

Part III Newly emerging environmental protection measures and the implications to Asian countries : 19 Kawasaki City's basic environmental ordinance and environmental review system

権利	Copyrights 日本貿易振興機構（ジェトロ）アジア経済研究所 / Institute of Developing Economies, Japan External Trade Organization (IDE-JETRO) http://www.ide.go.jp
シリーズタイトル(英)	Development and the Environment Series
シリーズ番号	4
journal or publication title	Environmental Law and Policy in Asia: Issues of Enforcement
page range	243-251
year	1997
URL	http://doi.org/10.20561/00026447

19

Kawasaki City's Basic Environmental Ordinance and Environmental Review System

Fukashi Utsunomiya

INTRODUCTION

Kawasaki City has engaged actively in environmental protection, mainly pollution control and preserving greenery, and has served up a menu of new ideas on environmental administration to the rest of Japan. For instance, in 1972 it passed a Pollution Control Ordinance that included setting the city's own environmental quality targets and instituting area-wide total pollutant load control; in 1973, against the backdrop of a citizens' movement demanding preservation of the natural environment and the restoration of greenery, it passed the Ordinance on the Preservation and Recovery of the Natural Environment, which recognizes the right to propose designations for preserving vegetated areas; and in 1976 enacted the first Environmental Impact Assessment Ordinance in Japan.

The policy measures implemented in accordance with these ordinances made for great achievements in pollution control and improving the environment, and are also highly regarded as an "innovative policy" that led other local governments in the area of environmental administration. But owing to a shift in Japan's industrial structure, to the concentration of urban services and infrastructure, and to other changes, subsequent environmental problems created new challenges to providing urban dwellers with fulfillment and peace of mind, such as pollution by motor vehicles, waste, and other results of urban living, and high-tech pollution. Additionally, global environmental problems such as global warming and ozone layer depletion have become crucial challenges that local governments too must address.

To address these new challenges, Kawasaki City in September 1990 set up the Kawasaki City Committee for the Consideration of an Integrated Environmental Administration System, which in August 1991 delivered the following proposal to the mayor: "In order to cope with current environmental conditions and to fashion a good urban environment, it will on this occasion be necessary to make extensive changes in the system of environmental administration we have used until now, which involved mainly remedial measures for pollution and preservation of greenery; to integrate the entire corpus of administrative policy measures relating to the environment; and for the entire city government to

establish a system that can deal with environmental matters in a consistent manner."¹ On the basis of this proposal, the city in December of that year passed and promulgated the Kawasaki City Basic Environmental Ordinance, which took effect on July 1, 1992.

In March 1993, Kawasaki formulated its Basic Environment Plan in accordance with the ordinance, and also developed its Environmental Review Guidelines, which serve to guide the implementation of the Environmental Review System that investigates environmental impacts in the planning stage of projects. This became effective on October 12, 1994.

The purposes of this paper are, first, to provide an overview of Kawasaki City's Basic Environmental Ordinance, explain its significance and features, and discuss whether it can be the framework for a paradigm to guide environmental administration in our global era. Second, it will discuss the Environmental Review System, which is being closely watched as a new way of performing environmental impact assessments.

THE BASIC ENVIRONMENTAL ORDINANCE

1. AN OVERVIEW OF THE BASIC ENVIRONMENTAL ORDINANCE

The ordinance consists of 19 articles divided into six sections, plus supplementary provisions. The first section, General Provisions, prescribes the responsibilities of the city, citizens, and businesses, basic policy measures, and Purpose (Article 1), Underlying Concept of Environmental Policy (Article 2), and Basic Principles (Article 3). Section 2 sets forth the Basic Environment Plan, and Section 3 the integrated system for coordinating environmental administration. Article 11 provides for the establishment of the Environmental Coordination Council, and Article 12 prescribes the Environmental Review System. Section 4 provides for the Environmental Policy Board, and Section 5 for the Annual Report, while Section 6 sets forth supplementary provisions such as strengthening and enhancing the review and research system, and support for citizens' movements.

1.1 The Underlying Concept of Environmental Policy

The ordinance's second article sets forth the following three items with regard to the underlying concept of environmental policy. First, on environmental rights: "The city's environmental policy shall provide for the citizens' right to a safe, healthy, and pleasant environment, and the aim of policy shall be to bequeath a good environment to future generations." Whether the phrase "bequeath a good environment to future generations" suggests that future generations, too, have environmental rights is open to interpretation, but in either case it is clear that Kawasaki's environmental policy is based on a philosophy that considers both the environmental benefits of present citizens and those of future generations.

