The final rule certifying the amended design of Westinghouse’s AP1000 pressurized water reactor design was published on December 30 and went into effect at once, clearing the way for reactor licensing.
sion’s deliberation on [Southern’s] request has not been transacted publicly and candidly," and the second, that Southern has not been required to make a case for good cause. “At the direction of the commission, the staff has crafted an argument to promote [Southern’s] interests,” he said.

Later on December 9, Commissioner George Apostolakis’s vote and comments (dated November 29) regarding the AP1000 design certification were posted in ADAMS. His comments included proposed revisions to the FR notice to make immediate effectiveness possible. He stated that the 30-day delay in effectiveness is intended to allow regulated entities to adjust to new rules, and that this does not apply in the case of a design certification. Commissioner William D. Magwood’s vote and comments, dated December 6, were posted on December 13, putting a majority of the commission on record as favoring the final rule. Magwood’s comments were only on the merits of the AP1000 and did not address the immediate effectiveness of the final rule.

Also during this time, the friction between Jaczko and the other commissioners that has existed for months became a public issue with the release of an October letter by Apostolakis, Magwood, Commissioner William Ostendorff, and Commissioner Kristine Svinicki to White House Chief of Staff William Daley. The letter cited numerous complaints about Jaczko’s actions and attitude that were brought up again during a December 14 meeting of the House Committee on Oversight and Government Reform (NN, Jan. 2012, p. 17).

Jaczko has defended his chairmanship, but he did relent somewhat on the immediate effectiveness issue. His AP1000 comments were reposted in ADAMS without the paragraph criticizing the other commissioners, and in the affirmation session on December 22 and the resulting staff requirements memorandum, the vote of the commissioners was for immediate effectiveness. (Ostendorff and Svinicki, who chose not to publish their votes in advance of the affirmation session, voted in favor of the final rule and its immediate effectiveness.)

The final rule certifying the amended design of Toshiba’s ABWR was published on December 16 (NN, Jan. 2012, p. 18), before the publication of the AP1000 rule, but the AP1000 went into effect first. Because at least several months of technical reviews still lie ahead for the only COL application for the Toshiba ABWR (Nuclear Innovation North America’s South Texas-3 and -4), there was no need to make the ABWR rule immediately effective. As a result, it was published with the usual 30-day waiting period and went into effect on January 17. Exactly which design counts as having been certified first is therefore open to interpretation.

What remained to be seen at this writing (January 11) is whether the immediate effectiveness of the AP1000 certification’s final rule would have any practical effect. The NRC had given no advance indication as to when the commissioners might vote on the Vogtle (or Summer) COL applications or when the results would be made public, and thus when COLs would be issued. In the case of Vogtle, it was possible that the scope of site work could be broadened without COL issuance, because Southern has also applied for second-stage limited work authorizations (LWA) for Vogtle-3 and -4. Issuance of the LWAs would also depend on the certification of the AP1000. With two and a half weeks left before the AP1000 would have been fully certified without the rule’s immediate effectiveness, it was not clear when Southern would receive either the COLs or the LWAs.—E. Michael Blake