

Environmental Impact Assessment

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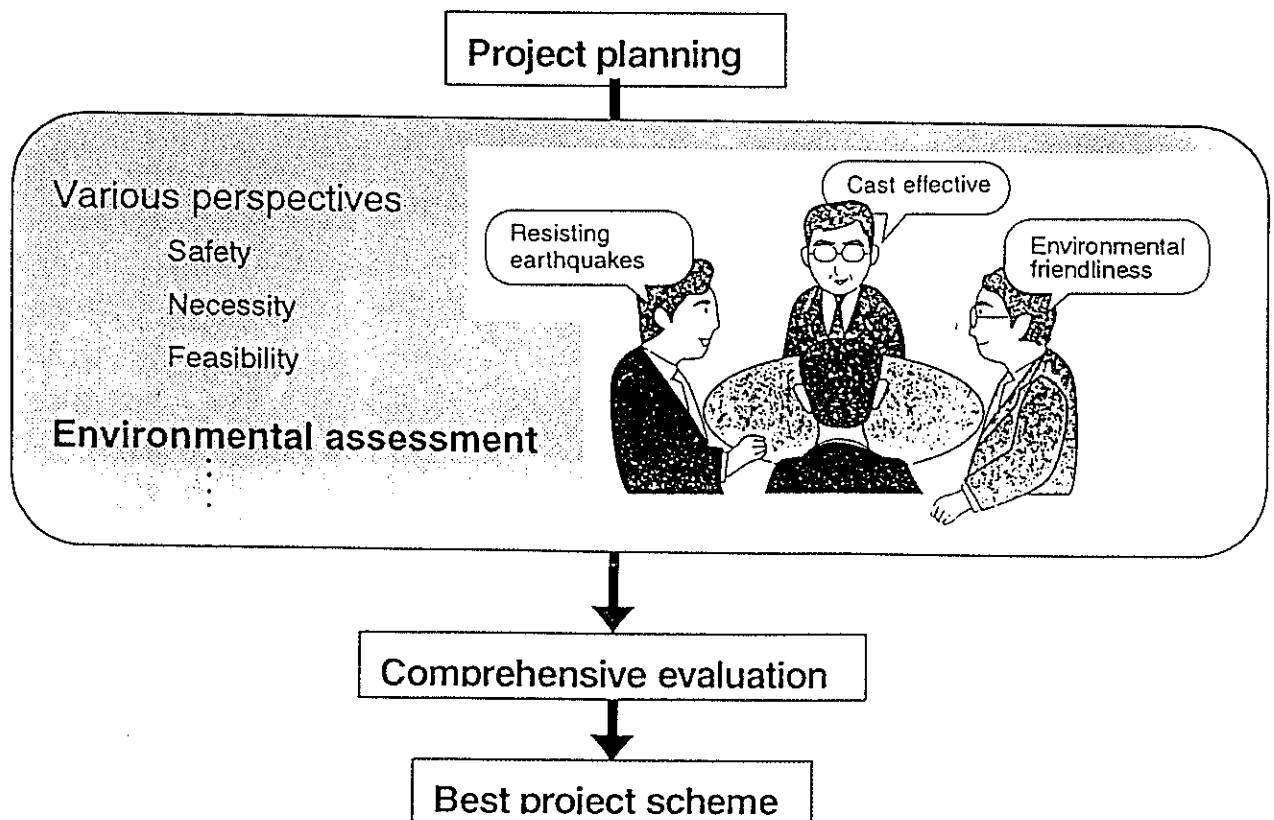
1. What is Environmental Impact Assessment?

Preserving our resourceful surroundings, including green-rich nature, clean air and water, and noiseless tranquil environment, for future generations is one of our most important commitments.

Constructing a road and an airport to facilitate transportation services, building a dam to supply water, and establishing a power plant to obtain electricity for daily life are all necessary for people to lead a comfortable life. Yet, no matter how necessary those developmental projects, their adverse effects on the environment are not justifiable.

To prevent such developmental projects from negatively affecting the environment, taking well into account not only the operational profit or feasibility, but also environmental conservation, in the process of designing the project scheme is much more important.

The environmental impact assessment (environmental impact assessment) system was derived from this idea. In the environmental impact assessment system, the impacts of the developmental project on the environment are surveyed, estimated and evaluated in the process of determining the project details. Then, those results are openly publicized to obtain opinions from the citizens and local public governments from which the best project scheme is set up incorporating the viewpoint of environmental conservation.



2. Japan's Environmental Impact Assessment System

Since the US institutionalized environmental impact assessment first in the world in 1969, many countries have followed the US example.

In Japan environmental impact assessment was implemented in 1972 limited only to public works, but the systems related to port and harbor planning, reclamation, power plants and the Shinkansen (bullet train) were established separately by around 1980. In the course of the implementing the environmental impact assessments under these separate systems, an integrated system needed to be established. The environmental impact assessment bill was proposed to the Diet but failed to secure its approval (1983).

After the bill became null and void, a standardized rule instead of a law was decided to be set up through cabinet decision. "Implementation of Environmental Impact Assessment" was decided upon by the Cabinet in 1984 (the system decided by the Cabinet is called "Cabinet's assessment"). Furthermore, local governments promoted the establishment of their own ordinances and prospectuses.

Later, the opportunity to review the system was taken when promotion of environmental impact assessment was stipulated in the "Basic Environmental Law" enacted in 1993. As a result, the "Environmental Impact Assessment Law" was established in June 1997 for which the Cabinet's assessment was improved and developed.