But is it reasonable, when considering environmental policy for our global era, to limit policy scope to present and future citizens of Kawasaki? To move right to the conclusion, the implementation of post-modern environmental policy in our global era must include a perspective on making the transition from an anthropocentric environmental paradigm to a biocentric paradigm which takes into account the benefit of the earth. In view of this, the scope of environmental policy must be widened to a comprehensive extent that takes in not

only present and future Kawasaki citizens, but also the environmental benefit of all the world's citizens, and even the Earth's benefit (i.e., benefit for the environment itself). Current environmental policy is based on an anthropocentric environmental paradigm, and it goes without saying that breaking free of this will require a major course change in both perceptions and institutions. It is vital that we proceed toward new environmental administration from that direction.

Second, this ordinance sets forth the rational management of environmental resources, and the creation of environments, as one of the ideas underpinning environmental policy. Article 2, Paragraph 2 states, "The city shall cooperate with the citizens and businesses in the rational management of environmental resources, and in building a good environment in an integrated and continuous manner, thereby providing for qualitative improvement in the everyday lives of present and future citizens." The aim of this paragraph is to qualitatively improve the lives of present and future citizens, which requires rationally managing limited environmental resources to create a better environment. In managing the environment it is crucial to scientifically assess the regional environment in a comprehensive manner, and to rationally manage and build on it. The important consideration in Kawasaki's environmental administration is perhaps how to apply ideas on environmental resources and environmental creation to concrete policy measures.

People have differing ideas on creating the environment. Some take the view that human beings not only use the environment, but have also been assigned the role of environment creation, while an opposing view holds that it is out of the question for humans to be creating the environment, and that they should not interfere. No matter which is correct, when humans do create environments they must do it for a clear purpose, and for that reason they must delve into the philosophy behind the discourse on environmental creation.² Is the environment being modified to create a more comfortable and pleasant environment for people? Or should the purpose of creation be to better the sustainability of the environment itself?

We should perhaps avoid the kind of programs for creating pleasant environments that create pleasant surroundings for people but do not benefit the environment's sustainability. In the area along Kawasaki's industrial roads, which were reported as having the worst air pollution concentration in Japan, the city implemented a Green Wall Project which involves planting walls of trees to alleviate air pollution and mitigate traffic noise (the project was completed in March 1993, and the trees are growing well). Truly, this is an example of good environmental creation. Third, Article 2 stipulates that environmental policy takes precedence. Paragraph 3 states, "The foundation of city policy measures is environmental policy, which shall be given maximum priority." In the entire ordinance it is this single word "foundation" that is most important and deserving of our attention. It is possible to find in this word a new way of thinking and a new direction in environmental policy, but that is not all. The idea that environmental policy constitutes the foundation of all policy is a supporting element of the environmental paradigm in our global era, and it is highly significant that the ordinance incorporates this thinking.

1.2 Basic Principles of Environmental Policy

The following five basic principles were put forward to guide the implementation of Kawasaki's environmental policy: (1) the integrated nature of policy measures, (2) scientific predictability, (3) taking the ecosystem into consideration, (4) taking the global environment into consideration, and (5) citizen participation and co-production. Most noteworthy is the

inclusion of (4) "taking the global environment into consideration" and (5) "citizen participation and co-production" among the basic principles of environmental policy.

1.3 Kawasaki City's Basic Policy Measures

Article 7 sets the following six items as the city's priority policy measures.

- (1) Controlling pollution caused by new industries, rational disposal of industrial wastes, etc.
- (2) Alleviation of urban citizen-generated pollution by controlling motor vehicle pollution and water pollution, rational disposal of municipal solid wastes, and the like.
- (3) Making the city a better place to live by protecting water and trees, creating beautiful urban views, preserving the city's historical and cultural legacy, and the like.
- (4) Maintaining an urban structure that allows the cycling of water, efficient energy use, encouraging the use of recyclable resources.
- (5) Pursuing policies for global environment preservation, including prevention of global warming and ozone layer depletion.
- (6) Promoting environmental education and learning about the environment.

