

(3) Legal Systems of Japan

3-1) Concept and Outline of the Environment Law System

a) Environment Laws in Japan

Environment laws aim to protect, maintain and improve the environment. The concept of the environment laws first appeared in the latter half of the 1960s and the 1970s and the laws eventually came to be recognised under the scope of legislation.

In Japan, prevention of pollution became an urgent topic in the due to the pollution problems accompanying the rapid development of industry. Public protest movements and lawsuits for pollution occurred in many parts of the country, and preparation of legal restrictions on pollution progressed. The “Basic Law for Environmental Pollution Control” was established in 1967 and several laws for pollution control were enacted to prevent and control pollution.

Following this, the need began to be felt to extend this effort to protection and improvement of the natural environment, as well as pollution. To this effect, the Environment Agency was established in 1971 as an extra-ministerial bureau of the Prime Minister’s Office; the result of which was the establishment of environment laws in Japan which include both aspects of the pollution control laws and the nature conservation laws.

b) Environment Laws: Measures for Environment Conservation (Zoning)

Japan has only small area of potential as residential areas where the population is concentrated. In order to maintain the country’s leading industrial edge and the present standard of living, it is important rationalise the nation’s land use while preserving the natural environment. In the current national land policies, particularly for environmental conservation, a zoning method is widely used as an important legal measure. In this zoning system, an area is designated as a particular zone, such as industrial zone, nature conservation zone and residential zone, and activities in this zone are regulated in accordance with the land use objective.

There are three such nature laws the Natural Parks Law, the Nature Conservation Law and the Wildlife Protection and Hunting Law, all of which are directed at conservation of nature through the zoning method.

1) Natural Parks Law

This law succeeded the “National Parks Law” of 1931 and aims to conserve prime natural scenic areas as natural parks and to contribute to health, recreation and enlightenment of the people. This law effects strict control over the land use in natural parks. However, there are still limitations in the natural park system as for people-based nature conservation, as the primary objective of the Law remains to secure places of recreation for the people in scenic areas rather than conservation of the natural environment.

2) Nature Conservation Law

This law was established as a basic law to ensure the provision of conservation areas for prime areas of natural environment around the country. This law provided the basic concept, the legal system and the administration organs for nature conservation. To secure integrated conservation measures for natural environment, the “Basic Policy for Natural Environment Conservation” was created and Wilderness Areas and Nature Conservation Areas were established.

However, actual measures taken by the administration are limited to conservation of natural parks and a few natural forests remaining that are not included in the protection forests covered under the Forest Law. It must therefore be said that this law does fully meet the objective of providing a comprehensive legal framework for conservation of the natural environment.

3) Wildlife Protection and Hunting Law

This law aims to conserve wild animals that are important components of the natural environment. Under this Law, the Director General of the Environment Agency designates areas recognised as being of importance for the protection and reproduction of birds and mammals in Wildlife Protection Areas, where hunting is prohibited. Landowners in the areas are generally prohibited from performing activities with the potential to adversely affect protection and breeding of birds and mammals, unless a permit is issued by the Director General or Prefectural Governors.

4) Other Laws

Other legal systems in place that, while their primary objective is other than nature conservation, nevertheless indirectly contribute to it are the designation of protection forests under the “Forest Law” and a permit system for diversion of farms by the “Law Concerning the Improvement of the Agricultural Promotion Area”. These systems still serve their original objectives in the administration but are worth noting as measures that contribute to the conservation of forests

加藤 一郎 (1980): 環境法、環境科学大辞典 (佐々学監修)、講談社
原田 尚彦 (1981): 環境法、弘文堂

(3) Legal Systems of Japan 3-1) Concepts and Outlines of the Environment Law System

