

THE VILLAGE CITY CODE

CHAPTER 3

AIR POLLUTION

Sec. 3-1. Short title.

This chapter may be known as the Air Quality Control Ordinance.

(Code 1976, 8-1-1)

Sec. 3-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air contaminant shall mean any smoke, soot, fly ash, dust, cinder, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste particulates, solid, liquid, or gaseous matter in the atmosphere which when in sufficient quantities is capable of injuring human, plant or animal life or depriving the enjoyment thereof.

Air pollution shall mean the emission of any air contaminants in such place or manner which when by itself or combined with other air contaminants present in the atmosphere is detrimental to or endangers the health, comfort or safety of any person or which may cause injury or damage to property or premises.

Atmosphere shall mean the air that envelopes or surrounds the earth including the interior of buildings or other structures not specifically designed for the purpose of containing air contaminants.

Board shall mean the variance board.

Chimney or stack shall mean chimney, stack, conduit, duct, vent, flue, or opening of any kind whatsoever arranged to conduct any products to the atmosphere.

Combustible materials and fuels shall mean any substance, which will readily burn and shall include those substances, which, although generally considered noncombustible, are, or may be included in the mass of the combustible materials burned or to be burned.

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Dense smoke shall mean smoke of a shade or the equivalent opacity of the shade, designated as No. 1 on the Ringelmann Chart or greater.

Director shall mean the director of the city-county health department, or his designated employees or representatives.

Emission shall mean the emission of air contaminants into the atmosphere.

Evaporating loss control system shall mean a system or device designed and installed in such a manner as to reduce or prevent the emission to the atmosphere of the vapors of the hydrocarbon fuel contained in the fuel tank, carburetor, or fuel pump of the motor vehicle.

Exhaust emission control system shall mean a system, device, or engine modification designed and installed in such a manner as to reduce or prevent the emission to the atmosphere of air pollutant gases vapors, and particulate matter released from the motor vehicle engine through the exhaust manifold and tailpipe.

Fuel burning equipment shall mean any equipment, machinery, device, structure or contrivance, and all appurtenances thereto, including ducts, breeching, fuel-feeding equipment, ash removal equipment, internal combustion engines, combustion controls, stacks and chimneys, which burn fuel or combustible material for the purpose of producing heat or energy, but shall not mean process equipment or operations or incinerators.

Incinerator shall mean any device, structure or contrivance used to dispose of refuse or other waste by burning or the processing of salvageable material by burning but excluding flares.

Motor vehicle shall mean a self-propelled, wheeled vehicle designed for normal use of public streets and highways.

Motor vehicle pollution control device shall mean any or all of the devices or systems referred to in this section and designed to control or prevent air pollution emissions from motor vehicles.

Multiple chamber incinerators shall mean any incinerator consisting of two (2) or more combustion chambers of in-line or retort type physically separated by curtained walls with gas passage ports or ducts and designed for maximum combustion of the material to be burned.

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Open burning shall mean the burning of combustible materials or refuse in such a manner that the products of combustion are emitted directly into the atmosphere.

Open-pit incinerator shall mean a device consisting of a pit (into which the material to be burned is placed), nozzles, pipes, and other appurtenances designed and arranged in a manner to deliver additional air or auxiliary fuel to, or near, the zone of combustion so that theoretically complete combustion is accomplished or approached.

Particulate matter shall mean discrete particles of liquid (except uncombined water) or solid matter or both which may be or may not be suspended in air.

Positive crankcase ventilator shall mean a system or device designed and installed in such a manner as to prevent or reduce the release or emission into the atmosphere of gases or vapors produced or otherwise present in the crankcase of the engine of a motor vehicle.

Process equipment or operation shall mean any equipment, machinery, device or premises used for the treating, processing or manufacturing of materials, products or substances which operation may emit smoke, particulate matter or other air contaminants.

Process weight shall mean the total weight of all materials introduced into any specific process equipment or operation. Solid fuels shall be considered as part of the process weight but liquids and gases used solely as fuel shall not.

