

AB 2188: Streamlined Solar Permitting



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City of Chula Vista ZNE Workshop
Chula Vista, CA

About EPIC

Academic and Research Center

- Based at University of San Diego School of Law
- Founded in 2005

Mission

- Educate law school students about energy law and policy
- Conduct research and analysis on energy trends and policy options
- Educate the public and decision makers about energy issues and policies

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Rooftop Solar Challenge – Phase II

Department of Energy Rooftop Solar Challenge

- All Reports and Documents were researched and drafted for the Center for Sustainable Energy (CSE)
- Goal: Decrease or Eliminate the soft costs associated with rooftop solar
- Work with local governments and utilities to streamline processes for permitting, interconnection, inspection, among other related issues
- EPIC developed several reports including a Model Ordinance and Implementation Guide for AB 2188

Access to Information and Documents

CSE:

- <http://energycenter.org/permitting/guidebook/implementation>

EPIC:

- <http://www.sandiego.edu/law/centers/epic/reports-papers/reports.php>

Governor's Office of Research and Planning:

- http://www.opr.ca.gov/s_renewableenergy.php#A

Overview

1. Ordinance and Substantial Conformance to the *California Solar Permitting Guidebook*
2. Checklists, Standard Plans, and Bulletins
3. Submission
4. Review, Approval, and Denial
5. Inspection
6. Compliance and Enforcement
7. Additional Changes under the Law

AB 2188: Application and Purpose

- Applies to small residential rooftop solar energy systems that are:
 - 10 kW or less for PV
 - 30 kilowatt thermal (kWth) or less for water heating solar systems
- First state mandate that codifies a permitting process at the local level
 - Codifies the California Solar Rights Act which mandates a non-discretionary permitting process
- Seeks to standardize and unify solar permitting for these types of systems
- Substantial conformance requirement provides flexibility to local jurisdictions in complying with the law

AB 2188: Small Solar Energy System Defined

Defines Small Solar Energy System as:

- A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
- A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the city, county, or city and county and paragraph (3) of subdivision (c) of Section 714 of the Civil Code.
- A solar energy system that is installed on a single or duplex family dwelling.
- A solar panel or module array that does not exceed the maximum legal building height as defined by the authority having jurisdiction.

AB 2188: The Ordinance

AB 2188 (Muratsuchi, 2014)

- Amends Civil Code Section 714 and Government Code Section 65850.5 of the California Solar Rights Act
- Requires that local jurisdictions adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar photovoltaic or water heater energy systems on or before September 30, 2015;
- Requires that a jurisdiction substantially conform its expedited, streamlined permitting process with the recommendations for expedited permitting, including the checklist and standard plans adopted by the Governor's Office of Planning and Research in the most current *California Solar Permitting Guidebook*, in developing the ordinance.

AB 2188: The Ordinance Continued

- Requires each city, county, or city and county to consult with the local fire department or district and the utility director, where a city, county, or city and county operate a utility, with regards to the adoption of the ordinance.
- Requires adoption of a checklist of all requirements that an applicant must comply with for a system to be eligible for expedited review.

AB 2188: Checklist, Standard Plans, and Bulletins

- Mandates that local jurisdictions adopt a checklist and that the checklist and standard plans adopted by a jurisdiction substantially conform with the most current version of the *California Solar Permitting Guidebook*
- Requires publication of the checklist and other required permitting documents on a publicly accessible Internet Website, if one is available.
- The *California Solar Permitting Guidebook* provides a Submittal Requirement Bulletin, an Eligibility Checklist, Expedited Solar Standard Plan, Memorandum of Understanding, Structural Criteria, and Inspection Quick Reference Sheets as part of its toolkit.

Modification of Checklist and Standards Plan

- A city, county, or city and county may adopt an ordinance that modifies the checklist and standards found in the *California Solar Permitting Guidebook* due to unique climatic, geological, seismological, or topographical conditions.
- Such modifications must substantially conform to the recommendations for expedited permitting.
- *California Solar Guidebook* provides structural criteria in its Toolkit Document # 5
 - This toolkit document is not applicable in all climatic or topographical conditions and may be modified for unique climatic, geological, seismological, or topographical conditions

AB 2188: Submission

Solar Rights Act Requires an administrative non-discretionary permit process. In terms of submission, the amendment:

- Requires that a city, county, or city and county allow electronic submittal, as defined by Government Code Section 65850.5(j)(2), of a permit application and associated documentation.
- Defines electronic submittal as the utilization of one or more of the following:
 - Email
 - The Internet
 - Facsimile

AB 2188: Submission Continued

Submission:

- Requires the authorization of electronic signature on all forms, applications, and other documentation in lieu of a wet signature.
- If a city, county, or city and county cannot authorize an electronic signature, the reason for the inability to accept electronic signatures must be included in the ordinance. This removes the statutory requirement of authorizing electronic signatures.
- The *California Solar Permit Guidebook* also provides that a jurisdiction allow online fee payment where the capability exists.

