

ENVIRONMENTAL IMPACT ASSESSMENT IN JAPAN



Ministry of the Environment

Environmental Impact Assessment

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1. What is Environmental Impact Assessment (EIA)?

Constructing roads and airports to improve transportation services, building dams to supply water, and establishing power plants to generate electricity are all necessary for people to have a comfortable life. However, no matter how necessary those development projects are, the negative impacts on the environment must be considered and the project justified in relation to environmental considerations.

It is therefore very important in the design stage of a project to take into account not only the social and economic aspects of the project, but also environmental protection considerations.

These issues are addressed to some extent by effective EIA. EIA provides for the environmental impacts of development projects to be surveyed, forecasted and evaluated by proponents in the process of designing the project. Those results are then opened to the public to obtain opinions, both from citizens and from local governments. The best project scheme can then be developed incorporating these various viewpoints and addressing the issue of environmental protection.

2. The EIA System in Japan

Following the enactment of the National Environmental Policy Act in 1969 in the United States, many countries have established similar EIA systems.

In Japan, a system was first introduced in 1972 for public works only. The systems relating to port and harbor planning, reclamation, power plants and the Shinkansen (super-express train) were established later around 1980. In the course of implementing EIA under these systems, the need for an integrated system/standardized rule was recognized. Therefore the environmental impact assessment bill was proposed to the Diet in 1981 but failed to pass in 1983.

After the bill became void, a standardized rule was set up through a Cabinet decision: "Implementation of Environmental Impact Assessment". This so called "Cabinet-decision EIA" was implemented in 1984. Furthermore, local governments also promoted the establishment of their own ordinances and guidelines.

Later, a review of the system began when promotion of EIA was stipulated in the "Basic Environment Law" enacted in 1993. As a result, the "Environmental Impact Assessment Law" was enacted in June 1997.

Process of establishing the Environmental Impact Assessment Law

Year		
1969	Enactment of "National Environmental Policy Act (NEPA)" in the US	First EIA system in the world
1972	Approval of "Concerning the environmental conservation measures in relation to public works" by the Cabinet	EIA for public works
1981	Submission of "Environmental Impact Assessment Bill" to the Diet (void in 1983)	
1984	Decision on the "Implementation of Environmental Impact Assessment" by the Cabinet	Institutionalization of the system by administrative measures
1993	Enactment of the "Basic Environment Law"	Legal recognition of EIA
1997	Enactment of the "Environmental Impact Assessment Law"	Legislation on EIA
1999	Implementation of "Environmental Impact Assessment Law"	

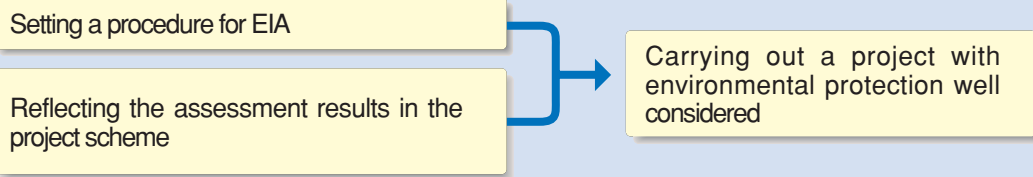
3. The Environmental Impact Assessment Law

(1) Objective

The Environmental Impact Assessment Law was formulated from the idea that EIA is very important for preventing environmental degradation and promoting a sustainable society.

Its objective is to consider environmental protection properly by establishing a procedure for the EIA of large-scale projects and reflecting the assessment results in the decision-making.

Objective of the Environmental Impact Assessment Law



Institutionalizing EIA system

One of the most important implications of the legislation was that the system was legally institutionalized. It had become apparent that the system under administrative guidance such as Cabinet-decision EIA had limitations:

- 1) the system was not appropriate to set up rules to cover various players
such as project proponents, local governments and citizens;
- 2) it did not have the authority to impose the obligation of implementing the procedure;
- 3) and it was incapable of reflecting the assessment results in the authorization of projects.

