weight wheelchairs. Although there are perhaps 100 large DME suppliers, there is a total of more than 100,000 dealers. It is impossible to estimate the distribution of assigned claims that involve upgraded DME across either the smaller or the larger group. Based on the industry's own assertions, however, we do not believe that any one supplier will incur a significant burden. If we receive additional information as a result of this proposed rule, we would revisit the idea of calculating the burden arising from this provision.

We are not preparing an analysis for section 1102(b) of the Act because this rule is not a major rule as defined at 5 U.S.C. 804(2), nor will it have a significant economic impact on the operations of a substantial number of small rural hospitals.

We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism. We have determined that it does not significantly affect the rights, roles and responsibility of States. In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

For the reasons stated in the preamble, the Health Care Financing Administration proposes to amend 42 CFR part 414 as follows:

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

1. The authority citation for part 414 continues to read as follows:

Authority: 42 U.S.C. 1302, and 1395hh.

2. Add the acronym ''DME'' to the definition of durable medical equipment in § 414.202 to read as follows:

§ 414.202 Definitions.

* * * * *

Durable medical equipment (DME) means equipment, furnished by a supplier or a home health agency that—

* * * * *

3. Add § 414.231 to subpart D to read as follows:

§ 414.231 Upgraded durable medical equipment.

(a) *Definition. Upgraded durable medical equipment* means DME that contains features that are not reasonable and necessary for the treatment of an illness or an injury, or to improve the functioning of a malformed body member.

(b) *General rules.* (1) HCFA pays for DME that meets the coverage requirements in § 410.38.

(2) For upgraded DME, HCFA pays a supplier an amount equal to the Medicare-approved amount that it pays for DME that does not contain upgraded features under § 414.210, less any applicable beneficiary deductible and coinsurance.

(3) If a beneficiary purchases or rents upgraded DME, the beneficiary is responsible for the difference in the payment between the supplier's charge for the upgraded DME and the Medicare-approved amount for the DME without the upgraded features, in addition to any applicable beneficiary deductible and coinsurance.

(c) *Rules for suppliers*—(1) *Disclosure of information.* Before furnishing upgraded DME to a beneficiary, a supplier must meet the following requirements:

(i) Give to the beneficiary (or the representative renting or purchasing the DME on the beneficiary's behalf) a disclosure form prescribed by HCFA containing the following information:

(A) The DME without the upgraded features effectively meets the beneficiaries medical needs and is as available as the upgraded DME.

(B) The name of the manufacturer that made the upgraded DME.

(C) The manufacturer's model number for the upgraded DME.

(D) The manufacturer's suggested retail price for the upgraded DME.

(E) The supplier's usual or customary charge for the upgraded DME.

(F) The estimated charge, and the beneficiary's out-of-pocket costs for the DME without the upgraded features.

(G) The supplier's charge to the beneficiary for the upgraded DME and the beneficiary's out-of pocket cost for the upgraded DME.

(ii) The supplier must obtain the beneficiary's or representative's signature on the disclosure form, attesting that the beneficiary or representative has read and understands the information provided on the form.

(iii) The supplier must furnish a copy of the signed disclosure form to the prescribing physician, provided the beneficiary elects to notify the prescribing physician, retain the signed disclosure form in its file and, upon request, submit the signed disclosure form to the DMEPOS carrier.

(2) *Charge limitations.* The suppliers charge for upgraded DME must not exceed the applicable Medicare fee schedule amount (if any) for the upgraded DME. If there is no fee schedule amount for the upgraded DME, the supplier's charge for the upgraded DME must not exceed the lower of its customary charge to the general public, or the manufacturer's suggested retail price.

(3) *Billing requirements.* A supplier must meet the following billing requirements:

(i) Follow the payment and billing requirements for the DME without the upgraded features.

(ii) Submit a claim, with a code modifier indicating that upgraded DME was furnished to a Medicare beneficiary.

(4) *Returns of upgraded DME.* (i) A supplier must refund any payments made by a beneficiary, for the upgraded portion of an item of upgraded DME if the beneficiary, or representative, returns the upgraded DME to the supplier within 30 days of receiving the upgraded DME.

