


MEMORANDUM

TO: Council, AP and SSC Members

FROM: Clarence G. Pautzke 
Executive Director

DATE: January 8, 1991

SUBJECT: Industry Funding of Regulatory Analyses

ACTION REQUIRED

Approve policy on industry funding of analyses.

BACKGROUND

In December the Council requested staff to draft policy on the use of industry funds to analyze proposed changes to fishery plans and regulations. The Council is prohibited from accepting funds directly by Section 605.26 of the Secretary's Guidelines and Regulations. However, industry may hire consultants to prepare a preliminary analysis of a proposal before it is submitted for Council consideration, or may offer funds to a third party such as ADF&G, Sea Grant, or the Pacific States Marine Fisheries Commission, to hire consultants to augment staff capabilities during the analysis stage after a proposal is accepted.

Here are several considerations in adopting policy on this matter:

1. All proposals should be given fair consideration, regardless of their funding basis.

The team, PAAG, AP and SSC review process provides for fair consideration of all proposals, and this should continue. Funding availability is just one, but certainly not the most important, criterion for determining which proposal moves forward. The severity of the problem addressed and the urgency in resolving critical biological and socioeconomic problems provide the best reasons for acting on a particular proposal. It should not be assumed that a proposal will be accepted by the Council just because funding has been offered or already expended in its preparation.

2. Industry could consider funding the preparation of proposals, not just the analysis.

Normally we search for outside help after we have a good proposal in hand, but cannot consider it for lack of staff availability. The industry could consider committing funds up front to research an issue before it is brought before the Council: gather data, do a preliminary analysis, develop consensus on solutions, etc. This preparation would facilitate further processing and analysis of proposals by the Council. A potential limitation on "pre-analysis" is the confidentiality of data that

may be needed in even a very preliminary impact assessment of the proposal. A consultant hired to perform such work would either need to use data provided voluntarily by industry or somehow be bound by federal data non-disclosure regulations.

3. No proposal is costless in terms of staff requirements no matter how well funded by industry.

Agency and Council staff will need to provide oversight and review of any analytical package developed using private funds. This will ensure objectivity in the study and that the appropriate format is observed. This oversight will require considerable staff time, which must then come out of other Council projects. The final analytical package and other parts of the amendment package most likely will need to be drafted wholly by staff, so it will be very important to accurately estimate staff requirements for proposals funded by industry. The draft policy calls on the plan teams to provide such advice when reviewing proposals.

4. Analyses must be as objective as possible, in reality and in perception.

Objectivity is best ensured by careful, exhaustive peer review. This will be doubly important if an analysis is funded by someone or a component within industry that stands to gain from passage of a proposal. Peer review time and effort must be factored into the teams' recommendations on the amount of staff time available. It's much better to encourage industry to work through a third party and let the third party, in consultation with the Council, solicit appropriate analysts, rather than industry hiring directly.

5. Using outside consultants normally will take more time.

It will be highly unlikely that a consultant can gear up and complete a study in the time normally allotted for analysis between September and April. Proposals, especially complicated, controversial ones, probably will need to be placed on an extended cycle, particularly if there has been little in the way of preliminary analysis before submission to the Council.

Draft Policy

Item C-6(a) is a draft policy for Council and Fishery Planning Committee consideration. It calls on the Council to ensure that all proposals, regardless of funding basis, be given fair consideration, and that the teams and other Council advisory bodies be used, as they are now, to develop recommendations and a realistic assessment of the staff time that will be required with even the most heavily-funded industry proposal. The policy also emphasizes the importance of peer review in maintaining the objectivity of all analyses.

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NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Policy on Industry Funding of Regulatory Analyses

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Preamble

The groundfish fisheries have developed rapidly off Alaska, requiring the North Pacific Fishery Management Council to respond quickly to changing industry needs and concerns. However, making changes in fisheries regulations under federal law requires extensive analyses of the biological, ecological, economic, and social impacts of the proposed changes on the fish stocks, their environment, and the associated users. The analyses require time and effort, and the amount of work often far exceeds the technical staff available. Therefore, the Council has had to restrict its workload and be highly selective in accepting proposals for further processing. Consequently, otherwise excellent proposals for management changes may go unaddressed, simply for lack of manpower to process them.

To enhance the Council's ability to address management problems, the industry has offered to provide supplemental funding for analyses of proposals of high interest to them. In response, the Council has adopted the policy and implementation procedures below.

Policy

It is Council policy to afford industry the opportunity to wholly or partially fund analyses of proposed changes in fishery management plans and regulations. Though the Council cannot directly receive such funds, the industry may arrange for a third party to administer the funds in support of analyses. The Council will continue to ensure that all proposals, regardless of the funding basis for their analysis, are given fair consideration in determining staff priorities for further analysis and processing, and that analyses are as objective as possible.

Implementation

The Council will continue to adhere to its adopted policies for processing proposed changes in fishery plans and regulations. All proposals, whether or not accompanied with an offer of industry funds for analysis, must be in the approved format, and reviewed by the appropriate plan teams, Plan Amendment Advisory Group, Scientific and Statistical Committee, and Advisory Panel, before coming before the Council.

In reviewing proposals with offers of industry funding for analysis, the plan teams will provide, in addition to other required recommendations, the following information:

1. An appraisal of the amount of work that can be performed satisfactorily by outside consultants, considering the urgency of the proposal and the need to access confidential agency data;
2. Magnitude of industry funding required to complete the analysis;
3. Estimated manpower and time required of agency/Council staff to oversee and/or complete the analysis, if it is performed by outside consultants, and to prepare the other required amendment documents.

In the event that the Council accepts industry funding, the Council will take appropriate steps to ensure the integrity of the analytical process. All analyses will continue to be reviewed thoroughly by plan teams, the SSC, and other peer groups to maintain the highest standards of objectivity.

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