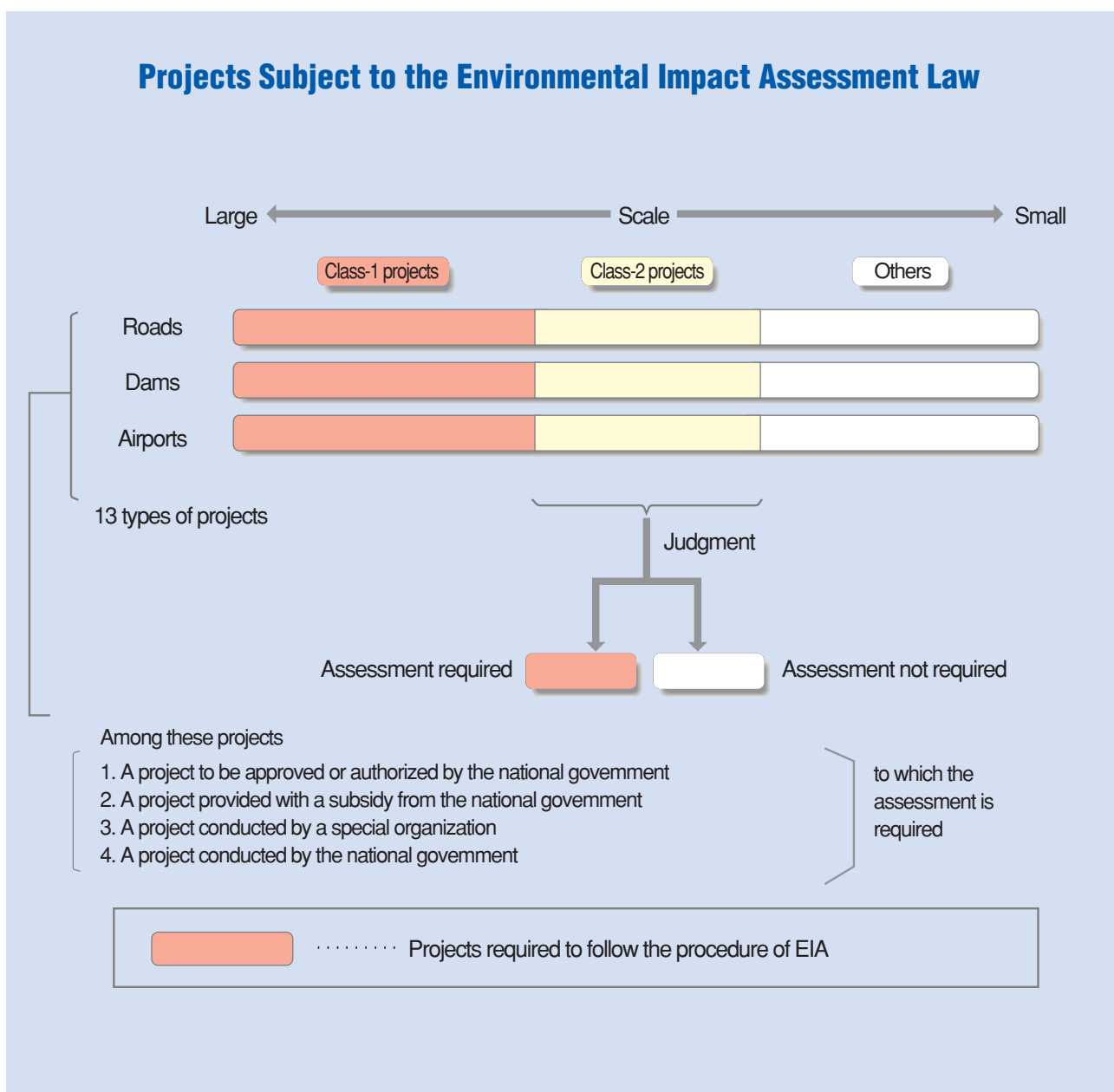
Form	Legislation
Institutional characteristics	Explicit rules covering the relationship and participation among project proponents, local government, citizens, etc.
Binding force	Obligation imposed on the project proponents

(2) Projects subject to EIA

Thirteen types of projects are subject to the Environmental Impact Assessment Law including the construction of roads, dams, railways, airports and power plants.

Among them, large-scale projects that could have a serious impact on the environment are categorized as “Class-1” projects and are required to follow the procedure of the Law. The projects ranked next to the Class-1 projects in scale are grouped as “Class-2” projects for which the judgment whether to follow the procedure for EIA is determined individually. In other words, all Class-1 projects and the Class-2 projects judged to be subject to EIA must follow the procedure for EIA in the Law. Large scale port planning is subject to the assessment as well.

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



List of projects subject to the Environmental Impact Assessment Law

	Class-1 project (EIA is always required)	Class-2 project (The necessity of EIA is judged by project)
1. Road		
national expressway	all	
metropolitan expressway	4 lanes or more	
national roads	4 lanes or more, 10km or longer	4 lanes or more, 7.5km-10km
large-scale forest road	2 lanes or more, 20km or longer	2 lanes or more, 15km-20km
2. River		
dam, weir	reservoir area: 100ha or larger	reservoir area: 75ha-100ha
diversion channel, lake-related development	area of land alteration: 100ha or larger	area of land alteration: 75ha-100ha
3. Railway		
shinkansen (super express train)	all	
railway, track	length: 10km or longer	length: 7.5km-10km
4. Airport	runway: 2,500m or longer	runway: 1,875m-2,500m
5. Power plant		
hydraulic power plant	output: 30,000kw or over	output: 22,500kw-30,000kw
thermal power plant	output: 150,000kw or over	output: 112,500kw-150,000kw
geothermal power plant	output: 10,000kw or over	output: 7,500kw-10,000kw
nuclear power plant	all	
6. Waste disposal site	area: 30ha or larger	area: 25ha-30ha
7. Landfill and reclamation	area: exceeding 50ha	area: 40ha-50ha
8. Land readjustment project	area: 100ha or larger	area: 75ha-100ha
9. New Residential area development project	area: 100ha or larger	area: 75ha-100ha
10. Industrial estate development project	area: 100ha or larger	area: 75ha-100ha
11. New town infrastructure development project	area: 100ha or larger	area: 75ha-100ha
12. Distribution center complex development project	area: 100ha or larger	area: 75ha-100ha
13. Residential or industrial land development by specific organizations	area: 100ha or larger	area: 75ha-100ha
Port and harbor planning	Total reclaimed and excavated land: 300ha or larger	

