certifies that this rule will not have a significant economic impact upon a substantial number of small entities. The amendments apply to all NRC and Agreement State licensees. Because these amendments reduce burden, they are considered to have no adverse economic impact on any large or small entities.

### **Backfit Analysis**

Because 10 CFR part 20 applies to all NRC licensees, any changes to this part must be evaluated to determine if these changes constitute backfitting for reactor licensees such that the provisions of 10 CFR 50.109 apply. The following discussion addresses that evaluation.

The 10 CFR 50.109 definition of "Backfit" includes any modification of the procedures required to operate a facility resulting from an amended provision in the Commission's rules. Because this rule will permit but not require nuclear power reactor licensees to modify their procedures regarding the frequency of respiratory medical examinations, the NRC staff believes that the change does not constitute a backfit. In addition, the effect of these changes is to increase flexibility and reduce the frequency at which medical examinations for respiratory use are required. It is estimated that this rule change will save the nuclear power industry and other NRC and State licensees several million dollars per year with no adverse impact on worker health and safety.

Some minor changes in procedures or license conditions will be necessary if a more flexible frequency of examination is adopted. However, the costs will be offset by the savings in reduced frequency of examination. Thus, the NRC believes that the modifications are not backfits. No comments were received on this issue during the public comment period for the proposed rule.

### List of Subjects 10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 20.

# PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for part 20 continues to read as follows:

**Authority:** Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2282); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. In § 20.1703, the introductory text of paragraphs (a) and (a)(3) is restated and paragraph (a)(3)(v) is revised to read as follows:

# § 20.1703 Use of individual respiratory protection equipment.

(a) If the licensee uses respiratory protection equipment to limit intakes pursuant to § 20.1702—

(3) The licensee shall implement and maintain a respiratory protection program that includes—

(v) Determination by a physician prior to the initial fitting of respirators, and either every 12 months thereafter or periodically at a frequency determined by a physician, that the individual user is medically fit to use the respiratory protection equipment.

Dated at Rockville, Maryland, this 1st day of February 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.
[FR Doc. 95–3372 Filed 2–9–95; 8:45 am]
BILLING CODE 7590–01–P

#### DEPARTMENT OF THE TREASURY

# Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 95-02]

RIN 1557-AB14

## **Capital Adequacy: Deferred Tax Assets**

**AGENCIES:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is amending its capital adequacy rules with respect to deferred tax assets. This final rule limits the amount of certain deferred tax assets that a bank may include in Tier 1 capital for risk-based capital and leverage capital purposes.

The OCC, in consultation with the Board of Governors of the Federal

Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Thrift Supervision (OTS) (banking agencies), developed this final rule in response to the Financial Accounting Standards Board's (FASB) issuance of Statement of Financial Accounting Standards No. 109, "Accounting for Income Taxes" (FAS 109), in February 1992. The banking agencies adopted the provisions of FAS 109 for reporting in quarterly Consolidated Reports of Condition and Income (Call Reports) beginning January 1, 1993. This reporting change increased the amount of net deferred tax assets that a bank may record on its balance sheet. This final rule will ensure that national banks do not place excessive reliance on deferred tax assets to satisfy the minimum capital adequacy requirements.

EFFECTIVE DATE: April 1, 1995.

#### FOR FURTHER INFORMATION CONTACT:

Thomas G. Rees, Professional Accounting Fellow, Office of the Chief National Bank Examiner, (202) 874–5180; Eugene W. Green, Deputy Chief Accountant, Office of the Chief National Bank Examiner, (202) 874–5180; Roger Tufts, Senior Economic Advisor, Office of the Chief National Bank Examiner, (202) 874–5070; Ronald Shimabukuro, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, Washington, DC 20219.

#### SUPPLEMENTARY INFORMATION:

### **Background**

In February 1992, the FASB issued FAS 109. FAS 109 provides guidance on how to account for income taxes, including deferred tax assets, and was effective for fiscal years beginning on or after December 15, 1992. FAS 109 generally allows a bank to report certain deferred tax assets it could not previously recognize, which has the effect of increasing bank capital levels. Consequently, the OCC and the other banking agencies were concerned about the impact of the change on the financial institutions they regulate, especially regarding their reported capital levels.

FAS 109—Deferred tax assets are assets that reflect, for financial reporting purposes, the benefits of certain aspects of tax laws and rules. Under FAS 109, a bank reports deferred tax assets that arise from: (1) Tax carryforwards, and (2) deductible temporary differences. Tax carryforwards are deductions or credits that a bank cannot use for current tax purposes, but may carry forward to reduce taxable income or income taxes payable in a future period