Process of establishing the Environmental Impact Assessment Law

Year

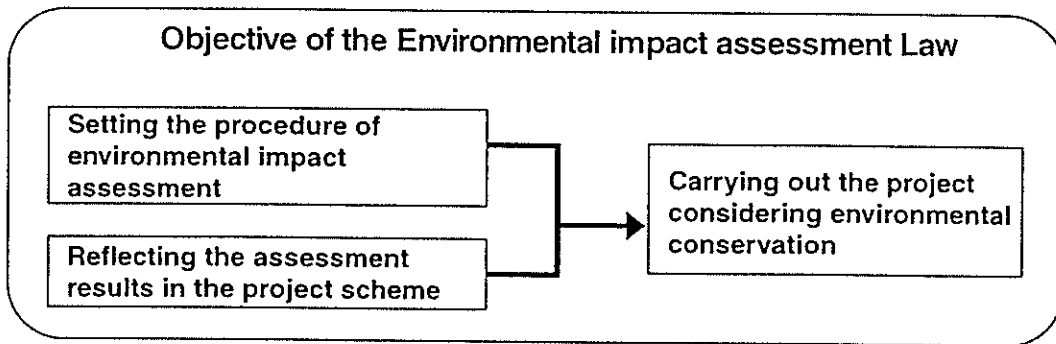
1969	Enactment of "National Environmental Policy Act (NEPA)" in the US	First environmental impact assessment system in the world
1972	Approval of "Concerning the environmental conservation measures in relation to each public works" by the Cabinet.	Implementation of the environmental impact assessment system only for public works
1981	Submission of former "Environmental Impact Assessment Bill" to the Diet (rejected in 1983)	
1984	Decision on the "Implementation of Environmental Impact Assessment" by the Cabinet	Institutionalization of the system instead of the law under the administrative
1993	Establishment of "Basic Environmental Law"	Legal recognition of environmental impact assessment
1997	Establishment of "Environmental Impact Assessment Law"	Legislation on environmental impact assessment
1999	Implementation of "Environmental Impact Assessment Law"	

3. Environmental Impact Assessment Law

(1) Objective of the law

The Environmental impact assessment Law was formulated from the idea that environment impact assessment is very important for environmental conservation.

Its objective is to carry out a project considering environmental conservation by setting a procedure of environmental impact assessment for a large-scale project and reflecting the assessment results in the decision-making concerning the project such as authorization of the project.



Difference from the Cabinet's assessment ① Legislation on environmental impact assessment

As one of the most important features of the legislation of environmental impact assessment, the system was legally institutionalized, which was realized because the system under administrative guidance, such as the Cabinet's assessment, had limitations: the former system was not appropriate to set up rules to cover several organizations that stood on different grounds; it did not have the authority to impose the obligation of implementing the procedure; and it was incapable of reflecting the assessment results in authorizing the project.

	Cabinet's assessment	Environmental Impact Assessment Law
Nature	Administrative guidance	Legislation
Institutional characteristics	Internal regulation as the project undertakers' instruction. The positioning of other parties, such as the residents, is not clarified.	Explicit rules among the project undertaker, local government, residents, etc.
Binding force	Voluntary cooperation by the project undertaker.	Obligation imposed on the project undertaker.

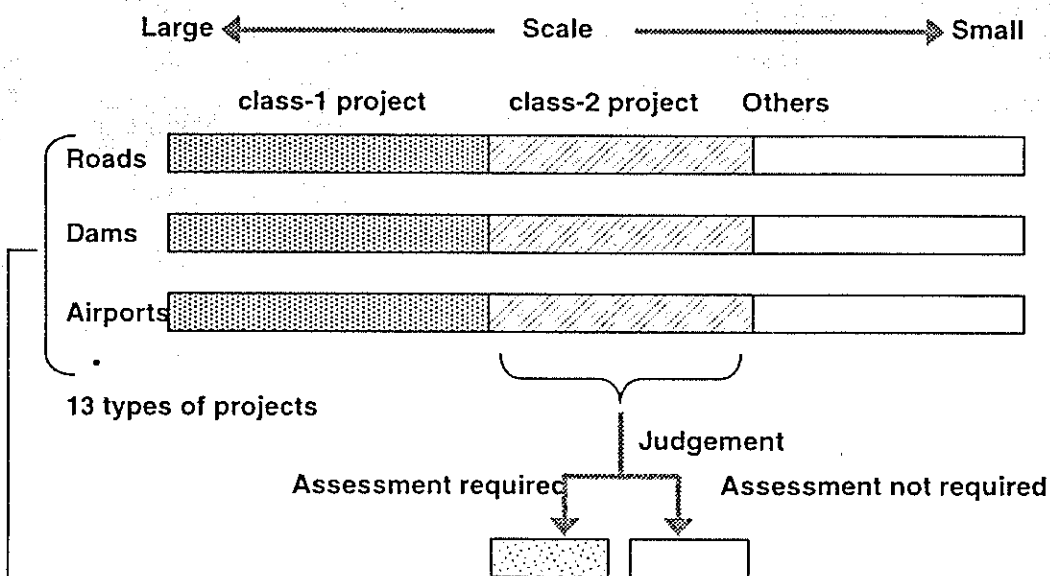
(2) Projects subject to assessment

Projects subject to the Environmental Impact Assessment Law are 13 types, including those concerning roads, dams, railways, airports and power plants.

Among them, large-scale projects that possibly affect the environment are categorized in the "class-1 project" and are required to follow the procedure of the environmental impact assessment. The project ranked next to the class-1 project in scale is grouped in the "class-2 project" for which the judgement whether the procedure should be followed is determined individually. In other words, all class-1 projects and some class-2 projects need to follow the procedure of environmental impact assessment. Also, large scale port planning is also subject to assessment.

The types and sizes of projects are described in the table on the next page.

