

U.S. Department of Health and Human Services
*Request for Information on Electromagnetic Fields (EMFs), Radiofrequency (RF)
Radiation, and Wireless Radiation Exposure*

Comments of
Electromagnetic Radiation & Wireless Program
Children's Health Defense



Through our Stop 5G community empowerment consulting service, the Electromagnetic Radiation & Wireless Program at Children's Health Defense works with communities and individuals around the country as they attempt to avoid the ill-effects of man-made electromagnetic radiation, especially from involuntary exposure to wireless facilities and technologies.¹ We applaud HHS's new RFI, and write to you on behalf of these communities and individuals, who are held hostage to antiquated, inadequate radiofrequency (RF) radiation limits, and whose struggles illustrate why HHS's new steps towards enhanced safety are so important.

Section 704 of the Telecommunications Act of 1996² prohibits state and local authorities from regulating wireless telecommunication facilities "on the basis of the environmental effects of radio frequency emissions to the extent that such

¹ See [Stop5G.org](https://stop5g.org). We provide legal representation, ordinance drafting, education, advocacy, and advising to communities and individuals that contact us seeking assistance with concerns about wireless facilities.

² Codified at 47 U.S.C. §332(c)(7).

facilities comply with the [Federal Communications] Commission’s regulations³ concerning such emissions.” This means that even if a wireless facility is proposed or placed right next to a home, a school, a playground, a park, a nature preserve, or some other sensitive location, and even if radiation from the facility harms or threatens to harm people, flora, or fauna in the area, if the facility complies with FCC limits, the community cannot challenge it based on RF-related harms; the community has no legal recourse, and can neither obtain compensation nor stop the harm. Additionally, under federal law as interpreted by some courts, individuals who are injured by exposure to wireless radiation, whether in their homes, in schools, places of employment, bus stations, airports, or other locations, also generally have no legal recourse, even if the exposure is non-consensual, as long as FCC limits are satisfied.⁴

Federal preemption has therefore conveyed an effective liability shield for telecom companies and left communities and individuals at the mercy of the FCC’s current RF limits. If the limits actually accounted for and protected against non-thermal, biological effects from RF radiation, the situation would not be so dire. But they do not. The limits, which were last changed in 1996, are based on an outdated assumption that because RF radiation is “non-ionizing,” the only harm that needs to be considered or prevented is thermal effects—that is the heating of biological tissue. Accordingly, the limits—which were developed based on animal studies

³ The FCC first issued exposure guidelines for RF radiation in 1985 as part of its duty to evaluate the environmental effects of contemplated “major federal actions” under the National Environmental Policy Act (“NEPA”). These limits—originally set as a ceiling below which there was a presumption of no adverse environmental effect—prescribe maximum levels of allowable human exposure to RF radiation from wireless devices and facilities. The limits have been substantively applied outside the NEPA context since 1996, and are now incorporated into FCC equipment authorizations for cell towers, antennas, and other wireless telecommunication devices. The EMR & Wireless Program believes federal telecommunications law gives the FCC jurisdiction over emissions, not exposures, and we disagree that federal telecommunications law can or does allow preemption of state laws that protect health, welfare, and property rights; we are working to challenge federal preemption through our 704 No More initiative. See 704nomore.org. In this Comment, however, we seek only to describe the lay of the legal landscape as it is commonly understood.

⁴ See *Gilardi v. Bd. of Health of Pittsfield*, 498 Mass. 32 (2026); *Robbins v. New Cingular Wireless LLC*, 854 F.3d 315, 319-20 (6th Cir. 2017); *Farina v. Nokia, Inc.*, 625 F.3d 97 (3d Cir. 2010)

that looked at when the animals stopped eating as a result of thermal stress, and are now “tested” using adult, male sized models filled with gelatinous substances—are designed to protect only against that type of harm.

The FCC’s 1996 limits do not account for the myriad, well-documented, non-thermal harms that can occur even *below* current limits, harms that are evidenced by the many individual testimonies and scientific studies that have been submitted in response to the RFI. The 1996 limits do not account for pulsed or modulated radiation; for the explosion in wireless technology and exposure to wireless radiation since 1996; or for unique risks to children, pregnant women, and other vulnerable populations.⁵

This regulatory failure at the FCC works in tandem with federal preemption to devastating effect, depriving communities and individuals of the ability to protect themselves from undeniable wireless harms. For example, in 2020, soon after Verizon Wireless started operating a cell tower in Pittsfield, Massachusetts, the City began to receive reports of adverse health effects from residents living near the facility, some of whom experienced effects so serious they had to leave their homes. After an extensive investigation lasting about 18 months (including review of over 1,000 peer-reviewed scientific and medical studies and interviews with scientists of medical professionals) the local Board of Health (Board) concluded that residents had been harmed and some constructively evicted due to wireless radiation from the facility.⁶

To protect residents, the Board issued an Emergency Order declaring the wireless facility a public nuisance and requiring Verizon to show cause why the Board should not issue a cease and desist order. After Verizon did not request a hearing within the specified period, the Emergency Order became a notice of discontinuance, requiring that Verizon “abate and eliminate the nuisance and violations of the state sanitary code.” However, Verizon successfully challenged the order on federal preemption grounds, and the tower remains operational to this day, with some residents still unable to return to their homes.⁷

Pittsfield residents are not alone in their frustration or suffering. Every week, our Stop 5G Community Empowerment Consulting Program is contacted by

⁵ See generally, *Env’tl. Health Trust v. FCC*, 9 F. 4th 893 (D.C. Cir. 2021).

⁶ The evidence before the Board indicated that all emissions fell well within the FCC’s limits. Nonetheless the Board found both injury and causation.

⁷ See [*Gilardi v. Bd. of Health of Pittsfield*, 498 Mass. 32 \(2026\)](#).

communities attempting to stop new wireless facilities or challenge existing ones. Although community members have concerns about property values, aesthetics, and other zoning considerations, their primary concern is the health effects of RF radiation, something that they have no power to address.

We believe that federal preemption under Section 704 and related regulations is definitely bad policy, and is probably illegal, and we look forward to the defeat or repeal of Section 704. However, until communities and individuals regain power to determine their own fates when it comes to wireless exposure, this country desperately needs a new, biologically-based set of RF standards that actually protect health. The HHS RFI is a welcome step in the right direction.