preamble, NRC and DOT have decided that the best overall response on the LSA issue and these comments is to drop the proposed  $2A_1$  quantity limit, and to adopt the IAEA radiation level limit of 10~mSv/h (1~rem/h) at 3~m from the unshielded contents.

One comment suggested that the need for labels on LSA packages should be reconsidered. Package labelling falls under DOT jurisdiction. In its final rule, DOT has retained the exception from package marking and labeling requirements for domestic LSA shipments consigned as exclusive use (see 49 CFR 173.427).

One comment expressed concern over the transition of control of packages for shipping Type B quantities of LSA radioactive material from NRC to DOT. NRC has a centralized package design approval authority, whereas DOT authority allows a shipper to determine acceptable package designs (i.e., selfcertify package designs). The comment expressed apprehension about permitting each shipper to review package and shipping restrictions against DOT regulations, a situation that could result in some confusion and different interpretations of the regulations.

In the final rule, the IAEA limit of 1 rem/h at 3 m from the unshielded material contents has been established as the threshold for NRC regulation of LSA or SCO package designs. NRC will review and approve, if adequate, designs for packages that contain quantities of LSA or SCO material that exceed that limit. The review by regulatory authority of package designs for quantities that exceed the IAEA limit is consistent with the approach used by other IAEA member states.

# Section 71.13 Previously Approved Package

One comment proposed that the date specified in § 71.13(b)(2) be December 31, 1990, instead of December 31, 1992, to be consistent with IAEA transportation regulations. The original 1985 IAEA transport regulations specified December 31, 1990, as the cutoff date for the routine use of packages manufactured under the 1973 edition of the regulations. That date was subsequently extended for 2 years by one of the periodic updates of IAEA regulations and was properly used in the proposed rule. However, since the proposed date of December 31, 1992, has passed, the final rule has been revised (by eliminating reference to any particular date) to make this provision effective on the date that the final rule becomes effective.

Two comments noted that the preamble to the proposed Part 71 indicated that Type B and fissile packages fabricated before a certain date and not used internationally could continue to be used domestically until the end of their useful lives. The licensee would not need to demonstrate that the packages satisfy the new crush test or deep-immersion test. The comments would take that provision one step further and require the crush and deep-immersion tests only for international use packages.

NRC believes that the international package standards should be used by the United States for both domestic and international shipments, to the extent practicable. However, based on a history of safe use under earlier safety standards, and the absence of unfavorable operational data, NRC will allow the continued use of existing packages in domestic transport until the end of their useful lives. NRC will not allow, however, the continued fabrication of packages to the old designs. This action permits use of existing packages. It does not perpetuate package designs that can be discarded or upgraded to satisfy the new standards.

Another comment suggested grandfathering the existing Type A casks now approved for transporting Type B quantities of LSA radioactive material, until the Type B waste casks required to satisfy the new standards become available. NRC has adopted the suggestion, extending the proposed provisions in § 71.52, "Exemption for low-specific-activity (LSA) packages," to a 3 year period, to give the industry time to design, receive approval, and fabricate new Type B waste packages.

#### Section 71.22 General license: Fissile Material, Limited Quantity, Controlled Shipment

One comment requested clarification as to whether the Type A limit imposed in  $\S 71.22(c)$  also applies to  $\S 71.22(d)$ .

The requirements of §§ 71.22(a) through 71.22(e) are cumulative, each imposing additional requirements on the use of the general license. The radioactivity limit and mass limits of § 71.22(c) apply to packages, whereas the mass and mass ratio limits of § 71.22(d) apply to shipments.

A comment noted an error, in § 71.22(d)(3), which changed the intent of the section. The commenter suggests that the phrase "exceeds unity" at the end of § 71.22(d)(3) be replaced by the phrase "does not exceed unity." NRC agrees and has made that change.

Section 71.24 General License: Fissile Material, Limited Moderator, Controlled Shipment

One commenter asked if the statement in § 71.24(b), "\* \* \* a quality assurance program approved by the Commission as satisfying the provisions of Subpart H of this part," is any different from \* \* a quality assurance program approved by the Commission." The two statements are different in that the first is more specific and provides more detail. There are several different quality assurance programs, in different licensing areas, approved by the Commission. Specifying that the program must satisfy Subpart H makes it clear as to the type of quality assurance program is required.

One commenter recommended inserting "by weight" after "1 percent" in § 71.24(c)(6). NRC agrees and has made this change in § 71.24(c)(7), as well.

With respect to a general license for a package containing fissile contents, one commenter requested clarification of what is meant by "no uranium-233" in § 71.24(c)(6). For a general license under § 71.24(c)(6), a package containing fissile contents must have no detectable U–233. The method for making this determination can be decided by the licensee. For example, the licensee can make this determination by performing an assay or by knowing the history of the material.

## Subpart D—Application for Package Approval

One comment suggested changing the title of Subpart D to "Application for Type B Package Approval" for clarity. Because NRC also approves Type A packages for fissile material, the title of Subpart D continues to refer to "Package Approval."

#### Section 71.38 Renewal

One comment suggested that NRC provide some administrative acknowledgment when a timely application for renewal of a certificate of compliance has been received to provide proof that timely renewal is in effect. The Commission does not believe that proof of timely renewal is particularly important and that providing an acknowledgment to each registered user of a package would be too burdensome for the benefit gained.

## Section 71.43 General Standards for All Packages

Four comments suggested the addition of IAEA regulations relating to packaging of liquids and gases to Part 71, including those pertaining to the special free drop and penetration tests