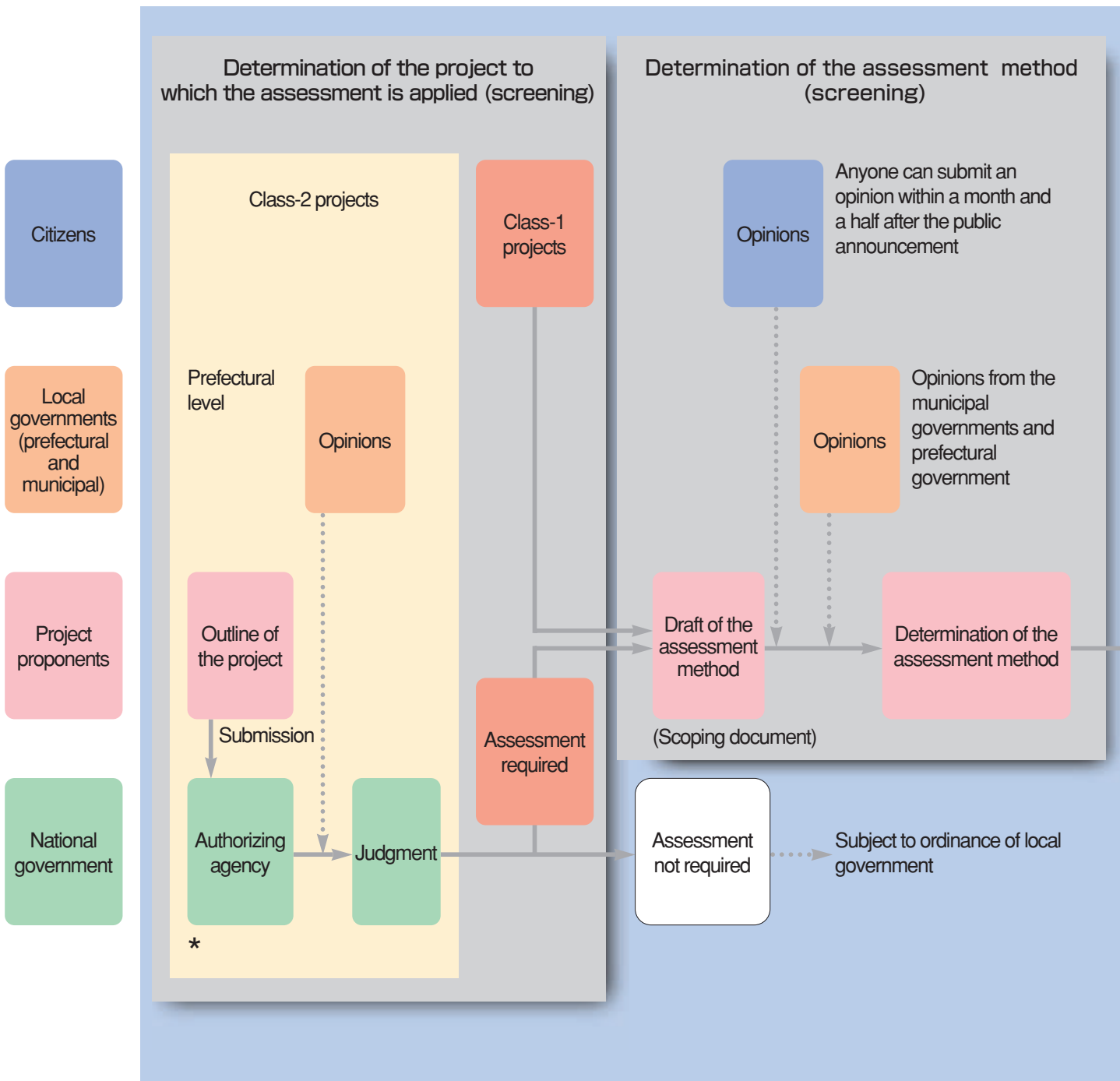
(3) Who implements EIA?

Project proponents implement EIA themselves.

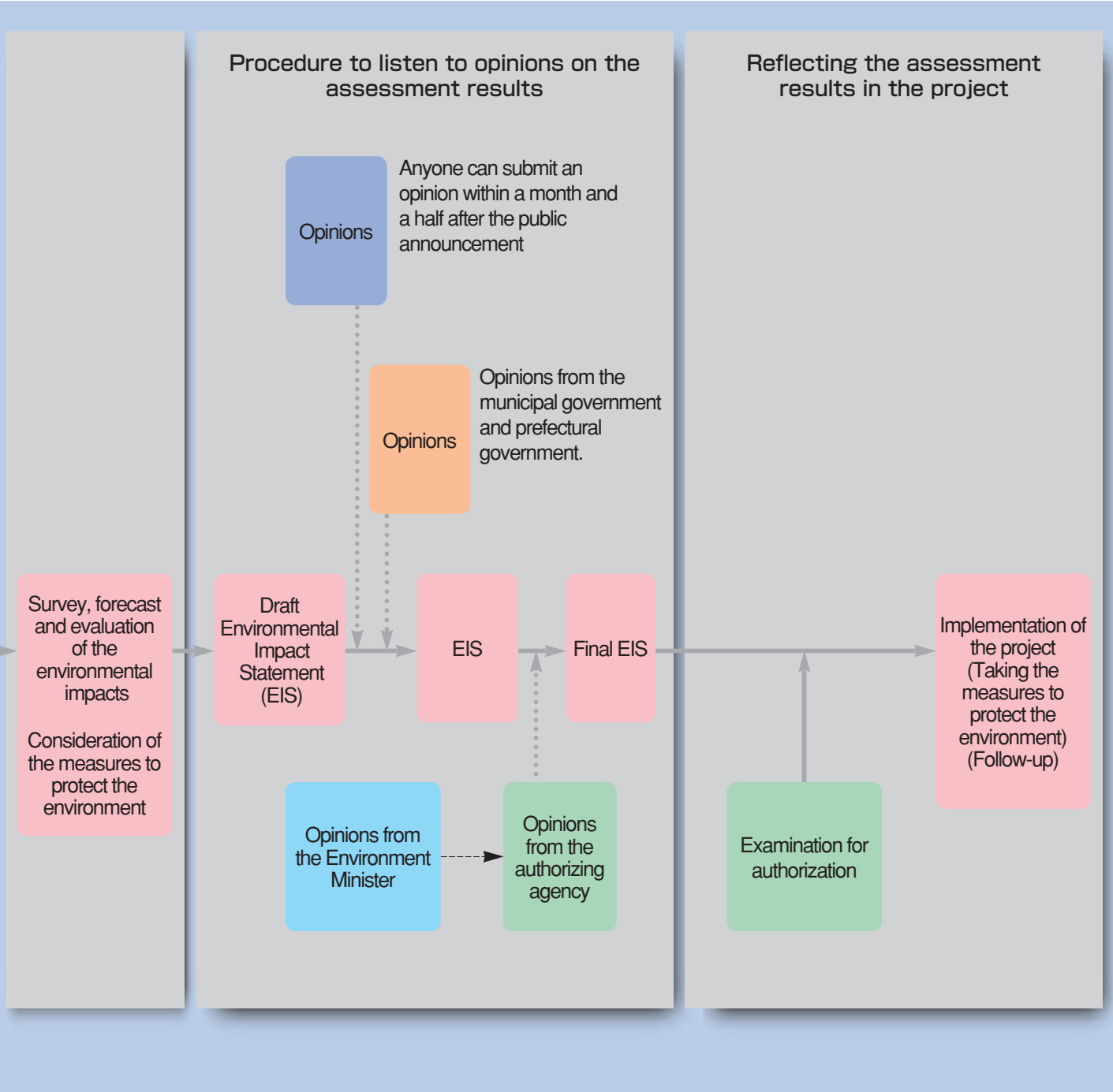
This is because EIA is the process for putting environmental considerations into the project design through exchange of views and information among the entities concerned and because project proponents know best about proposed project and have the best position to modify/adjust the project.