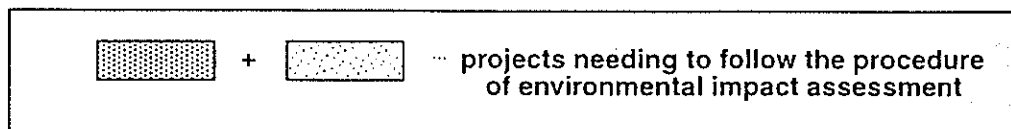
Projects subject to the Environmental Impact Assessment Law



Among these projects

1. A project requiring to be authorized
2. A project provided with a subsidy
3. A project conducted by a special corporation
4. A project conducted by the national government

to which the assessment is applicable



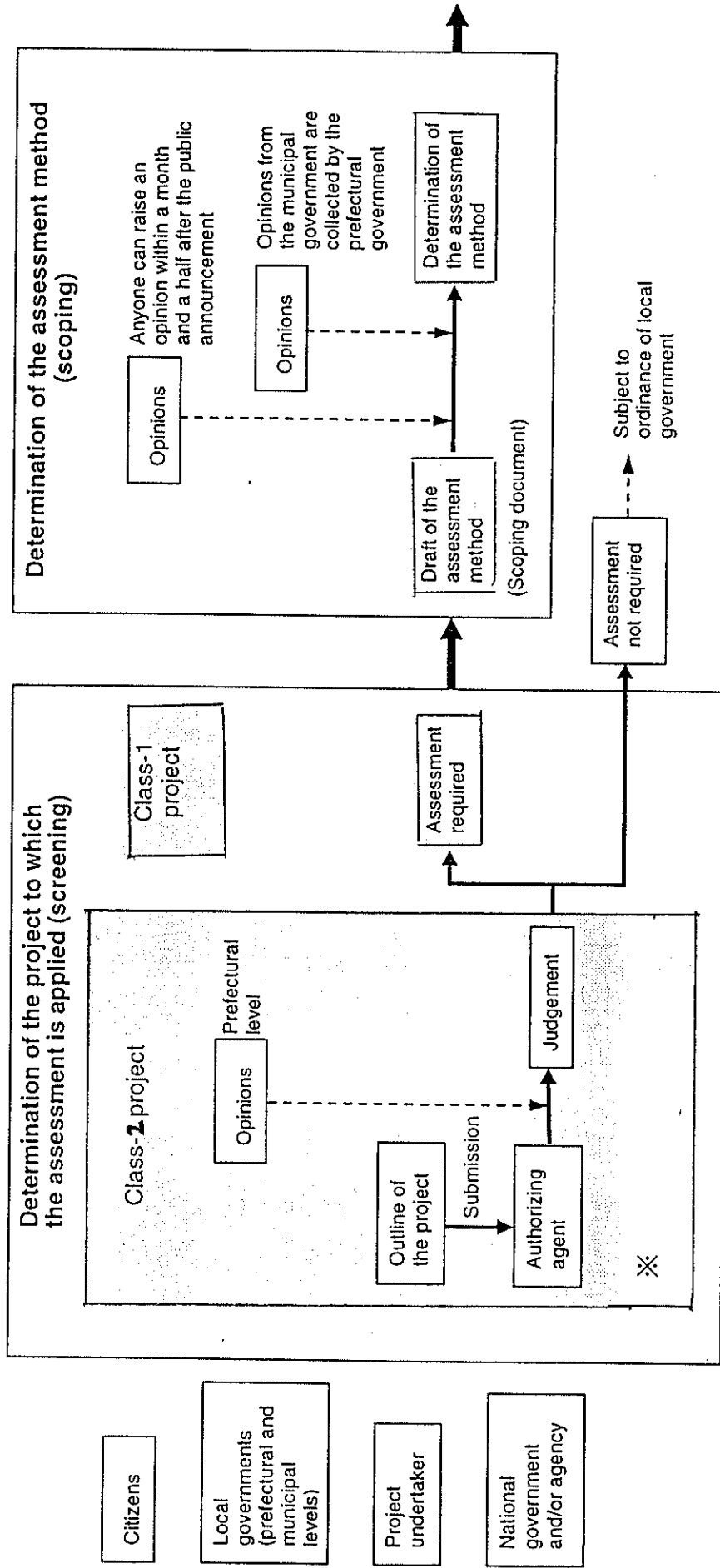
List of projects subject to the Environmental Impact Assessment law

	The first category project (Environmental assessment is always required)	The second category project (The necessity of environmental impact assessment is judged by project)
1. Road national expressway metropolitan expressway, etc national highway large-scale forest road	all 4 lanes or more 4 lanes · 10 km or longer 2 lanes · 20 km or longer	4 lanes or more · 7.5 km ~ 10 km 2 lanes · 15 km ~ 20 km
2. River dam, weir diversion channel, development related lakes and marshes	reservoir area: 100 ha or larger area of land alteration: 100 ha or wider	reservoir area: 75 ha ~ 100 ha area of land alteration: 75 ha ~ 100 ha
3. Railway shinkansen (bullet train) railway, track	all length: 10 km or longer	length: 7.5 km ~ 10 km
4. Airport	runway: 2,500 m or longer	runway: 1,875 m ~ 250 m
5. Power plant hydraulic power plant thermal electric power plant geothermal power plant nuclear power plant	output: 30,000 kw or over output: 150,000 kw or over output: 10,000 kw or over all	output: 2,250,000 kw ~ 30,000 kw output: 11,250,000 kw ~ 15,000 kw output: 7,500 kw ~ 10,000 kw
6. Final waste disposal facility	area: 30 ha or over	area: 25 ha ~ 30 ha
7. Land filling, reclamation	area: exceeding 50 ha	area: 40 ha ~ 50 ha
8. Land readjustment project	area: 100 ha or over	area: 75 ha ~ 100 ha
9. Residential, urban development project	area: 100 ha or over	area: 75 ha ~ 100 ha
10. Industrial park development project	area: 100 ha or over	area: 75 ha ~ 100 ha
11. Urban infrastructure development project	area: 100 ha or over	area: 75 ha ~ 100 ha
12. Distribution center complex development project	area: 100 ha or over	area: 75 ha ~ 100 ha
13. Reclamation of residential lot and industrial land		
Japan Environment Corporation (JEC)	area: 100 ha or over	area: 75 ha ~ 100 ha
Housing and Urban Development Corporation	area: 100 ha or over	area: 75 ha ~ 100 ha
Japan Regional Development Corporation	area: 100 ha or over	area: 75 ha ~ 100 ha
○ Port and harbor planning(*)	Total reclaimed and excavated land : 300 ha or over	

