

TOWARDS A COMMON GOAL

Coordinating actions under the Clean
Water Act (FWPCA) and the
Endangered Species Act (ESA)



Memorandum of Agreement

- Signed by USCG, EPA, DOI, USFWS, NOAA & NMFS in July 2001
- Provides a framework for cooperation & participation among Services & Agencies
- Integrates ESA consultation with NCP requirements



What are the benefits?

- Proactive vs. reactive approach to ecosystem protection
- Improves response plan
- Improves inter-agency coordination
- Helps meet mandates of both ESA and CWA in a comprehensive manner
- Incorporates lessons learned to avoid repeating mistakes

ESA Requirements

- Unlawful to take threatened and endangered species (Section 9)
- Each federal agency shall insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize endangered species continued existence (Section 7)
 - ☞ Consultation
 - ☞ Incidental take approval



FOSC Statutory and Regulatory Authorities

- Clean Water Act - FWPCA Sec. 311
- Oil Pollution Act of 1990 - Sec. 4201&4202
- National Contingency Plan - 40 CFR 300



The Process

- Inter-agency workgroup formed in February 2000
- Conducted an ESA Section 7(a) (1) review of the NCP and associated oil spill response activities.
- Field comments sought on draft MOA
- MOA signed July 2001



MOA Overview

- Introduction & Purpose
- Legal Authorities & Definitions
- Procedures
 - Pre-Spill
 - Spill Response
 - Post Response
- Appendices
 - Flow charts
 - Checklist to initiate post-emergency consult
 - Planning Template
 - Sample PRFA language & consult documentation letters