[Laws Related to Conservation of Wildlife Habitat and Designated Conservation Area]			
Law,	Categories,	Number of Areas	Total Size of Areas (ha)
Nature Conservation Law (1972)	① Wilderness Area	5	5,631
	(1) Entry Restricted Zone	1	367
	② Nature Conservation Area	10	21,593
	(1) Special Zone	9	17,266
	(2) Wildlife Protection Zone	7	14,868
	(3) Special Marine Zone	1	128
	(4) Ordinary Zone		4,199
	③ Prefectural Nature Conservation Area	514	73,279
(as of March, 1993)			
Natural Park Law(1952)	① National Park	28	2,051,337
	(1) Special Zone		1,454,124
	Special Protection Zone		255,488
	Marine Park Zone		1,087
	(2) Ordinary Zone		597,213
	② Quasi-national Park	55	1,332,532
	(1) Special Zone		1,242,183
	Special Protection Zone		66,439
	Marine Park Zone		1,352
	(2) Ordinary Zone		91,354
	③ Prefectural Natural Park	301	1,951,112
(as of March, 1993)			
Wildlife Protection and Hunting Law (1918)	① Wildlife Protection Area		477,235
	(1) National Wildlife Protection Area	56	194,978
	Special Protection Zone		104,978
	(2) Prefectural Wildlife Protection Area	3,430	2,923,269
	Special Protection Zone		141,015
(as of March, 1993)			
Law for the Conservation of Endangered Species of Wild Fauna and Flora (1992)	① Natural Habitat Conservation Area	5	260
	(1) Conservation Area	5	114
	Strict Protection Area	1	39
	(2) Monitoring Area		146
(as of June, 1996)			

水谷 知生 (1996) : 野生動物の保護制度に関する一考察、ワイルドライフ・フォーラム 2 (3)

(3) Legal Systems of Japan

3-2) Legal Systems for Nature Conservation

a) Legal Systems for Natural Environment Conservation

There are many laws for conservation of natural environment. The Environment Agency synthetically promotes sound conservation for natural environment in cooperation with other government ministries and agencies.

b) Administration and Legislation for Nature Conservation

Administration for nature conservation is covered by various government offices since the wide scope of nature conservation has to be undertaken within the jurisdiction of each office. The administrative positions are roughly divided into two types. One is administration whose mission is nature conservation: e.g. nature conservation by the Environment Agency and protection of scenic places and natural monuments by the Agency for Cultural Affairs. Another is administration for other purposes but indirectly contributes to nature conservation as results or as means for its activities: e.g. management of protection forests and afforestation by the Forestry Agency, erosion control and green tracts by the Ministry of Construction, and land use plans by the National Land Agency.

Administration concerning development used to be opposed to nature conservation but recently started showing interests in this area. Now it is usual that national plans such as Comprehensive National Development Plans and other regional development plans pay consideration to natural environment. In the process of planning and implementing the programmes, it is required to endeavour to avoid negative impact on natural environment by pre-surveys, assessment and countermeasures for the environmental impact.

c) Outline of Conservation Measures for Natural Environment by Environment Agency

The Environment Agency takes various measures to conserve diverse natural environment and wildlife species in the country based on the four laws: the Nature Conservation Law, the Natural Parks Law, the Wildlife Protection and Hunting Law, and the Law for the Conservation of Endangered Species of Wild Fauna and Flora.

1) Nature Conservation Law

Based on this law, the “National Surveys on the Natural Environment” (Green Census) are implemented to acquire comprehensive understanding on the present states of natural environment and its alternation in the country; the survey subjects include vegetation, wild plants and animals, rivers, lakes, marshes, and marine areas. The survey has been conducted about every five years since 1973. Results of the survey are widely used as basic references

for policy making for natural environment conservation and environmental assessment.

Based on this law, natural areas keeping primeval conditions are designated to “Wilderness Areas” and those maintaining excellent natural environment to “Nature Conservation Areas”, Natural ecosystems of these areas are conserved by imposing regulations on certain activities and conducting academic research.

2) Natural Parks Law

Based on this law, areas of outstanding natural scenery are designated to “National Parks” or “Quasi-national Parks”, which are managed to conserve nature and utilised as places for outdoor recreation. A park plan is established for each natural park, which are divided into two plans: the conservation plan for conservation measures and zoning and the utilisation plan for regulation of park uses and provision of visitor facilities.

3) Wildlife Protection and Hunting Law

This law aims at conservation and management of wild birds and mammals in the country, which are divided into two groups: game and non-game. “Wildlife Protection Areas” are established to prohibit hunting and “Special Wildlife Protection Areas” are designated within the Wildlife Protection Areas to conserve the habitats of wildlife by regulating alteration beyond set standards.

