



SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT



September
2021

2020 Permitting Actions

As required by AB 423, this report summarizes 2020 permitting actions and provides recommendations to enhance public engagement

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2020 PERMITTING ACTIONS

BACKGROUND

California Assembly Bill 423 (Gloria, 2019) amended State law to restructure and expand the governing board of the San Diego County Air Pollution Control District (APCD). Therefore, to meet the requirements in AB 423, as of March 1, 2021 the APCD has been operating independently of the County's organizational structure for the first time since the County Board of Supervisors created the APCD in 1955.

AB 423 also established specified duties for the APCD to continue building a resilient San Diego where no community is left behind and to increase transparency and public engagement.

This report was prepared to fulfill one of the mandates in AB 423, which requires the APCD to prepare a report by July 1, 2021 for the governing board's consideration. Specifically, the APCD is required to report all actions taken on applications for Authorities to Construct or Permits to Operate in the 2020 calendar year, including the number of applications, timing of actions on applications, and number of public comments submitted. Further, this report was prepared to assist the governing board in considering possible amendments to APCD's rules to ensure adequate opportunity for public comment on permit applications within the APCD's deadline for action on applications.

APCD PERMIT REQUIREMENTS

The mission of the APCD is to improve air quality to protect public health and the environment. Accordingly, the APCD evaluates projects for new, modified or relocated operations that can emit air contaminants. The APCD's Engineering Division is responsible for evaluating these projects and it includes: (1) Engineering Chief, (4) Senior Engineers, (17) Engineers, (2) Air Quality Specialists, (1) Aide, and a few student workers.

Operations regulated by the APCD can be located at stationary sources or can be portable and relocate within the County¹. Stationary sources include large industrial facilities, such as factories and power plants, smaller commercial establishments, such as gas stations and dry cleaners, and a wide range of

¹ APCD does not have authority to regulate facilities located in tribal land. The Environmental Protection Agency (EPA) works closely with federally recognized tribal land to ensure compliance at federally regulated facilities in tribal land.

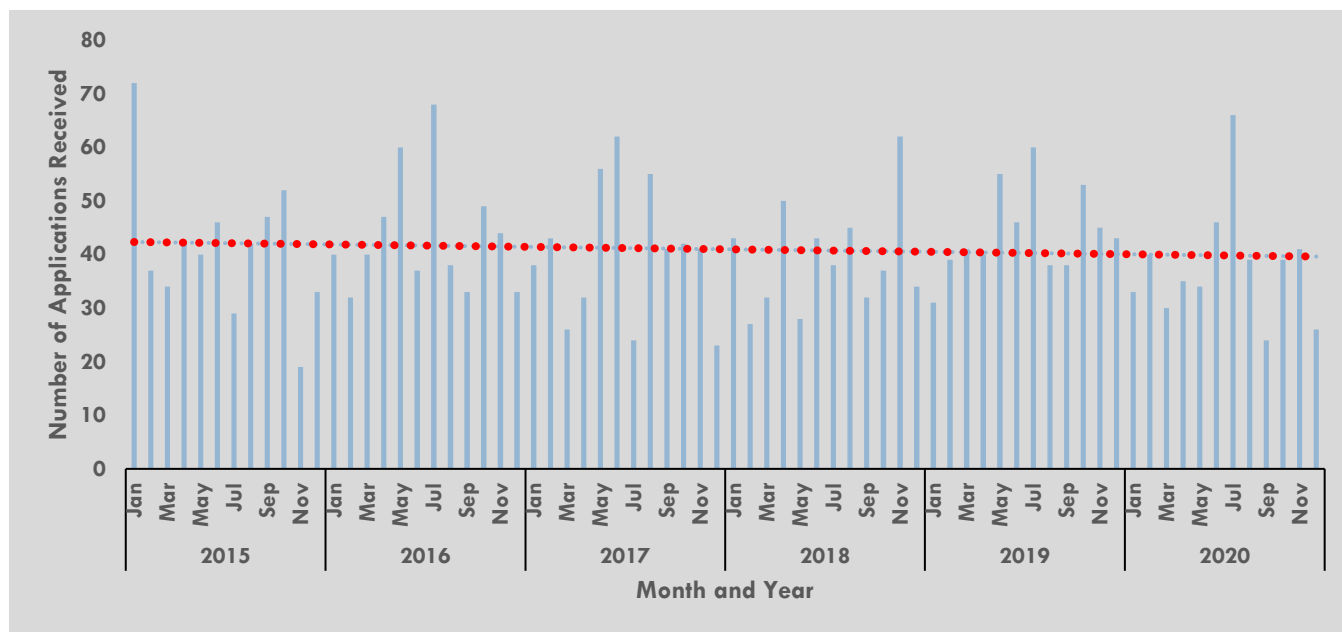
governmental and other facilities operating boilers, landfills, or emergency back-up engines. Portable operations typically involve sources of air pollution such as internal combustion engines (used for power generation, pumps, and compressors), abrasive blasting, and rock crushing and concrete recycling operations.

