This storm cloud does have a silver lining!  
Yesterday’s deadline for California’s Industrial General Permit for stormwater was extended to August!

By Alison B. Torbitt and Brianna Howard

“If it weren’t for the last minute, nothing would get done,” said American writer Rita Mae Brown. Well, at the very last minute, on the very day of the deadline for all industry, including light industry, to file for the new Industrial General Permit (IGP) for stormwater discharge, nothing did get done as the online registration system, SMARTS, had a technical issue that is affecting bandwidth of the system and restricting access to the database. So now, you get six more weeks! That’s right—the California State Water Resources Control Board (SWRCB) just hit the “easy” button for all procrastinators.

While ironically there are no storms in sight for Californians living in drought, the SWRCB soaked light industry with stormwater regulation on April 1, 2014, when the SWRCB adopted the new Industrial General Permit (IGP) for stormwater discharge, which was to become effective yesterday, July 1, 2015. The new IGP maintains statewide regulation of stormwater discharge applicable to industrial activity (e.g., mining operations, recycling yards, transportation facilities, etc.), while extending the registration requirements to light industry for the first time. In short, it establishes non-numeric technology-based Effluent Limits (TBELs) and Numeric Action levels (NALs) for dischargers to sample their stormwater and compare results to state-wide benchmarks. Alternatively, some businesses with light industrial activities may apply for an annual No Exposure Certification (NEC) and pay a certification fee. If you need a refresher on what is required, especially if your business is zoned industrial, has an industrial SIC or if there are any industrial activities taking place on your site, please see our previous alert: http://www.nixonpeabody.com/files/168492_Environmental_Alert_7APR2014.pdf

However, now there is a silver lining to this storm of increased stormwater enrollments and annual submittals! Yesterday, at 3:14 p.m., on the very day of the deadline, the SWRCB made an announcement to extend the deadline to enroll for the IGP permit or submit your NEC to August 14, 2015. This deadline extension comes as a result of the SWRCB’s technical issues with the SMARTS Storm Water Program database, which allows for new enrollments and annual submittals
from existing enrollees as required by the new IGP. Some insiders had previously complained that there was no way for new enrollments to register prior to the deadline of July 1 and thus, while the database's trouble was not unexpected, the six-week extension is generous.

So, for those of you who work under the theme of why do today what you can do tomorrow, in this instance, you actually can. However, these six weeks will still go by quickly, and the General Industrial Permit requires the development of a compliant Storm Water Pollution Prevention Plan (SWPPP) and a monitoring plan, so stop your procrastinating, review your business' activities and assess now whether your site requires the IGP permit, qualifies for a NEC and whether your SWPPP and monitoring plan are compliant, well before the deadline of August 14, 2015.

For more information on the content of this alert, please contact your regular Nixon Peabody attorney or:

— Alison B. Torbitt at atorbitt@nixonpeabody.com or 415-984-5008