4) Law for the Conservation of Endangered Species of Wild Fauna and Flora

The Environment Agency conducted research to understand the state of endangered species of wildlife, and the results were made public in 1991 as the Red Data Book, “Threatened Wild Fauna and Flora in Japan”. This book reveals a fact that many species of mammals, birds, reptiles, amphibians, fishes, and insects are in serious conditions.

Since the Wildlife Protection and Hunting Law covered only bird and mammal species, the Law for the Conservation of Endangered Species of Wild Fauna and Flora (Endangered Species Law) was enacted in 1993 to systematically protect endangered species of wildlife. In this law, “Endangered Species of Wild Fauna and Flora” and “Natural Habitat Conservation Areas” are designated and necessary regulations and programmes are provided based on three principles: protection of individuals, conservation of habitats, and breeding and rehabilitation programmes.

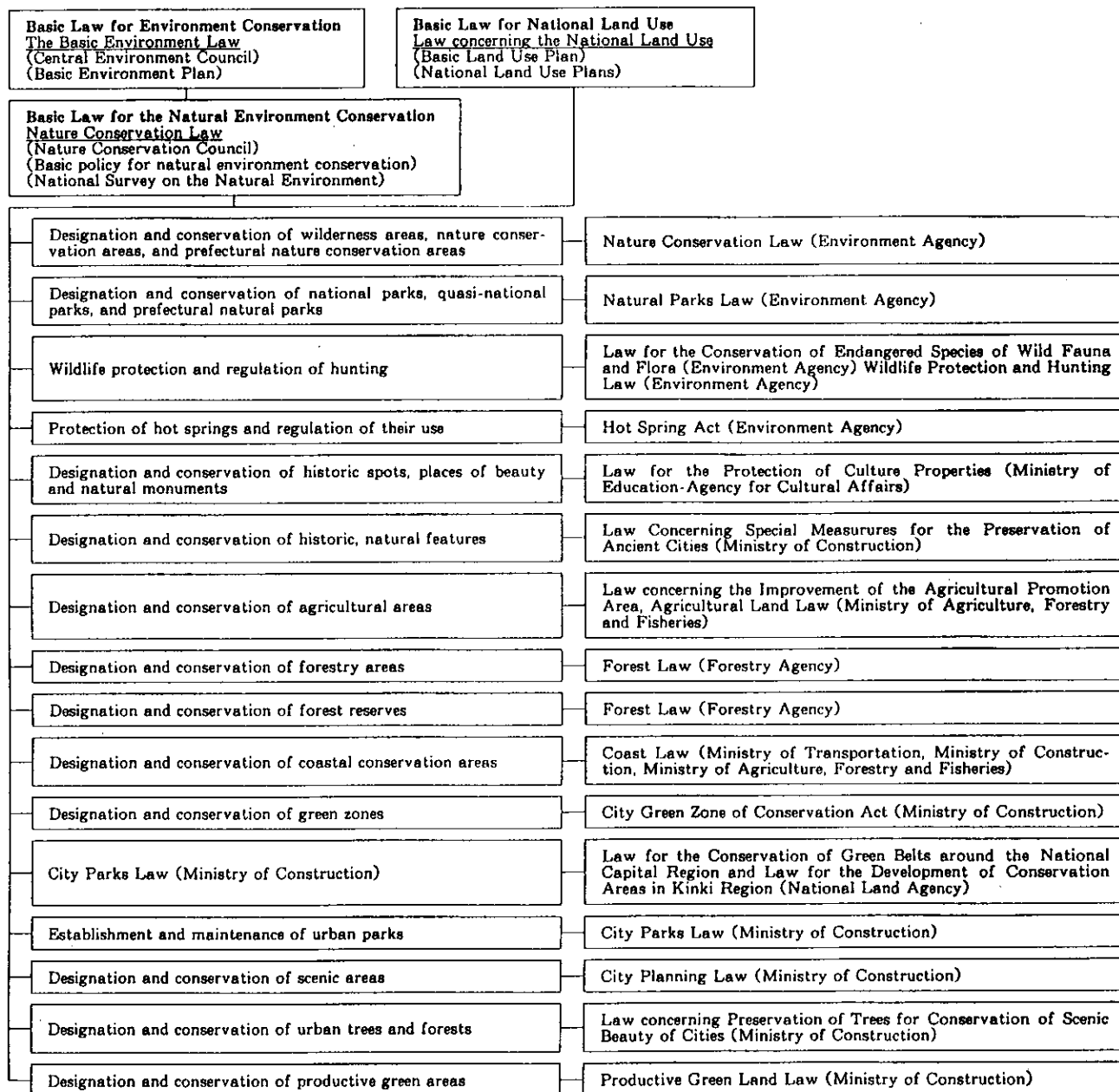
環境庁自然保護局（1997） 人と自然との共生をめざして、環境庁自然保護局、 - その役割と仕事 -

