

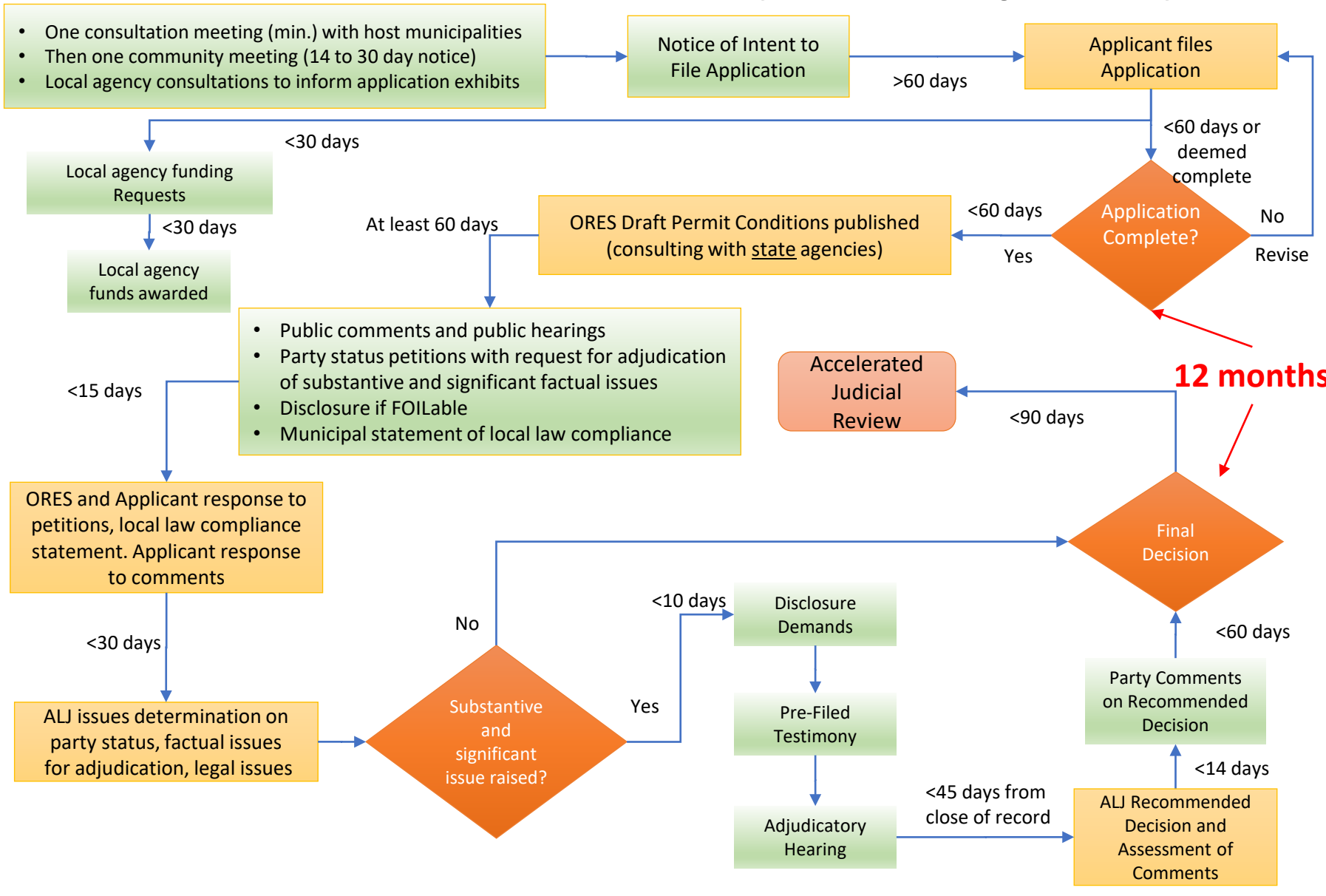
Heritage Wind 94-c Review Town of Barre Participation