Process weight per hour shall mean the weight derived by dividing the total process weight by the number of hours in one (1) complete operation from the beginning of any given process to the completion thereof excluding any time during which the equipment is idle.

Products of combustion shall mean all particulate matter and other air contaminants emitted as a result of the burning of refuse and combustible materials.

Proprietary information shall mean any information obtained pursuant to this chapter, which relates to sales figures or to production processes unique to the owner or operator or which affect the competitive position of such owner or operator.

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Refuse shall mean garbage, rubbish, trade waste, leaves, salvageable material, agricultural waste and other wastes.

Ringelmann Chart shall mean the chart for grading the appearance, density, shade or opacity of smoke, as published with instructions for use by the United States Bureau of Mines, in Information Circular 7718, dated August 1955.

Smoke shall mean small gas borne or airborne particles resulting from combustion operations and consisting of carbon, ash, and other matter that is present in sufficient quantity to be observable.

Source shall mean any physical arrangement or structure, which may emit air contaminants. It includes, but is not limited to, stacks, chimneys, building openings, open fires, vehicles, processes, equipment, structures and premises.

Source gas volume shall mean the total amount of gas including air contaminants, emitted from any process, equipment or operation into the atmosphere.

(Code 1976, 8-1-2)

Sec. 3-3. Amendments.

The city council shall not enact or amend any ordinance, rule or regulation concerning air quality control without first holding a public hearing and giving not less than ten (10) days notice of the time and place of such hearing by publication in a newspaper of general circulation in the city.

(Code 1976, 8-1-3)

Sec. 3-4. Enforcement officer.

The director shall enforce the provisions of this chapter.

(Code 1976, 8-1-4)

Sec. 3-5. Notices.

All notice required under this chapter, unless otherwise specified, shall be in writing and shall be served upon the person being given notice personally

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or mailed to his last known address, postage prepaid. The date of mailing shall be considered as the date such notice is given.

(Code 1976, 8-1-14)

Sec. 3-6. Variance Board.

- (a) There is hereby created a variance board, which shall consist of five (5) members to be appointed by the mayor with the consent and approval of the council.
- (b) The members shall be residents of the city and shall not be employees of the federal, state or municipal governments.
- (c) The members of the board shall serve for a term of three (3) years or until their successors are appointed. The terms shall expire on June 30 in the year in which the term would expire regardless of the date of appointment. Members may be removed for cause. A member appointed to fill a vacancy shall serve the remainder of the unexpired term.
- (d) The members of the board shall have the power to subpoena witnesses, require the production of records, documents and other matters and administer oaths. Three (3) members shall constitute a quorum provided that no variance shall be granted or revoked without the concurrence of at least three (3) members. The board shall select from its number a chairman who shall serve for a period of one (1) year. The meetings and hearings of the board shall be called by the chairman. The members shall be given notice five (5) days prior to any hearing or meeting. Emergency meetings or hearings may be held provided all members consent to such meeting in writing. The board shall make other rules and regulations concerning the procedure in granting or revoking variances, as it shall deem necessary.

(Code 1976, 8-1-10)

Sec. 3-7. Variances.

- (a) Variances from the strict provisions of this chapter may be granted by the board pursuant to applications therefore when:

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- (1) Due to conditions beyond the control of the person in violation, compliance with this chapter will result in an arbitrary and unreasonable taking of property or the practical closing and elimination of any lawful business, occupation or activity; and
 - (2) There are not sufficient corresponding benefits or advantage to the public in the reduction of air pollution.
- (b) Any person may make an application for a variance by paying the required fee and by filing a written application with the director. The application form shall be verified by the applicant and set forth all information required by the board, including the full name and address of the applicant, the nature of the violation and the extent to which a variance is sought. Any applicant for a variance shall pay a fee to the city clerk in the amount established by resolution. Such fee shall be paid each time a variance is sought provided that the board may in its discretion review any variance denied within ninety (90) days from the date of such denial without additional cost to the applicant.
 - (c) Variances shall be for a specified time but not to exceed one (1) year. Upon expiration of a variance, additional variances may be granted. A variance granted shall be personal to the applicant and not transferable. All variances granted are subject to review and revocation by the board.
 - (d) No variance shall be granted or revoked without first holding a public hearing. Not less than ten (10) days' notice shall be given to all interested persons as appear in the files and records of the board. In addition, notice of such hearing shall be published in a newspaper of general circulation within the city not less than ten (10) days prior to the date of hearing.