宇野 佐（1980）: 自然保護、環境科学大辞典（佐々学監修） 講談社

酒向 貴子（1994） 生物多様性保全のためのわが国の取り組み、環境庁の活動を中心として、地球環境ハンドブック（不破敬一郎編） 朝倉書店

(3) Legal Systems of Japan 3-2) Legal Systems for Administration of Nature Conservation

Laws Relating to Nature Conservation



Nature Conservation Bureau, The Environment Agency (1999): Nature Conservation in Japan

(3) Legal Systems in Japan

3-3) Basic Environment Law

a) Basic laws

Basic laws are established to specify directions of the basic policies for important subjects for the government. The contents of the provisions are mainly for a basic philosophy, obligations, programmes and concrete measures, such as basic plans, annual reports and deliberative councils. The basic laws play a role to link between the Constitution and individual laws. The specific measures are undertaken by individual laws, budgetary measures, and implementation guidelines for administration. The basic laws are the same as the individual laws in terms of the legal form but, in essence, are superior to other laws. At present, there are 12 basic laws including the “Basic Environment Law”.

b) Basic Philosophy of the Basic Environment Law

In Article 3 of the Basic Environment Law, based on the basic recognition for environment and people, the basic philosophy for environmental conservation is stated as follows:

- Environment is limited and depends on the delicate balance in ecosystems;
- Environment is the basis for life of human being and common property sharing with the future generations;
- Human being receives a lot of benefits from environment, as well as affects the environment in various ways. Therefore, we must make every effort for environmental conservation to enjoy blessing from the environment and to succeed the sound and rich environment to the future generations.

Article 4 provides the vision of what the Japanese society should be like, which is environmentally friendly and sustainable, and how to approach such society. Article 5 provides that Japan must actively work on conservation of global environment.

c) Guidelines for Planning Measures

Article 14 of the Basic Environment Law states directions and methods for planning and implementation of conservation measures. In relation to conservation of natural environment, the following points are given:

- To secure biodiversity at three levels: ecosystems, species and genes;
- To conserve diversified natural environment systematically following natural and social conditions in each area, from primeval natural areas to green spaces and watersides in the urban areas;
- To keep rich commune between nature and people, which benefits recovery of mental health,

relaxation and promotion of environmental education.

d) Basic Environment Plan

The Law provides that the Prime Minister shall consult to the Central Environment Council and establish, by a Cabinet decision, the “Basic Environment Plan” to indicate the basic direction of measures for environment conservation. The Basic Environment Plan was adopted in December 1994.

e) Promotion of Environmental Impact Assessment

The Law provides to take necessary measures to legally take in environmental impact assessment, which is vital to prevent negative impact of human activities on the environment.

自然保護年鑑刊行会 (1996): 環境基本法で自然保護はどうとりあげられているか?、
自然保護年鑑 4、日生社
木原 啓吉 (1998): 環境基本法、自然保護ハンドブック (沼田真 編) 朝倉書店

