights Foundation is not a required party under Federal Rule of Civil Procedure 19(a). Complete relief can be accorded among Plaintiff and Defendant without joining the Foundation, since Plaintiff independently qualifies as a "person" entitled to request records and to seek judicial review under 5 U.S.C. §§ 551(2), 552(a)(3)(A), and 552(a)(6)(C)(i). The Foundation's absence from this action does not impair or impede the Foundation's ability to protect any interest it may have, because the Foundation remains free to submit its own FOIA requests and to pursue its own claims, through licensed counsel, at any time.

17. Defendant’s own conduct confirms that the Request has been processed as one made by Plaintiff in his individual capacity. FDA's April 4, 2025 correspondence acknowledging the Request (Exhibit B) and denying expedited processing (Exhibit C) is addressed to "MARK A [sic] BAKER" individually and opens "Dear Requester," without reference to any organizational requester. FDA's July 16, 2025 status update (Exhibit D) was likewise directed to Plaintiff individually, at his personal email address, and referenced only "your request" in the singular. Defendant is estopped from now asserting, for the first time in litigation, that the Request was in fact made by, or is subject to any joinder or representation requirement running to, the Soft Lights Foundation.

18. To the extent Defendant contends that the Request was submitted in a representative capacity

on behalf of the Soft Lights Foundation, in whole or in part, Plaintiff's claims in this action are asserted solely on the basis of, and to the extent of, his own individual capacity as a requester, and Plaintiff disclaims any assertion in this action of rights belonging to the Foundation.

V. STATUTORY FRAMEWORK

19. FOIA requires that, upon request, a federal agency "shall determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request." 5 U.S.C. § 552(a)(6)(A)(i).
20. An agency may extend this period by no more than ten additional working days upon written notice to the requester explaining "unusual circumstances." 5 U.S.C. § 552(a)(6)(B).
21. Where an agency fails to comply with the applicable time limits, the requester "shall be deemed to have exhausted his administrative remedies with respect to such request" and may seek judicial review. 5 U.S.C. § 552(a)(6)(C)(i).
22. An agency may be entitled to additional time to complete its response only upon a showing of "exceptional circumstances" and that the agency "is exercising due diligence in responding to the request." 5 U.S.C. § 552(a)(6)(C)(i). "Exceptional circumstances" does not include "a delay that results from a predictable agency workload of requests," unless the agency demonstrates reasonable progress in reducing its backlog. 5 U.S.C. § 552(a)(6)(C)(ii); see also *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976).
23. An agency's denial of a request for expedited processing is subject to judicial review. 5 U.S.C. § 552(a)(6)(E)(iii); *id*. § 552(a)(4)(A)(vii).

VI. FACTUAL ALLEGATIONS

24. On March 30, 2025, Plaintiff submitted the Request (attached hereto as Exhibit A) to FDA's Division of Freedom of Information, invoking FDA's statutory duty under 21 U.S.C. § 360ii to "establish and carry out an electronic product radiation control program designed to protect the public health and safety from electronic product radiation." The Request sought

documents concerning the FDA Center for Devices and Radiological Health's ("CDRH") Radiation Control Program as applied to two currently regulated product categories (microwave ovens and certain light-emitting products under 21 C.F.R. Parts 1030 and 1040) and twelve categories of RF- and LED-emitting products that are not currently subject to any FDA performance standard — including cell towers, cell phones, WiFi routers, smart meters, LED vehicle headlamps, LED streetlights, and LED flashing lights on emergency vehicles. The Request also sought records concerning FDA's interagency liaison obligations under 21 U.S.C. § 360ii(a)(6)(A), adverse-event reports for RF and LED radiation exposure, and a Vaughn index for any withheld records.

25. FDA acknowledged receipt of the Request the same day, assigning it Reference No. FDA25112488.

26. The Request included a request for a fee waiver on the ground that Plaintiff is an individual, that the Soft Lights Foundation is a small nonprofit corporation, and that the Request is in the public interest and will not serve a commercial purpose.

27. The Request included a request for expedited processing on the ground that electromagnetic radiation from RF- and LED-emitting products poses a danger to human life and that thousands of harm reports have already been submitted to FDA regarding these products, creating an urgent need to inform the public.

28. On April 4, 2025, FDA formally acknowledged the Request, assigning it FOIA Control No. 2025-3046, and advised that, "[d]ue to an increase in the number of incoming requests," it would be "unable to comply with the twenty-working-day time limit in this case, as well as the ten additional days provided by the FOIA." (Exhibit B.)

