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**IDAPA 58
TITLE 01
CHAPTER 17**

58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

000. LEGAL AUTHORITY.

Pursuant to Title 39, Chapter 1, Idaho Code, the Director of the Department of Environmental Quality is authorized to adopt or formulate and recommend to the Board of Environmental Quality, and the Board of Environmental Quality is authorized to adopt rules, regulations and standards necessary and feasible to protect the environment and the health of citizens of the State including provisions for the issuance of pollution source permits and review of plans and specifications for waste treatment facilities. (4-1-88)

001. TITLE AND SCOPE.

01. Title. These rules are to be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, "Wastewater-Land Application Permit Rules". (4-1-88)

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of pollution source permits for the treatment of municipal and industrial wastewaters by application to land. (4-1-88)

002. -- 099. (RESERVED).

100. APPLICABILITY.

01. Existing Land Application Facilities. Those land application facilities which are in operation on the effective date of these rules are deemed to be validly permitted for up to one (1) year. Permit conditions for the first permit issued to any existing facility under these rules shall substantially conform to the existing practices of such facility unless those existing practices cause or create conditions hazardous to the public health or to the environment, or violate other laws or regulations. (4-1-88)

02. Excluded Facilities. Land application of wastewater from feedlots, dairies and mining are excluded from permit requirements under these rules but are subject to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". The Director may exclude other facilities if covered adequately by other law. (12-31-91)

101. -- 199. (RESERVED).

200. DEFINITIONS.

For the purpose of these rules the following definitions apply unless another meaning is clearly indicated by context: (4-1-88)

01. Applicable Requirements. Any state, local or federal statutes, regulations or ordinances to which the facility is subject. (4-1-88)

02. Board. The Idaho State Board of Environmental Quality. (12-31-91)

03. Department. The Idaho Department of Environmental Quality. (4-1-88)

04. Director. The Director of the Department of Environmental Quality or the Director's designee. (4-1-88)

05. Land Application Facility Or Facility. Any structure or system designed or used to treat wastewater through application to the land surface. (4-1-88)

06. Municipal Wastewater. Waste water that contains sewage. (4-1-88)

07. New Activity. Any significant change in operation or construction of the wastewater treatment system which may impact the waters of the state. (4-1-88)

08. Non-Contact Cooling Water. Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. (4-1-88)

09. Permit. Written authorization by the Director to land apply or discharge wastewater, other than to surface waters of the state, as identified in the plan of operation. (4-1-88)

10. Person. An individual, corporation, partnership, association, state, municipality, commission, political subdivision of the state, state agency, federal agency, special district, or interstate body. (4-1-88)

11. Primary Effluent. Raw wastewater that has been mechanically treated by screening, degritting, sedimentation and/or skimming processes to remove substantially all floatable and settleable solids. (4-1-88)

12. Processed Food Crop. Any crop intended for human consumption that has been changed from its original form and further disinfection occurs. (4-1-88)

13. Rapid Infiltration System. A wastewater treatment method by which wastewater is applied to land in an amount of twenty (20) to six hundred (600) feet per year for percolation through the soil. Vegetation is not generally utilized by this method. (4-1-88)

14. Raw Food Crop. Any crop intended for human consumption which is to be used in its original form. (4-1-88)

15. Restricted Public Access. Preventing public entry within one thousand (1,000) feet of the border of a facility by site location or physical structures such as fencing. A buffer strip less than one thousand (1,000) feet may be accepted if aerosol drift is reduced. (4-1-88)

16. Sewage. The water-carried human wastes from residences, buildings, industrial establishments and other places. (4-1-88)

17. Sludge. The semi-liquid mass produced by treatment of water or wastewater. (4-1-88)

18. Time Distribution Of Flows. A measurement of the volume of wastewater distributed over a specified area during a specified time period. Typical unit of measure is inches per acre per week. (4-1-88)

19. Wastewater. Unless otherwise specified, industrial waste, municipal waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present but not including sludge, or non-contact cooling water. (4-1-88)

20. Wastewater Treatment System. All phases of wastewater treatment including any pretreatment equipment and the land application facility. (4-1-88)

21. Waters And Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-1-88)

201. -- 299. (RESERVED).

