Reserve is authorized to use the FR 3067 by sections 2A and 12A of the FRA.

Additionally, depending on the survey respondent, the information collection may be authorized under a more specific statute. These statutes are:

- Expedited Funds Availability Act section 609 (12 U.S.C. 4008)
- Electronic Fund Transfer Act section 920 (15 U.S.C. 1693o–2)
- The Check Clearing for the 21st Century Act section 15 (12 U.S.C. 5014)
- Federal Reserve Act section 11 (Examinations and reports, Supervision over Reserve Banks, and Federal Reserve Note provisions, 12 U.S.C. 248); section 11A (Pricing of Services, 12 U.S.C. 248a); section 13 (FRB deposits and collections, 12 U.S.C. 342); and section 16 (Issuance of Federal Reserve notes, par clearance, and FRB clearinghouse, 12 U.S.C. 248–1, 360, and 411).

Under the appropriate authority, the Federal Reserve may make submission of survey information mandatory for entities such as financial institutions or payment card networks; submissions would otherwise be voluntary.

The ability of the Federal Reserve to maintain the confidentiality of information provided by respondents to the FR 3067 surveys will be determined on a case-by-case basis depending on the type of information provided for a particular survey. For instance, in some circumstances, no issue of confidentiality will arise as the surveys may be conducted by private firms any ''[t]rade secret or any commercial or

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

VII. The Relevant Markets for Dry Ice

In the United States, both parties produce and sell dry ice. Dry ice is the solid form of carbon dioxide, and a significant portion of the carbon dioxide market. It is produced when liquid carbon dioxide is injected into an atmospheric chamber, which causes some of the liquid carbon dioxide to vaporize into a gas, while reducing the temperature of the remaining liquid. The remaining liquid solidifies into a snow-like consistency. This snow is then collected and pressed into dry ice blocks or pellets, and distributed to customers in standard or bulk pellet bags, or in blocks, slices, or sticks. Dry ice has many applications, including shipping of frozen food and medical supplies, cooling of materials during production, and industrial blast cleaning. It is used in a variety of industries such as food processing, transportation, and biotechnology. Suppliers of dry ice either sell directly to end users, or wholesale to distributors or resellers. For the vast majority of applications, there are no viable substitutes for dry ice.

Dry ice begins to dissipate as soon as it is produced. As a result, dry ice is not typically transported more than 150 miles to a customer, although where local supply is insufficient, customers are willing to have dry ice shipped up to 350 miles. Therefore, it is appropriate to analyze the competitive effects of the proposed acquisition in regional geographic markets for dry ice. The relevant geographic markets in which to analyze the effects of the proposed acquisition are: (1) The San Francisco Bay Area; (2) Iowa and surrounding areas; and (3) the Texas Panhandle and surrounding areas.

Air Liquide and Airgas are the only two producers of dry ice in the San Francisco Bay Area. Consequently, the proposed acquisition, without remedy, would lead to Air Liquide holding a monopoly. In the two remaining dry ice markets, the proposed acquisition would substantially decrease competition in an already highly concentrated market, and would leave the combined entity as the leading supplier.

VIII. The Relevant Markets for Retail Packaged Welding Gases

Air Liquide and Airgas operate retail packaged gas stores in close proximity to each other in Anchorage, Fairbanks, and Kenai, Alaska. Packaged welding gas and hardgoods stores are outlets where customers can purchase cylinders of various gases and related hardgoods used for welding, such as safety gear and other physical goods. While customers may choose to purchase both their packaged welding gases and hardgoods at the same retail location, they are also willing to purchase packaged welding gas from one store and hardgoods from another. Customers cannot turn to alternatives for their packaged welding gases, such as bulk delivery from ASUs or filling their own cylinders because their purchasing volumes are too low to justify large quantity purchases. Additionally, for the vast majority of applications, there are no viable substitutes for packaged welding gases.

Generally, purchasers of packaged welding gases travel approximately twenty-five miles to make purchases at retail outlets. Even in Alaska, where there are fewer retail stores and customers may be willing to travel further, it is unlikely that customers would travel over fifty miles to a retail location to purchase packaged welding gases. Therefore, it is appropriate to analyze the competitive effects of the proposed acquisition in local geographic markets for retail packaged welding gas. Accordingly, the relevant geographic markets at issue in this case are the local areas of: (1) Anchorage, Alaska; (2) Fairbanks, Alaska; and (3) Kenai, Alaska. The proposed acquisition would reduce the number of competitors from two to one in each of these markets.

