

# 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



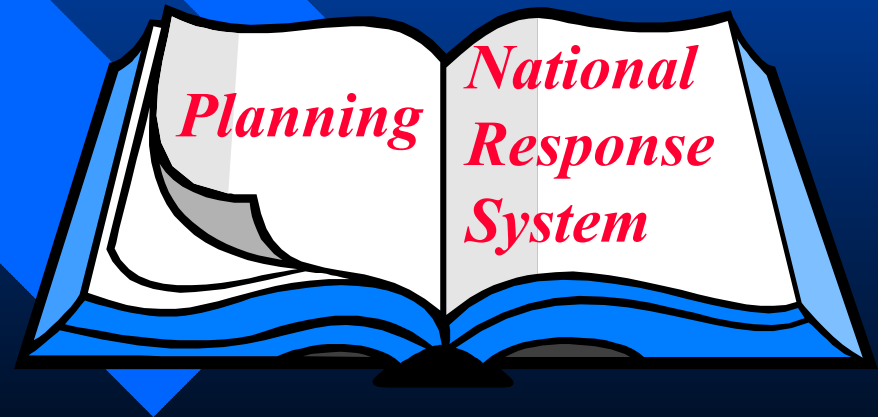
# ESA Requirements

- 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.
- Select field comments sought on draft MOA in fall 2000
- 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



# What are the benefits?

- Proactive vs. reactive approach to ecosystem protection
- Develops a quality response plan
- Improves inter-agency coordination
- Helps meet mandates of both ESA and CWA in a comprehensive manner
- Incorporation of lessons learned ensures mistakes are not repeated

