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SENATE BILL NO. 1265

Offered January 13, 2021

Prefiled January 11, 2021

A BILL to amend and reenact §§ 62.1-44.15:37.1 and 62.1-44.15:58.1 of the Code of Virginia, relating to natural gas pipelines; stop work orders.

Patrons—Deeds, Favola, McClellan and Suetterlein; Delegate: Kory

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.15:37.1 and 62.1-44.15:58.1 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.15:37.1. Inspections; land-disturbing activities of natural gas pipelines; stop work instructions.

A. The Department is authorized to conduct inspections of the land-disturbing activities of interstate and intrastate natural gas pipeline companies that have approved annual standards and specifications pursuant to § 62.1-44.15:31 as such land-disturbing activities relate to construction of any natural gas transmission pipeline *equal to or greater than 36 24 inches inside diameter* to determine (i) compliance with such annual standards and specifications, (ii) compliance with any site-specific plans, and (iii) if there have been or are likely to be adverse impacts to water quality as a result of such land-disturbing activities, *including instances where the Department determines that (a) there has been a violation of any water quality standard adopted pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), (b) sediment has been deposited in significant amounts in areas where those deposits are not contained by best management practices, (c) there are repeated instances of adverse impacts or likely adverse impacts within a 30-day period, or (d) there have been widespread and repeated instances of adverse impacts or likely impacts.* When the Department determines that there has been a substantial adverse impact to water quality or that an imminent and substantial adverse impact to water quality is likely to occur as a result of such land-disturbing activities, the Department may issue a stop work instruction, without advance notice or hearing, requiring that all or part of such land-disturbing activities on the part of the site that caused the substantial adverse impacts to water quality or are likely to cause imminent and substantial adverse impacts to water quality be stopped until corrective measures specified in the stop work instruction have been completed and approved by the Department. *Where adverse impacts or likely adverse impacts are found on a repeated, frequent, and widespread basis, the Department may issue a stop work order for every work area in Virginia until a finding is made that any systemic cause that contributed to such occurrences have been corrected.*

Such stop work instruction shall become effective upon service on the company by email or other technology agreed to in writing by the Department and the company, by mailing with confirmation of delivery to the address specified in the annual standards and specifications, if available, or by delivery at the site to a person previously identified to the Department by the company. Upon request by the company, the Director or his designee shall review such stop work instruction within 48 hours of issuance.

B. Within 10 business days of issuance of a stop work instruction, the Department shall promptly provide to such company an opportunity for an informal fact-finding proceeding concerning the stop work instruction and any review by the Director or his designee. Reasonable notice as to the time and place of the informal fact-finding proceeding shall be provided to such company. Within 10 business days of the informal fact-finding proceeding, the Department shall affirm, modify, amend, or cancel such stop work instruction. Upon written documentation from the company of the completion and approval by the Department in writing of the corrective measures specified in the stop work instruction, the instruction shall be immediately lifted.

C. The company may appeal such stop work instruction or preliminary decision rendered by the Director or his designee to the circuit court of the jurisdiction wherein the land-disturbing activities subject to the stop work instruction occurred, or to another appropriate court, in accordance with the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). Any person violating or failing, neglecting, or refusing to obey a stop work instruction issued by the Department may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Nothing in this section shall prevent the Board or the Department from taking any other action authorized by this chapter.

INTRODUCED

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59 § 62.1-44.15:58.1. Inspections; land-disturbing activities of natural gas pipelines; stop work
60 instructions.

61 A. The Department is authorized to conduct inspections of the land-disturbing activities of interstate
62 and intrastate natural gas pipeline companies that have approved annual standards and specifications
63 pursuant to § 62.1-44.15:55 as such land-disturbing activities relate to construction of any natural gas
64 transmission pipeline *equal to or greater than 36 24 inches* inside diameter to determine (i) compliance
65 with such annual standards and specifications, (ii) compliance with any site-specific plans, and (iii) if
66 there have been or are likely to be adverse impacts to water quality as a result of such land-disturbing
67 activities, *including instances where the Department determines that (a) there has been a violation of*
68 *any water quality standard adopted pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), (b)*
69 *sediment has been deposited in significant amounts in areas where those deposits are not contained by*
70 *best management practices, (c) there are repeated instances of adverse impacts or likely adverse impacts*
71 *within a 30-day period, or (d) there have been widespread and repeated instances of adverse impacts or*
72 *likely impacts.* When the Department determines that there has been a substantial adverse impact to
73 water quality or that an imminent and substantial adverse impact to water quality is likely to occur as a
74 result of such land-disturbing activities, the Department may issue a stop work instruction, without
75 advance notice or hearing, requiring that all or part of such land-disturbing activities on the part of the
76 site that caused the substantial adverse impacts to water quality or are likely to cause imminent and
77 substantial adverse impacts to water quality be stopped until corrective measures specified in the stop
78 work instruction have been completed and approved by the Department. *Where adverse impacts or likely*
79 *adverse impacts are found on a repeated, frequent, and widespread basis, the Department may issue a*
80 *stop work order for every work area in Virginia until a finding is made that any systemic cause that*
81 *contributed to such occurrences have been corrected.*

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83 technology agreed to in writing by the Department and the company, by mailing with confirmation of
84 delivery to the address specified in the annual standards and specifications, if available, or by delivery at
85 the site to a person previously identified to the Department by the company. Upon request by the
86 company, the Director or his designee shall review such stop work instruction within 48 hours of
87 issuance.

88 B. Within 10 business days of issuance of a stop work instruction, the Department shall promptly
89 provide to such company an opportunity for an informal fact-finding proceeding concerning the stop
90 work instruction and any review by the Director or his designee. Reasonable notice as to the time and
91 place of the informal fact-finding proceeding shall be provided to such company. Within 10 business
92 days of the informal fact-finding proceeding, the Department shall affirm, modify, amend, or cancel such
93 stop work instruction. Upon written documentation from the company of the completion and approval by
94 the Department in writing of the corrective measures specified in the stop work instruction, the
95 instruction shall be immediately lifted.

96 C. The company may appeal such stop work instruction or preliminary decision rendered by the
97 Director or his designee to the circuit court of the jurisdiction wherein the land-disturbing activities
98 subject to the stop work instruction occurred, or to another appropriate court, in accordance with the
99 requirements of the Administrative Process Act (§ 2.2-4000 et seq.). Any person violating or failing,
100 neglecting, or refusing to obey a stop work instruction issued by the Department may be compelled in a
101 proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have
102 occurred or other appropriate court to obey same and to comply therewith by injunction, mandamus, or
103 other appropriate remedy. Nothing in this section shall prevent the Board or the Department from taking
104 any other action authorized by this chapter.