(Code 1976, 8-1-9, 8-1-11, 8-1-12, 8-1-15)

Sec. 3-8. Liability for violations.

Any person owning, operating or controlling a source of air contaminants, which violates this chapter, shall be subject to all penalties and liabilities for such violation. Each day of any such violation shall constitute a separate offense.

(Code 1976, 8-1-17)

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Sec. 3-9. Nuisance declared; abatement authorized.

The emission of air contaminants in violation of this chapter is declared to be a public nuisance and may be abated by the director as provided by law.

(Code 1976, 8-1-16)

Sec. 3-10. Abatement procedure.

(a) In addition to any penalties, upon determination by the director that a violation of this section has occurred and that the person in violation has not furnished satisfactory proof that corrective measures have been or are being taken to abate the nuisance, the director shall give written notice to the person in violation, to abate the nuisance. The notice shall specify the section, which is being violated, and a reasonable time limit not exceeding twenty (20) days within which to abate the nuisance.

(b) If at the end of the time allowed the violation has not been corrected, the director shall abate the nuisance as provided by law.

(Code 1976, 8-1-5)

Sec. 3-11. Summary abatement.

When a violation of this chapter creates a hazardous or dangerous condition capable of immediately harming life or property the director shall summarily abate the nuisance immediately and without notice.

(Code 1976, 8-1-6)

Cross reference--Nuisances, Ch. 15.

Sec. 3-12. Interference with director.

No person shall interfere in any manner or impede the director in the performance of his duties.

(Code 1976, 8-1-7)

Sec. 3-13. Tests, data sampling.

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Upon written notice, the director may require from any person subject to this chapter data to establish the nature, extent, quantity, or degree of air contaminants, which are or may be charged by a source under such person's control, and may require that such data be certified by a professional engineer registered in the state. The director may at his expense, designate an agent to independently gather data as to the nature, extent, quantity and degree of any air contaminants, which are or may be discharged from the source. Subject to the confidentiality requirements of section 3-14, an agent so designated is authorized to inspect any facilities and equipment necessary to gather the data. The owners of the premises being inspected will make the same available to inspection and shall permit the director to install and maintain sampling and testing apparatus as are reasonable and necessary for measurement of emissions of air contaminants, provided that they shall not unduly interfere with the operations of the owner. The director may, in writing, require the owner to provide, and maintain means of access to locations for sampling and testing purposes, in order to secure data that will disclose the nature, extent, quantity, or degree of air contaminants discharged into the atmosphere.

(Code 1976, 8-1-8)

Sec. 3-14. Proprietary information; closed hearings.

- (a) Any proprietary information furnished or obtained pursuant to this chapter shall not be disclosed to anyone other than the director, the board, or a court of competent jurisdiction.
- (b) Upon request of the interested party, all hearings or trials in which proprietary information is to be divulged shall be held "in camera" and such information shall be sealed and access otherwise limited.

(Code 1976, 8-1-13)

Sec. 3-15. Pollution prohibited.

No person shall permit or cause air pollution.

(Code 1976, 8-1-18)

Sec. 3-16. Emission of dense smoke prohibited.

No person shall cause or permit the emission of dense smoke from any source whatever except as specifically permitted.

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(Code 1976, 8-1-19)

Sec. 3-17. Incinerators.

