

TABLE 2.—AIR QUALITY MONITORING DATA FOR THE ATLANTA AREA 1997–1999—Continued

Site ID	County	Total exceedances 97–99	Annual average design expected exceedances	Design value (ppm)
13–097–0004 .....	Douglas .....	9	3.5	0.131
13–121–0055 .....	Fulton .....	28	10.8	0.156
13–135–0002 .....	Gwinnett .....	7	2.9	0.138
13–223–0003 .....	Paulding .....	3	1.1	0.124
13–247–0001 .....	Rockdale .....	28	10.3	0.153

\*Only monitors with three complete years of data were used for these calculations.

EPA has determined that the relevant air quality data for the period of 1997 through 1999, inclusive, for the Atlanta area shows that the Atlanta area contained at least one monitor with an average annual number of expected exceedances that was greater than the 1.0 allowed by the 1-hour ozone NAAQS. Therefore, we make the determination pursuant to section 181(b)(2)(B) of the CAA that the Atlanta area did not attain the 1-hour ozone standard by the November 15, 1999, attainment date, and that the area is reclassified by operation of law to severe nonattainment on the effective date of this rule.

#### VI. Necessity for This Action

On May 7, 2002, EPA granted final approval to the 1-hour ozone attainment demonstration for the Atlanta area and extended the attainment date to November 15, 2004. Subsequently, the Southern Organizing Committee for Economic and Social Justice, the Georgia Coalition for the People's Agenda and the Sierra Club petitioned for review of the agency's action to the 11th Circuit Court of Appeals. Due to a series of prior rulings in other circuits that EPA's attainment date extension policy was invalid as a matter of law, EPA filed a motion for voluntary vacatur with the 11th Circuit Court of Appeals on February 20, 2003. The 11th Circuit granted the request for voluntary vacatur on June 16, 2003, and remanded the matter to the agency for further proceedings consistent with the court's order.

#### VII. Results of This Action

In this action, EPA is issuing a final determination pursuant to section 181(b)(2) of the CAA, that the Atlanta area did not attain the 1-hour ozone NAAQS by November 15, 1999. In doing so, EPA is fulfilling our nondiscretionary duty pursuant to the CAA. As a result of this final determination, the Atlanta area is reclassified by operation of law to severe ozone nonattainment pursuant to section 181(b)(2) of the CAA. In

addition, this action sets the dates by which the Atlanta area must submit a SIP revision addressing the CAA's pollution control requirements for severe ozone nonattainment areas (the "severe area SIP") and to attain the 1-hour NAAQS for ozone.

Section 182(i) states that the Administrator may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency for submission of the requirements applicable to the reclassified area. An area reclassified to severe is required to submit SIP revisions addressing the severe area requirements for the 1-hour ozone NAAQS in section 182(d) and the penalty requirement in section 185.

In the December 11, 2001, (66 FR 63972) supplemental proposed rule EPA requested comment on the time frame for the State to submit the severe area SIP requirements. The proposal requested comment on two potential time frames of 12 months and 18 months. No comments were received by EPA on this issue. Due to the short time frames, GAEPD in a letter dated September 8, 2003, agreed to submit all SIPs, with one exception, by July 1, 2004, which is less than the proposed time frames. The one exception is the section 185 penalty rule. This SIP is due 18 months after the effective date of this action, July 1, 2005, because the State will need the full 18 months to acquire the necessary statutory authority to implement this rule.

#### VIII. Reclassification

Section 181(b)(2)(A) of the CAA requires that, when an area is reclassified for failure to attain, its reclassification be the higher of the next higher classification or the classification applicable to the area's ozone design value at the time the notice of reclassification is published in the **Federal Register**. Section 181(b)(2)(A)(ii) provides that no area shall be reclassified as Extreme. The Atlanta area is a serious nonattainment area with a design value of 0.156 ppm

based on monitoring data for the years 1997 to 1999. Therefore, the Atlanta area is reclassified, by operation of law, as a severe nonattainment area.

#### IX. Effective Date of Reclassification

EPA is setting the effective date of this action as January 1, 2004, because the GAEPD has calendar year contracts for sampling for the Georgia fuel rule, as well as, calendar year reporting requirements. The same suppliers and importers for the Georgia fuel rule will be impacted by the requirement, beginning one year after the effective date of the reclassification, to supply gasoline that complies with the federal reformulated gasoline standards. Therefore, this effective date will minimize complications regarding reporting and compliance with both the State and federal fuel requirements.

#### X. Severe Area Attainment Date

Under section 181(a)(1) of the CAA, the new severe area attainment deadline for the Atlanta area as reclassified pursuant to section 181(b)(2) is as expeditiously as practicable but no later than November 15, 2005. The expeditiously as practicable attainment date will be determined as part of the approval of the severe area attainment demonstration.

#### XI. Severe Area Requirements SIP Submittal

Under section 181(a)(1) of the CAA, the attainment deadline for serious ozone nonattainment areas reclassified to severe under section 181(b)(2) is as expeditiously as practicable but no later than November 15, 2005. Under section 182(i), such areas are required to submit SIP revisions addressing the severe area requirements for the 1-hour ozone NAAQS. Under section 182(d), severe area plans are required to meet all the requirements for serious area plans plus the requirements for severe areas, including, but not limited to: (1) A 25 ton per year major stationary source threshold; (2) additional reasonably available control technology (RACT) rules for sources subject to the new lower major applicability cutoff; (3) a