(ii) The supplier must furnish the DME without the upgrade to the beneficiary at no additional cost.

(5) *Conditions of participation.* Suppliers submitting claims for upgraded DME must comply with the special payment rules for DMEPOS suppliers at § 424.57 of this chapter.

(d) *Supplier sanctions.* If a supplier engages in coercive or abusive practices regarding the sale or rental of upgraded DME, HCFA may apply to the supplier the same sanctions found in part 402 of this subchapter that it may apply to a physician.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 24, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Approved: March 17, 2000.

Donna E. Shalala,

Secretary.

[FR Doc. 00–10482 Filed 4–26–00; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA–00–890, MM Docket No. 00–68, RM–9854]

Digital Television Broadcast Service; Norfolk, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WTKR-

TV, Inc. licensee of station WTKR-TV, NTSC Channel 3, Norfolk, Virginia, requesting the substitution of DTV Channel 40 for station WTKR-TV's assigned DTV Channel 58. DTV Channel 40 can be allotted to Norfolk, Virginia, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 36–48–56 N. and 76–28–00 W. As requested, we propose to allot DTV Channel 40 to Norfolk with a power of 1000 (kW) and a height above average terrain (HAAT) of 313 meters.

DATES: Comments must be filed on or before June 12, 2000, and reply comments on or before June 27, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Arthur B Goodkind, Koteen & Naftalin, L.L.P., 1150 Connecticut Avenue, NW, Suite 1000, Washington, DC 20036 (Counsel for WTKR-TV, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–68, adopted April 19, 2000, and released April 21, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–10542 Filed 4–26–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[PP Docket No. 00–67; FCC 00–137]

Compatibility Between Cable Systems and Consumer Electronics Equipment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission has adopted a *Notice of Proposed Rulemaking* (NPRM) on compatibility between cable television systems and consumer electronics equipment. The NPRM is designed to resolve outstanding compatibility issues, in particular requirements for labeling digital television (DTV) receivers to describe their capabilities to operate with digital cable television systems and questions regarding licensing terms for copy protection technology. Resolving these issues will not only insure that consumers make informed purchasing decisions with respect to DTV equipment but also promote the overall transition from analog to digital television.

DATES: Comments must be received on or before May 24, 2000, and reply comments on or before June 8, 2000. Written comments by the public on the proposed information collections are due May 24, 2000. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before June 26, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Jonathan Levy (202–418–2030), Office of Plans and Policy. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: *This Notice of Proposed Rulemaking,* adopted April 13, 2000 and released April 14, 2000, addresses compatibility between cable television systems and digital television receivers, set top boxes, and other consumer electronics equipment, in accordance with Section 624A of the Communications Act of 1934, 47 U.S.C. 544A. The NPRM seeks comment on two issues: How to label digital television receivers with different features, including the proper designation for receivers providing two-way interactive capability; and licensing terms for copy protection technology.

The NPRM recognizes that DTV receivers both with and without the IEEE 1394 two-way connector will be able to access an array of cable services. Hence the labeling challenge is to provide descriptions that are informative to consumers, rather than to distinguish among receivers that are and are not ''cable-ready.'' The NPRM does not propose specific nomenclature, but simply asks for comment on appropriate equipment labeling terminology, in accordance with the requirements of Section 624A. The NPRM also asks for comment on whether the transition from analog to digital requires any changes in Commission requirements for cable operators to offer supplemental equipment to subscribers to enable them to use special features of their television receivers (*e.g.,* picture-in-picture).

With respect to copy protection technology licensing, the NPRM asks if there are unresolved hardware issues that might prevent consumer electronics manufacturers from designing DTV receivers that will operate with cable systems delivering copy protected digital content. The NPRM also seeks comment on an issue related to the Commission's navigation devices rules. Whether the inclusion of copy protection technology provisions in question of whether certain proposed copy protection technology licensing terms violate the Commission's navigation devices rules.

Pursuant to the navigation devices rules, cable operators are required by July 1, 2000 to offer separate security modules for use with commercially-available navigation devices, including television receivers and set top boxes. *See* 47 CFR 76.1200–1210. In order to build a DTV receiver that can receive and display encrypted cable