(3) Legal Systems of Japan 3-3) Basic Environment Law

<p>Examples of Specific Measures under the Basic Environment Law</p> <ul style="list-style-type: none"> o The Basic Environment Plan o The Environmental Quality Standard Environmental quality standard related to air, water, soil, and noise. o Pollution Control Program Formulation of Environmental Pollution Control Program o Implementation of Policy for Environmental Conservation by the State <ul style="list-style-type: none"> o Consideration in Formulation Environmental consideration upon the formulation of Policies by the State o Environmental Impact Assessment General Plan of Environmental Impact Assessment etc. o Regulations <ul style="list-style-type: none"> o Regulations on emission Air Pollution Control Law, and Water Pollution Control Law etc. o Regulations on land use and construction of facilities Building Standard Law, and Factory Location Law etc. o Regulations on development for pollution control Nature Conservation Law, and Natural Parks Law etc. o Regulations for the protection of natural objects such as wildlife and Hot Springs Law etc. o Regulations concerning both issues of pollution and of nature conservation etc. o Economic Measures <ul style="list-style-type: none"> o Measures of Economic Assistance and measures to impose economic surcharges Loans made by Japan Environment Cooperation, and preferential tax measures etc. o Establishment and Development of Facilities, and Other Projects Promotion of the establishment and development of various public facilities and other projects o Promotion of Use of Products etc. Law concerning the Encouragement of Use of Recyclable Resources, and Project on the Eco-mark system etc. o Education and learning, etc. Provision of information, facility reinforcement, and development of human resources etc. o Promotion of Voluntary Activities by Private Organizations etc. Grant by the Global Environment Fund and others o Provision of Information To publish environmental monitoring data and to introduce a variety of cases etc. o Researches Surveys using pollution research money etc. o Improvement in Systems for Monitoring and others Aid to the establishment and development of pollution monitoring systems etc. 	<ul style="list-style-type: none"> o Promotion of Science and Technology Experiments and researches at the National Institute for Environmental Studies etc. o Settlement of Environmental Pollution Disputes and Relief of Damage Law concerning the Settlement of Environmental Pollution Disputes, and Pollution related Health Damage Compensation and Prevention Law etc. o International Cooperation for Global Environmental Conservation etc. <ul style="list-style-type: none"> o International cooperation for global environmental conservation etc. Implementation of environmental ODA, and collaboration with international organization etc. o International Cooperation for Monitoring, Observation and Others Mutual exchanges of observation results through international organizations etc. o Promotion of Activities by Local Governments and Private Organizations etc. Provision of information, and financial securement etc. o Considerations in Implementation of International Cooperation and Others Guidelines of environmental considerations of the Japan International Cooperation Agency etc. o Cost Bearing and Financial Measures etc. <ul style="list-style-type: none"> o Cost Bearing by Causers Law concerning Entrepreneurs' Bearing of the Cost of the Public Pollution Control Works, etc. o Cost Bearing by Beneficiaries Nature Conservation Law, Natural Parks Law, etc. o Financial Measures for Local Governments etc. Law concerning Special Government Financial Measures for Pollution Control Projects etc. o Cooperation between the State and Local Governments
--	--

Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "Basic Policies"

(3) Legal Systems of Japan

3-4) Nature Conservation Law: Law No 85, 1972 enacted on June 22, 1972

(a) Purpose

This Law is a general law that stipulates basic policies of natural conservation. The Law has built up, at the same time, a system of designating natural conservation areas, for which the Act provides measures for conservation. Future administrative measures for nature conservation will be taken in accordance with the purpose of the Law.

(b) Substance

1) Stipulation of basic policies of natural conservation (Article 12)

The provision stipulates that the State make basic policies of nature conservation. A Cabinet decision was made on October 26, 1973 in accordance with this provision, and the decision was made public on November 6 in the same year.

2) Organisation of the Nature Conservation council (Article 13)

The Nature Conservation Council investigates and discusses matters under its control, empowered by the Nature Conservation Law, the Natural Parks Law, Wildlife Protection and Hunting Law, Law for the Conservation of Endangered Species of Wild Fauna and Flora. The Council also investigates and discusses important matters on nature conservation, in response to inquiries from the Director General of the Environment Agency or the Ministries concerned. The Council is empowered to give its views on important matters relating to nature conservation.

3) National surveys on the natural environment (Article 4)

The Law stipulates that basic surveys be made on topography, geology, fauna and flora, and wildlife almost once every five years, with the view of obtaining basic data necessary for the planning of measures to be taken for nature conservation (Refer to Chapter 4)

First survey	: 1973
Second survey	: 1978 and 1979
Third survey	: 1983 to 1987
Fourth survey	: 1988 to 1992
Fifth survey	: 1993 to 1998

4) Wilderness areas (Articles 14, 17 and 19)

The Director General of the Environment Agency designates wilderness areas from among the state-, prefecture- or municipal-owned land where wilderness is

maintained without any influence of human activities and whose environment the Director considers especially necessary to conserve.