Siting Process Comparison

Issue	Local Zoning	Section 94-c
Project Capacity	<25 MW	>=25 MW (required), optional for >=20 MW
Approval Authority	Planning/Zoning Boards, Town Boards and other involved agencies	Director of ORES DEC for federally delegated permits
Presiding Authority	Planning/Zoning Boards, Town Boards and other involved agencies	ORES with DEC
Application Process	Municipal Site Plan/Special Use Permit (typ) Review Process Other agency processes	ORES Regulations/SAPA
Environmental Review	SEQRA	<ul style="list-style-type: none"> Supersedes SEQRA. ORES and DEC identify site-specific environmental impacts that may be caused by project not addressed by uniform standards and conditions. ORES and DEC draft site specific permit terms and conditions for these impacts, taking into account the CLCPA targets and the environmental benefits of the project.
Hearings	Public statement hearings	<ul style="list-style-type: none"> Public statement hearings and comment periods. Adjudicatory hearings only if substantive and significant issues raised.
Parties to development of scope of application and draft conditions of approval	Approving boards and involved agencies.	<ul style="list-style-type: none"> ORES and relevant state agencies. Local agency consultations regarding certain exhibits.
Compliance with local laws	Required. Variances available.	<ul style="list-style-type: none"> Local municipalities provide statement of whether project is in compliance with applicable local laws concerning the environment or public health and safety. ORES may disregard a local law if it is unreasonably burdensome “in light of the CLCPA targets and the environmental benefits of the facility.” Municipality will need to demonstrate the impact of the non-compliance is “substantive and significant” if ORES draft permit disregards local law.



Section 94-c Process (Muni Perspective)



Heritage Wind 94-c Review-Key Dates

- Current status
 - January 13-94-c proceeding initiated (application deemed complete by Article 10 proceeding)
 - March 15-Draft permit conditions issued by ORES
- Upcoming Deadlines
 - May 18-Town of Barre statement of local law compliance
 - May 18-Petitions for party status and issues to be adjudicated
 - May 19 at 10:00 a.m.-Register for Public Statement Hearing
 - Via webex.com
 - Via phone: 1-800-342-3330,
 - May 20-Public Statement Hearing via Webex or telephone
 - Webex.com : Event Number: 129 579 1750; Password: May20-5pm
 - To join by phone only: Dial: 1-518-549-0500, Access Code:129 579 1750
 - May 21-deadline for written comments
 - June 4-ORES and Applicant response to petitions for party status and local law compliance statement
 - July 5-ALJ determination on party status and issues for adjudication

Local Law Non-Compliance Issues

- Noise Standard
 - Application does not demonstrate compliance with Town's nighttime 9-hr noise limit for non-participating residences of 40 dB and 50 dB for participating residences
 - Applicant appears to comply with ORES standard of no greater than 45 dB for non-participating and 55 dB for participating residences
 - Potentially 102 non-participating residences may experience >40 dBA but less than 45 dBA.
 - Appears to be non-compliance with ORES 1-hour LEQ for substations of 40 dBA at receptors 119 and 158. Post-construction monitoring will be performed to confirm compliance.
- Shadow flicker
 - Non-Compliant with 25 hr/yr shadow flicker standard in Wind Law
 - ORES proposes to override this requirement and apply ORES standard of 30-hours per year at non-participating residences
 - Modeling in application indicates 40 non-participating residents with potential for more than 30 hr/yr.
 - Permit condition requires "Operational effects minimization measures, including shadow flicker minimization mitigation and other measures necessary to achieve a maximum of thirty (30) hours annually at any non-participating residential receptor."
 - Application includes working with homeowner to provide other mitigation alternatives (screening, shades, etc.) to reduce hours of shadow flicker.
- Setbacks
 - Confirmation of waivers from participating properties included as a pre-construction permit conditions
- Blade glint
 - Wind law requires Blade Glint Study, however, the Wind Law provides no standards for applying its findings
 - Application will use non-reflective coatings to extent feasible

Local Law Non-Compliance Issues

- Property value assessment
 - Study not included in application and ORES has indicated is it not required by ORES by the statute.
 - Issue is not related to public health and safety or the environment, which are requirements for adjudication.
- Decommissioning
 - Application factors in salvage value in financial surety calculation.
 - Local law provides for 90 days to execute decommissioning plan, with extensions available for a total of 360 days.
 - Application and permit provide if non-operational for 12 months, and no waiver granted by ORES, facility must be decommissioned in 6 months
- Post-Construction noise and structural assessments
 - Local law requires fund for biennial 3rd party structural and noise assessments
 - Draft permit provides for pre- and post-construction noise assessment and noise complaint procedure for post-construction noise evaluations. Post-construction noise assessments required (“leaf-on” and “leaf-off”) with first within 7 months and second within 13 months of commercial operation. Additional assessments based on results.

Local Law Non-Compliance Issues

- Aircraft detection lighting system(s) (ADLS)
 - Local law requires ADLS or similar to extent allowed by FAA or, if not allowed, a lighting mitigation plan.
- Post-construction surface/ground water impact assessment
 - Local law requires biennial assessment for 4-year period to confirm anticipated impact
 - Draft permit requires pre- and post-construction water supply well testing based on proximity to construction activity with well replacement requirements.
- Performance bond for spills
 - Local Law requires bond for response to environmental contamination causes by spills.
 - Draft permit includes a description of spill response and control measures, but no financial assurance for cleanup response by the Town (though applicant would be liable).