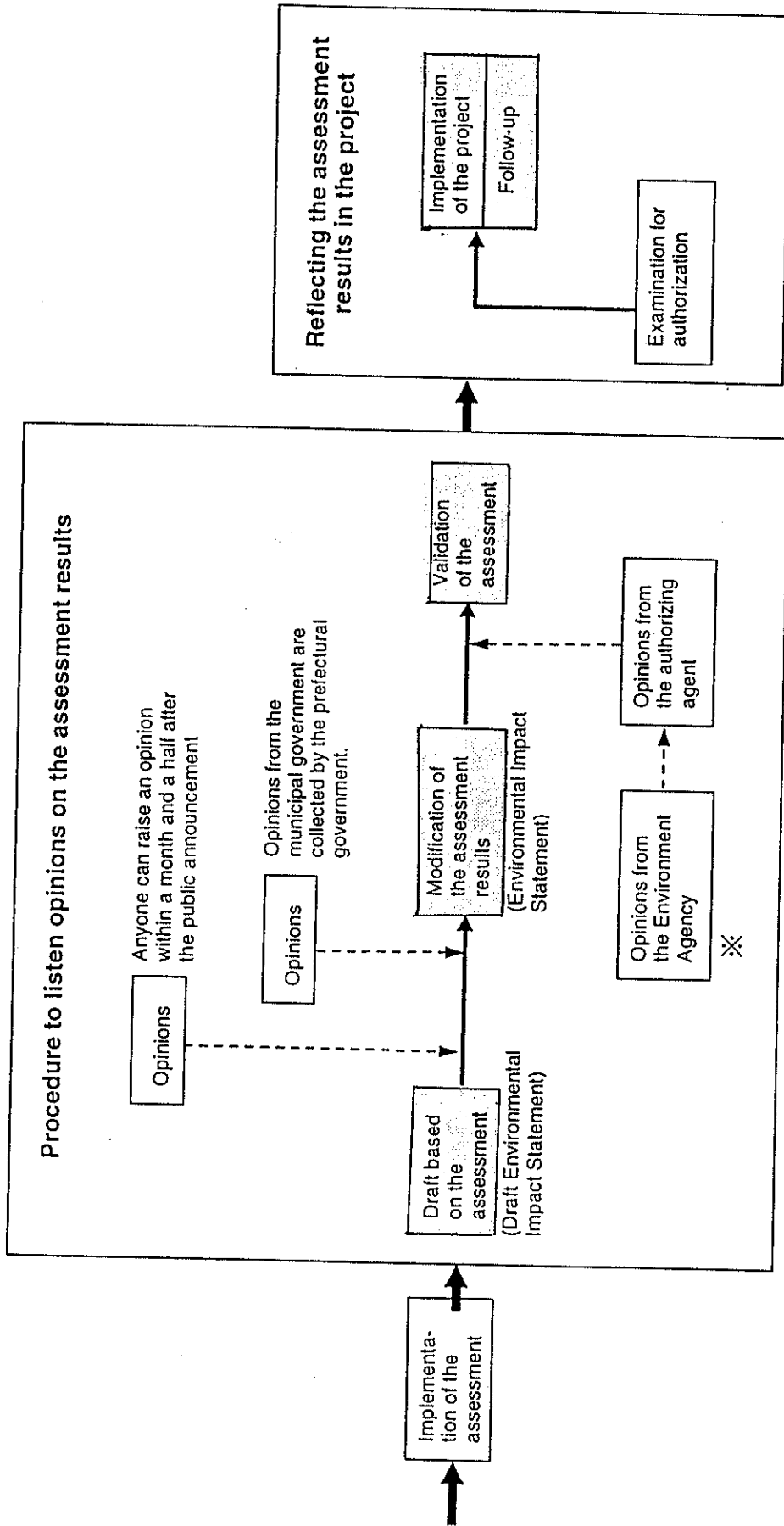
(*) Port and harbor planning is a subject to "port and harbor environment impact assessment" (see P 14)

(3) Procedure of environmental impact assessment

Flow of the procedure of environmental impact assessment



※ The authorizing agents include 1) agents to approve and authorize the project, 2) agents to take responsibility for the subsidy allocation, 3) ministries and agencies to supervise special corporations, and 4) ministries and agencies to undertake the project firsthand.



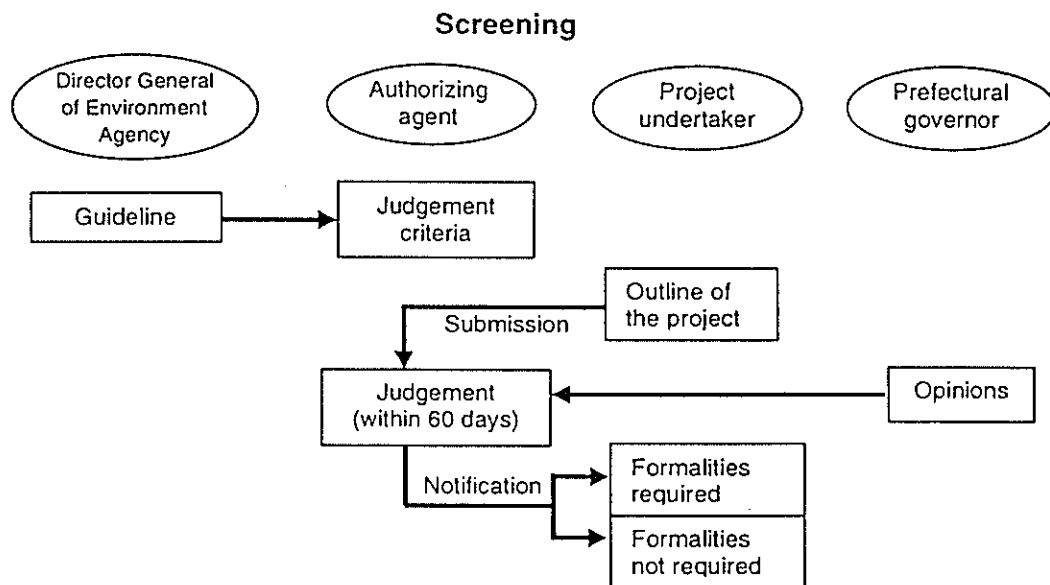
※ Environment Agency presents opinions only in cases when the authorizing agent is one of the national organs.