By considering all environment-related issues and necessary measures in advance through information gathering and disclosure on possible impacts of the project, environmental issues are better addressed during the construction and operational phase of the project.

(4) Procedure of EIA



*The authorizing agencies include 1) agencies to approve and authorize the project, 2) agencies to take responsibility for the subsidy allocation, 3) ministries and agencies to supervise special organizations, and 4) ministries and agencies to conduct the project.



* Environment Minister presents opinions only when the authorizing agency is a national organization.

Judgment of Class-2 projects (Screening)

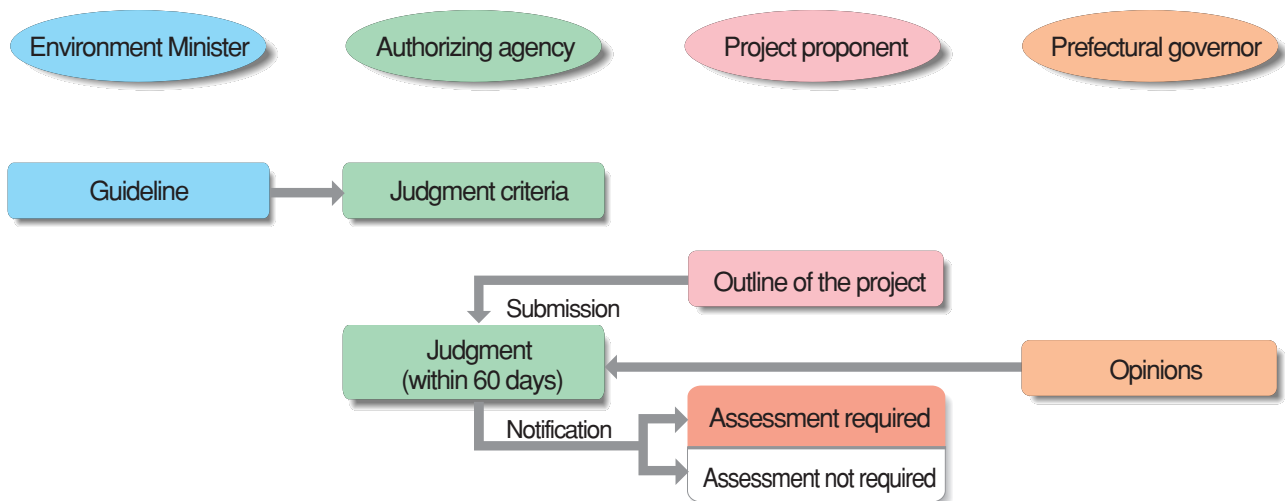
The procedure for deciding whether EIA should be applied to projects is called “screening”.

In the Environmental Impact Assessment Law, whether EIA should be applied to a project is determined in accordance with the scale of the project. However, the extent of the environmental impacts does not necessarily depend only on the project scale. For instance, even though a project near a school, a hospital, an intake point for drinking-water production, or a reclamation project filling a wetland inhabited by many wild birds, are small in scale, these projects could have serious impacts on the environment.

Therefore, the decision on whether EIA should be applied to a Class-2 project is made individually on a case-by-case basis.

The judgment is made by the authorizing agency in accordance with the judgment criteria (for example, decisions on road projects are made by the Ministry of Infrastructure, Land and Transport; decisions on power plant projects by the Ministry of Economy, Trade and Industry, etc.). In making the judgment, opinions from the prefectural governor who is well-acquainted with the local situation should be taken into consideration.

Screening



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 causing more serious air pollution
- A road that is a part of a comprehensive project, which could cause serious environmental impacts.

Criteria associated with the regional situation

- A dam near the nesting ground of golden eagles
- A project within a National Park
- A road passing through an area where the concentration of nitrogen dioxide (NO₂) exceeds the ambient environmental quality standard.

Procedure for the draft of the assessment method (Scoping)

If EIA is carried out at an early stage of the project, modifications can be made more flexibly and EIA is expected to be more effective.

In addition, the environmental impacts of the project differ from place to place and EIA needs to be made by taking the local situation into account. For example, with road construction projects, the issues to be dealt with for environmental protection differ between, for example, a proposed road in a nature-rich mountainous region, and one in an intensively developed and air-polluted urban region.

With those two points borne in mind, opportunities should be given to hear opinions from the citizens and local governments before deciding the assessment method. By collecting the opinions at the earlier stage of the project, those opinions are able to be considered in selecting the evaluation items, and as a result the project can be assessed in a more site-oriented way.

This procedure is called “scoping”.

The project proponent prepares the “scoping document” that describes the assessment method, and sends it to the prefectural governor and the municipal mayors. The scoping document is a blueprint for the EIA design, which shows how the survey, forecast and evaluation in the EIA are to be conducted. The proponent publicly notifies the document and allows anyone to see it at local government offices and the proponent’s offices for a period of one month.