In accordance with APCD Rule 10-Permits Required², any person building, modifying, replacing, or relocating any equipment or operation which may create, reduce, or control air contaminants, shall first obtain written authorization from the APCD. APCD Rule 11- Exemptions from Rule10 Permit Requirements³ establishes exemptions from permitting requirements for operations or equipment that create negligible air emissions. Additionally, under State law the APCD does not have authority to regulate or permit operations of mobile sources (including vehicles, airplanes, trains, ships, boats, or barges).

APCD PERMITTING STATISTICS

On average, the APCD receives, reviews and processes approximately 40 permit applications per month and 500 permit applications per year. Although AB 423 requires the APCD to report on permitting actions taken in calendar year 2020, in order to put things in better perspective, this report includes permitting actions taken in a five-year span stretching from 2015 to 2020. Figure 1 shows the number of applications received each year from 2015 to 2020.

Figure 1-Number of Permit Applications Received from 2015-2020

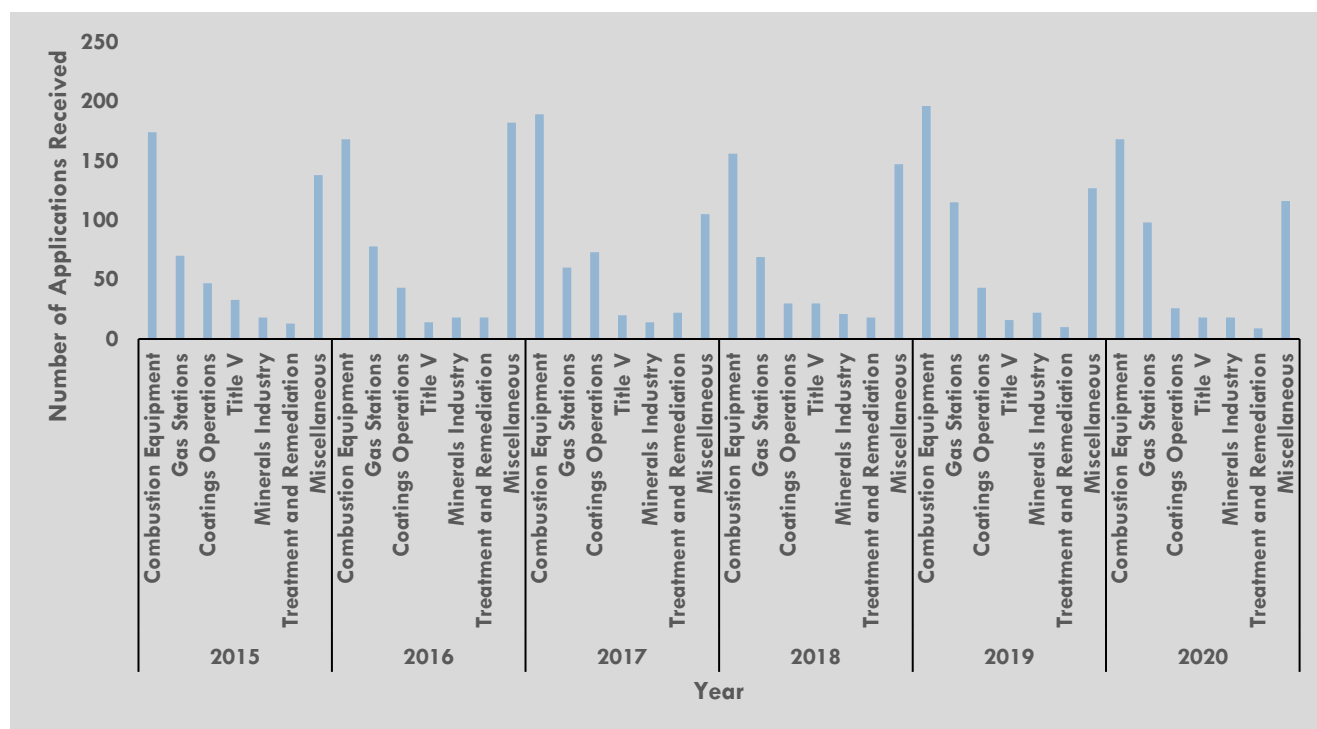


² https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Permits/APCD_R10-10-1.pdf

³ https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Permits/APCD_R11-Eff2021.pdf

Most permit applications evaluated by the APCD are associated with combustion sources, such as engines, as shown in Figure 2. However, the APCD also evaluates permit applications for: (1) gasoline dispensing facilities (gas stations and bulk terminals); (2) various types of coating operations (coating of ships, automotive, wood or metal products); (3) Title V permits (Title V of the Clean Air Act requires major sources of air pollutants, and certain other sources, to submit a separate type of application for their operations-Title V permit holders need to apply for a permit renewal every five years); (4) mineral industry (operations such as aggregate, asphalt and concrete batch plants); (5) treatment and remediation processes (removal of contaminants or pollutants from water or soil); and, (6) other miscellaneous operation such as landfills, abrasive blasting, manufacturing processes, etc.

