deemed to be "near the close" would depend on the degree of risk that could reasonably be attributed to the position established by that trade, versus the reasonably anticipated impact the trade at the close would have on the closing price. Generally, however, trades executed after 3:40 p.m. would be considered to be "near the close." The Memorandum notes that the member organization would not be precluded from executing the customer's order on an agency basis at any time, including at or near the close, but cautions that this would not preclude the Exchange from determining that such activity might be a violation of the antimanipulation provisions of the Act or Exchange rules.

The Memorandum also restates that the Exchange would deem conduct to be inconsistent with just and equitable principles of trade where a member organization effects any transactions in a stock, knowing of the imminent execution of a block, in order subsequently to liquidate the position by participating on the contra-side of the block transaction. The Memorandum also provides that a person should not disclose to any other person trading strategies or customers' orders for the purpose of that person taking advantage of the information for his or her personal benefit or for the benefit of a member organization.

The Memorandum notes, however, that this would not preclude a member organization from soliciting interest to trade with the contra-side of a block in the normal course of engaging in block facilitation activities.

Finally, the Memorandum reminds the Exchange's membership that they are required to establish and maintain procedures reasonably designed to review facilitation activities for compliance with Exchange rules and federal securities laws. It also states that member organizations must ensure that trading strategies engaged in by their proprietary traders to facilitate customers' orders have an economic basis and are not engaged in to mark the close or to mark the value of a position and that before any at-the-close customer orders are transmitted to the Floor, member organizations accepting such orders must exercise due diligence to learn the essential facts relative to these orders.

#### 2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The proposed Information Memorandum is consistent with these objectives in that it enhances the Exchange's efforts to educate its membership about practices that the Exchange believes are inconsistent with just and equitable principles of trade.

# B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others* 

The Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

By no later than February 27, 1995, or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal

office of the NYSE. All submissions should refer to File No. SR–NYSE–94– 45 and should be submitted by February 13, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

## Margaret H. McFarland,

Deputy Secretary. [FR Doc. 95–1566 Filed 1–20–95; 8:45 am] BILLING CODE 8010–01–M

## DEPARTMENT OF TRANSPORTATION

## **Federal Aviation Administration**

## Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

**AGENCY:** Federal Aviation Administration (FAA), DOT. **ACTION:** Notice of publication.

**SUMMARY:** This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, an index by subject matter, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. Publication of these indexes and digests is intended to increase the public's awareness of the Administrator's decisions and orders and to assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number, as supplemented by the index by subject matter, ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 701 Pennsylvania Avenue NW, Suite 925, Washington, DC 20004: telephone (202) 376–6441.

**SUPPLEMENTARY INFORMATION:** The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about