Screening

Whether the environmental assessment should be applied to the project is determined from the scale of the project. However, the extent of the effects on the environment does not necessarily depend on the project scale. For instance, even though a thermoelectric power plant using fuel to generate power by producing air polluting substances or a reclamation project filling a tideland inhabited by wild birds is small in scale, both projects are likely to affect the environment considerably.

Therefore, the judgement whether the environmental assessment should be applied to of projects (class-2 project) considered next to the assessment compulsory project (class-1 project), is made individually. This judgement procedure is called "screening", which means passing something through a sieve.

The judgement is made by the authorizing agent in accordance with the judgement criteria (for example, the road project by the Minister of Construction and the power plant project by the Minister of International Trade and Industry). In making the judgement, opinions from the prefectural governor who is acquainted well with the local situation showed be taken into consideration.



Examples of projects that are small in scale but are required to be assessed.

Criteria associated with the nature of the project

- * A thermoelectric power plant using fuel producing many air polluting substances
- * A road that is part of a long-term comprehensive project

Criteria associated with a local cause

- * A dam near the nesting ground of golden eagles
- * A project within a National Park
- * A road passing through an area where the noise level exceeds the ambient environmental quality standard.

Scoping (procedure for the scoping document)

If the environmental impact assessment is carried out in such an early stage of the project that the modification can be made flexibly, the efficiency of the assessment is expected to be higher.

In addition, the impact of the project on the environment differs in degree from place to place so that the assessment needs to be made by taking the local situation into account. For example, in constructing identical roads both in nature-rich mountainous regions and in intensively air-polluted urban regions, the issues to be dealt with for environmental conservation are different.

With those two points taken into consideration, opportunities to hear opinions directly from the citizens and local government are arranged before deciding the assessment method. By collecting the opinions in the earlier stage of the project, those opinions are reflected flexibly in a decision-making process and as a result the project can be assessed with the region-oriented method.

This procedure is called "scoping", which means "narrowing down".

Difference from the Cabinet's assessment ② Introduction of screening and scoping

Some problems had been pointed out about the Cabinet's assessment: the assessment results were hardly reflected in the project because the Cabinet's assessment was conducted after the details of the project were almost fully formulated, and the Cabinet's assessment was much stereotyped to the extent that it could not allow for the distinct nature of each project.

With the introduction of screening and scoping, the assessment will be conducted in the early stage of the project, making the most of the local characteristics. Figuratively speaking, this is like a shift from a "ready-made type assessment" in which items are chosen among the finished products to a "custom-made type assessment" in which one's preference is taken from the ordering stage.

Cabinet's assessment

Assessment when the project scheme has been formulated.

Too late to be suggested that valuable plants are growing there...

Stereotyped assessment

No other way but just going ahead with this official method

Environmental Impact Assessment Law

Assessment at the early stage of the project

Further consideration to facilitate environmental preservation

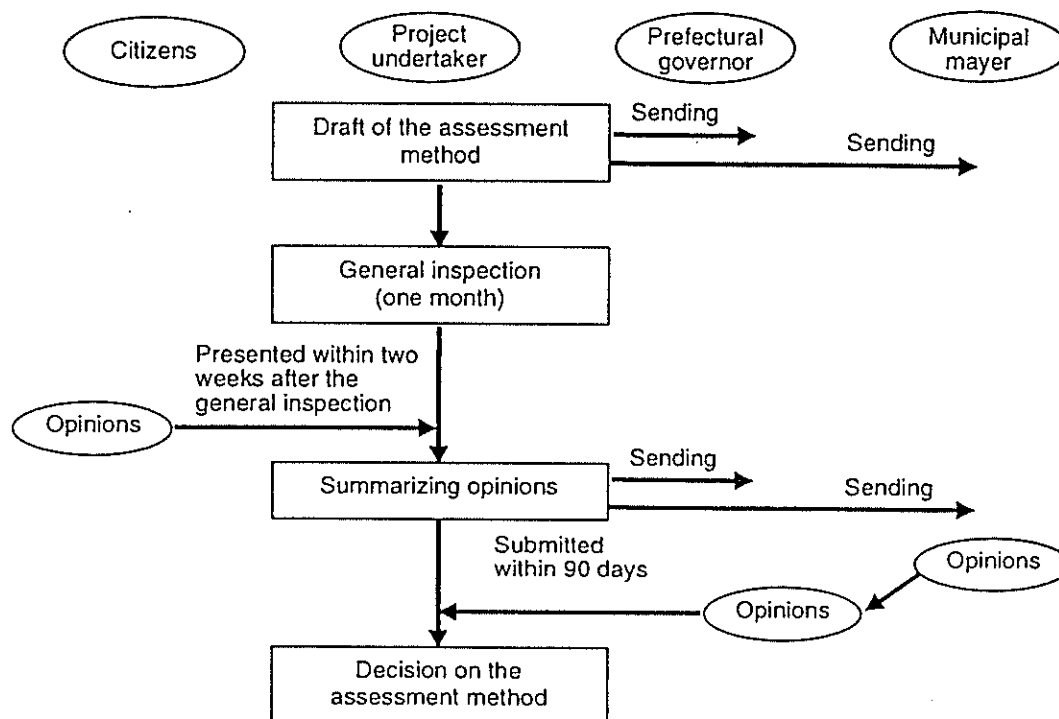
Assessment including regional characteristics

Examining the noise level in particular as this project is in a residential area.