Figure 2-Permit Applications by Category from 2015–2020



In addition to issuing Permits to Operate, the APCD issues Registrations for qualifying small stationary or portable sources of air pollution in accordance with APCD Rule 12-*Registration of Specified Equipment*⁴ and Rule 12.1-*Portable Equipment Registration*⁵. These rules provide owners of portable engines and other specified equipment, an option to register their units in lieu of obtaining permits. The registration process is a streamlined and less costly alternative to obtaining authority to operate in San Diego County.

⁴ https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Permits/APCD_R12.pdf

⁵ https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Permits/APCD_R12-1.pdf

Figures 3 and 4 show the number of applications for Registrations and Permits to Operate, respectively. Since only qualifying small stationary or portable sources are eligible for Registrations, the APCD receives more applications for Permits to Operate than Registrations.

Figure 3- Number of Applications for Registrations from 2015 – 2020⁶

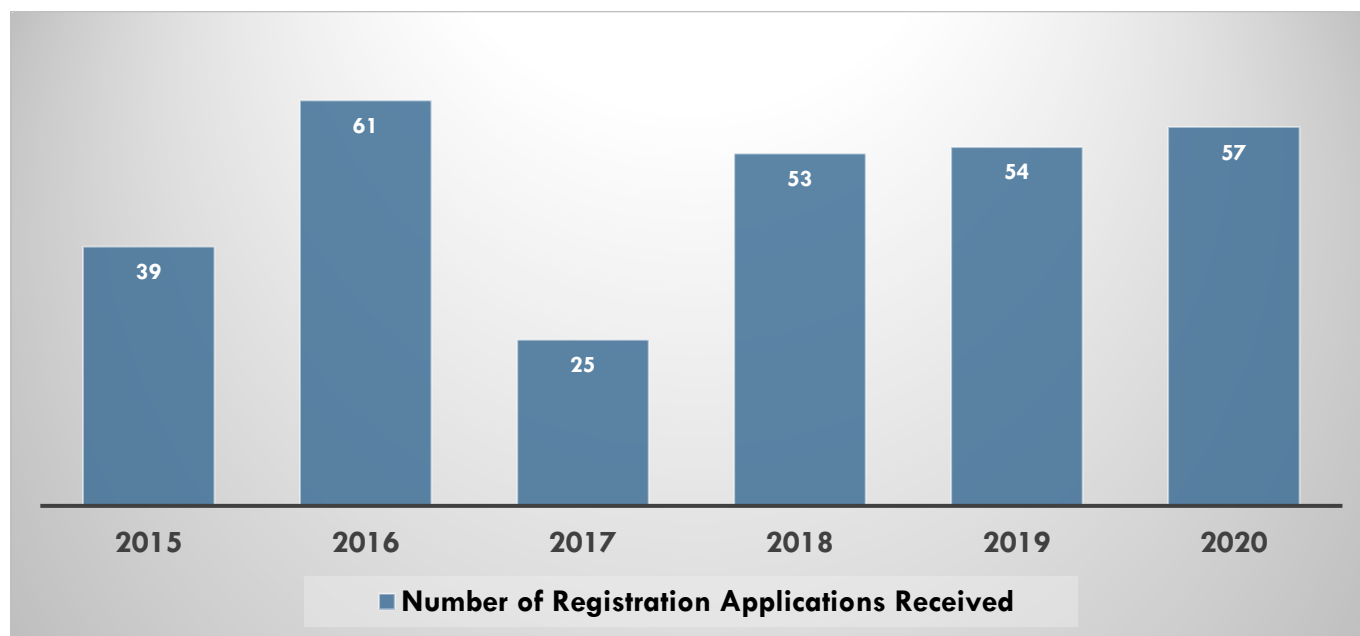
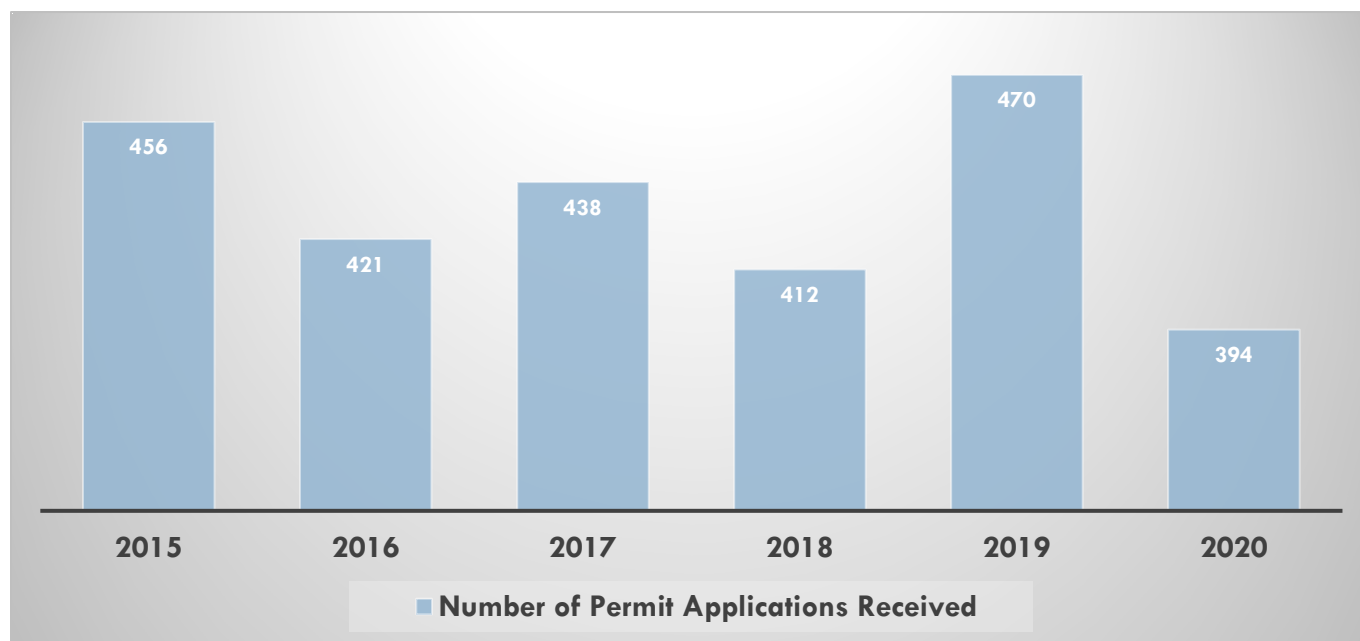