In wilderness areas, all deeds that may give impact to the natural environment are prohibited in principle, with a view to preserving wilderness. The Director General of the Environment Agency is empowered to designate entry restricted zones in wilderness areas, if he considers it especially necessary to do so.

5) Nature conservation areas (Articles 22, 25, 26 and 27)

The Director General of the Environment Agency designates nature conservation areas from among areas (other than wilderness areas) where forests, grasslands, rivers, lakes, and/or the sea sustain good natural environment and which especially need to be conserved in view of natural and social conditions there.

In nature conservation areas, special zones (including wildlife protection zones) and special marine zones are designated according to the condition in the area. Specific deeds are prohibited in these zones until permission is obtained from the Director General of the Environment Agency.

6) Prefectural Nature Conservation Areas (Article 45)

Prefectural nature conservation areas are designated by Prefectural Governors in accordance with the prefectural regulations, from among areas that are almost equivalent in natural environment to nature conservation areas and whose environment especially needs conservation in view of natural and social conditions there.

7) Conservation plans (Articles 15 and 23)

Conservation plans include plans on regulations or facilities for nature conservation in wilderness areas or nature conservation areas.

The Director General of the Environment Agency makes plans accepting advice from the Prefectural Governors concerned and the Nature Conservation Council.

Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "Basic Policies"

(3) Legal Systems of Japan 3-4) Nature Conservation Law

Structure of the Nature Conservation Law

<p>Purpose (Art 1)</p> <p>The Law synthetically promotes national nature conservation, coupled with other laws for nature conservation.</p>	<p>Execution of National surveys on the natural environment (Art. 4)</p> <p>i. National surveys have been made almost once every five years ii. National surveys are made on topography, geology, flora and fauna.</p>	
<p>Basic policies for nature conservation (Art. 12)</p> <p>(Prime Minister → Nature Conservation Council → Cabinet decision → Official announcement)</p> <p>i. Basic initiative on nature conservation ii. Basic matters on the designation, etc. wilderness areas and nature conservation areas</p>		<p>Notification No. 30 of the Prime Minister's office, November 6, 1973</p>
<p>Wilderness areas (Art. 14 to 21)</p>	<p>(Designation)</p> <p>Director General of the Environment Agency ↔ The Prefectural Governors concerned ↔ Nature Conservation Council → Public announcement</p> <p>i. Maintenance of wilderness ii. Area requirement (1,000 hectares or more, as a rule) iii. Lands Owned by the State, prefectures or municipality (excluding reserved forests)</p>	<p>(Restriction of activities)</p> <p>i. Construction and expansion of structures, changing configuration or quality of land → Permission from the Director General of the Environment Agency ii. Entry restricted zones may be designated.</p>
<p>Nature conservation areas (Art. 22 to 30)</p>	<p>Director General of the Environment Agency ↔ The heads of the local public bodies concerned ↔ Nature Conservation Council Residents interested → Public announcement</p> <p>i. Alpine or subalpine forests, grasslands, excellent natural forests, singular topographic or geological features, excellent coasts, lakes, and marshes ii. Area requirements iii. Excluding natural parks</p>	<p>i. Special zones</p> <p>a. Construction and expansion of structures, changing configuration or quality of land → Permission from the Director General of the Environment Agency (Permission is mostly entrusted to Governors.) b. Wild life protection zones may be designated.</p> <p>ii. Special marine zones Permission required, as in the case of special zones</p> <p>iii. Ordinary zones Construction of structures larger than the stipulated scale → Notification to the Director General of the Environment Agency (Notification is submitted to the Governor in most cases.)</p>
<p>Prefectural nature conservation areas (Art. 45 to 50)</p>	<p>Prefectural Governors designate areas in accordance with the prefectural regulations.</p>	<p>Designated in accordance with prefectural regulations, with the same requirements as for nature conservation areas</p>

Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "Basic Policies"