300. PERMIT REQUIREMENTS AND APPLICATION.

01. Permit Required. No person shall construct, modify, operate, or continue to operate a land application facility without a valid permit issued by the Director as provided in these rules. (4-1-88)

02. Dischargers. No person shall discharge to a land application facility without a valid permit issued by the Director as provided in these rules. (4-1-88)

03. Pre-Application Conference. Prospective applicants are encouraged to meet with the Department to discuss application procedure and anticipated application requirements. (4-1-88)

04. Application Required. Every person requiring a permit under these rules shall submit a permit application to the Department: (4-1-88)

- a.** At least one hundred eighty (180) days prior to the day on which a new activity is to begin; (4-1-88)
- b.** At least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules; (4-1-88)
- c.** Within one hundred eighty (180) days after the effective date of these rules for any existing land application facility deemed to be permitted under these rules. (4-1-88)

05. Application Contents. Application shall be made on a form prescribed by the Director and available from the Department and shall include, but not be limited to, the following information: (4-1-88)

- a.** Name, location, and mailing address of the facility; (4-1-88)
- b.** Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; (4-1-88)
- c.** The nature of the entity owning the facility (federal, state, private, or public entity); (4-1-88)
- d.** A list of local, state, and federal permits, licenses and approvals related to the activity which have been applied for and which have been received and the dates of application or approval; (4-1-88)
- e.** A topographic map of the facility site identifying and showing the location and extent of: (4-1-88)
 - i.** Wastewater inlets, outlets, and storage structures and facilities; (4-1-88)
 - ii.** Wells, springs, wetlands, and surface waters; (4-1-88)
 - iii.** Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency; (4-1-88)
 - iv.** Service roads; (4-1-88)
 - v.** Natural or man-made features necessary for treatment; (4-1-88)
 - vi.** Buildings and structures; and (4-1-88)
 - vii.** Process chemicals and residue storage facilities. (4-1-88)
- f.** A topographic map which may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site. The map shall identify and show the location and extent of the following: (4-1-88)
 - i.** Springs, wetlands, and surface waters; (4-1-88)
 - ii.** Public and private drinking water supply sources; (4-1-88)
 - iii.** Public roads; and (4-1-88)
 - iv.** Dwellings and private and public gathering places. (4-1-88)

- g.** If the facility site or any portion thereof is leased or rented, a copy of that lease or rental agreement; (4-1-88)
- h.** The volume of wastewaters to be treated and the time distribution of flows; (4-1-88)
- i.** The physical, chemical, and biological characteristics of the wastewater; (4-1-88)
- j.** The climatic, hydrogeologic, and soil characteristics of the facility site. (4-1-88)

06. Existing Land Application Facility. Any existing land application facility will be required to have a plan of operation which describes in detail the operation, maintenance, and management of the wastewater treatment system. (4-1-88)

07. New Land Application Facility. Any new proposed land application facility will be required to have a detailed plan of operation at the fifty percent (50%) completion point of construction. In addition, after one (1) year of operation the plan must be updated to reflect actual operating procedures. A general outline of the plan of operation must be provided with the permit application which will satisfy the intent of these rules. (4-1-88)

301. -- 399. (RESERVED).

400. APPLICATION PROCESSING PROCEDURE.

01. Complete Application. If the application is determined to be complete the Director shall provide written notice to the applicant within sixty (60) days after receipt of the application which shall specify: (4-1-88)

- a.** The effective date of application, which will be the date of the notice; and (4-1-88)
- b.** A projected schedule for processing the permit which lists the tentative dates for: (4-1-88)
 - i.** Publication of the preliminary permit decision or application denial; and (4-1-88)
 - ii.** The date of issuance of a final permit. (4-1-88)

02. Incomplete Application. If the application is determined to be incomplete the Director shall provide written notice to the applicant within sixty (60) days after receipt of the application which specifies deficiencies and specifies additional required information. The Director shall not process an application until it is determined to be complete in accordance with these rules. (4-1-88)

03. Preliminary Decision/Application Denial. Within thirty (30) days of the effective date of the application the Director shall issue a preliminary decision to prepare a draft permit, or issue a decision denying the application. The applicant shall be notified in writing of the Director's preliminary decision or application denial. Notification shall include a staff analysis of the application and a draft permit if appropriate. (4-1-88)