Figure 4 – Number of Applications for Permits to Operate from 2015 – 2020⁷



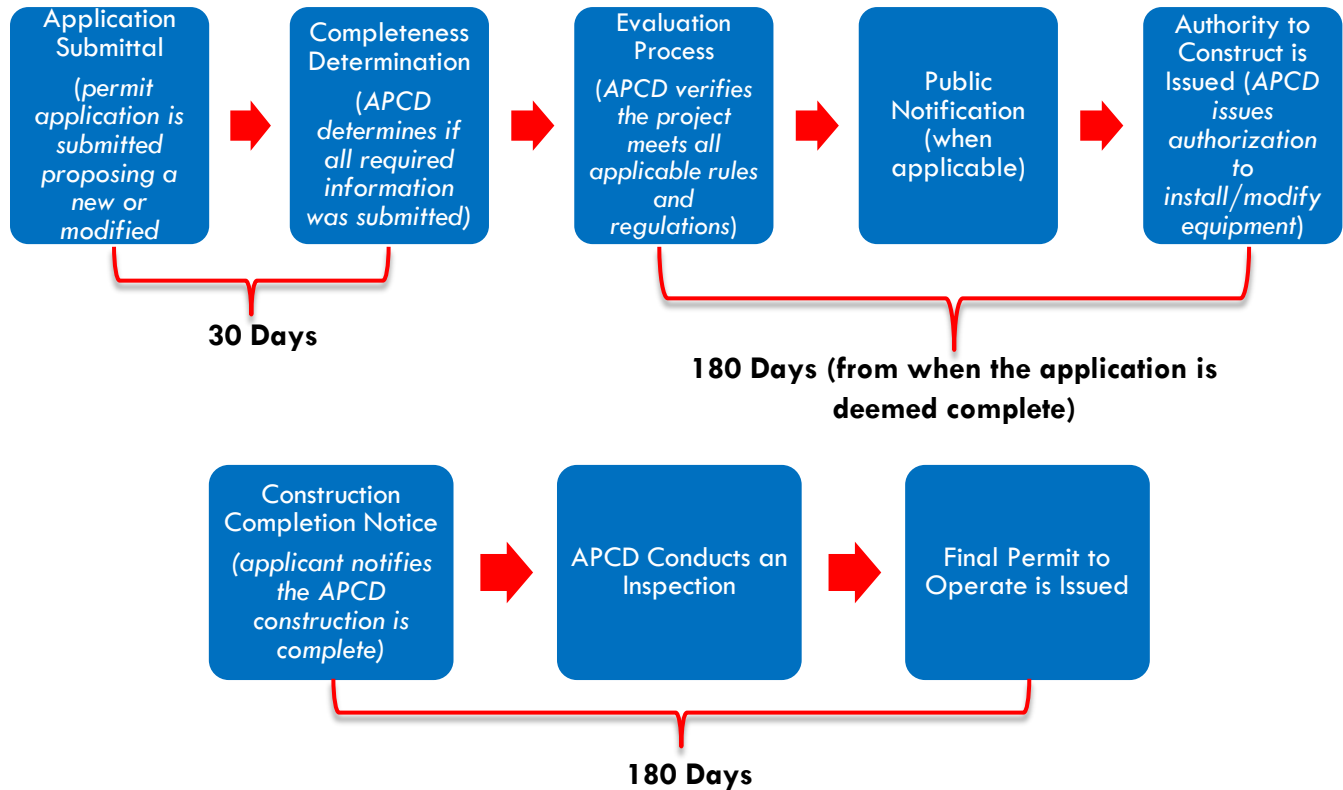
⁶ On average, about 90% of the registration applications received by the APCD are for new equipment

⁷ On average, about 45% of the applications received by the APCD are for new equipment/operations

APCD PERMITTING PROCESS

The permitting application process involves seven main steps as shown in Figure 5. APCD Rule 18-Actions on Applications⁸ establishes timelines for various permitting actions taken by the APCD.