AB 2188: Review, Approval, and Denial

The amendment:

- Requires approval of all necessary permits or authorization for small solar systems by an administrative review process consistent with both Government Code Section 65850.5(b) and the adopted ordinance where the city, county, or city and county confirms that an application is complete and meets the requirements of the checklist
- Requires issuance of a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for the expedited permit issuance if an application is deemed incomplete.

AB 2188: Review, Approval, and Denial Continued

- Denial of an Application must be **in writing and based upon a finding of substantial evidence in the record** that there would be a specific, adverse impact on public health or safety with no feasible method to satisfactorily mitigate.
- Requires that a city, county, or city and county shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code defining reasonable restriction.
- Mandates that a City, County, or City and County cannot require any solar energy system applicant to obtain approval from an association (such as an HOA) as a condition to approving a permit application.

AB 2188: Review, Approval, and Denial Continued

- The *Guidebook* recommends the use of “over-the-counter” or same day plan review and permit issuance or automatic approval through on-line software.
- The *California Solar Permitting Guidebook* also provides a maximum 1-3 day timeframe for review and approval or denial where “over-the-counter” approval is not available.
- Coordination between local building departments and other agencies, such as local fire departments, is encouraged through Memorandum of Understandings that consolidate application review and system inspection.

AB 2188: Inspection

- Mandates that only one inspection shall be required. The inspection must be performed in a timely manner and may include a consolidated inspection Developed Specific Application forms for these qualifying systems.
- Eliminated Pre-inspection and rough inspection
- A separate fire safety inspection may be performed where an agreement with the local fire authority to conduct a fire safety inspection does not exist.
- Authorizes a subsequent inspection if a system fails inspection. The subsequent inspection need not conform to the requirements of this statutory subdivision.

AB 2188: Inspection Continued

Inspection and *California Solar Permitting Guidebook* for substantial conformance includes:

- A single final inspection coordinated among the various agencies, or for inspections by the agencies to occur at the same time. Typically this involves coordination between the building department and the local fire authority.
- Use of a concise inspection checklist that provides permit applicants a clear understanding of what elements of the solar installation will be inspected before final approval of the installation.

AB 2188: Inspection Continued

- Enable inspection requests to be submitted online or electronically.
- Provide for on-site inspection during the next business day after notification that the solar system has been installed or within five days if an inspection cannot occur on the next business day.
- Provide a scheduling time window for on-site inspection of no more than two hours, and utilize phone and/or e-mail communication to provide information on anticipated inspection time.

AB 2188: Inspection Continued

- The most streamlined permit process also ensures close coordination between the local enforcing agency and the local utility to coordinate on-site inspections in the most time efficient manner possible.

AB 2188: Compliance and Enforcement

- Failure to comply with Civil Code Section 714 subjects a public entity to the possibility of not receiving funds from a state-sponsored grant or loan program for solar energy(Civil Code Section 714(h)(1)).
- A public entity also must certify its compliance with Civil Code Section 714 when applying for funds from a state-sponsored grant or loan program (Civil Code Section 714(h)(1)).
- Government Code Section 65850.5(j)(1) in the amended language further requires a city, county, or city and county to use its **best efforts** to ensure that any method, condition, or mitigation imposed on an applicant to avoid an adverse impact complies with the language of Civil Code Section 714(d)(1)(A)-(B) that defines “significantly” to determine what is and is not a reasonable restriction.

AB 2188: Additional Changes Continued

- Requires that solar energy systems for heating water be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Code (Government Code Section 65850.5(f)(2).
- Changes the applicable health and safety standards governing solar energy systems for producing electricity from the “National Electrical Code” to the “California Electrical Code” (Government Code Section 65850.5(f)(3).

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