04. Contents Of The Staff Analysis. The staff analysis shall briefly state the principal facts and the significant questions considered in preparing the draft permit conditions or the intent to deny, and a summary of the basis for the draft conditions or denial with references to applicable requirements and supporting materials. (4-1-88)

05. Issuance And Contents Of The Draft Permit. The Director shall issue a draft permit to the applicant within sixty (60) days of issuing a preliminary decision to prepare a draft permit. The draft permit shall be in the same form as a final permit and shall specify conditions of operation and management which will be required for the issuance of the permit. Permit conditions shall protect the environment and the public health from the hazard potential of an existing or proposed wastewater treatment system. (4-1-88)

06. Information Requested After Effective Date Of Application. The Director may, by written request, require additional information after the effective date of application to clarify, modify, or supplement the application. (4-1-88)

07. Issuance Of The Final Permit. The Director shall issue a final permit decision in writing to the applicant within thirty (30) days from the issuance of the draft permit, except the Director may issue the decision at either an earlier or a later date in response to a written request by the applicant. (4-1-88)

08. Effective Date Of Final Permit. The final permit shall become effective upon date of issue unless a later effective date is specified in the permit. (4-1-88)

401. -- 499. (RESERVED).

500. STANDARD PERMIT CONDITIONS.

The following conditions shall apply to and be included in all permits. (4-1-88)

01. Compliance Required. The permittee shall comply with all conditions of the permit. (4-1-88)

02. Renewal Responsibilities. If the permittee intends to continue operation of the permitted facility after the expiration of an existing permit, the permittee shall apply for a new permit in accordance with these rules. (4-1-88)

03. Operation Of Facilities. The permittee shall at all times properly maintain and operate all structures, systems, and equipment for treatment, control and monitoring, which are installed or used by the permittee to achieve compliance with the permit or these rules. (4-1-88)

04. Provide Information. The permittee shall furnish to the Director within a reasonable time, any information including copies of records, which may be requested by the Director to determine whether cause exists for modifying, revoking, re-issuing, or terminating the permit, or to determine compliance with the permit or these rules. (4-1-88)

05. Entry And Access. The permittee shall allow the Director, consistent with Title 39, Chapter 1, Idaho Code, to: (4-1-88)

a. Enter the permitted facility. (4-1-88)

b. Inspect any records that must be kept under the conditions of the permit. (4-1-88)

c. Inspect any facility, equipment, practice, or operation permitted or required by the permit. (4-1-88)

d. Sample or monitor for the purpose of assuring permit compliance, any substance or any parameter at the facility. (4-1-88)

06. Reporting. The permittee shall report to the Director under the circumstances and in the manner specified in this section: (4-1-88)

a. In writing thirty (30) days before any planned physical alteration or addition to the permitted facility or activity if that alteration or addition would result in any significant change in information that was submitted during the permit application process. (4-1-88)

b. In writing thirty (30) days before any anticipated change which would result in noncompliance with any permit condition or these rules. (4-1-88)

c. Orally within twenty-four (24) hours from the time the permittee became aware of any noncompliance which may endanger the public health or the environment at telephone numbers provided in the permit by the Director. (4-1-88)

d. In writing as soon as possible but within five (5) days of the date the permittee knows or should know of any noncompliance unless extended by the Department. This report shall contain: (4-1-88)

- i. A description of the noncompliance and its cause; (4-1-88)
- ii. The period of noncompliance including to the extent possible, times and dates and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and (4-1-88)
- iii. Steps taken or planned to reduce or eliminate reoccurrence of the noncompliance. (4-1-88)
- e. In writing as soon as possible after the permittee becomes aware of relevant facts not submitted or incorrect information submitted, in a permit application or any report to the Director. Those facts or the correct information shall be included as a part of this report. (4-1-88)

07. Minimize Impacts. The permittee shall take all necessary actions to eliminate and correct any adverse impact on the public health or the environment resulting from permit noncompliance. (4-1-88)

501. -- 599. (RESERVED).