Figure 5- Permitting Process



The permitting application process begins when an application is submitted to the APCD with the applicable fees established in Rule 40-Permit and Other Fees⁹. The APCD Engineering Division has 30 days to determine if an application is complete (i.e. all required information has been submitted). If an application is deemed incomplete, it might be subject to cancellation in accordance with APCD Rule 17¹⁰, if the requested information is not provided in a timely manner. Once an application is deemed complete, the Engineering Division evaluates the proposal by calculating emissions and health risks and by determining compliance with all applicable local, state, and federal air quality rules and regulations. These rules and regulations include source specific requirements that applicants are subject to when they plan to install or modify equipment that can emit air pollutants into the ambient air. APCD staff also determines health risk impacts on nearby receptors (residences and businesses) in accordance with APCD Rule 1200¹¹ and the level of

⁸ https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Permits/APCD_R18.pdf

⁹ https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Fees/APCD_R40-2020.pdf

¹⁰ https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Permits/APCD_R17.pdf

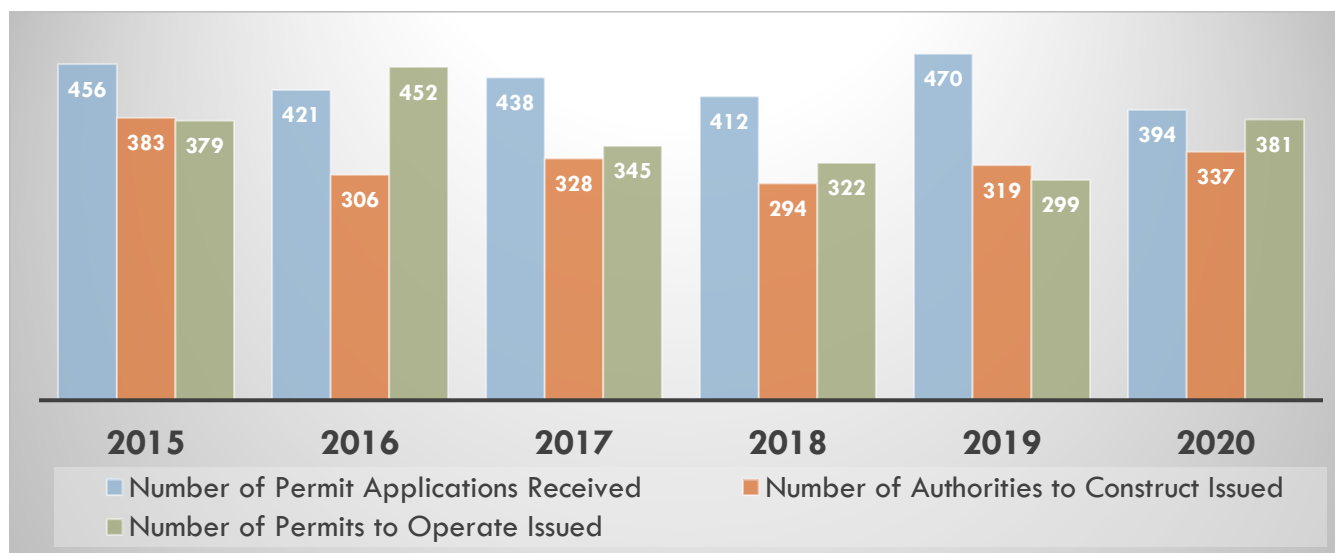
¹¹ https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Toxic_Air_Cotaminants/APCD_R1200.pdf

control necessary to reduce emissions from the project in accordance with New Source Review rules.

There are existing local, state, and federal regulatory requirements for public notifications related to permitting actions. Local New Source Review Rules require public notification for certain projects with elevated concentrations, based on an Air Quality Impact Analysis. State law requires public notifications for new or modified sources that propose emission increases and that are located within 1,000 feet of a school. Federal regulations require public notifications for proposed initial, significant revisions and renewal of Title V permits. Applications for Title V permits are related to the Title V of the Clean Air Act requirements to obtain a federally enforceable operating permit. This requirement applies to major sources of air pollution or other specific sources.

If the APCD determines that the project meets all applicable air quality requirements, it issues an Authority to Construct, which contains specific conditions for the construction and operation of the new or modified equipment. In accordance with APCD Rule 18¹², an Authority to Construct must be issued by the APCD within 180 days from when the application is deemed complete, unless the APCD receives an extension from the facility applying for a permit. Subsequently after the equipment is constructed the APCD further inspects or evaluates the equipment and issues a Permit to Operate which contains conditions with emission limitations and other requirements to ensure ongoing compliance with air quality rules and regulations. Figure 6 summarizes all APCD permitting actions from 2015 to 2020, including the number of permitting applications received, number of Authorities to Construct issued, and number of Permits to Operate issued.