Anyone who has an opinion about the scoping document can make a submission. The project proponent sends the summaries of those opinions to the prefectural and municipal governments. Later, the prefectural governor expresses his /her opinion to the project proponent after hearing the opinions from the municipal mayors, while also taking into account the opinions from the general public.

The project proponent decides the assessment method giving due consideration to these opinions.

Introduction of screening and scoping

Some problems had been pointed out about EIA under Cabinet-decision EIA: the assessment results were often not properly reflected in the project design because EIA was conducted after the details of the project were almost fully formulated, and EIA was standardized to the extent that it could not reflect the difference of each project and local situations.

With the introduction of screening and scoping, EIA will be conducted in the early stage of the project, based mostly on the local characteristics. This is like a shift from a “ready-made type assessment” in which items are chosen from rigid criteria to a “custom-made type assessment” in which more appropriate choices can be made when selecting and analyzing assessment criteria.

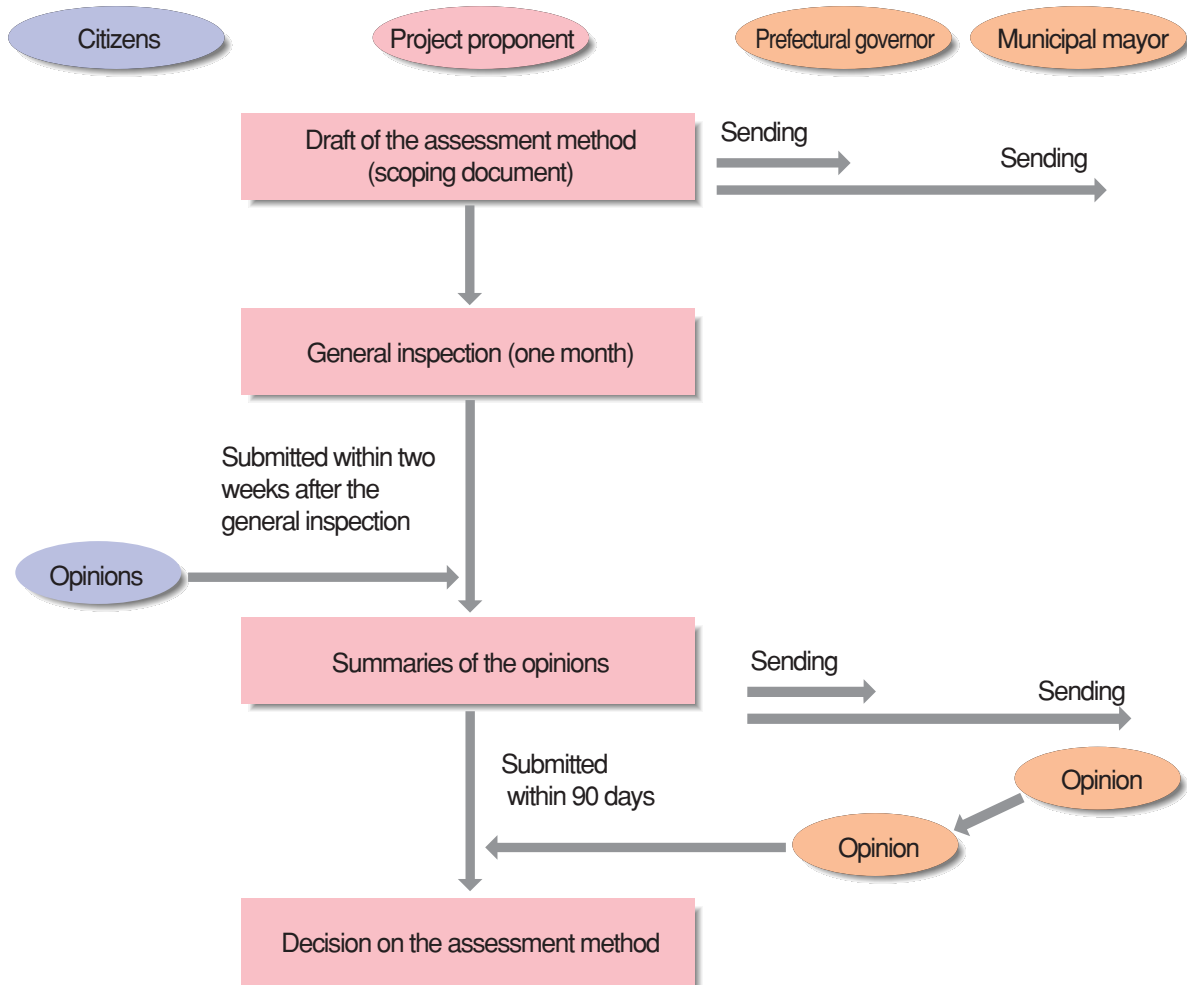
EIA at the early stage of the project

Consideration to facilitate environmental protection in decision making

EIA based on site characteristics

Survey of the noise level in the residential area, etc.

Procedure of scoping



The range of environmental factors subject to EIA

Air, Water, Soil, Noise,
Vibration, Offensive odor, etc

Landscape, Place for people to
enjoy natural environment

Flora, Fauna, Ecosystem

Waste, Greenhouse gases, etc.

Extended opportunity to present opinions

Under Cabinet-decision EIA, those who could present opinions were restricted to residents living where the project was sited. The Law, however, extends the opportunity to express opinions, stipulating that anyone can present his/her opinion.

The fact that the scoping procedure has enabled the public to submit an opinion on the assessment method in addition to that on EIS is also regarded as an extended opportunity to present an opinion.

Survey, forecast and evaluation of possible impacts and development of countermeasures needed

The project proponent carries out survey, forecast and evaluation of the environmental impacts in accordance with the method decided through the scoping procedure, and considers the measures necessary to protect the environment.