600. SPECIFIC PERMIT CONDITIONS.

01. Basis For Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and wastewater compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to: (4-1-88)

- a. Chemical, biological, physical, and volumetric characteristics of the wastewater; (4-1-88)
- b. Geological and climatic nature of the facility site; (4-1-88)
- c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-88)
- d. Legal considerations relative to land use and water rights; (4-1-88)
- e. Techniques used in wastewater distribution and the disposition of that vegetation exposed to wastewaters; (4-1-88)
- f. Abilities of the soils and vegetative covers to treat the wastewater without undue hazard to the environment or to the public health; and (4-1-88)
- g. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-88)

02. Duration Of Permit. The permit shall be effective for a fixed term of not more than five (5) years. (4-1-88)

03. Limitations To Operation. Conditions of the permit may specify or limit: (4-1-88)

- a. Wastewater composition; (4-1-88)
- b. Method, manner, and frequency of wastewater treatment; (4-1-88)
- c. Wastewater pretreatment requirements; (4-1-88)
- d. Physical, chemical, and biological characteristics of a land application facility; and (4-1-88)
- e. Any other condition the Director finds necessary to protect public health or environment. (4-1-88)

04. Compliance Schedules. The Director may establish a compliance schedule for existing facilities as

part of the permit conditions including: (4-1-88)

a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or final permit conditions; (4-1-88)

b. Dates by which those steps or actions are to be taken; and (4-1-88)

c. In any case where the period of time for compliance exceeds one (1) year the schedule may also establish interim requirements and the dates for their achievements. (4-1-88)

05. Monitoring Requirements. Any facility may be subject to monitoring requirements including, but not limited to: (4-1-88)

a. The installation, use, and maintenance of monitoring equipment; (4-1-88)

b. Monitoring or sampling methodology, frequency, and locations; (4-1-88)

c. Monitored substances or parameters; (4-1-88)

d. Testing and analytical procedures; and (4-1-88)

e. Reporting requirements including both frequency and form. (4-1-88)

06. Rapid Infiltration Systems. The following minimum treatment requirements are established for land application of wastewater. (4-1-88)

a. Suspended solids content of wastewater which includes organic and inorganic particulate matter shall not exceed a thirty (30) day average concentration of one hundred (100) mg/l. (4-1-88)

b. Nitrogen (total as N) content of wastewater shall not exceed a thirty (30) day average concentration of twenty (20) mg/l. (4-1-88)

07. Direct Use Of Municipal Wastewater. Treatment requirements applicable to direct use of municipal wastewater include, but are not limited to, the following: (4-1-88)

a. Where the municipal wastewater may contact any edible portion of raw food crops, the municipal wastewater shall be oxidized, coagulated, clarified, filtered, or treated by an equivalent process and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. (12-31-91)

b. Where the municipal wastewater will only contact the unedible portion of raw food crops, the wastewater shall be oxidized and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. (12-31-91)

c. Where municipal wastewater is used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, and if: (4-1-88)

i. Public access is not restricted, the municipal wastewater shall be of primary effluent quality and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed; (12-31-91)

- ii. Public access is restricted, the municipal wastewater shall be of primary effluent quality. (4-1-88)
- d. Where municipal wastewater is used to irrigate fodder, seed or processed food crops if: (4-1-88)
 - i. Public access is not restricted, the municipal wastewater shall be of primary effluent quality and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Animals shall not be grazed on land where municipal wastewater is applied. (12-31-91)
 - ii. Public access is restricted, the municipal wastewater shall be of primary effluent quality. Animals shall not be grazed on land where municipal wastewater is applied and shall not be fed vegetation irrigated in this manner within two (2) weeks of application. (4-1-88)
- e. Where municipal wastewater is used to irrigate golf courses, cemeteries, roadside vegetation, and other areas where individuals have access or exposure, the municipal wastewater shall be oxidized and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of coliform organisms does not exceed twenty-three (23) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Irrigation shall be accomplished during periods of non-use. (12-31-91)
- f. Where municipal wastewater is used to irrigate parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure, the municipal wastewater shall be oxidized, coagulated, clarified, filtered or treated by an equivalent process and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Irrigation shall be accomplished during periods of non-use. (12-31-91)

601. -- 699. (RESERVED).