29. FDA's April 4, 2025 acknowledgment letter (Exhibit B) did not grant, deny, or otherwise address Plaintiff's request for a fee waiver. To date, Defendant has never made any determination on Plaintiff's fee waiver request.

30. Also on April 4, 2025, FDA denied Plaintiff's request for expedited processing, stating that Plaintiff had not demonstrated "a compelling need that involves an imminent threat to the life or physical safety of an individual" or "an urgency to inform the public concerning actual or

alleged Federal Government activity." (Exhibit C.)

31. On July 16, 2025, Candace Davis, Director of the Division of Information Disclosure, Center for Devices and Radiological Health, U.S. Food and Drug Administration, informed Plaintiff by email that "[t]here are currently approximately 1,190 requests ahead of your request. The estimated completion date is Jan 15, 2027." (Exhibit D.)

32. As of the filing of this Complaint, Defendant has not made a determination on the Request, has not produced any records responsive to the Request, and has not asserted any FOIA exemption with respect to any responsive record.

33. The twenty-working-day period prescribed by 5 U.S.C. § 552(a)(6)(A)(i), together with the maximum ten-working-day extension permitted by 5 U.S.C. § 552(a)(6)(B), expired no later than May 9, 2025.

34. More than 15 months have elapsed since that deadline, during which Defendant has produced no records and has offered no enforceable schedule for completion other than the informal estimate of January 15, 2027.

35. On information and belief, in April 2025 HHS undertook a reduction in force affecting FDA's FOIA-processing staff, including staff within CDRH's records-disclosure office. On information and belief, FDA substantially reinstated the affected FOIA staff by early May 2025, and HHS Secretary Robert F. Kennedy Jr. publicly stated on or about April 22, 2025 that the agency was "restoring all the FOIA offices."

36. On information and belief, any disruption to FDA's FOIA-processing capacity attributable to the April 2025 reduction in force was temporary and does not constitute an "exceptional circumstance" within the meaning of 5 U.S.C. § 552(a)(6)(C)(ii), particularly with respect to the CDRH records-disclosure queue through which the Request is being processed, and particularly given the elapsed time since that reduction in force was substantially reversed.

37. This pattern is not unique to FDA. On July 29, 2026, the New York Times reported that senior administration officials have described federal FOIA understaffing as a deliberate policy choice rather than an unforeseen circumstance. Office of Management and Budget Communications Director Rachel Cauley stated that “it would not be serving the American

peoples' desire for a smaller, leaner government to waste money hiring additional FOIA processors," and, regarding the Department of Health and Human Services specifically, that "[i]n working with limited budgets, we choose to hire ICE officers instead of FOIA processors." Minho Kim, Public Records Requests Are Surging. The Government Is Falling Behind, N.Y. TIMES (July 29, 2026).

38. The backlog and delay Defendant has described to Plaintiff reflect a predictable and systemic agency workload rather than a sudden, unforeseen, or extraordinary circumstance, and Defendant has not demonstrated reasonable progress in reducing that backlog as required by 5 U.S.C. § 552(a)(6)(C)(ii).

VII. EXHAUSTION OF ADMINISTRATIVE REMEDIES

39. Because Defendant failed to make a determination on the Request within the time periods prescribed by 5 U.S.C. § 552(a)(6)(A)–(B), Plaintiff is deemed to have constructively exhausted his administrative remedies under 5 U.S.C. § 552(a)(6)(C)(i) and may seek judicial review without further resort to any administrative appeal.

VIII. CLAIMS FOR RELIEF

COUNT I

Violation of FOIA — Failure to Make a Timely Determination and Unreasonable Delay (5 U.S.C. § 552(a)(6)(A))

40. Plaintiff repeats and realleges each of the foregoing paragraphs as though fully set forth herein.

41. Defendant was required to determine whether to comply with the Request within twenty working days of receipt, plus a permissible extension of no more than ten additional working days. 5 U.S.C. § 552(a)(6)(A)(i), (a)(6)(B).

42. Defendant failed to make any such determination within that period and have failed to do so to date.

43. Defendant's delay is not excused by "exceptional circumstances" within the meaning of 5

U.S.C. § 552(a)(6)(C)(ii), and Defendant has not exercised due diligence in processing the Request.