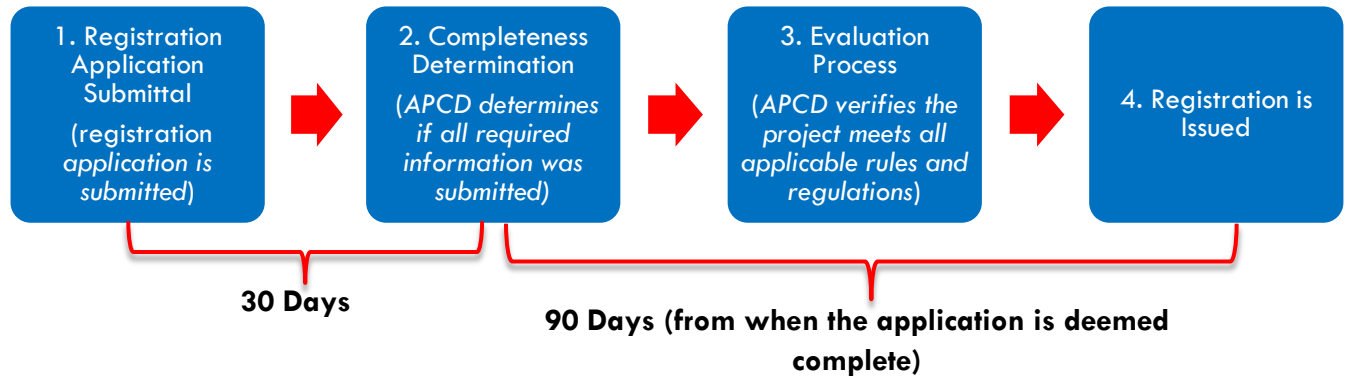
Figure 6 – Permitting Actions from 2015 – 2020 (Permits to Operate)



¹² https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Permits/APCD_R18.pdf

The registration application process is more streamlined when compared to the permitting application process, as shown in Figure 7.

Figure 7 - Registration Process



The registration application process begins when an application is submitted to the APCD with the applicable fees established in Rule 40. The APCD Engineering Division has 30 days to determine if an application is complete (i.e. all required information has been submitted). Once the application is deemed complete, the APCD conducts an evaluation to verify compliance with state and local rules (APCD Rules 12 and 12.1). Figure 8 summarizes the number of applications for registrations received and the number of registrations issued from 2015 to 2020.

Figure 8 – Permitting Actions from 2015 – 2020 (Registrations)