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

Under Cabinet-decision EIA, the project proponent sets the performance targets by using the ambient air quality standards and others and the evaluation is made based on whether the targets are achieved or not. Carrying out such a target clearance type assessment is important to attain the objectives including environmental quality standards.

However, further effort was generally never made to improve the environment to levels higher than the standard targets, and objective targets were difficult to set in some fields including conservation of the natural environment. Furthermore, there has been concern that anticipated results were arbitrarily adopted for the targets.

Consequently, the law introduced the evaluation method to ensure that the project proponent mitigates the environmental impact as much as possible. Using this best-effort type pursuit assessment, it is expected that discussions among citizens, local governments and the project proponent will be made toward a better project scheme in the context of environmental protection.

Target clearance type assessment

- Whether the targets are attained
- No incentive to improve the environment at higher level than the target
- Difficulty in setting the targets in some fields

Best-effort pursuit type assessment

- Whether the best effort for environmental protection is made through considering alternatives

Procedure for the draft environmental impact statement (EIS)

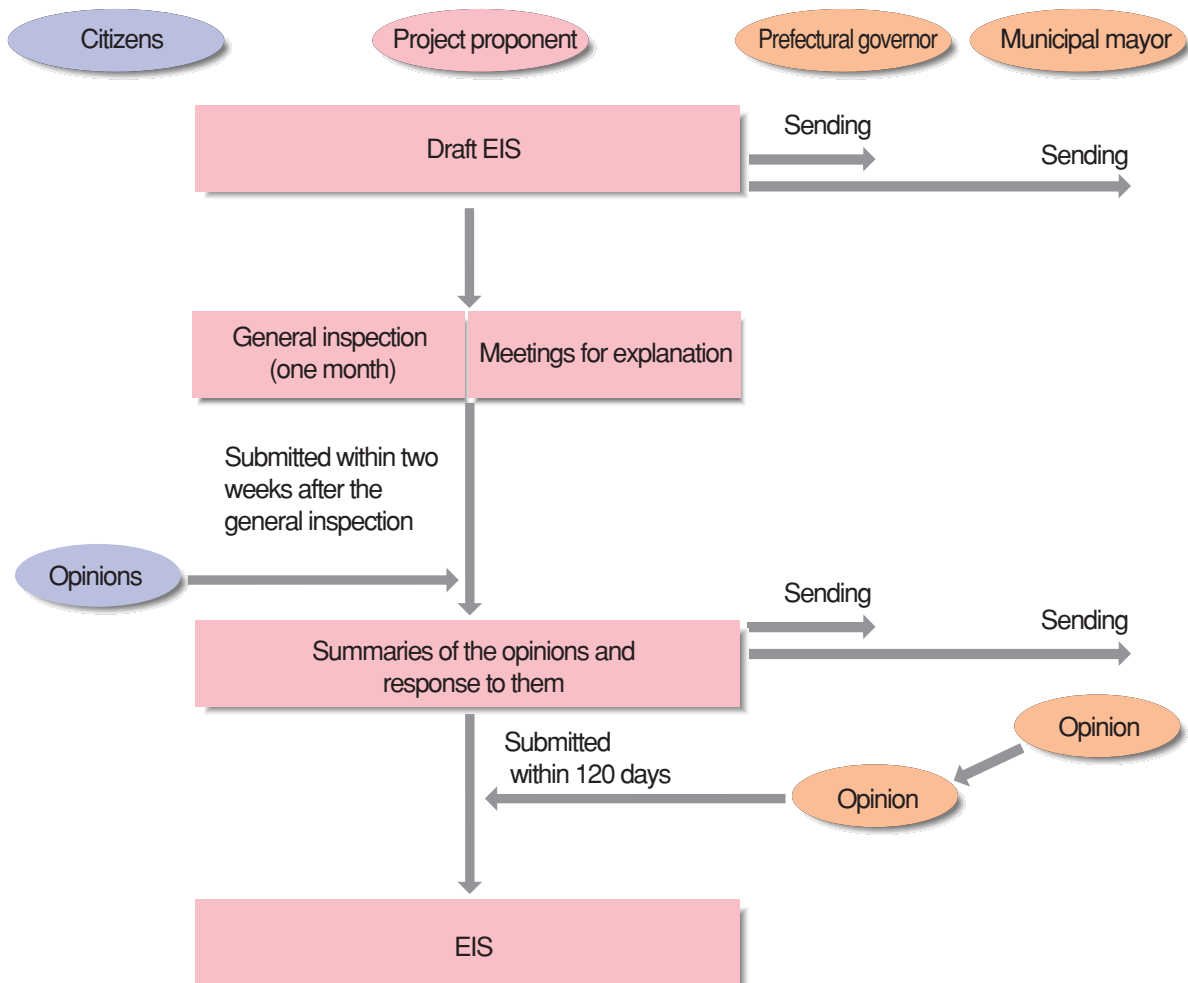
After the survey, forecast and evaluation are completed, the next procedure is to listen to opinions concerning the results of the assessment.

The project proponent prepares the draft EIS that describes the assessment results and his/her approach to addressing environment protection, and sends it to the prefectural governor and the municipal mayors. The proponent also publicly notifies the document and allows anyone to see it at local government offices and the proponent's offices for a period of one month. Within this period, meetings are also held to explain the contents of the draft EIS.

Anyone who has an opinion about the draft EIS can make a submission concerning environmental protection.

The project proponent sends the summaries of those opinions and his/her response to them to the prefectural and municipal governments. Later, the prefectural governor expresses his/her opinion after hearing the opinions from the municipal mayors, while also taking into account the opinions from the general public.