- (a) Permit required. No person shall install or make any alteration or modification to an incinerator, which affects the emission of air contaminants without first having obtained a permit from the director.
- (b) Application for permit. A person making application for a permit shall furnish such information concerning the incinerator as the director may request including the plans, specifications, and manufacturer's descriptive literature and test reports.
- (c) Specifications. All incinerators shall be multiple chambered, gas fired in the primary and secondary changer, and water scrubbed. All incinerators shall have a capacity of seventy-five (75) pounds per hour or greater provided that this capacity shall not be applicable to incinerators designed and used exclusively as pathological incinerators. An incinerator of different construction may be used when the director determines that the incinerator will be equally effective in controlling the emission of air contaminants and approves its installation.
- (d) Operation. All incinerators shall be maintained and operated according to good practices.
- (e) Emission of particulate matter. Incinerators with a maximum burning capacity of two hundred (200) pounds per hour or more shall not emit particulate matter in excess of 0.2 grains per dry cubic foot corrected to twelve (12) percent carbon dioxide (CO₂) of exhaust gas under standard condition. Incinerators with a maximum burning capacity of less than two hundred (200) pounds per hour shall not emit particulate matter in excess of 0.3 grains per dry cubic foot corrected to twelve (12) percent carbon dioxide (CO₂) of exhaust gas under standard conditions.
- (f) When dense smoke permitted. Incinerators may emit dense smoke not exceeding a shade or the equivalent opacity of the shade designated as No. 2 on the Ringelmann Chart for periods not exceeding five (5) minutes in any sixty-minute period and not exceeding twenty (20) minutes in any twenty-four hour period.

(Code 1976, 8-1-20)

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Sec. 3-18. Fuel burning equipment.

- (a) Emission of particulate matter prohibited. Fuel burning equipment shall not emit particulate matter in excess of that indicated on Table 1 or Chart 1.
- (b) Existing fuel burning equipment, exception. Fuel burning equipment in operation prior to June 29, 1976 shall not emit particulate matter in excess of 0.6 pounds per million BTU heat input provided that all such existing fuel burning equipment shall comply with all the provisions of this chapter within twelve (12) months after it becomes effective.

(Code 1976, 8-1-21)

Sec. 3-19. Process equipment or operations.

- (a) Particulate matter emission. Process equipment or operations shall not emit from the premises upon which such equipment or operation is located, particulate matter in excess of that indicated on Table 2, Table 3 or Chart 2.
- (b) Dust control. The owner or operator of any process equipment or operation shall maintain dust control of the premises and plant owned, leased, or controlled access roads by paving, oil treatment, or other suitable measures. Good operating practices shall be observed in relation to stockpiling, screen changing, and general maintenance to prevent dust generation and atmospheric entrainment. Good operating practices, including water spraying or other suitable measures, shall be employed to minimize dust generation and emission when bins are pulled.

(Code 1976, 8-1-22, 8-1-23)

Sec. 3-20. Hot mix asphalt plants.

- (a) Hot mix asphalt plants shall not emit particulate matter into the atmosphere in excess of the quantity set out in the following table:

Particulate Matter	
Aggregate Process Weight Per Hour Pounds	Emission Rate Per Hour Pounds

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20000	16
30000	22
40000	28
50000	31
100000	33
200000	37
300000	40
400000	43
500000	47
600000	50

For a process weight between any two (2) consecutive process weights stated in this table, the emission limitation shall be determined by interpolation.

- (b) Hot mix asphalt plants may emit dense smoke not exceeding a shade or the equivalent opacity of the shade designated as No. 3 on the Ringelmann Chart, for periods not exceeding four (4) minutes in any sixty-minute period.
- (c) No hot mix asphalt plant shall be operated unless it is equipped with a fugitive dust control system, which prevents the emission of particulate matter from any point other than the chimney.

(Code 1976, 8-1-23)

Sec. 3-21. Open burning.

No person shall cause or permit an open burning in any public or private place outside any building, provided that open burning may be conducted if no public nuisance is or will be created, as follows:

- (1) Fire purposely set for the instruction and training of fire fighting personnel when authorized by the fire chief;
- (2) Fires set for the elimination of fire hazards or hazardous material where there is no other practical or lawful method of disposal, and such burning is authorized by the fire chief and director;
- (3) Camp fires and other fires used solely for recreational or ceremonial purposes, or for outdoor noncommercial preparation of food;

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- (4) Fires purposely set for the management of forest or game in accordance with practices recommended by the Oklahoma Department of Agriculture, the United States Forest Service and which are authorized by the fire chief;
- (5) The burning of combustible material in an open pit incinerator, which is designed and operated for the control of smoke and particulate matter;
- (6) The burning of hydrocarbons by atmospheric flares when no other means of disposal is practical.