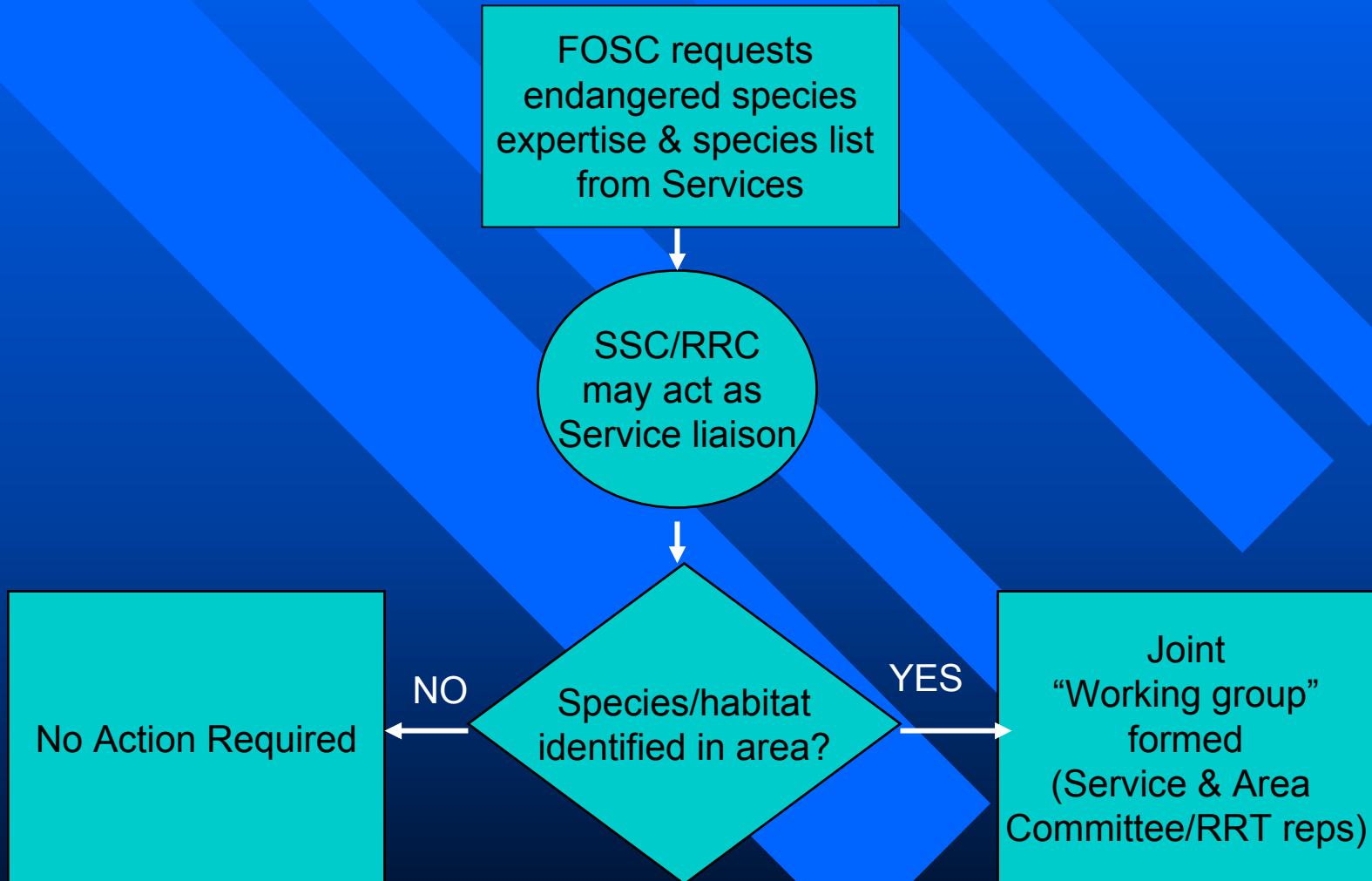


Planning highlights

- Flexible approach
- Mainly informal using a process selected by the Area Committee
- Information needed for both ACP and ESA documentation
- Encourages Service involvement
- Faster response decision-making

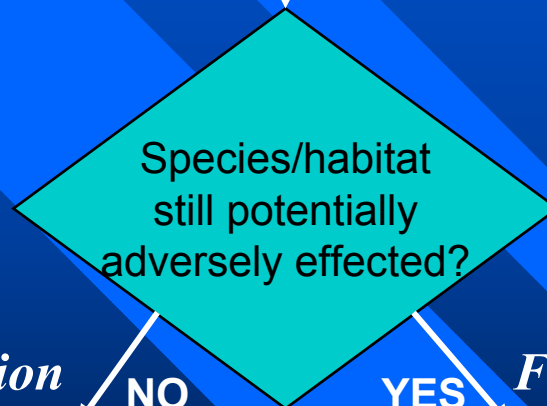


Pre-spill planning



Informal Consultation/ ACP Planning Process

“Working group”
completes Appendix C
using ACP planning
process*
*Develop strategies with
minimal
adverse effect