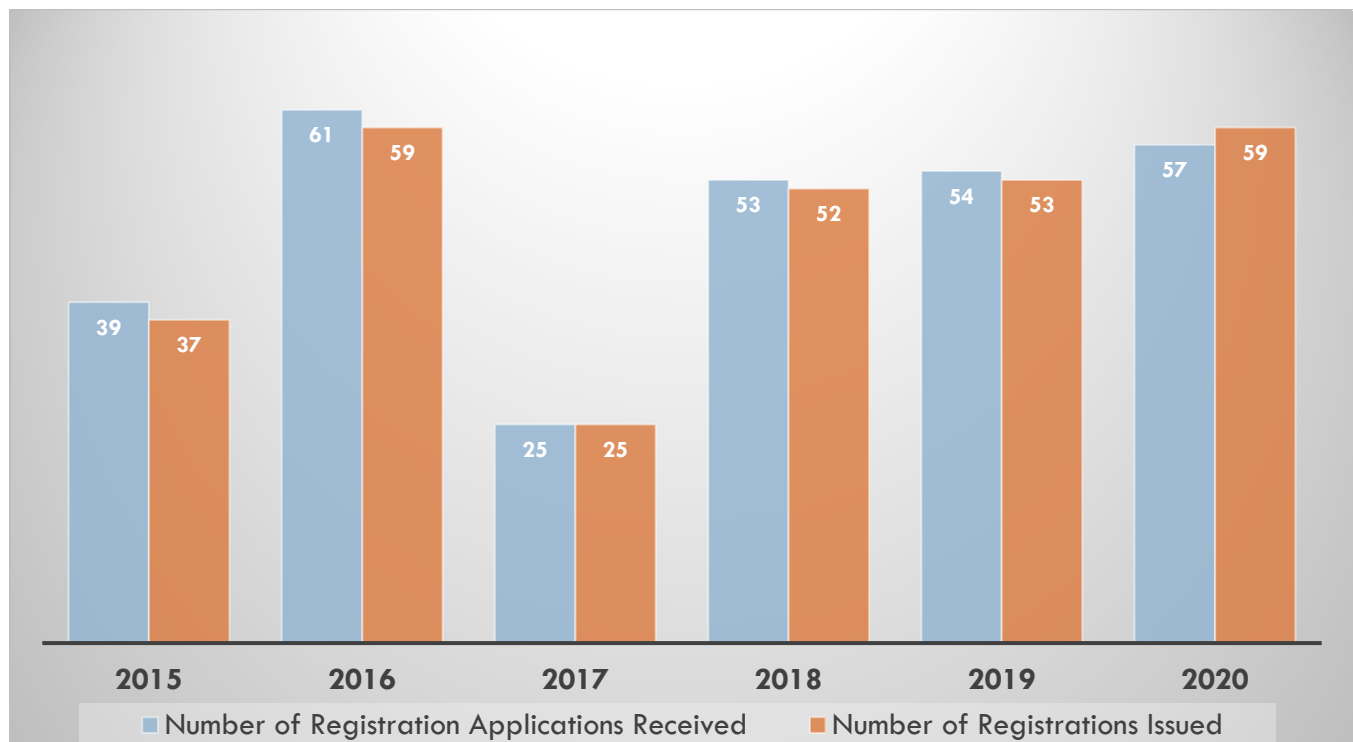


Table 1 shows the total number of: (1) applications received (permitting and registrations), (2) Authorities to Construct, Permits to Operate, and Registrations issued, and (3) the average time for issuance of Authority to Construct, Registrations and Permits to Operate from 2015 to 2020.

Table 1 – Total Permitting Actions & Average Time for Permitting Issuance from 2015 – 2020

		2015	2016	2017	2018	2019	2020
Number of Applications Received	Permitting Applications	456	421	438	412	470	394
	Registration Applications	39	61	25	53	54	57
Permitting Actions	Authorities to Construct Issued¹³	383	306	328	294	319	337
	Permits to Operate Issued¹⁴	379	452	345	322	299	381
	Registrations Issued	37	59	25	52	53	59
Processing Times (Days)	Authority to Construct Processing Time	88	94	71	69	69	90
	Permits to Operate Issuance Time	141	141	116	126	138	181
	Registration Issuance Time	4	6	6	5	15	10

Operations permitted by the APCD are inspected annually (or more frequently) by the APCD Compliance inspectors to ensure the facilities are complying with the conditions stated in the permit. The APCD also responds to air quality complaints received from the public. These complaints might be related to odors, dust, or smoke from permitted operations. When the APCD receives an air quality complaint it responds to the complaint and conducts an investigation to determine compliance with all applicable requirements. If the APCD documents a violation of any of the air quality rules and regulations or permit conditions, it issues enforcement documents, such as a Notice of Violation, which may result in monetary penalties.

The APCD Hearing Board¹⁵ is an impartial (quasi-judicial) five-member body established to hear and decide on petitions for appeals from permit denials or permit conditions, variances from APCD rules and regulations, and for abatement order requests during public hearings. This board also has authority to revoke Permits to Operate or Registrations that are not in compliance with the applicable air quality rules and regulations, or to reverse the denial of a permit by APCD. Additionally, if a facility cannot comply

¹³ These are the numbers of Authorities to Construct issued for each year. The applications might not have been received during the same year

¹⁴ These are the numbers of Permits to Operate issued for each year. The applications might not have been received during the same year.

¹⁵ <https://www.sdapcd.org/content/sdc/apcd/en/Hearing-Board.html>

with APCD air quality rules or permit conditions, it has the option to apply for a variance (temporary enforcement relief). If granted, a variance allows a facility to temporarily operate in violation of a District rule without being subject to penalties while it takes steps to come into compliance with the specific rule. The Hearing Board meetings offer an opportunity for public involvement by attending and providing comments during the hearing.

In accordance with APCD Rule 10(h)-*Annual Renewal of Permits to Operate*, Permits to Operate or Registrations must be renewed annually. Entities that have APCD Permits or Registrations are subject to annual permitting renewal fees in accordance with APCD Rule 40.

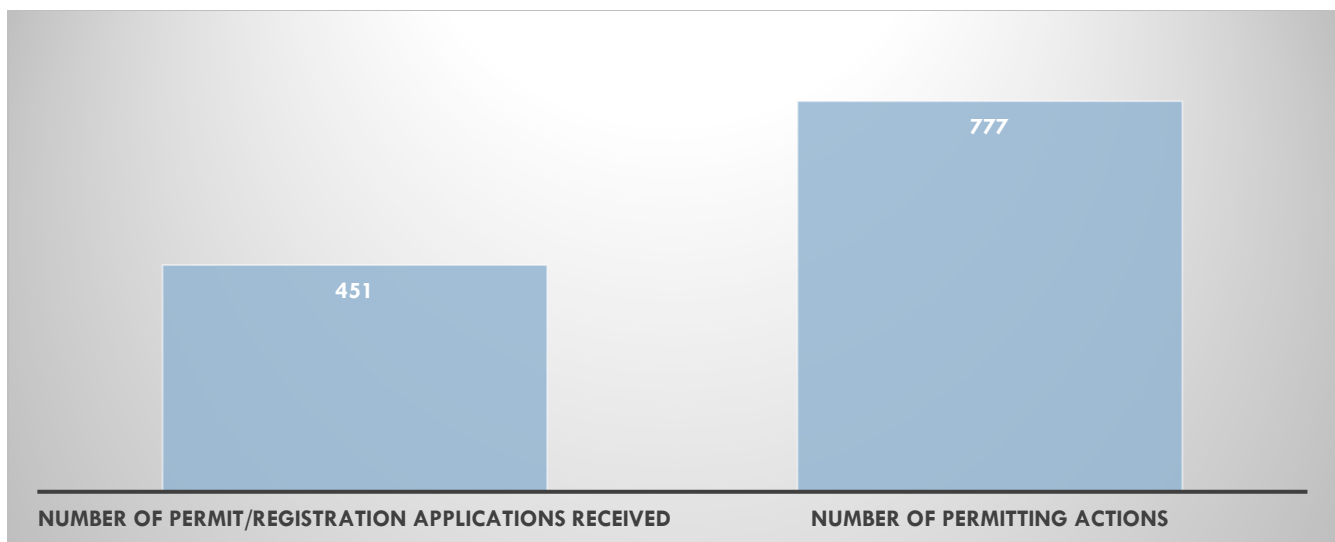
The APCD has authority to deny permit applications that do not comply with the applicable air quality rules and regulations. In practice, however, permit denials are not common because permit applicants generally modify their projects to comply with the applicable air quality rules and regulations. As an example, an applicant may change the proposal to include emission controls to comply with the applicable requirements.