(Code 1976, 8-1-24l Code 2004)

Cross-references--Fire generally, 10-21 et seq.; burning garbage prohibited 23-22.

Sec. 3-22. Motor vehicle pollution control devices.

- (a) This section shall apply to all motor vehicles registered or subject to registration with the Oklahoma State Tax Commission in which as new vehicles, motor vehicle pollution control devices have been installed by virtue of federal laws and regulations, in effect now and hereafter, requiring such devices to be installed. However, nothing in this section shall supersede or otherwise modify such federal laws and regulations, nor shall anything in this section be construed to require the installation of motor vehicle pollution control devices on motor vehicles not referred to by such federal laws and regulations.
- (b) No person shall cause, suffer, allow or permit the removal, disconnection or disabling of a motor vehicle pollution control device, which is on a motor vehicle.
- (c) Operation of a motor vehicle or its engine, which uses liquefied petroleum gas as fuel is hereby exempted from provisions of this chapter.

(Code 1976, 8-1-25)

Sec. 3-23. Table 1, fuel-burning equipment.

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The following table, which shall be known as "Table 1," and may be cited as such, shall be applicable to the provisions of this chapter as specified in this chapter:

**FUEL BURNING EQUIPMENT
TABLE 1**

Maximum Allowable Emissions	
Heat Input in Million British Thermal Units per Hour Up to and including 10	of Particulate Matter In Pounds per Million British Thermal Units
100	0.60
1,000	0.35
10,000	0.20

Sec. 3-24. Table 2, process equipment or operations, allowable rate of particulate matter emissions based on process weight rate.

The following table, which shall be known as "Table 2," and may be cited as such, shall be applicable to the provisions of this chapter as specified in this chapter:

**PROCESS EQUIPMENT OR OPERATIONS
TABLE 2**

ALLOWABLE RATE OR PARTICULATE MATTER EMISSION BASED ON PROCESS WEIGHT RATE		
Process Weight Rate Lb./Hr	Tons/Hr	Lb. /Hr Rate of Emission
100	0.05	0.1
200	0.10	0.877
400	0.20	1.4
600	0.30	1.83
800	0.40	2.22
2.58	0.50	2.58
1500	0.75	3.38
2000	1.00	4.10
2500	1.25	4.76
3000	1.50	5.38
3500	1.75	5.96
4000	2.00	6.52
5000	2.50	7.58
6000	3.00	8.56

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7000	3.50	9.49
8000	4.00	10.4
9000	4.50	11.2
10000	5.00	12.0
12000	6.00	13.6
16000	8.00	16.5
18000	9.00	27.9
20000	10	19.2
30000	15	25.2
40000	20	30.5
50000	25	35.4
60000	30	40.0
70000	35	41.3
80000	40	42.5
90000	45	43.6
100000	50	44.6
120000	60	46.3
140000	70	47.8
160000	80	49.0
200000	100	51.2
1000000	500	69.0
2000000	1000	77.6
6000000	3000	92.7

Interpolation of the data in this table for process weight rates up to 60,000 lb. /hr. shall be accomplished by the use of the equation # equal 4.10 PO.67, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb. /hr. shall be accomplished by use of the equation E equal 55.0 PO.11-40, where E equal rate of emission in lb. /hr. and P equal process weight rate in tons/hr.

Utilization of this table is accomplished by first determining the process rate in lb. /hr. or in tons/hr. and then reading the allowable rate of emission in lb. /hr. horizontally to the right.

Sec. 3-25. Table 3, process equipment or operations; allowable rate of particulate matter emission based upon volume per scfm.