Paragraph 2 of this article observes that, when implementing the measures in Paragraph 1, it is necessary to consider comprehensive measures that include, for example, changes in city structure, in economic activities, and in the ways that the citizens live and behave, as well as to provide appropriate means for citizen participation. Of particular note in this paragraph is the proposed change in citizen lifestyle, and the institutionalization of citizen participation. When the time comes to implement measures to control motor vehicle pollution, or for local governments to work on preserving the global environment, it will be necessary to initiate steps at the individual level to reduce excessive personal consumption. And for effective policy measure implementation it is essential to have the participation and cooperation of each and every citizen, so Kawasaki must set up a system based on a new perspective for citizen participation. Paragraph 3 of the article has special provisions for coping with wide-area environmental problems. It sets Kawasaki the task of endeavoring to address such problems by actively discussing them with the national government and nearby local governments.

1.4 Basic Environment Plan

Section 2, Article 8 states, "In order to implement environmental policy in a comprehensive and planned manner, the Mayor shall, on the basis of the city's basic concept, formulate a Basic Environment Plan that will serve as the fundamental guiding principle of environmental policy." Article 8 states that the plan is to incorporate its objective (i.e., the preferable state of the environment), plus items such as environmental policy measures for achieving that objective, and the formulation of guidelines for taking the environment into consideration when using environmental resources and performing other related activities. It is therefore very significant that the ordinance has clearly prescribed the formulation of a basic environment plan, and by founding itself on this ordinance the plan is seen as a crucial one that the city as a whole cannot ignore. Kawasaki followed the ordinance in setting to work on its Basic Environment Plan in 1992, and it was completed in February 1994, after incorporating the opinions and proposals of citizens, the Environmental Policy Board, and other

parties. The rest of the country is closely observing Kawasaki's Basic Environment Plan as a target-focusing plan.

1.5 Integrated System for Coordinating Environmental Administration

1.5.1 The Environmental Coordination Council

Kawasaki will establish an Environmental Coordination Council to pursue environmental administration in an effective and systematic manner, and perform integrated coordination for the following items (Article 10):

1. Formulation of and changes in the Basic Environment Plan;
2. Environmental policy measures; and
3. Other matters involving the overall conduct of environmental administration.

The council's members are deputy mayors and bureau directors. Its aim is to break down the detrimental barriers caused by the fractionalized administration conducted heretofore, thereby horizontally integrating environmental administration to cut across inter-departmental lines. In particular the council attempts to develop comprehensive policy that takes the environment into consideration.

1.5.2 Environmental Reviews

When in the process of integrated coordination during the formulation of the main environment-related policy measures or guiding principles, the city performs reviews (environmental studies) to determine matters such as whether there is adequate consideration for the environment by the Environmental Coordination Council, or whether choices are environmentally desirable (Article 12 Paragraph 1). Paragraph 2 of this article stipulates that the mayor is to formulate necessary guidelines for environmental reviews after hearing the opinions of the Environmental Policy Board.

The Environmental Review System is meant to investigate environmental impacts and reconcile them with other considerations at the early stages of plans when formulating primary policy measures, projects, guiding principles, and the like. It only prescribes the procedures for properly arriving at decisions internally. Environmental impact assessments (EIAs) pursuant to the city's Environmental Impact Assessment Ordinance are mainly performed during project implementation, and thus the intent differs. Another aim of the Environmental Review System is to supplement the EIA system.

1.6 The Environmental Policy Board

The Environmental Policy Board is established to study and deliberate on the integrated and planned conduct of environmental policy. Its work covers: (1) the formulation of and changes in the Basic Environment Plan; (2) guidelines for environmental reviews; (3) the annual report; and (4) important matters involving the overall conduct of environmental administration. When the board deems it necessary, it may offer advice or proposals to the mayor and other related parties. Thus a noteworthy feature of this board is that it functions as a third party that monitors environmental administration from a specialized and disinterested position. The board is therefore made to function as what might be called an environ-

mental ombudsman. It may also ask the mayor and other parties to submit information and other necessary materials pertaining to the environment. The board is made up of no more than five members, people with excellent environmental knowledge and understanding who are commissioned by the mayor with city council approval.