44. Defendant's ongoing failure to determine and respond to the Request violates 5 U.S.C. § 552(a)(3) and (a)(6)(A).

COUNT II

Violation of FOIA — Unlawful Withholding of Agency Records (5 U.S.C. § 552(a)(3))

45. Plaintiff repeats and realleges each of the foregoing paragraphs as though fully set forth herein.

46. Records responsive to the Request are agency records within the meaning of 5 U.S.C. § 552(a)(3) that Defendant is obligated to make promptly available to Plaintiff upon request.

47. Defendant has not produced any responsive records, has not asserted that any responsive record is exempt from disclosure, and has not otherwise justified its continued withholding of responsive records.

48. Defendant's continued withholding of responsive records is unlawful.

COUNT III

Violation of FOIA — Improper Denial of Expedited Processing (5 U.S.C. § 552(a)(6)(E))

49. Plaintiff repeats and realleges each of the foregoing paragraphs as though fully set forth herein.

50. Plaintiff's Request demonstrated a compelling need for expedited processing under 5 U.S.C. § 552(a)(6)(E)(v), including an urgency to inform the public concerning actual and alleged federal government activity relating to a matter that Plaintiff contends poses a danger to human life and safety.

51. Defendant's April 4, 2025 denial of expedited processing was arbitrary, unsupported by the administrative record, and contrary to 5 U.S.C. § 552(a)(6)(E).

52. Plaintiff is entitled to de novo judicial review of Defendant's denial of expedited processing,

limited to the record before the agency at the time of the determination. 5 U.S.C. § 552(a)(6)(E)(iii); *id.* § 552(a)(4)(A)(vii).

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Declare that Defendant has violated FOIA, 5 U.S.C. § 552, by failing to make a timely determination on the Request and by failing to produce records responsive to the Request within the time periods required by law;

B. Order Defendant to conduct a reasonable search for all records responsive to the Request;

C. Order Defendant to process the Request and to produce all non-exempt responsive records to Plaintiff on an expedited schedule set by the Court, with any withholdings accompanied by a Vaughn index or equivalent justification for each claimed exemption;

D. Declare that Defendant's April 4, 2025 denial of expedited processing was unlawful, and order Defendant to grant expedited processing of the Request;

E. Order Defendant to file periodic status reports with the Court regarding the progress of production until the Request is fully processed;

F. Award Plaintiff his costs reasonably incurred in this action to the extent recoverable under 5 U.S.C. § 552(a)(4)(E) and applicable law; and

G. Grant such other and further relief as the Court deems just and proper.

Dated: August 12, 2026

Respectfully Submitted,

/s/ Mark Baker

By: /s/ Mark Baker
Pro Se

EXHIBIT A

Soft Lights Foundation

9450 SW Gemini Drive
PMB 44671
Beaverton, OR 97008

March 30, 2025

BY WEBFORM

https://www.accessdata.fda.gov/scripts/foi/FOIRequest/requestform.cfm

Re: FOIA Request – Radiation Control Program

Dear FDA CDRH FOIA,

21 U.S. Code Part C is titled "Electronic Product Radiation Control". 21 U.S. Code § 360ii is titled "Program of Control". 21 U.S. Code § 360ii states, "The Secretary shall establish and carry out an electronic product radiation control program designed to protect the public health and safety from electronic product radiation." This is a Freedom of Information Act request for information and documents related to the FDA's implementation of the Electronic Product Radiation Control Program. The information requested herein will establish the Administrative Record for litigation under the Administrative Procedure Act.

Under the Electronic Product Radiation Control Program, the FDA has published performance standards for a select number of products. These performance standards are published in Title 21 of the US Code of Federal Regulations in Part 1020 – Performance Standards for Ionizing Radiation Emitting Products, Part 1030 - Performance Standards for Microwave and Radio Frequency Emitting Products, and Part 1040 - Performance Standards for Light-Emitting Products.

The only product regulated in Part 1030 is 1030.10 – Microwave Ovens. There are no performance standards for cell phone towers, cell phones, WiFi routers, Smart Meters, or other electronic devices that emit radiofrequency radiation, despite the thousands of research studies showing that RF radiation from these products is harmful to human health.

The products regulated in Part 1040 are 1040.10 – Laser Products, 1040.11 – Specific Purpose Laser Products, 1040.20 – Sunlamp Products and Ultraviolet Lamps Intended for Use in Sunlamp Products, and 1040.30 – High-intensity Mercury Vapor Discharge Lamps. There are no performance standards for Light Emitting Diode ("LED") vehicle headlamps, LED General Service Lamps, LED streetlights, LED flashing lights on emergency vehicles, LED indicator lights, or any other LED product, despite the thousands of reports of harm that have been submitted to the FDA by the public and the thousands of research studies showing that artificial light, especially LED light, is harmful to human health.