The following table, which shall be known as "Table 3," and may be cited as such, shall be applicable to the provisions of this chapter as specified in this chapter:

PROCESS EQUIPMENT OR OPERATIONS TABLE 3

ALLOWABLE RATE OF PARTICULATE

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MATTER OF EMISSION BASED ON VOLUME PER SCFM	
Source Gas Volume, SCFM	Concentration GR/SCF
7000 or less	0.100
8000	0.096
9000	0.092
10000	0.089
20000	0.071
30000	0.062
40000	0.057
50000	0.053
60000	0.050
80000	0.045
100000	0.042
120000	0.040
140000	0.038
160000	0.036
180000	0.035
200000	0.034
300000	0.030
400000	0.027
500000	0.025
600000	0.024
800000	0.021
1000000 or more	0.020

Interpolation of the data in this table shall be accomplished by the use of the equation $C = 1.78S - 0.325$ where S equals source gas volume; SCFM and C equal concentration in grains per SCF. (GR equal Grains)

Utilization of this table is accomplished by first determining the source gas volume in SCFM and then reading the allowable concentration in GR/SCF horizontally to the right.

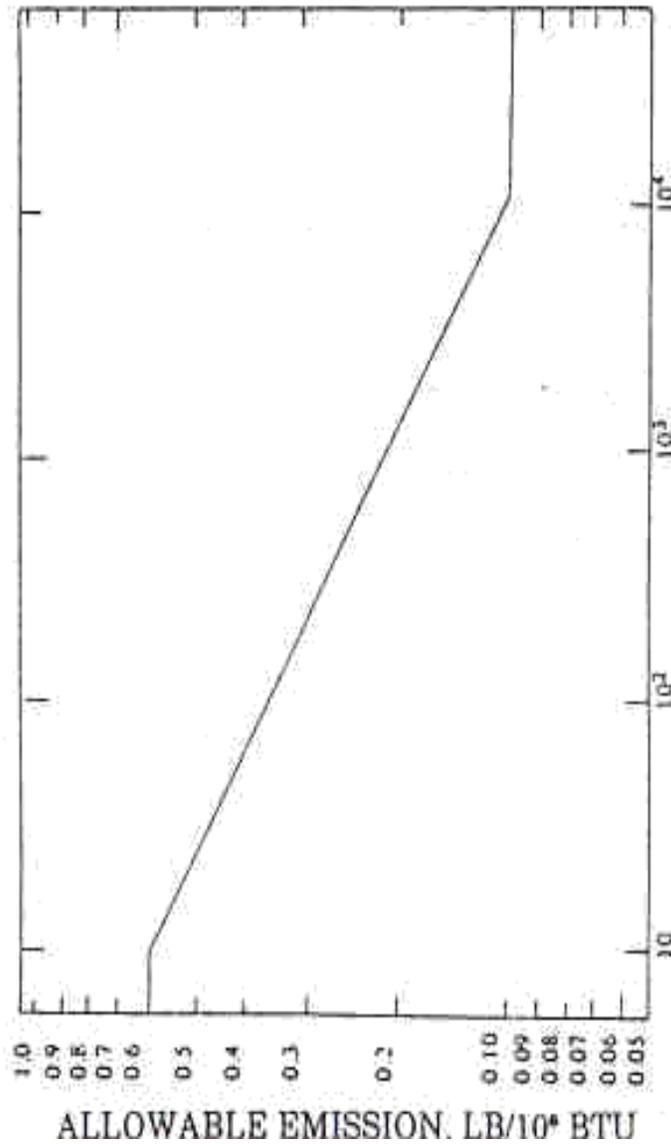
Sec. 3-26. Chart 1, particulate matter emission limits for fuel-burning equipment.

The following chart, which shall be known as "Chart 1," and may be cited as such, shall be applicable to the provisions of this chapter as specified in this chapter:

Chart 1

EQUIPMENT CAPACITY RATING, 106 BTU/HR Particulate Matter Emission Limits for Fuel-Burning Equipment

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Sec. 3-27. Chart 2, collection efficiency based on particle size.

The following chart, which shall be known as "Chart 2," and may be cited as such, shall be applicable to the provisions of this chapter as specified in this chapter:

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Chart 2

COLLECTION EFFICIENCY BASED ON PARTICLE SIZE