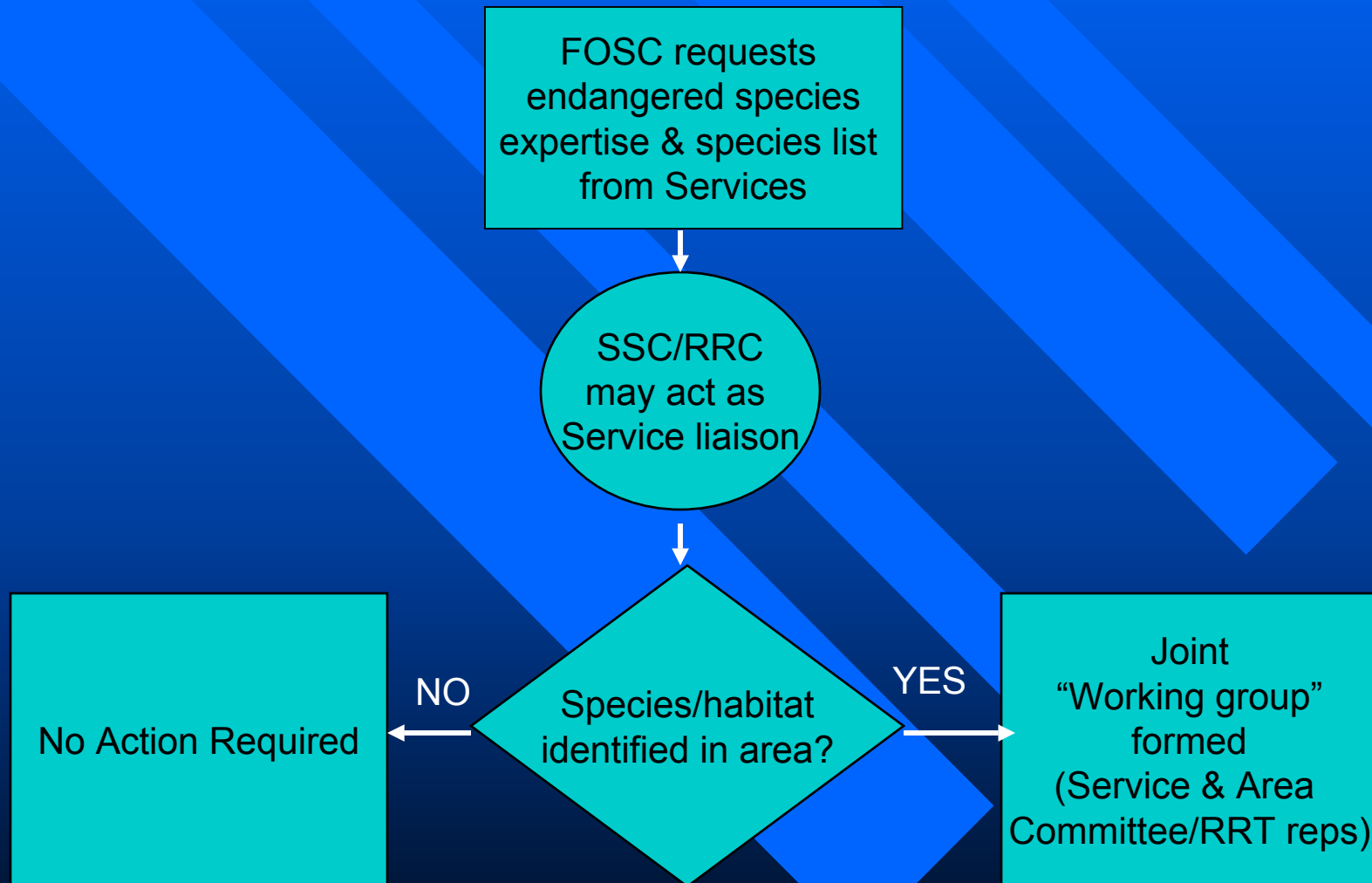
# Planning highlights

- 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



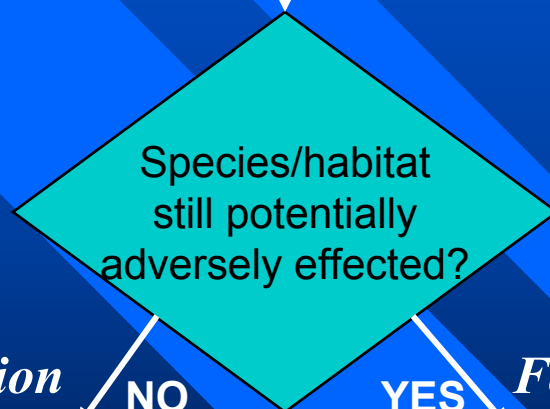


# Pre-spill planning