Litigation is now necessary to have the Court determine if the FDA has properly implemented a Radiation Control Program for RF and LED Visible Light products, or if the FDA has abused its discretion, in violation of the Administrative Procedure Act. To determine if the FDA has abused its discretion, it is necessary for the Court to compare the FDA's actions in regulating certain products such as lasers and microwave ovens to the FDA's actions in not regulating other products such as cell phones and LED flashing lights on vehicles. It is also necessary to determine if the FDA has complied with 21 U.S.C. 360ii(a)(6)(A) which requires that the FDA establish and maintain a liaison with other federal agencies such as the Consumer Product Safety Commission for WiFi routers and LED lights in children's toys, and the National Highway Traffic Safety Administration for LED vehicle headlamps.

Therefore, the following documents are requested under the Freedom of Information Act. In the list below, the term "documents" shall mean all documents, research, emails, agreements, memos, meeting minutes, justifications, public comments, petitions, publications, policies, and TEPRSSC meeting notes.

1. All documents related to the Radiation Control Program for Microwave Ovens and the establishment of performance standards for 21 C.F.R. 1030.10.
2. All documents related to the Radiation Control Program for Light-Emitting Products and the establishment of performance standards for 21 C.F.R. 1040.10, 1040.11, 1040.20, and 1040.30.
3. All documents related to the Radiation Control Program for Cell Towers.
4. All documents related to the Radiation Control Program for Cell Phones.
5. All documents related to the Radiation Control Program for WiFi Routers.
6. All documents related to the Radiation Control Program for Smart Meters.
7. All documents related to the Radiation Control Program for LED Vehicle Headlamps.
8. All documents related to the Radiation Control Program for LED Streetlights.
9. All documents related to the Radiation Control Program for LED General Service Lamps.
10. All documents related to the Radiation Control Program for LED Flashing Lights on Vehicles.
11. All documents related to the Radiation Control Program for LED Rectangular Rapid Flashing Beacons.
12. All documents related to the Radiation Control Program for LED Indicator Lights in Consumer Products.
13. All documents related to the Radiation Control Program for LED lights in Children's Toys.
14. All documents related to the Radiation Control Program for LED Floodlights.
15. All documents related to 21 U.S.C. 360ii(a)(6)(A) for the following federal agencies: DOT, FHWA, EPA, DOE, Access Board, CPSC, NHTSA, FAA, FCC, and FTC for RF and LED Visible Light products.
16. All reports of adverse reactions involving exposure to radiofrequency electromagnetic radiation.
17. All reports of adverse reactions involving exposure to LED Visible Light electromagnetic radiation.

18. Provide a Vaughn Index for any documents that are not released.

These documents will create an administrative record for one or more APA lawsuits against the FDA and other federal agencies for abuse of discretion and the failure to establish adequate Radiation Control Programs for electronic products that emit RF and LED Visible Light.

In accordance with 21 C.F.R. 20.46, I request a Fee Waiver because this request is in the public interest and likely to contribute significantly to public understanding of the operations or activities of the FDA CDRH, and because this request is not primarily in the commercial interest of the requester.

Sincerely,

/s/ Mark Baker
Individual

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

EXHIBIT B

U.S. FOOD & DRUG ADMINISTRATION

April 04, 2025

In Reply refer to
FOIA Control #:
2025-3046

Requester reference:

MARK A BAKER
1520 E. Covell Blvd.
Suite B5-467
Davis CA 95616 US

Dear Requester:

The Food and Drug Administration (FDA) has received your Freedom of Information Act (FOIA) request for records regarding:

See attached file for the FOIA request related to the FDA CDRH Radiation Control Programs for RF and LED Visible Light Products.
In processing your FOIA request, FDA will apply, as appropriate, the FOIA exemptions in 5 USC 552(b) and the foreseeable harm standard in 5 USC 552(a)(8)(i). We will respond as soon as possible and may charge you a fee for processing your request. If your informational needs change, and you no longer need the requested records, please contact us to cancel your request, as charges may be incurred once processing of your request has begun. For more information on processing fees, please see http://www.fda.gov/RegulatoryInformation/FOI/FOIAFees/default.htm.