Informal Consultation

NO

Services provide
concurrence letter
Sec. 7(a)(2) req's fulfilled

YES

Formal Consultation

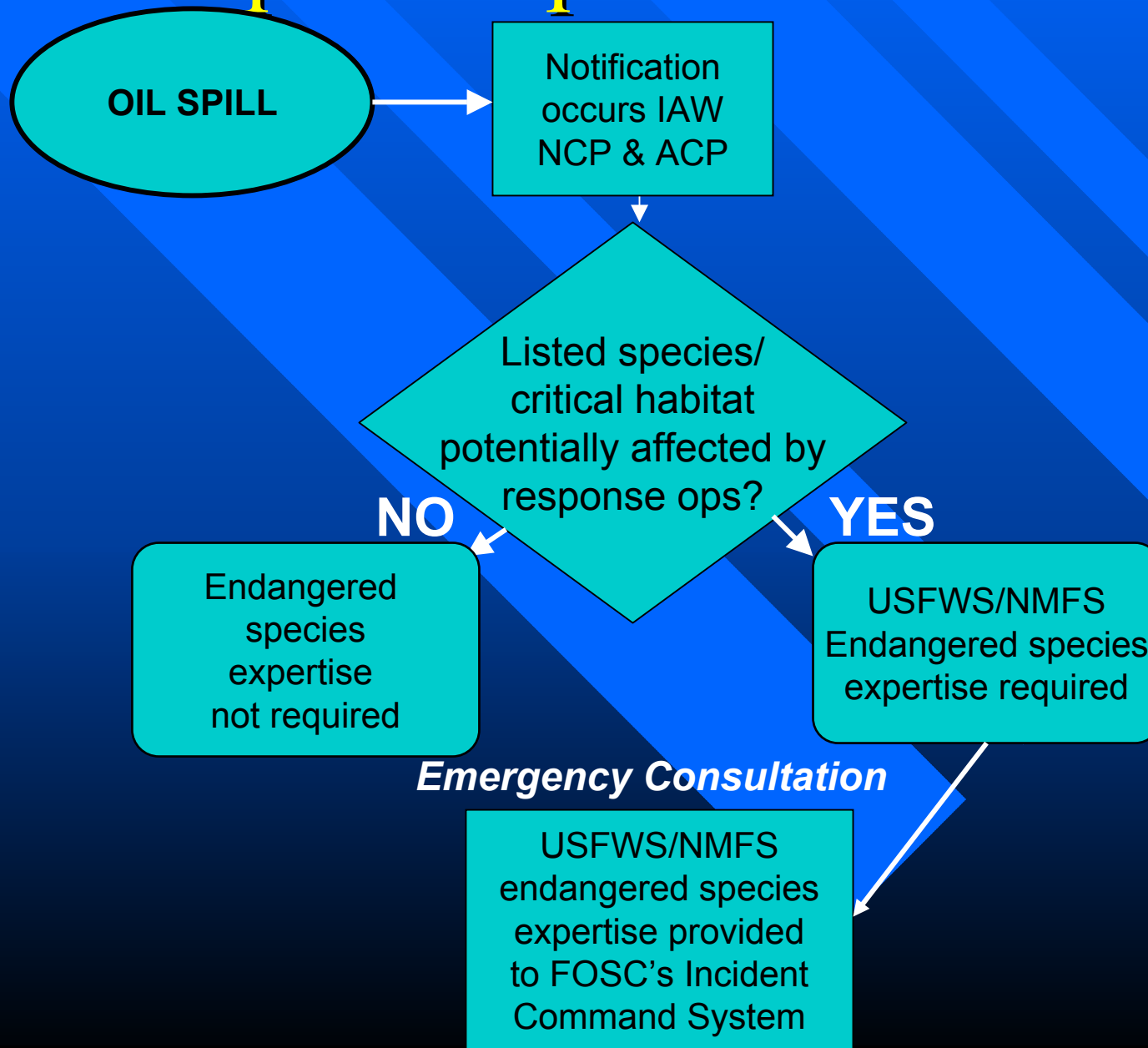
Services utilize info
developed in Appendix C
to finalize formal
consultation
Sec. 7(a)(2) req's fulfilled