*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*

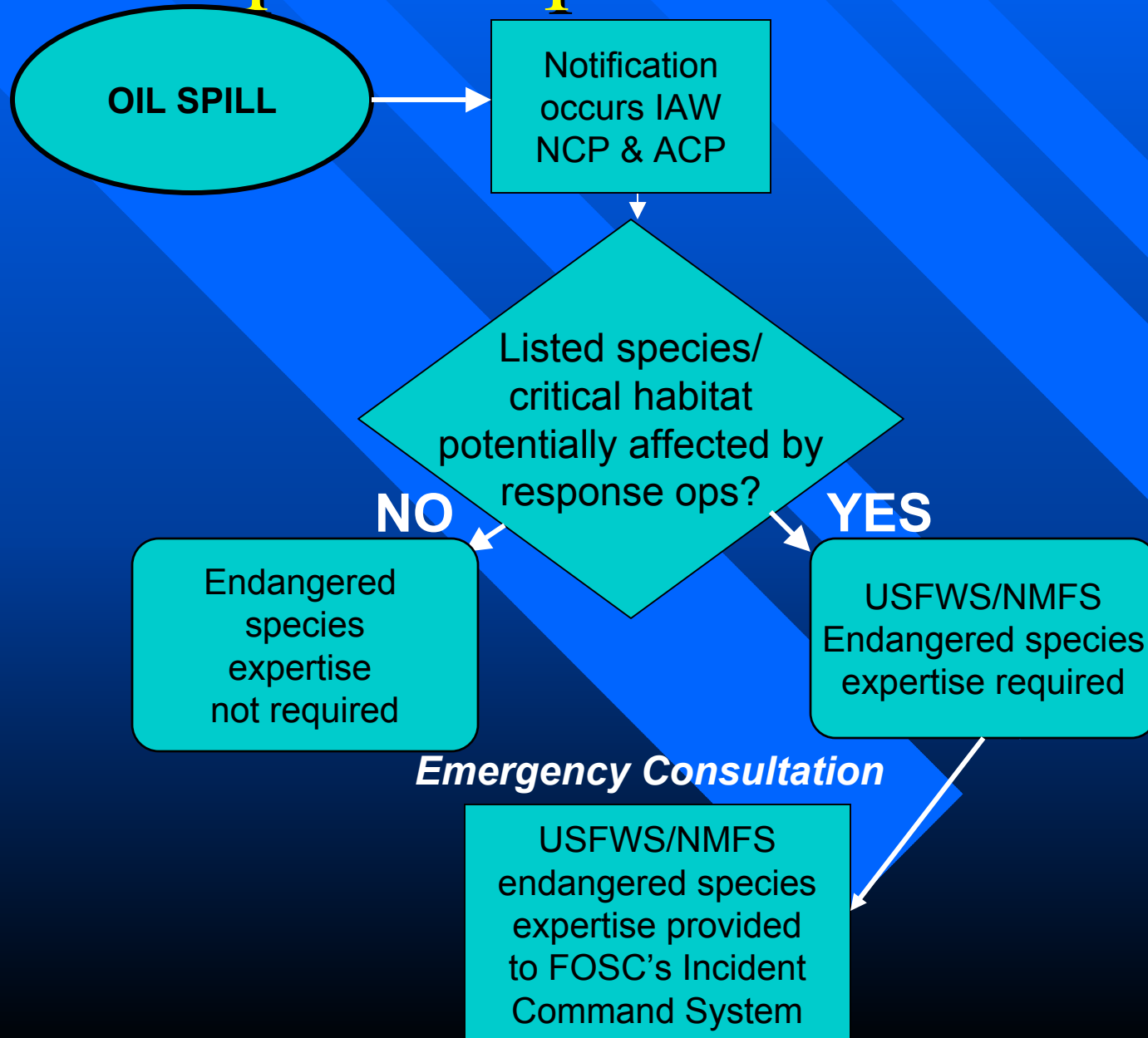
Services utilize info  
developed in Appendix C  
to finalize formal  
consultation  
Sec. 7(a)(2) req's fulfilled

