



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Jay Jones
Attorney General

202 North 9th Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120

MEMORANDUM

TO: Mike Rolband, Director
Department of Environmental Quality

FROM: David A. Harrington
Senior Assistant Attorney General

DATE: September 29, 2026

RE: Review of Amendments to Regulation for Emissions Trading Programs –
9 VAC 5-140 (the “Regulation”)

Please note that this memorandum does not constitute an opinion, formal or informal, of the Attorney General. Rather, this memorandum contains the legal analysis of the staff member providing it.

In response to a request from the Department of Environmental Quality, I have reviewed the above-referenced Regulation.

It is my opinion that (i) the Director of the Department of Environmental Quality has authority to adopt the amendments to 9 VAC 5-140 pursuant to Item 368 O of Chapter 1 of the 2026 Special Session I Acts of Assembly (Chapter 1), (ii) the changes to 9 VAC 5-140 comply with and are mandated by Chapter 1, (iii) the amendments are exempt from the provisions of the Virginia Administrative Process Act pursuant to Chapter 1, and (iv) the amendments do not require action by the State Air Pollution Control Board pursuant to Chapter 1.