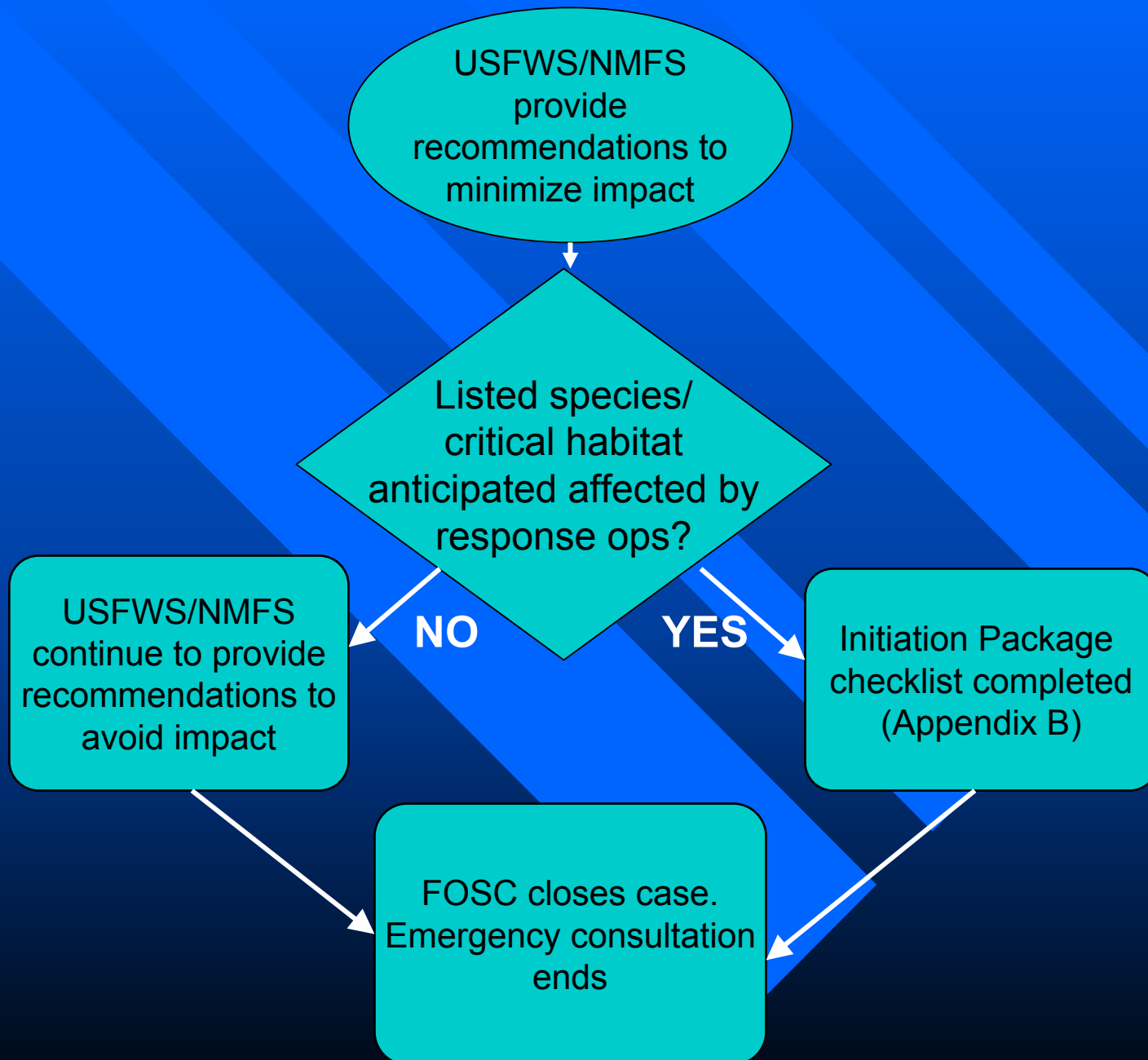
Response highlights

- Spill response is an emergency
- ACP is basis for immediate response ops
- Service reps can be incorporated into Incident Command System as required
- Emergency continues until case is closed
- Helps avoid impacts and post-spill consults