The project undertaker completes the "scoping document" that describes the assessing method, and sends it to the prefectural governor and the municipal mayer. He also publicizes the completion of the document (public notification) and allows anyone to see it at his office for one month (general inspection).

Anyone who has an opinion about the scoping document can present his/her written opinion. The project undertaker sends the summaries of those opinions to the prefectural and municipal governments. Later, the prefectural governor expresses his/her opinion to the project undertaker after hearing the opinions from the municipal head.

Procedure of scoping



Difference from the Cabinet's assessment ③ Extended opportunity to present an opinion

With the Cabinet's assessment, those who can present opinions were restricted to residents of communities where the project was to be conducted. The law, however, extends the opportunity to express opinions, stipulating that not only residents, but also anyone can present his/her opinion.

The fact that the scoping procedure has enabled one to submit an opinion of the assessment method is also regarded as an extended opportunity to present an opinion.

Implementation of the assessment

The project undertaker carries out the assessment in accordance with the method based on the scoping procedure.

The range of environmental constituents subject to the assessment

- ⊙ maintaining the beneficial conditions of natural elements in the environment
 - air
 - air quality, noise, vibration, offensive odor, others
 - water
 - water quality, sediment, groundwater, others
 - earth/other
 - topography, geology, ground, soil, others
- ⊙ securing biological diversification and systematically maintaining the natural environment
 - flora ○ fauna ○ ecosystem
- ⊙ harmonious contact between people and nature
 - landscape ○ place for people enjoy natural amenity space
- ⊙ load on the environment
 - waste ○ greenhouse effect gas

Difference from the Cabinet's assessment ④

From a target clearance type to a best-effort pursuit type

With the Cabinet's assessment, the project undertaker sets the performance targets and the evaluation is made from the viewpoint of if the targets are achieved. As a matter of course, carrying out such a target clearance type of assessment is important to attain the objectives, including environmental quality standards.

Further effort was never made to improve the environment from such problems at higher than the set standard level and objective targets were difficult to set in some fields, including conservation of the natural environment. Furthermore, apprehension was expressed that the anticipated results were arbitrarily adopted for the targets under the name of "adjustment".

Consequently, the law introduced the evaluation method to see if the project undertaker reduced the environmental impact as much as he could. Using this best-effort type of assessment, discussions to seek a better project scheme in the context of environmental conservation are expected to be exchanged among citizens and local government with the project undertaker as the central figure.

Target clearance type of assessment

Whether the set targets are attained
No effort to improve the environment at the higher target level
Difficulty in setting the targets in some fields

Best-effort type of assessment

Whether the best effort is made
Seeking a better project for environmental conservation

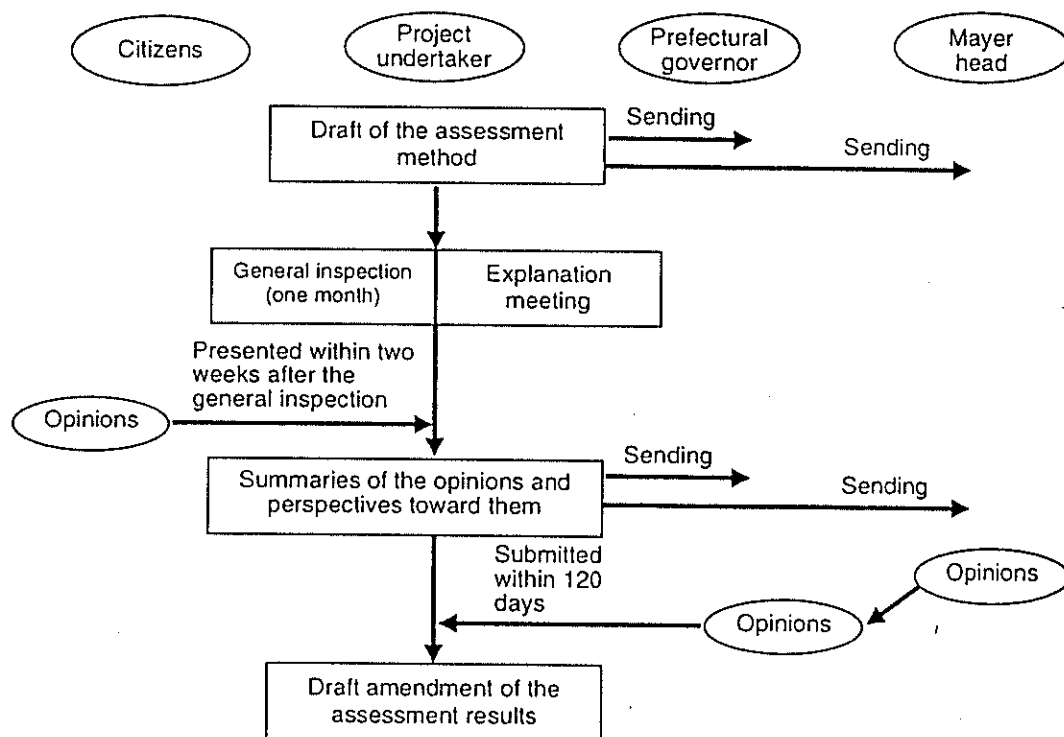
Procedure for the draft environmental impact statement

After the survey, estimation and evaluation are completed, the next procedure is to listen to opinions concerning those results. The project undertaker completes the draft environmental impact statement that describes the assessment results, and sends it to the prefectural governor and the municipal mayor. He also publicly notifies the completion of the document and allows anyone to inspect it at his office for one month. Meeting sessions are also held to explain the contents of the draft statement.

Anyone who has an opinion about the draft statement can submit his/her written opinion.