Procedure for the draft EIS



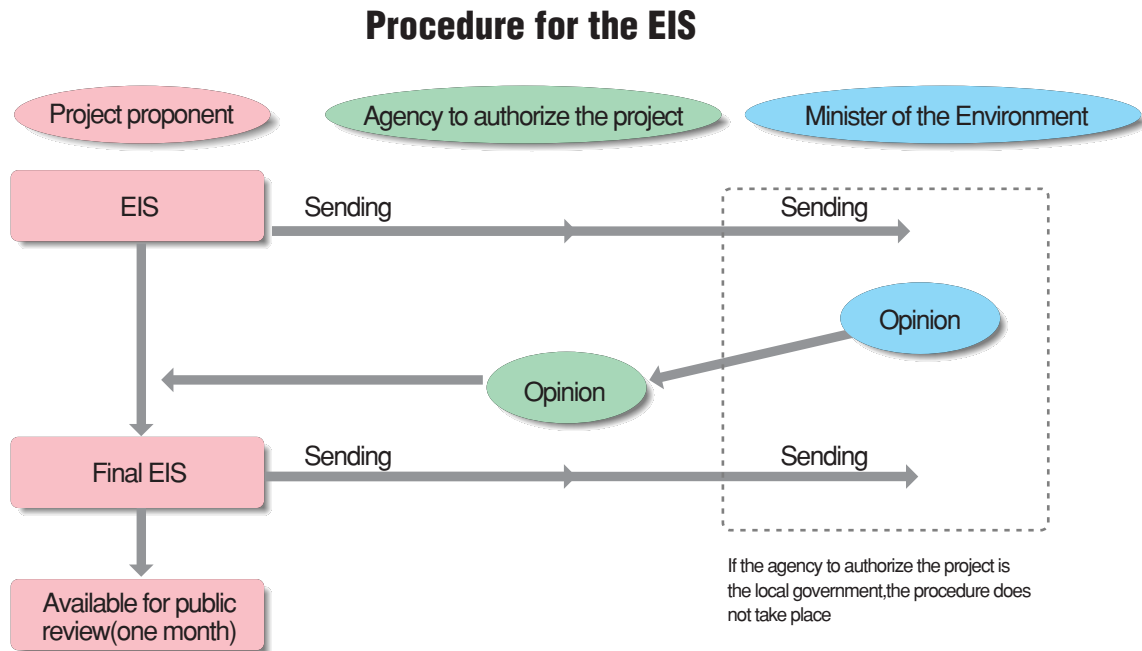
Procedure for the EIS

After the procedure for the draft EIS is completed, the project proponent examines the opinions received, reviews the draft EIS and makes the EIS.

After completion, the EIS is sent to the agency authorizing the project (for example, to the Minister of Infrastructure, Land and Transport in case of roads or airports), as well as to the Minister of the Environment, and it is examined from the viewpoint of environmental protection. The Minister of the Environment expresses his/her opinion to the authorizing agency. The authorizing agency considers the opinions of the Minister of the Environment, and then presents his/her opinion to the project proponent.

The project proponent reviews the EIS taking into account those opinions, makes the final EIS and sends it to the prefectural governor, the municipal mayors, and the authorizing agency. He/she also publicly notifies the document and allows anyone to review it at local government offices and the proponent's offices, etc. for a period of one month.

Until the final EIS is made to the public, the project proponent can not implement any part of the project.



Opinion presented by the Environment Minister

EIA is a system where the project proponent considers how to develop a better project from the viewpoint of environmental protection. To ensure the quality of environmental assessment, the assessment results need to be evaluated by parties other than the project proponent.

Under Cabinet-decision EIA, the agency authorizing the project (such as the Ministry of Infrastructure, Land and Transport and the Ministry of Economy, Trade and Industry) makes a judgment, and the Minister of the Environment presents his/her opinion only when asked by the authorizing agency. However, because the agency authorizing the project is often considered to promote the project, the law stipulates that the Minister of the Environment who takes responsibility for environmental protection shall express his/her opinion on all projects if necessary.

Reflecting the assessment results in the project scheme

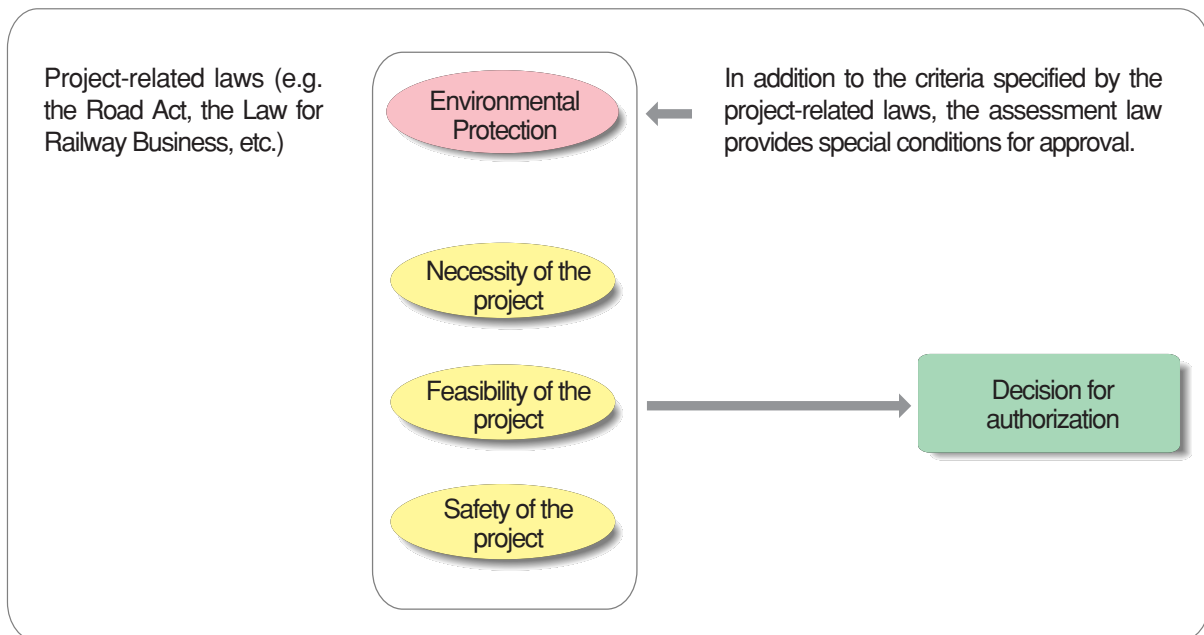
The procedure for EIA concludes with the public notification of the final EIS.

