

Sec. 16-50k. Certificate of environmental compatibility and public need. Transfer. Amendment. Excepted matters. Waiver. (a) Except as provided in subsection (b) of section 16-50z, no person shall exercise any right of eminent domain in contemplation of, commence the preparation of the site for, commence the construction or supplying of a facility, or commence any modification of a facility, that may, as determined by the council, have a substantial adverse environmental effect in the state without having first obtained a certificate of environmental compatibility and public need, hereinafter referred to as a “certificate”, issued with respect to such facility or modification by the council. Certificates shall not be required for (1) fuel cells built within the state with a generating capacity of two hundred fifty kilowatts or less, or (2) fuel cells built out of state with a generating capacity of ten kilowatts or less. Any facility with respect to which a certificate is required shall thereafter be built, maintained and operated in conformity with such certificate and any terms, limitations or conditions contained therein. Notwithstanding the provisions of this chapter or title 16a, the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling (A) the construction of a facility solely for the purpose of generating electricity, other than an electric generating facility that uses nuclear materials or coal as fuel, at a site where an electric generating facility operated prior to July 1, 2004, and (B) the construction or location of any fuel cell, unless the council finds a substantial adverse environmental effect, or of any customer-side distributed resources project or facility or grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, as long as such project meets air and water quality standards of the Department of Energy and Environmental Protection.

(b) A certificate may be transferred, subject to the approval of the council, to a person who agrees to comply with the terms, limitations and conditions contained therein. The council shall not approve any such transfer if it finds that such transfer was contemplated at or prior to the time the certificate was issued and such fact was not adequately disclosed during the certification proceeding.

(c) A certificate issued pursuant to this chapter may be amended as provided in this chapter.

(d) This chapter shall apply to any facility described in subdivisions (1) to (3), inclusive, of subsection (a) of section 16-50i, the construction of which is commenced on or after April 1, 1972, and to any such facility the construction of which is approved by a municipality that has commenced the sale of bonds or bond anticipation notes on or after April 1, 1972, the proceeds or part of the proceeds of which are to finance such construction. This chapter shall apply to any facility described in subdivision (4) of said subsection (a) of section 16-50i, the construction of which is commenced on or after

July 1, 1983, and to any such facility the construction of which is approved by a municipality that has commenced the sale of bonds or bond anticipation notes on or after July 1, 1983, the proceeds or part of the proceeds of which are to finance such construction. This chapter shall apply to any facility described in subdivisions (5) and (6) of said subsection, the construction of which is commenced on or after October 1, 1977, and to any such facility the construction of which is approved by a municipality that has commenced the sale of bonds or bond anticipation notes on or after October 1, 1977, the proceeds or part of the proceeds of which are to finance such construction. This chapter shall apply to the modification of a facility described in subdivisions (1) to (3), inclusive, of said subsection (a) for which construction is commenced on or after April 1, 1972, modifications of a facility described in subdivision (4) of said subsection (a) for which construction is commenced on or after July 1, 1983, and modifications of a facility described in subdivisions (5) and (6) of said subsection (a) of section 16-50i, for which construction is commenced on or after October 1, 1977, whenever such modification either alone or in combination with existing or other proposed facility modifications may, as determined by the council, have a substantial adverse environmental effect. This chapter shall not apply to any matter over which any agency, department or instrumentality of the federal government has exclusive jurisdiction, or has jurisdiction concurrent with that of the state and has exercised such jurisdiction, to the exclusion of regulation of such matter by the state.

(e) Any person intending to construct a facility excluded from one or more provisions of this chapter may, to the extent permitted by law, elect to waive such exclusion by delivering notice of such waiver to the council. Such provisions shall thereafter apply to each facility identified in such notice from the date of its receipt by the council.

(1971, P.A. 575, S. 5; P.A. 73-458, S. 3; P.A. 76-359, S. 4, 7; P.A. 77-218, S. 3; P.A. 83-569, S. 15, 17; P.A. 98-28, S. 49, 117; P.A. 00-93; P.A. 01-49, S. 7; P.A. 03-140, S. 6; June Sp. Sess. P.A. 05-1, S. 18; P.A. 06-196, S. 231; P.A. 07-242, S. 62; P.A. 11-80, S. 1; P.A. 13-5, S. 33.)

History: P.A. 73-458 added exception re Sec. 16-50y in Subsec. (a) and qualified applicability of chapter in Subsec. (d) with regard to modification of facilities; P.A. 76-359 replaced reference to Sec. 16-50y in Subsec. (a) with reference to Sec. 16-50z(b); P.A. 77-218 clarified applicability provisions of Subsec. (d); P.A. 83-569 amended Subsec. (d) to limit application of chapter to facilities described in Sec. 16-50i(a)(4) (substations and switchyards) to those constructed on or after July 1, 1983; P.A. 98-28 amended Subsec. (a) by requiring the council to approve by declaratory ruling the siting of electric generation facilities that do not use nuclear materials or coal as fuel, effective July 1, 1998; P.A. 00-93 amended Subsec. (a) by excepting fuel cells with a generating capacity of ten kilowatts or less and by adding provision re approval by declaratory ruling of the construction or location of fuel cells; P.A. 01-49 amended Subsec. (a) to

make technical changes; P.A. 03-140 amended Subsec. (a) to replace “this subsection” with “this chapter or title 16a” and to add Subdiv. (3) re siting of temporary generation, effective June 26, 2003; June Sp. Sess. P.A. 05-1 amended Subsec. (a) to replace “1998” with “2004” in Subdiv. (1) and allow the council to approve by declaratory ruling customer-side distributed resources and certain grid-side distributed resources in Subdiv. (2), effective July 21, 2005; P.A. 06-196 made a technical change in Subsec. (a)(2), effective June 7, 2006; P.A. 07-242 amended Subsec. (a) to exempt from requiring a certificate, fuel cells built within the state with generating capacity of 250 kilowatts or less in new Subdiv. (1), specify that exempt fuel cells with generating capacity of 10 kilowatts or less be built out of state in new Subdiv. (2), redesignate existing Subdivs. (1) to (3) as Subparas. (A) to (C), amend Subpara. (B) to change “as long as such project meets air quality standards” to “as long as such project meets air and water quality standards” and make technical changes; pursuant to P.A. 11-80, “Department of Public Utility Control” and “Department of Environmental Protection” were changed editorially by the Revisors to “Public Utilities Regulatory Authority” and “Department of Energy and Environmental Protection”, respectively, in Subsec. (a), effective July 1, 2011; P.A. 13-5 amended Subsec. (a) to delete former Subpara. (C) re siting of temporary generation, effective May 8, 2013.

See Sec. 26-194 re payment of annual host payment fee to Commissioner of Agriculture for Long Island Sound crossings.

Cited. 177 C. 623; 192 C. 591; 215 C. 474; 216 C. 1; 220 C. 516; 238 C. 361. Trial court properly determined appeal was moot because council could not have granted any practical relief. 287 C. 177.

Cited. 37 CA 653; judgment reversed, see 238 C. 361.

Cited. 35 CS 303.

Subsec. (d):

A period of protection not provided when construction commenced prior to April 1, 1972. 165 C. 687.