The project undertaker sends the summaries of those opinions and his perspectives toward those opinions to the prefectural and municipal governments. Later, the prefectural governor expresses his/her opinion of the project undertaker after hearing the opinions from the municipal mayor.

Procedure for the draft environmental impact statement



Difference from the Cabinet's assessment ⑤
Substantial contents of the draft environmental impact statement

Even though the results of survey, estimation and evaluation, as well as strategic measures for environmental conservation, were included in the Cabinet's assessment, whether they were appropriate was difficult to determine from the outsiders' eyes.

Consequently, the draft statement has been designed so that projects may be easily understood by outsiders. Toward this, the draft statement includes: a description that the estimation of environmental impact contains certain uncertainty, thus actual impact will be surveyed after project implementation; and history of examination of environmental preservation measures such as examination of alternatives, for easy judgement of whether the environmental preservation measures are sufficient.

Preparation of the environmental impact statement

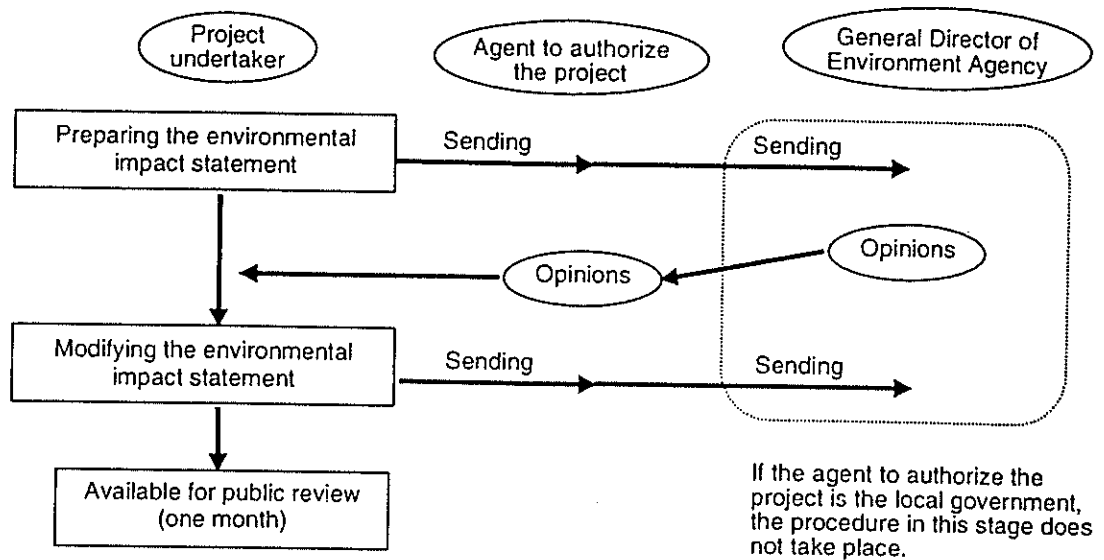
After the procedure for the draft environmental impact statement is completed, the project undertaker examines the opinions received, reviews the draft environmental impact statement and then formulates the environmental impact statement.

After completion, the environmental impact statement is sent to the agent authorizing the project (for example, to the Minister of Construction for the road project and to the Minister of Transport for the airport project), as well as to the Director General of Environment Agency, and it is examined from the viewpoint of environmental conservation. In the light of the examination, the Director General of Environment Agency expresses his opinions to the authorizing agent, from which the agent presents its opinions to the project undertaker.

The project undertaker reviews the environmental impact statement by carefully considering those opinions, makes the final statement and sends it to the prefectural governor, the municipal mayor, and the authorizing agent. He also makes public notification of the completion of the document and allows anyone to inspect it at his office for one month.

After the draft environmental impact statement is made public, the project undertaker can proceed with the project.

Preparation of the environmental impact statement



Difference from the Cabinet's assessment ⑥

Opinions presented by the Director General of Environment Agency

The environmental impact assessment is a system where the best project scheme is formulated from the viewpoint of environmental conservation with the project undertaker as the central figure. Therefore, the assessment results need to be evaluated by parties other than the project undertaker.

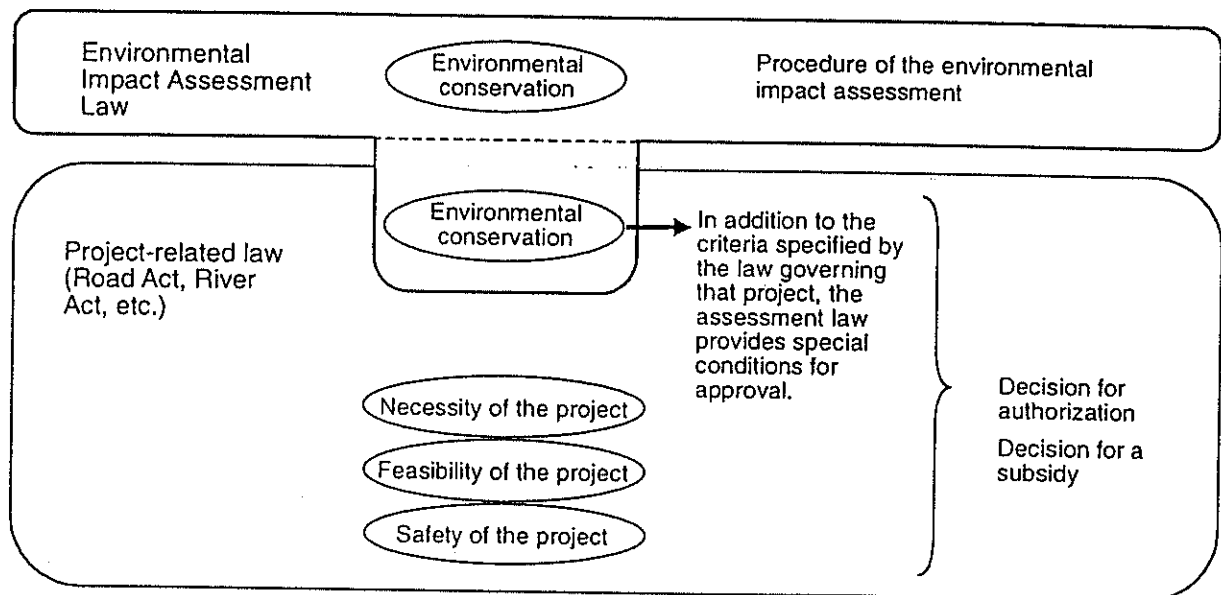
With the Cabinet's assessment, the agent authorizing the project (such as the Ministry of Construction, the Ministry of Transportation, and the Ministry of International Trade and Industry) makes a judgement, and the Environment Agency presents its opinions only when they were required. However, because the agent authorizing the project is often considered to promote the project, the law stipulates that the Environment Agency that takes responsibility for environmental conservation shall express its opinions on all projects if necessary.

