



1 All persons affected by rules establishing water quality  
2 standards and effluent limitations shall promptly comply therewith:  
3 *Provided, That:*

4 (1) Where necessary and proper, the chief may specify a  
5 reasonable time for persons not complying with such standards and  
6 limitations to comply therewith, and upon the expiration of any  
7 such period of time, the chief shall revoke or modify any permit  
8 previously issued which authorized the discharge of treated or  
9 untreated sewage, industrial wastes or other wastes into the waters  
10 of this state which result in reduction of the quality of such  
11 waters below the standards and limitations established therefor by  
12 rules of the board or director;

13 (2) Notwithstanding any rule or permit condition to the  
14 contrary, and except for any standard imposed under section 307 of  
15 the federal Water Pollution Control Act for a toxic pollutant  
16 injurious to human health, compliance with a permit issued pursuant  
17 to this article shall be deemed compliance, for purposes of both  
18 this article and sections and of the federal Water Pollution  
19 Control Act, with sections 301, 302, 306, 307 and 403 of the  
20 federal Water Pollution Control Act. Nothing in this section,  
21 however, prevents the director from modifying, reissuing or  
22 revoking a permit during its term. The provisions of this section  
23 addressing compliance with a permit are intended to apply to all  
24 existing and future discharges and permits without the need for

1 permit modifications. However, should any such modification be  
2 necessary under the terms of this article, then the director shall  
3 immediately commence the process to effect such modifications; and

4       (3) The Legislature finds that there are concerns within West  
5 Virginia regarding the applicability of the research underlying the  
6 federal selenium criteria to a state such as West Virginia which  
7 has high precipitation rates and free-flowing streams and that the  
8 alleged environmental impacts that were documented in applicable  
9 federal research have not been observed in West Virginia and,  
10 further, that considerable research is required to determine if  
11 selenium is having an impact on West Virginia streams, to validate  
12 or determine the proper testing methods for selenium and to better  
13 understand the chemical reactions related to selenium mobilization  
14 in water. For existing NPDES permits, the department may extend  
15 the time period for achieving water quality-based effluent limits  
16 for selenium discharges into waters supporting aquatic life uses to  
17 July 1, 2012, upon compliance with all federally required public  
18 notice requirements for such modifications, upon a finding that the  
19 permittee cannot comply with its existing compliance schedule and  
20 that an extension is not in violation of any state or federal laws,  
21 rules or regulations. The West Virginia Department of  
22 Environmental Protection is hereby directed to undertake a  
23 comprehensive study relating to selenium and prepare a report  
24 detailing such findings and submitting the report to the Joint

1 Committee on Government and Finance no later than January 1, 2010.  
2 In conducting such study, the West Virginia Department of  
3 Environmental Protection shall consult with, among others, West  
4 Virginia University and the West Virginia Water Research Institute.

NOTE: The purpose of this bill is to clarify that compliance with the effluent limits contained in a National Pollution Discharge Elimination System permit is deemed compliance with the West Virginia Water Pollution Control Act and to make the National Pollution Discharge Elimination System program in West Virginia consistent with the federal Water Pollution Control Act, also known as the Clean Water Act.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.