Due to an increase in the number of incoming requests, we may be unable to comply with the twenty-working-day time limit in this case, as well as the ten additional days provided by the FOIA. The actual processing time will depend on the complexity of your request and whether sensitive records, voluminous records, extensive search, and/or consultation with other HHS components or other executive branch agencies are involved. Please note that requests for medical device approval records (e.g. 510K, PMA, DEN) may take up to 18 to 24 months to process.

If you have any questions about your request, please call Wilson M. Russ, Freedom Of Information Specialist, at (301) 796-8981 or write to us at:
Food and Drug Administration
Division of Freedom of Information
5630 Fishers Lane, Room 1035
Rockville, MD 20857

If you call or write, use the FOIA control number provided above which will help us to answer your questions more quickly.

You also have the right to seek dispute resolution services from:

Office of Government Information Services
National Archives and Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6001
Telephone:202-741-5770
Toll-Free: 1-877-684-6448
Email:ogis@nara.gov
Fax: 202-741-5769

and/or

FDA FOIA Public Liaison
Office of the Executive Secretariat
US Food and Drug Administration
5630 Fishers Lane, Room 1050
Rockville, MD 20857
Email: FDAFOIA@fda.hhs.gov

Sincerely,

SARAH KOTLER
Director

EXHIBIT C

U.S. FOOD & DRUG ADMINISTRATION

April 04, 2025

MARK A BAKER
1520 E. Covell Blvd.
Suite B5-467
Davis CA 95616 US

In Reply refer to
FOIA Control #:
2025-3046

Requester reference:

Dear Requester:

This is in reference to your request(s) for record(s) from the Food and Drug Administration (FDA) pursuant to the Freedom of Information Act (FOIA).

See attached file for the FOIA request related to the FDA CDRH Radiation Control Programs for RF and LED Visible Light Products.

The Electronic Freedom of Information Act (EFOIA) Amendments of 1996 amended the FOIA by adding section (a)(6)(E), 5 U.S.C. 552(a)(6)(E), to require agencies to consider requests for expedited processing and grant them whenever a "compelling need" is shown and in other cases as determined by the agency. The term "compelling need" is defined as (1) involving "an imminent threat to the life or physical safety of an individual," or (2) in the case of a request made by "a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity."

I have determined that your request for expedited processing does not meet the criteria under the FOIA. You have not demonstrated a compelling need that involves an imminent threat to the life or physical safety of an individual. Neither have you demonstrated that there exists an urgency to inform the public concerning actual or alleged Federal Government activity. Therefore, I am denying your request for expedited processing. The responding agency office will process your request in the order in which it was received.

In accordance with 45 CFR § 5.61 and 21 CFR § 20.41(b)(5), you have the right to appeal this determination. Your appeal should clearly identify the agency determination that is being appealed. It would be helpful if you provide specific reasons explaining why you believe the agency's adverse determination should be reconsidered. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider me your request and the agency's decision. Your appeal must be mailed within 90 days from the date of this response, to: Director, Office of Management and Enterprise Services, 5630 Fishers Lane, Room 1050, Rockville, MD 20857, or emailed within 90 days from the date of this response to FDAFOIA@fda.hhs.gov. Please clearly mark both the envelope and your letter "FDA Freedom of Information Act Appeal." Items arriving or delivered after 5 p.m. Eastern Time will be deemed received on the next workday. If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, please contact me at 301-796-8976 or Sarah.Kotler@fda.hhs.gov. Please contact me if you have questions about your request. You may also contact the FDA FOIA Public Liaison for assistance at: Office of Management Enterprise Services, US Food & Drug Administration, 5630 Fishers Lane, Room 1050, Rockville, MD 20857, E-mail: FDAFOIA@fda.hhs.gov. If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road–OGIS, College Park, MD 20740-6001; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769; e-mail at ogis@nara.gov.

Sincerely,

SARAH KOTLER
Director

EXHIBIT D

Gmail

Mark Baker <mbaker@softlights.org>

FOIA Control #: 2025-3046

Davis, Candace <Candace.Davis@fda.hhs.gov> Wed, Jul 16, 2025 at 8:43 AM
To: FDA FOIA <FDAFOIA@fda.hhs.gov>, Mark Baker <mbaker@softlights.org>

Hi Mr. Baker-

There are currently approximately 1,190 requests ahead of your request. The estimated completion date is Jan 15, 2027.
I hope this is helpful.

Candace (Boston) Davis
Director, Division of Information Disclosure

Center for Devices and Radiological Health

U.S. Food and Drug Administration

U.S. Department of Health and Human Services

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