the year 2010. This Committee is expected to begin its work in the very near future. The plan the Commission is developing for the 200 MHz of Federal Government spectrum scheduled to be reallocated to non-Government use over the next 10 years will contain provisions to address how the reallocated Federal Government spectrum can best be used to satisfy unmet national safety needs. The Commission is directed by statute to submit and implement this plan by February 1996.<sup>6</sup>

14. It is the Commission's hope and intent that the gaps identified in the current record regarding the scope of public safety needs for additional wireless spectrum, and how those needs might best and most efficiently be met, will spur public safety organizations and other interested parties to work together to help us develop an effective plan for using wireless communications to meet any unmet and future public safety needs. The FCC-NTIA Public Safety Wireless Advisory Committee will offer one useful forum for such efforts. One of the tasks undertaken by the advisory committee will be to identify spectrum for federal, state, and local public safety use. As part of that process, the Commission suggests that the advisory committee explore potential public safety uses of the 4635-4660 MHz band. The Commission expects to begin proceedings in the near future to allocate and establish rules for assigning this band, which consists of reallocated Federal Government spectrum which is scheduled to become available in January 1997. This band is directly adjacent to the 4660-4685 MHz band we are designating to GWCS in this Order and thus has essentially the same technical characteristics and potential uses. Public safety organizations may develop proposals to ensure that the Commission has a complete, well-developed record to consider whether and how this band might be allocated and assigned to meet public safety needs.

#### **Use of Spectrum**

15. The Commission expects that the General Wireless Communications Service will benefit the public by providing licensees the opportunity to use the spectrum in a variety of ways they find appropriate. The *Second NPRM* tentatively concluded that it is likely that these uses will principally involve the provision of subscriberbased services. Based on this conclusion, the Commission proposed

to use competitive bidding as the assignment method for this spectrum if mutually exclusive applications are filed. Section 309(j)(2)(A) of the Communications Act provides that competitive bidding may be used by the Commission to assign spectrum if the "principal use" of the spectrum involves, or is reasonably likely to involve, the transmission or reception of communications signals to subscribers for compensation.

16. Based on the record, the Second NPRM tentatively concluded that the principal use of this spectrum under the Commission's proposed General Wireless Communications Service would involve, or was reasonably likely to involve, the receipt by the licensee of compensation from subscribers in return for enabling those subscribers to receive or transmit communications signals. The Commission requested further comment on this tentative conclusion. Based on the record in response to the Second NPRM, the Commission finds it likely that the principal use of this band will be for subscription services.

# **Assignment Method**

17. Sections 309(j)(1) and 309(j)(2) of the Communications Act 7 permit auctions where mutually exclusive applications for initial licenses or construction permits are accepted for filing by the Commission and where the principal use of the spectrum will involve or is reasonably likely to involve the receipt by the licensee of compensation from subscribers in return for enabling those subscribers to receive or transmit communications signals. As explained above, The Commission believes that the principal use of this spectrum will meet these requirements. In addition, Section 309(j)(2)(B) requires the Commission, before it may adopt the use of auctions to award licenses, to determine that use of competitive bidding will promote the objectives described in Sections 1 and 309(j)(3) of the Communications Act. The Second NPRM tentatively concluded that the use of competitive bidding to assign licenses in the 4660-4685 MHz band would promote these objectives. The Second NPRM also requested comments on other possible assignment methods.

18. The Commission concludes that, in cases of mutually-exclusive applications, GWCS spectrum should be assigned by auction, as we tentatively concluded in the *Second NPRM*. Based on our experience with comparative hearings, lotteries, and auctions, the Commission believes that auctions will in this case achieve the statutory

objectives of Section 309(j)(3) of the Communications Act.

19. One important aspect of any assignment method is determining whether applications are mutually exclusive. In the *Second NPRM*, the Commission proposed to use a 30-day filing window or other application cutoff method to allow for competing applications. The Second NPRM also sought comment on whether some other type of filing group would be more appropriate for determining whether initial applications are mutually exclusive. None of the commenters addressed this issue or suggested alternatives to the proposed 30-day filing window. Therefore, the Commission adopts the 30-day filing window as proposed for GWCS applications.

## Channelization; Aggregation

20. The *Second NPRM* next proposed that the 4660–4685 MHz band be licensed in five blocks, each of which would be 5 megahertz wide. The *Second NPRM* proposed to limit a single entity from obtaining more than three of these blocks in a single geographic licensing area. The *Second NPRM* further proposed that, regardless of the specific service to be provided, this spectrum will not count against the 45 megahertz spectrum cap that applies to certain commercial mobile radio service (CMRS) licensees.

21. The Commission adopts the proposed channelization plan consisting of five 5 megahertz blocks. The Commission also adopts the proposed aggregation limit of 15 megahertz of spectrum that may be obtained by a single entity. Lastly, the Commission adopts its tentative conclusion not to count this spectrum against the 45 megahertz spectrum cap that applies to certain CMRS licenses.

## **License Areas**

22. The Commission will issue GWCS licenses based on EA-like geographic areas. The complete list of EA and EA-like areas is shown in Appendix C of the full text of this *Second Report and Order*. The five 5 MHz blocks will be designated as Blocks A through E: Block A (4660–4665 MHz), Block B (4665–4670 MHz), Block C (4670–4675 MHz), Block D (4675–4680 MHz) and Block E (4680–4685 MHz).

#### **Eligibility**

23. The *Second NPRM* proposed, in the event the Commission determined it reasonably likely that GWCS services would be commercial services, that there be no restrictions on eligibility to apply for licenses in this band other

 $<sup>^6</sup>$  See Section 115(b) of the NTIAO Act, codified at 47 U.S.C.  $\S$  925(b).

<sup>&</sup>lt;sup>7</sup> 47 U.S.C. §§ 309(j)(1), 309(j)(2).