Amendment of Relevant Project

The project to be subject to the environmental impact assessment is either the one authorized or provided with national subsidies, or the one initiated by the national government. This means that the administration makes the final decision on whether the project can be implemented.

However, some of the project-related laws (such as the Road Act, the River Act, and the Law for Railway Business) allow approval or subsidies to the project, although it is not concerned much with environmental conservation.

In this context, the environmental impact assessment law includes the prescriptions (called clauses of overlapping jurisdiction) not to give authorization or subsidies to a project that does not take environmental conservation into account.



When the project is included in city planning

- The environmental impact assessment proceeds along with the formulating of the city planning.
- The prefectural and municipal governments responsible for the city planning perform the procedure instead of the project undertaker.
- The assessment results are reflected in the city planning.

Port planning

- The assessment is made not for the project, but for the planning
- Screening and scoping are not carried out.

Power plant

- The national government (Ministry of International Trade and Industry) presents its opinions concerning scoping document or the draft environmental impact statement.
- The special cases are stipulated not in the Environmental Impact Assessment Law, but in the Electricity Utilities Industry Law

The procedure in accordance with the Environmental Impact Assessment Law started on June 12, 1999. The project undertaker can voluntarily start the procedure for the scoping document after June 12, 1998.

If the project has been already implemented, authorized or included in the city planning as of June 12, 1999, the procedure for the environmental impact assessment is not carried out. Legal procedure is applied the project for which the procedure in accordance with the current Cabinet's assessment or the ordinances/prospectuses of the local public bodies is implemented in the middle course (of environmental impact assessment procedures.).

For further information about environmental impact assessment:

● Environmental impact assessment information support network

The Environment Agency provides information on the environmental impact assessment on internet.

URL: <http://www.elc.or.jp/eanet/assessment>

● Introduction of Examples of Environmental Impact Assessment in the Past

Environmental information accumulated by implementing the assessment decided by the Cabinet or under ordinances and/or regulations has reached a vast volume of information. To make the best use of such information, we provide a database to find the contents and information sources of environmental impact statements implemented as assessments in accordance with Cabinet decisions, ordinances and/or regulations, and separate laws.

- Search for examples of environmental impact assessment

The database contains about 2,000 examples of the assessment. Local residents' comments on the assessments by Cabinet decisions, are also contained.

- Offering a service to view environmental impact statements

● Introduction of Assessment-related Publications and Materials

- Search for publications and materials related to environmental impact assessment

Publications and material closely related to environmental impact assessment are introduced. We offer access to a collection of information on regional environment supplied with the cooperation of local public organizations.

● Introduction of the Most Recent Activities of the Environment Agency about the Assessment

- Information about view meetings, etc., relating to the assessment

The collection of the information includes the contents of deliberations in the Strategic Council for Comprehensive Study for Assessment and Assessment Study Committee and the technical view meetings on assessment, as well as press releases.

● **Networking of Information**

In addition to assessment-related sites maintained by local public organizations, sites of the Biodiversity Center of Japan, the National Institute for Environmental Studies, and NGO are included, which can be used as a reference in making an assessment.

- Links to relevant sites maintained by local public organizations
- Links to relevant overseas sites
- Links to other sites

● **Introduction of Assessment System**

You can view information on laws, ordinances and/or regulations, enforcement ordinances, basic guidelines, technical guidelines and assessment systems

- Environmental Impact Assessment Law
- Enforcement ordinances of the Environmental Impact Assessment Law
- Ministerial regulations, etc., under the Environmental Impact Assessment Law (findings from the Central Environment Council)
- Reports from the Comprehensive Research Council on Environmental Impact Assessment System

● **Introduction of Assessment Procedures**

Concerning the assessments currently in effect in accordance with the Environmental Impact Assessment Law, information on procedures relating to the examinations of scoping statements, impact assessment statements, etc., can be viewed.

- Information on procedures in accordance with the Environmental Impact Assessment Law

4. Environmental Impact Assessment System of Local Government

Current State of the System of Local Government

Of 59 prefectures and specially designated cities, 56 established the assessment system by ordinances and three organizations by codes, etc., as of March 2000.

Compared with the Environmental Impact Assessment Law, the system of a local government reflects the actual condition of a region, and is characterized by the following points:

- Increasing relevant project types
- Applying the system to small-scale projects
- Holding a public hearing to ask residents' comments
- Providing procedures to that third-party organization evaluate
- Requiring follow-up monitoring after going through the procedures

Relations between the Environmental Impact Assessment Law and the Environmental Impact Assessment Ordinance

The environmental impact assessment system of a local government has a very important role in conservating the regional environment. If the procedures under the assessment law and the assessment ordinance of local government overlap, requiring these procedures by the proponent would be extremely burdensome.

Therefore, the Environmental Impact Assessment Law contains provisions related the environmental impact assessment system of local government to prevent overlapping and obstruction of the proceedings of legal procedures.

Relations between the Environmental Impact Assessment Law and the Environmental Impact Assessment Ordinance