APCD PUBLIC NOTIFICATION PROCESS

Certain permitting actions require a public notice and a 30-days public comment period due to federal or state rules and regulations, such as Title V or New Source Review rules. The APCD values input from the public on all permitting actions as it provides a great opportunity to promote public engagement and inform the public of operations that can release or control air contaminants in their communities. AB 423 required that by July 1, 2020 the APCD post all permitting applications on its website within 3 days of receipt. The APCD met this requirement by posting all permitting applications at: <https://www.sdapcd.org/content/sdc/apcd/en/engineering/Permits/Permit-Applications.html>.

In 2020 the APCD only received six comments from the public regarding six permitting applications. Figure 10 shows the number of applications and permitting actions for 2020. Based on the number of applications received for permits and registrations (451), total permitting actions, including Authorities to Construct, Permits to Operate and Registrations (789), and the six comments received from the public, there are opportunities to enhance public engagement.

Figure 10 - Application and Permitting Actions for 2020



APCD Rule 15, *Permit Process-Public Notification*¹⁶, has not been revised since it was adopted in 1990. This rule is intended to provide the public with an opportunity to receive copies of permits for projects or facilities they are interested in upon issuance of these permits. However, the rule could be updated to reflect current electronic means of notification, as well as provide additional opportunities for meaningful public input into permitting processes.

CONCLUSION

Public engagement is a critical element to effectively serve our communities by protecting the health and welfare of San Diego County residents, businesses, and visitors.

As it relates to permitting requirements, the APCD is required by law to permit projects that fully meet all applicable air quality federal, state, and local rules and regulations. While the APCD is unable to deny permits entirely based on public comments, it has an obligation and responsibility to ensure the public is informed on how to inquire about projects permitted by the APCD and their air quality impacts on the surrounding communities.

California Assembly Bill 423 (Gloria, 2019) amended State law to restructure the APCD governing board and established requirements to continue building a resilient San Diego, where no community is left behind, and to increase transparency and public engagement. One of these requirements is to report all actions taken on applications for Authorities to Construct or Permits to Operate in the 2020 calendar year, including

¹⁶ https://www.sdapcd.org/content/dam/sdc/apcd/PDF/Rules_and_Regulations/Permits/APCD_R14-15.pdf

the number of applications, timing of actions on applications, and number of public comments submitted. Table 2 provides the required information for calendar year 2020.

Table 2-Application, Permitting Actions and Public Comments for 2020

Number of Applications Received in 2020	Permitting Applications Received	394
	Registration Applications Received	57
Permitting Actions Taken in 2020	Number of Authorities to Construct Issued	337
	Number of Permits to Operate Issued	381
	Number of Registrations Issued	59
Timing of Permitting Actions Completed in 2020	Authority to Construct Processing Time (days)	90
	Permits to Operate Issuance Time (days)	181
	Registration Issuance Time (days)	10
Public Comments Received in 2020	Number of Public Comments	6

Based on the numbers reported in Table 2, there are opportunities to enhance public engagement. Even though in July of 2020, as required by AB 423, the APCD started publishing the permitting applications on its website, there needs to be a more comprehensive outreach plan to ensure all public members are aware of where to find these permit applications and how they can engage with the APCD to provide comments and to inquire about projects they are interested in. The APCD is focusing on the following strategies to enhance public engagement:

1. Developing a Public Participation Plan that establishes a comprehensive outreach process to inform all communities about the APCD's roles and responsibilities, as they relate to permitting requirements, and to inform the public on how to inquire and submit comments regarding permitting applications under APCD review.
2. Considering revisions to APCD Rule 15-*Permit Process-Public Notification* to provide further opportunities for all members of the public to stay engaged in the permitting process by receiving informative updates and understanding how to provide comments and to inquire about projects in their community.
3. Evaluating its website to ensure it is informative and user-friendly.

In addition to the strategies proposed above the APCD will conduct a public workshop to discuss: (1) the requirement in AB 423 (which resulted in this report), (2) the content of this report, and (3) to obtain input from the public on how the District can enhance public engagement.