Spill Response Procedures

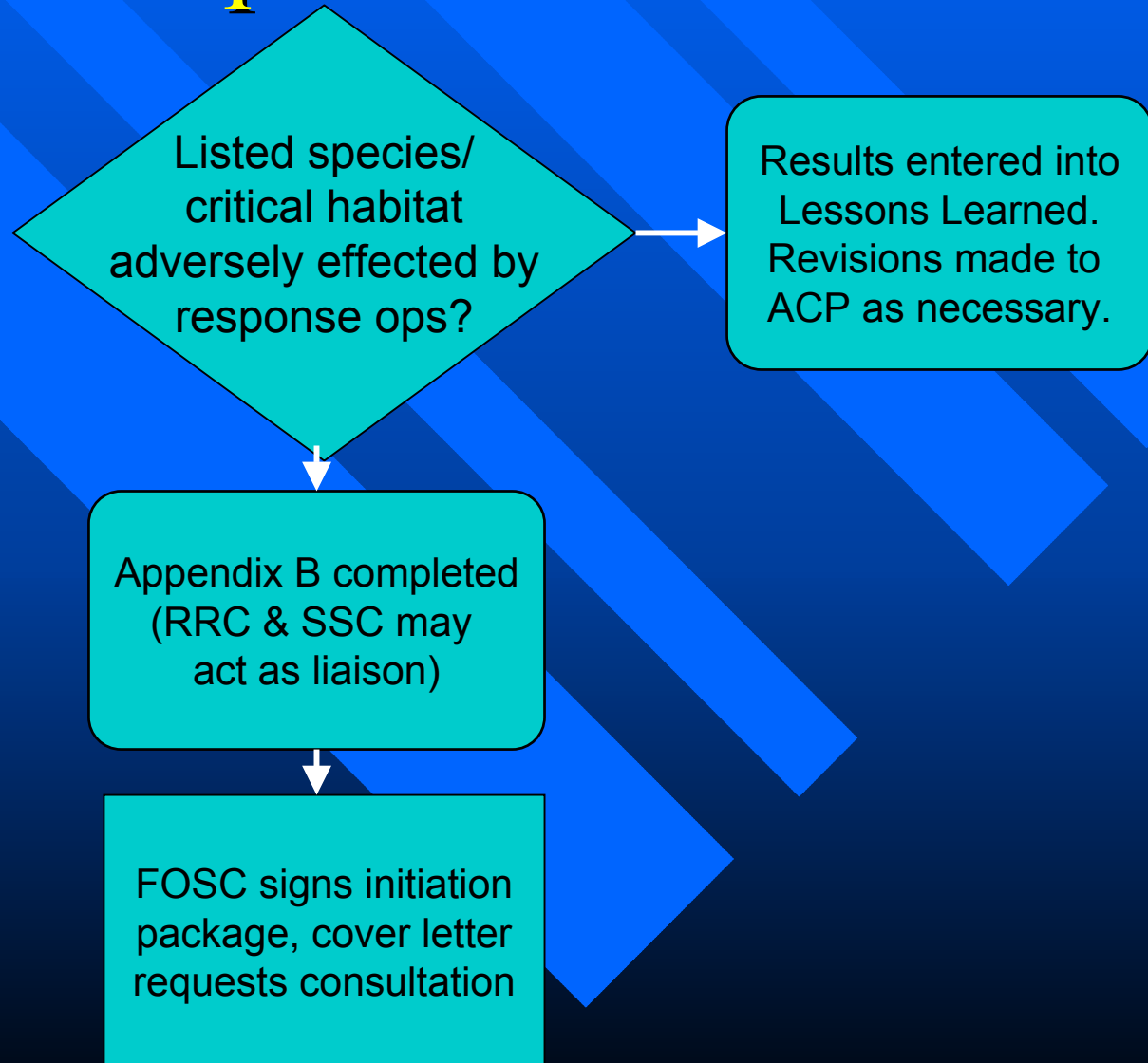


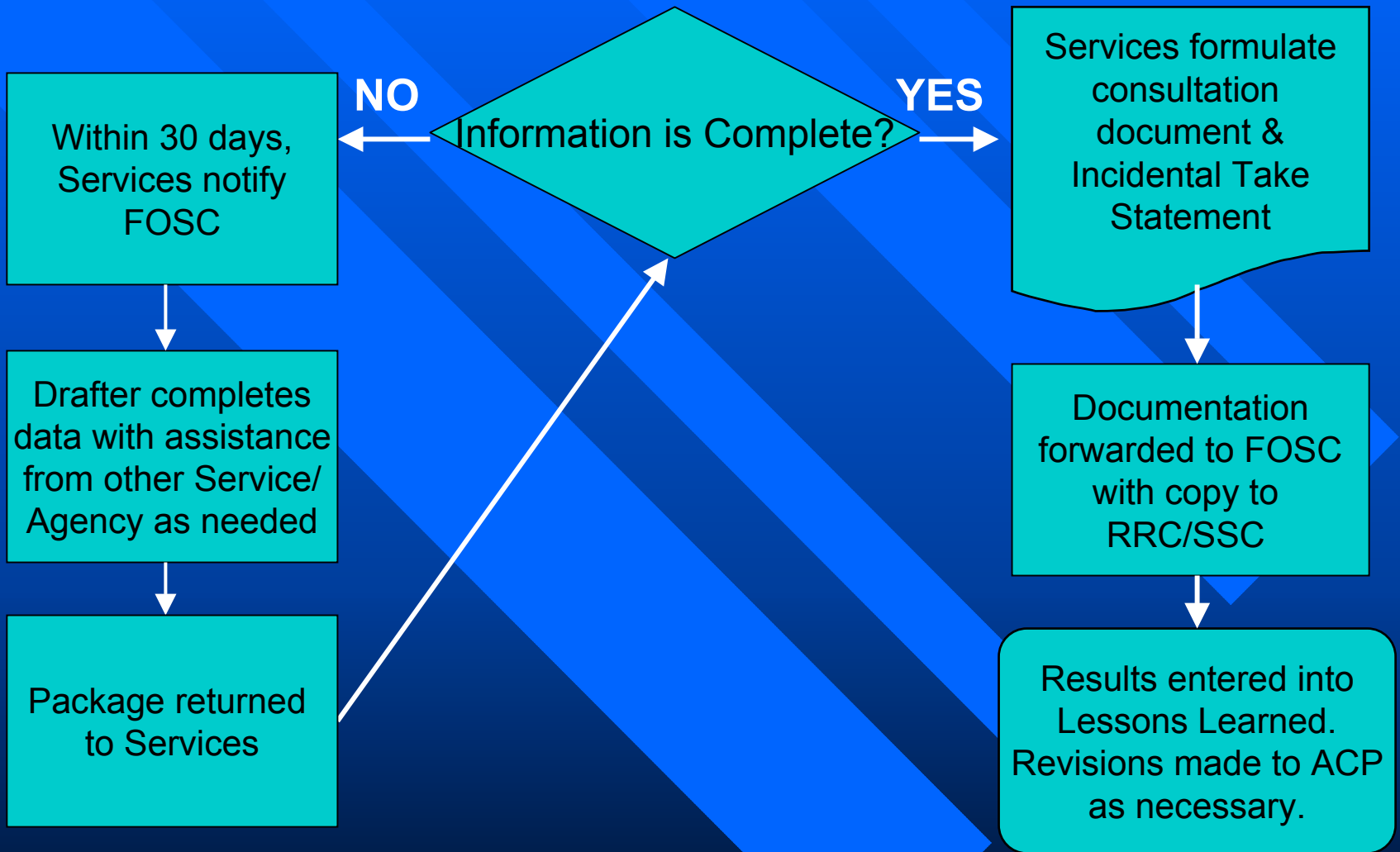


Post Response Highlights

- Formal consult only after case is closed, if required
- FOSC decides who completes package
- Provides legal protection to the FOSC
- Biological opinion feedback in lessons learned as necessary

Post Response Procedures



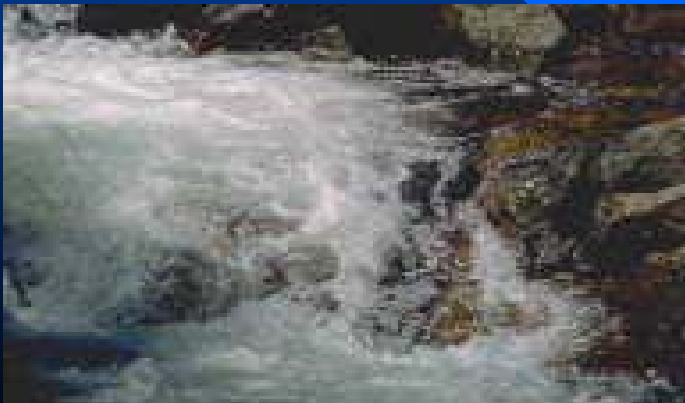


What next?

- Workgroup develops training manual & presentation
- Training conducted at conferences, RRT meetings, resident training, etc.
- Area Committees (or RRTs) contact & work with Service reps
- ACPs amended & improved through normal review process
- Service participation in exercises is encouraged

Our Goal

- To protect public health and welfare, including fish, wildlife, and other natural resources (NCP)...and conserve threatened and endangered species and their ecosystems (ESA)!



Questions?