1.7 Annual Report, and Managing Basic Plan Progress

The formulation of basic environment plans means nothing unless their measures are translated into action. Kawasaki's ordinance requires that the state of the Basic Environment Plan's implementation be announced via annual reports to the citizens, who can submit written opinions on the reports. The arrangement further calls for the mayor to send these opinions along with a request for opinions on the annual reports to the Environmental Policy Board.

1.8 Support for Citizens' Movements

To support autonomous citizens' activities directed at preserving and creating good environments, the city shall endeavor to supply environmental information and take other necessary actions (Article 18). One of this ordinance's fundamental principles is citizen participation and co-production, and it emphasizes the need for citizen participation in implementing basic measures. In the final analysis, it is the citizens who are the main vehicle for environmental activities leading to the next century. The city does not stop at supplying citizens with environmental information, for it is also required to set up an overall support system that includes the provision of public funds.

2. SIGNIFICANCE AND FEATURES OF THE BASIC ENVIRONMENTAL ORDINANCE

Even during the period of first-generation environmental administration, Kawasaki was first in the nation to introduce an EIA system and to make other efforts, mainly for controlling pollution, and it seems to me that this Basic Environmental Ordinance can be accorded a high estimation for having incorporated a new and innovative system to lead environmental policy in this global era. Because I mentioned the ordinance's features in the general description, I should here like to discuss six important features.

First let's look at the fundamental concept of environmental policy. As observed previously, it is not just another area of policy taking its place alongside urban, welfare, development, and other categories; rather, the ordinance clearly states that it constitutes the foundation of all other policy, and this is highly significant. It remains to be seen how this fundamental concept of environmental policy will be infused into government administration, and how environmental policy will be integrated in specific situations.

Second, it is important to note that the ordinance clearly states the right of citizens to a pleasant environment. This environmental right should be extended to future generations, and if global-era environmental policy is taken into one's outlook, then it should be extended to all the world's citizens. And the day is perhaps not far away when people will accept as a norm the idea of the rights of the environment itself, i.e., the right of nature itself to exist. It seems to me that environmental administration leading to the twenty-first century must place within its sights this sort of eco-centric, eco-ethical perspective.

Third, the ordinance shows one direction in which local governments can take specific initiatives for the preservation of the global environment. It first brings up consideration for the global environment, which is one of the five basic principles of the city's environmental policy, and then states that in its six priority policy measures Kawasaki shall provide for "implementation of measures for protecting the global environment, such as international interchanges for global warming prevention, ozone layer protection, and pollution control technology."

Fourth, the ordinance expressly provides for a Basic Environment Plan and a system for managing the plan's progress. Nearly all the environmental management plans formulated by a considerable number of local governments throughout Japan were created as discretionary administrative plans, and thus their effectiveness is questionable. Kawasaki's ordinance serves as the authority for its Basic Environment Plan, and also creates a system to manage plan progress to ensure that measures in the plan are definitely implemented.

Fifth, the ordinance incorporates an Environmental Review System which involves studying environmental impacts at the planning stage of city measures and projects. The aim of this system is to assess projects and measures at an early stage, as well as to consider alternatives and modify plans actions which are difficult at the implementation stage when a plan is almost completely fixed.

Sixth is the establishment of the Environmental Coordination Council, an internal organization that performs overall studies of environmental policy, and the establishment of the Environmental Policy Board, which as a third party studies and deliberates on environmental policy from a specialized standpoint, and acts as an ombudsman that monitors the whole spectrum of environmental administration.

3. ENVIRONMENTAL REVIEW SYSTEM

Pursuant to the Basic Environmental Ordinance, Kawasaki City completed its Environment Review Guidelines on October 15, 1994, and on that same day put the Environmental Review System into effect.

3.1 An Overview of the Environmental Review System

3.1.1 Items Subjected to Environmental Reviews

The Environmental Review System is concerned with projects, plans, guiding principles, administrative guidelines, and other measures that have a potentially heavy impact on the environment, specifically: (1) large-scale development projects carried out by the city, (2) policies on permission, authorization and consultation concerning private-sector projects and large-scale development projects carried out by the national government, the prefecture, public corporations, or other entities, and (3) plans, administrative guidelines, and the like formulated by the city in relation to projects that could impact heavily on the environment.

3.1.2 Environmental Review Timing

Environmental reviews are performed when formulating the basic concepts or basic plans that clearly define what is involved in project plans and the like.

