

**Agenda Item: 14-13 Request for 30-day Waiver and Request to Proceed to Public Notice on proposed changes to underground storage tank rule 15A NCAC 02N .0903 based on legislative amendments in SL 2011-394**

**Explanation:**

Session Law (SL) 2011-394 [Sections 11.4(c), 11.6(a), 11.6(b) and 11.7(a)] directed the EMC to adopt several changes to rules (15A NCAC 02N) governing UST systems. SL 2011-394 stated that the rule changes must be substantively identical to the provisions of the Act. The rule changes are summarized below:

(1) SL 2011-394, Section 11.4(c) - Rule 15A NCAC 02N .0903(c)

Section 11.4(c) relates to secondary containment (double-walled construction and interstitial leak detection monitoring) rules for UST systems or UST system components installed or replaced on or after November 1, 2007. 15A NCAC 02N .0903(c) currently states that when a tank is replaced with a new tank, all existing piping (piping that does not meet the secondary containment standards in .0900 and including single-walled piping) associated with that tank, must be replaced with piping meeting the .0900 standards. Section 11.4(c) eliminates this requirement. Therefore existing piping may remain in the ground and can be connected to a new secondarily contained tank.

(2) SL 2011-394, Section 11.7(a) - Rules 15A NCAC 02N .0903(a) and (b)

Section 11.7(a) pertains to secondary containment (double-walled construction and interstitial leak detection monitoring) rules for UST systems or UST system components installed or replaced on or after November 1, 2007. Rule 15A NCAC 02N .0903(a) currently does not allow for installation of double-walled tanks having corrosion protection systems. Only double-walled fiberglass tanks and double-walled steel tanks with fiberglass clad or fiberglass outer walls are allowed. Section 11.7(a) changes the rule to also allow installation of cathodically protected double-walled steel tanks.

**Recommendation:**

That the Commission approve the 30 day waiver, proposed rule amendments and fiscal note along with authorizing public notice on these items.