However, it is extremely important for the project proponent to reflect the results of the assessment in the project scheme.

The projects subject to the Environmental Impact Assessment Law are projects for which the government can decide whether it will conduct the project or not.

The project-related laws (such as the Road Act and the Law for Railway Business) give approval to a project, although the requirements for such approval do not necessarily include considerations relating to environmental protection.

In this context, the Environmental Impact Assessment Law includes provision not to give authorization to a project that does not take enough environmental protection into account.



Follow-up survey

A follow-up survey is a survey to assess environmental conditions at the stage of the construction and operation of the project. A follow-up survey is conducted as a part of environmental protection measures when:

- 1) uncertainty of the forecast is high
- 2) expertise about the effect of environmental protection measures is not high enough or questionable

The results of the follow-up survey are usually made to the public, including measures to address the results of the survey.

Special Case

When the project is included in city planning

- EIA proceeds along with the procedure for formulation of city planning.
- The prefectural and municipal governments responsible for the city planning perform the procedure instead of the project proponent.
- The assessment results are also reflected in the city planning.

Port planning

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

Power plant

- The national government (Ministry of Economy, Trade and Industry) presents his/her opinion concerning scoping document and the draft EIS.
- The special provisions are stipulated not in the Environmental Impact Assessment Law, but in the Electricity Utilities Industry Law

4. EIA System of Local Governments

Current State of the System of Local Governments

All of the prefectures and specially designated cities have established an assessment system by ordinances.

Compared with the Environmental Impact Assessment Law, the system of local governments is characterized by the following points:

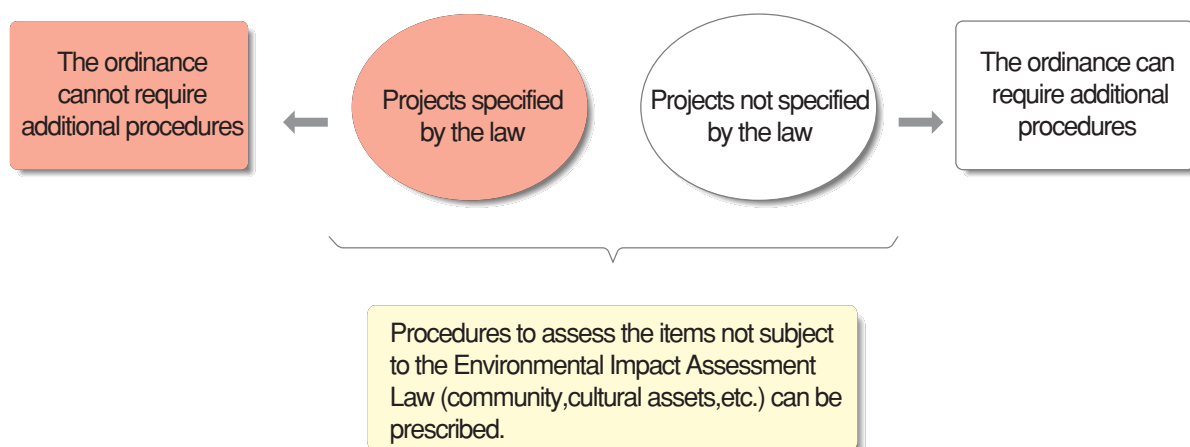
- Adding project types subject to assessment
- Applying the system to small-scale projects
- Holding a public hearing to ask citizens' comments
- Providing procedures regarding third-party organization evaluation
- Requiring follow-up monitoring after going through the procedures

Relationship between the Environmental Impact Assessment Law and the Environmental Impact Assessment Ordinances

Although the EIA systems introduced by local governments have a very important role in protecting the environment, the procedures under the Environmental Impact Assessment Law and those under the Environmental Impact Assessment Ordinances of local governments overlap. Requiring both procedures would often be extremely burdensome.

Therefore, the Environmental Impact Assessment Law contains provisions related to the EIA systems of local governments to prevent overlap of procedures based on the Environmental Impact Assessment Law.

Relationship between the Environmental Impact Assessment Law and Environmental Impact Assessment Ordinances



5. Strategic Environmental Assessment (SEA)

Strategic Environmental Assessment is an assessment of “Policies, Plans and Programs”, which will provide the framework for each project. Many countries have made efforts to introduce SEA, and there are a number of innovative schemes and examples available for adoption in Japan to improve the environmental consideration of the plans in local governments.

At the time of the enactment of the Environmental Impact Assessment Law, the need for SEA was pointed out in the decision of the Diet.

Following the decision, the Ministry of the Environment established an expert group named “Study Meeting for Strategic Environmental Assessment”. This group published a report describing the principles and other important factors relating to SEA in 2000 and will continue its consideration of SEA.

The Environmental Basic Plan, agreed by the cabinet decision in 2000, addressed SEA, describing the need to consider the content and methods of consideration of environmental matters in plans and policies; to accumulate examples at national and local governments; and to consider the establishment of rules for SEA if necessary.

**Environmental Impact Assessment Division
Environmental Policy Bureau
Ministry of the Environment
Government of Japan**

1-2-2, Kasumigaseki, Chiyoda-ku, Tokyo, Japan
100-8975
Telephone: (+81)-3-5521-8235 (direct line)