700. PERMIT MODIFICATION.

01. Minor Modifications. Minor modifications are those which if granted would not result in any increased hazard to the environment or to the public health. Such modifications shall be made by the Director. Minor modifications are normally limited to: (4-1-88)

- a. The correction of typographical errors. (4-1-88)
- b. Transfer of ownership or operational control. (4-1-88)
- c. A change in monitoring or reporting frequency. (4-1-88)

02. Major Modifications. All modifications not considered minor shall be considered major modifications. The procedure for making major modifications shall be the same as that used for a new permit under these rules. (4-1-88)

701. -- 799. (RESERVED).

800. PERMIT TRANSFERABLE.

Permits shall be transferable to a new owner or operator provided that the permittee notifies the Director by requesting a minor modification of the permit before the date of transfer. (4-1-88)

801. -- 919. (RESERVED).

920. PERMIT REVOCATION.

01. Conditions For Revocation. The Director may revoke a permit if the permittee violates any permit condition or these rules. (4-1-88)

02. Notice Of Revocation. Except in cases of emergency, the Director shall issue a written notice of intent to revoke to the permittee prior to final revocation. Revocation shall become final within thirty-five (35) days of receipt of the notice by the permittee, unless within that time the permittee requests an administrative hearing in writing. The hearing shall be conducted in accordance with IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality". (5-3-03)

03. Emergency Action. If the Director finds the public health, safety or welfare requires emergency action, the Director shall incorporate findings in support of such action in a written notice of emergency revocation issued to the permittee. Emergency revocation shall be effective upon receipt by the permittee. Thereafter, if requested by the permittee in writing, the Director shall provide the permittee a revocation hearing and prior notice thereof. Such hearings shall be conducted in accordance with IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

921. -- 929. (RESERVED).

930. VIOLATIONS.

Any person violating any provision of these rules or any permit or order issued thereunder shall be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) or one thousand dollars (\$1,000) for each day of a continuing violation, whichever is greater. In addition, pursuant to Title 39, Chapter 1, Idaho Code, any willful or negligent violation may constitute a misdemeanor. (4-1-88)

931. -- 939. (RESERVED).

940. WAIVERS.

Waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waivers: (4-1-88)

01. Effect. That such waivers will not have a detrimental effect upon existing water quality and uses are adequately protected; and (4-1-88)

02. Treatment Requirements. That the treatment requirements are: (4-1-88)

a. Unreasonable with current technology; or (4-1-88)

b. Economically prohibitive. (4-1-88)

941. -- 949. (RESERVED).

950. PUBLIC AND CONFIDENTIAL INFORMATION.

01. Accessibility. Except as provided in this section or other applicable law, information obtained or submitted pursuant to these rules will be available to the public for inspection and copying during normal working hours. Anyone requesting Department assistance in collecting, copying or mailing public information must tender, in advance, the reasonable cost of those services. (4-1-88)

02. Confidentiality. Information concerning a pollution source and submitted to the Director, Board, or Hearing Officer pursuant to these rules which, as certified by the owner or operator of such source, relates to production or sales figures or to processes or production unique to the owner or operator, or tends to adversely affect the competitive position of such owner or operator, shall be only for the confidential use of the Board, Director and Hearing Officer unless: (4-1-88)

a. The Board, after a hearing, determines that a claim of uniqueness or adverse effect is unwarranted; (4-1-88)

- b. The owner or operator expressly consents to disclosure; or (4-1-88)
- c. Disclosure is required for prosecution of a violation of the Idaho Environmental Protection and Health Act, these rules or a permit, or order issued thereunder. (4-1-88)
- 03. Department Discretion.** The Department may decline to release to the public: (4-1-88)
 - a. Inconclusive preliminary data or reports generated as part of ongoing studies; and (4-1-88)
 - b. Information obtained as part of ongoing investigations when release would: (4-1-88)
 - i. Interfere with enforcement proceedings; (4-1-88)
 - ii. Deprive a person of a fair or impartial adjudication; (4-1-88)
 - iii. Discourage informants from disclosing information to the Department; (4-1-88)
 - iv. Disclose investigative techniques or proceedings; or (4-1-88)
 - v. Endanger the safety of Department personnel. (4-1-88)

951. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

997. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality". (3-15-02)

998. INCLUSIVE GENDER AND NUMBER.

For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (12-31-91)

999. SEVERABILITY.

The provision of these rules are severable and if a provision or its application is declared invalid for any reason, that declaration will not affect the validity of the remaining provisions. (4-1-88)

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