3.1.3 Implementing Party

Environmental reviews are performed by the implementing department in accordance with directives from the Environmental Coordination Council's chairman.

3.1.4 Environmental Review Procedures

Environmental reviews are made up of two stages: a primary and a secondary review. The implementing department submits to the Environmental Coordination Council a primary report consisting of an overall assessment, including an overview of the project plan or other matter being reviewed, and the thinking that underlies consideration for the environment. Other departments submit written opinions on the primary report, and the Environmental Coordination Council then examines the primary report while referring to the submitted opinions. If the council determines that the project will have serious environmental impacts, it directs the implementing department to prepare a secondary report (if the council finds no serious impact, it informs the implementing department, and does not require a secondary review).

If the implementing department is directed to perform a secondary review, it submits to the Environmental Coordination Council a report that includes items such as an overview of the environmental impact and a discussion of alternatives. Other departments then submit written opinions on the secondary report. The implementing department then incorporates the examination results into its project plan. A general description of the review results is published in the annual report for release to the public.

3.1.5 Repeat Environmental Reviews

In the event of substantial changes in the basic form of a project after an environmental review, the review will be implemented again.

3.2 Characteristics of the Environmental Review System

The first characteristic of the Environmental Review System is that it provides for overall coordination and for arriving at decisions internally. To begin with, when the city government makes decisions on projects and plans, city administrators themselves work to internally arrive at decisions that take the environmental element into consideration. In this respect the system differs from existing environmental impact assessment systems that seek opinions from citizens and other parties by publicizing the results of environmental impact assessments. Because Kawasaki's Environmental Review System is an internal system, it does not include arrangements for procedures to incorporate citizens' opinions during the decision-making process.

The second is that this Environmental Review System examines environmental impacts during the concept planning stage, considers and assesses alternatives, and modifies the plan if necessary. Because the current EIA system assesses impacts at the project implementation stage, it is nearly impossible to consider alternatives or take other action. For this reason people have observed the need to conduct assessments early. In this sense Kawasaki's Environmental Review System is a ground-breaking attempt to take the environment into consideration at the concept stage, thereby compensating for the limitations of the current EIA system.

The third is that this system assesses the environmental impacts of not only construction projects such as roads and large-scale development, but also of ideas behind development, such as guiding principles, plans, and administrative guidelines. Does "plans" here mean include the city's general plans and basic plans, and do "administrative guidelines, etc." also include ordinances and policy in addition to administrative guidelines? From the perspective that environmental policy underlies all other policy, even general plans should naturally be subject to environmental review. Recently, local governments in the United States have subjected their long-term plans to EIAs, which are highly regarded in terms of the environment.³ Ordinances, policies, and the like should also be subject to environmental review.

The fourth is that general descriptions of environmental review results are made public through the annual reports. As the review process is an internal decision-making process of the city government, it's not visible to the citizens, but they can read the summaries of review results published in the annual reports, and offer their opinions on the annual reports. And because the reports on primary and secondary reviews, as well as the council's examination, are all public documents, they can of course be obtained through information access procedures.

For the Environmental Review System to function effectively from now on, it will be necessary to enhance the integrated application and linkage with the EIA system, and to secure the genuine cooperation of the implementing departments.

CONCLUSION

The frameworks and systems founded on the Basic Environmental Ordinance that was created by Kawasaki City as a way of addressing new environmental challenges can be assessed positively as innovations in integrated environmental administration. It remains to be seen how effectively these systems and policy measures will be put to work. Even though the city emphasizes integrated environmental administration, if city employees still work under a fractionalized mentality, it will be difficult to achieve integrated environmental administration that cuts across departmental barriers. City employees must therefore change their perceptions.

Notes

1. See: Kawasaki City Committee for the Consideration of an Integrated Environmental Administration System, *Sogoteki kankyo gyoseiseido no sosetsu ni kansuru teigen* (A proposal for the establishment of an integrated environmental administration system), August 1991.
2. See: Utsunomiya, F., *Kankyo sozo no gyoseigaku teki kenkyu* (Administrative studies on creating environments), Tokai University Press, 1984.
3. For example, Seattle prepared a Draft Environmental Impact Statement (Spring 1994) for its plan, Seattle's Plan for Managing Growth. Similarly, Los Angeles performed an environmental impact assessment on its Citywide General Plan Framework for the twenty-first century (March 1993).