VIIII. Effects of the Acquisition

The proposed acquisition would eliminate direct and substantial competition between Air Liquide and Airgas in each of the relevant markets, provide Air Liquide with a larger base of sales on which to enjoy the benefit of a unilateral price increase, and eliminate a competitor to which customers otherwise could have diverted their sales in markets where alternative sources of supply are limited. The proposed acquisition, therefore, likely would allow Air Liquide to exercise market power unilaterally, increasing the likelihood that purchasers of bulk oxygen, bulk nitrogen, bulk argon, bulk nitrous oxide, bulk liquid carbon dioxide, s of th(bulkh* (be could h itsspackak liqu(-uer hsubterj 0 -osmoiox to justify the sunk costs associated with the required investment.

Entry into the retail packaged welding gases market would also not be timely, likely or sufficient to deter or counteract the likely adverse competitive effects of the proposed acquisition. Currently, Air Liquide is the only entity capable of filling packaged gases in the relevant geographic markets for retail packaged welding gas, all of which are in Alaska. A new entrant would be required either to purchase bulk gases and construct a fill plant to put the gases in packaged form or to establish a supply network to transport packaged gases from a fill plant outside of Alaska to the relevant geographic markets. Because of these obstacles, new entry into the relevant markets is unlikely to occur.

XI. The Consent Agreement

The proposed Consent Agreement is designed to eliminate the competitive concerns raised by Air Liquide's proposed acquisition of Airgas in each relevant market. Under the terms of the proposed Consent Agreement, Air Liquide is required to divest sixteen ASUs, twelve of which are currently owned and operated by Air Liquide and four of which are currently owned and operated by Airgas. The Air Liquide-operated ASUs are located in: (1) Burlington, Wisconsin; (2) Chattanooga, Tennessee; (3) Feura Bush, New York; (4) Holland, Ohio; (5) Mapleton, Illinois; (6) Middletown, Ohio; (7) Mount Vernon, Indiana; (8) Pittsboro, Indiana; (9) St. Marys, Pennsylvania; (10) Spartanburg, South Carolina; (11) Wake Forest, North Carolina; and (12) West Point, Virginia. The Airgas-operated ASUs are located in: (1) Carrollton, Kentucky; (2) Gaston, South Carolina; (3) Lawton, Oklahoma; and (4) Mulberry, Arkansas. Air Liquide is also required to divest both of its nitrous oxide plants, one located in Denora, Pennsylvania and the other in Richmond, California. Air Liquide must also divest four co-located liquid carbon dioxide and dry ice facilities, which comprise its entire dry ice business, located in: (1) Borger, Texas; (2) Galva, Iowa; (3) Sioux City, Iowa; (4) and Martinez, California.

Additionally, Air Liquide will divest two liquid carbon dioxide-only facilities in Madison, Mississippi and Washington, Indiana along with the associated rail depot located in Fort Meade, Florida. Lastly, Air Liquide will divest Airgas's retail packaged welding gas and hardgoods stores located in Anchorage, Fairbanks, and Kenai, Alaska. Additionally, with regard to the ASU assets, although the anticompetitive effects of Air Liquide's acquisition of Airgas are related to the bulk liquid oxygen, nitrogen, and argon markets, the pipeline oxygen and nitrogen businesses and contracts located at the ASUs are also being divested because they are critical to the viability, efficiency, and competitiveness of each plant. Air Liquide has agreed to divest the required facilities, together with all related equipment, customer and supply contracts, technology, and goodwill, to one or more Commission-approved buyers within four months of consummating its transaction with Airgas.

Any acquirer of the divested assets must receive the prior approval of the Commission. The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed acquirer of divested assets must not itself present competitive problems. There are a number of parties interested in purchasing the assets to be divested that have the expertise, experience, and financial viability to successfully purchase and manage these assets and retain the current level of competition in the relevant markets. The Commission is therefore satisfied that sufficient potential buyers for the divested assets in each relevant market currently exist.

The proposed Consent Agreement incorporates a proposed Order to Maintain Assets to ensure the continued operations of the divestiture assets while a sale is conducted, and for a brief transition period once the Commission approves a buyer for the assets. The proposed Order to Maintain Assets also allows the Commission to appoint an interim monitor to oversee compliance with all the obligations and responsibilities under the proposed Order and requires Air Liquide to execute an agreement conferring upon the interim monitor all of the rights, powers, and authorities necessary to permit the monitor to ensure the continued health and competitiveness of the divested businesses.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Consent Agreement or to modify its terms in any way. wafk 21Sdvlcs a,nTj T* (oitiotoand it tlsoher icatcT)facilit375r 0 Tw T* (wT* (respo1pR