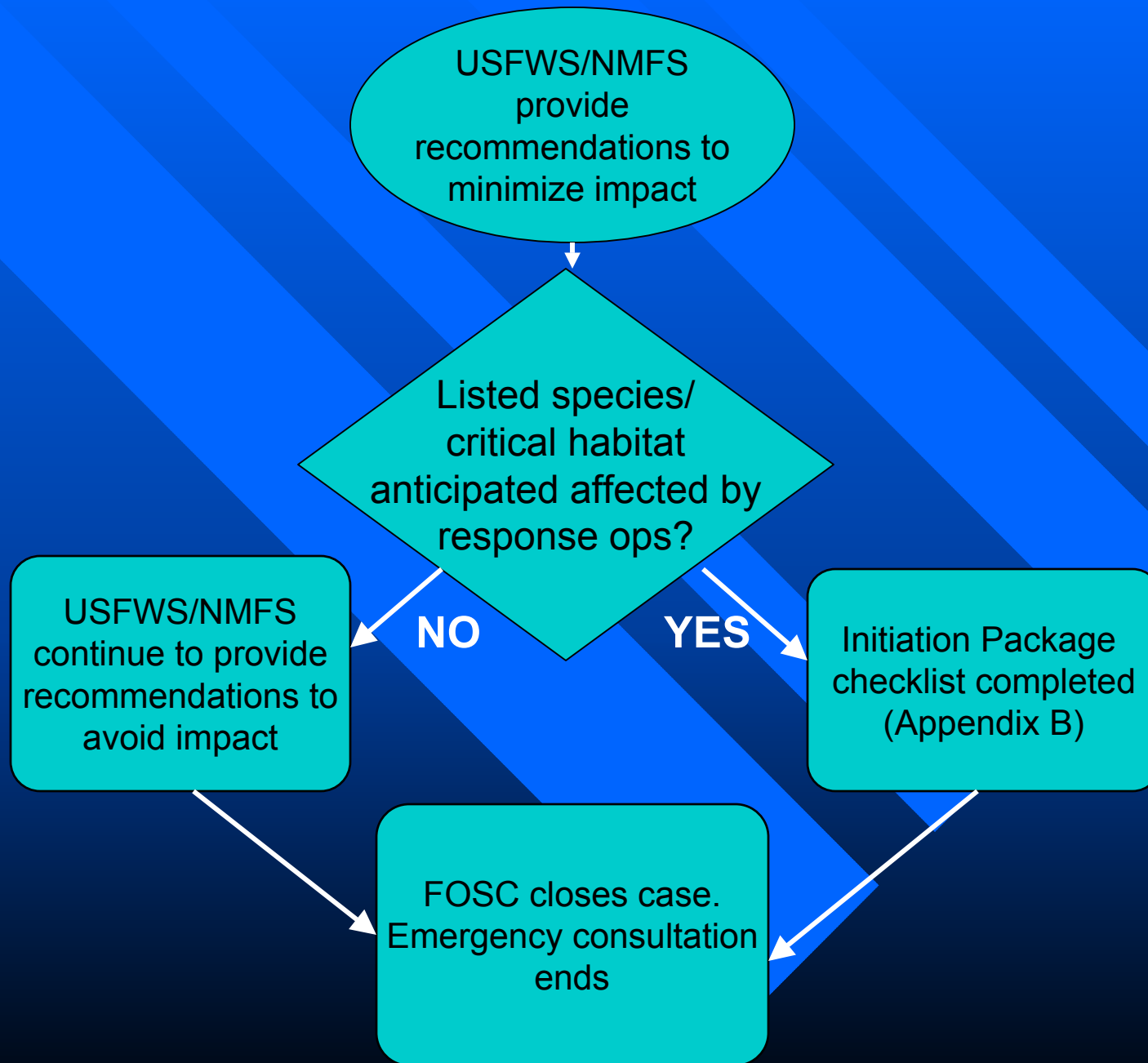
# Response highlights

- 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

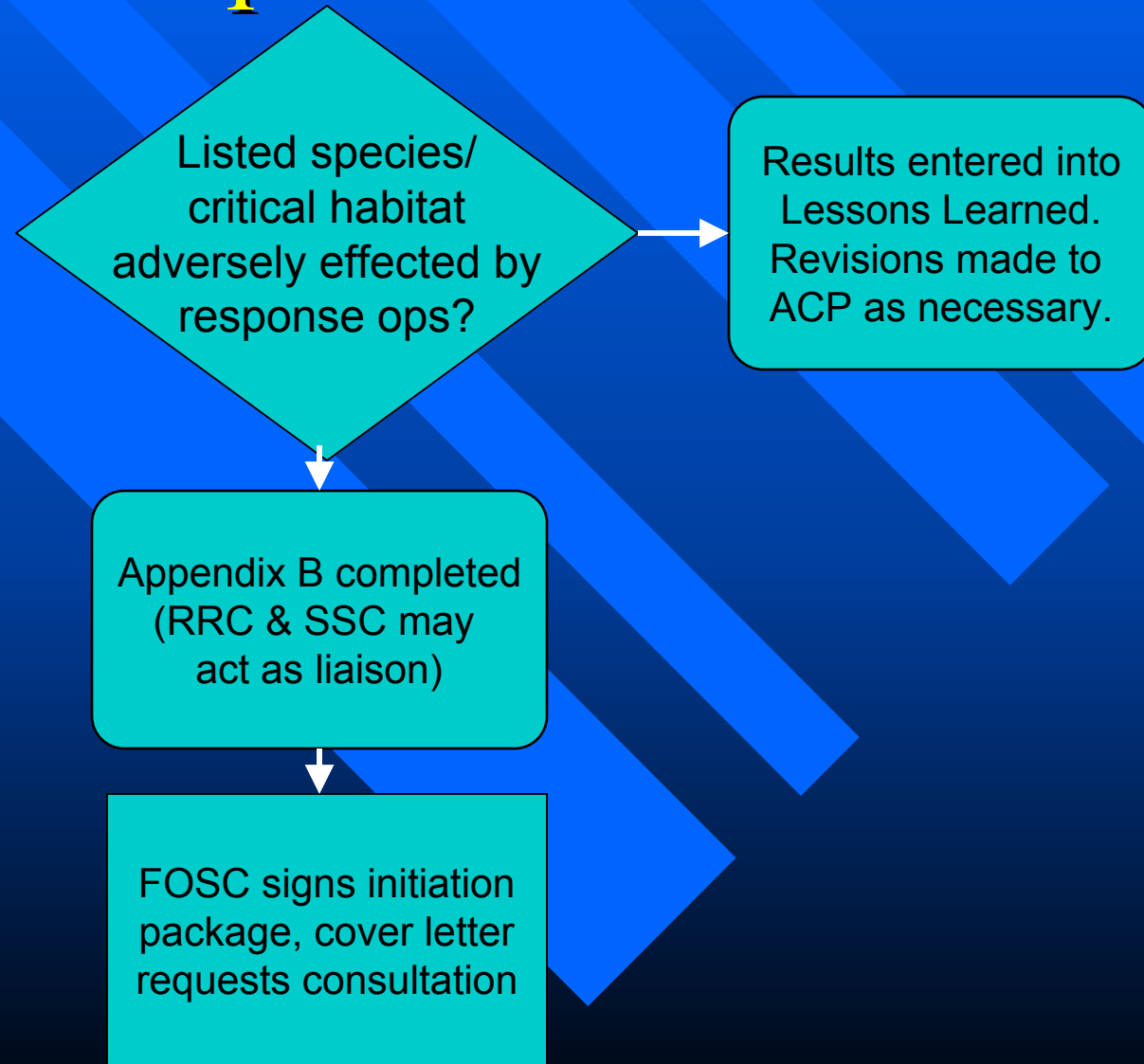


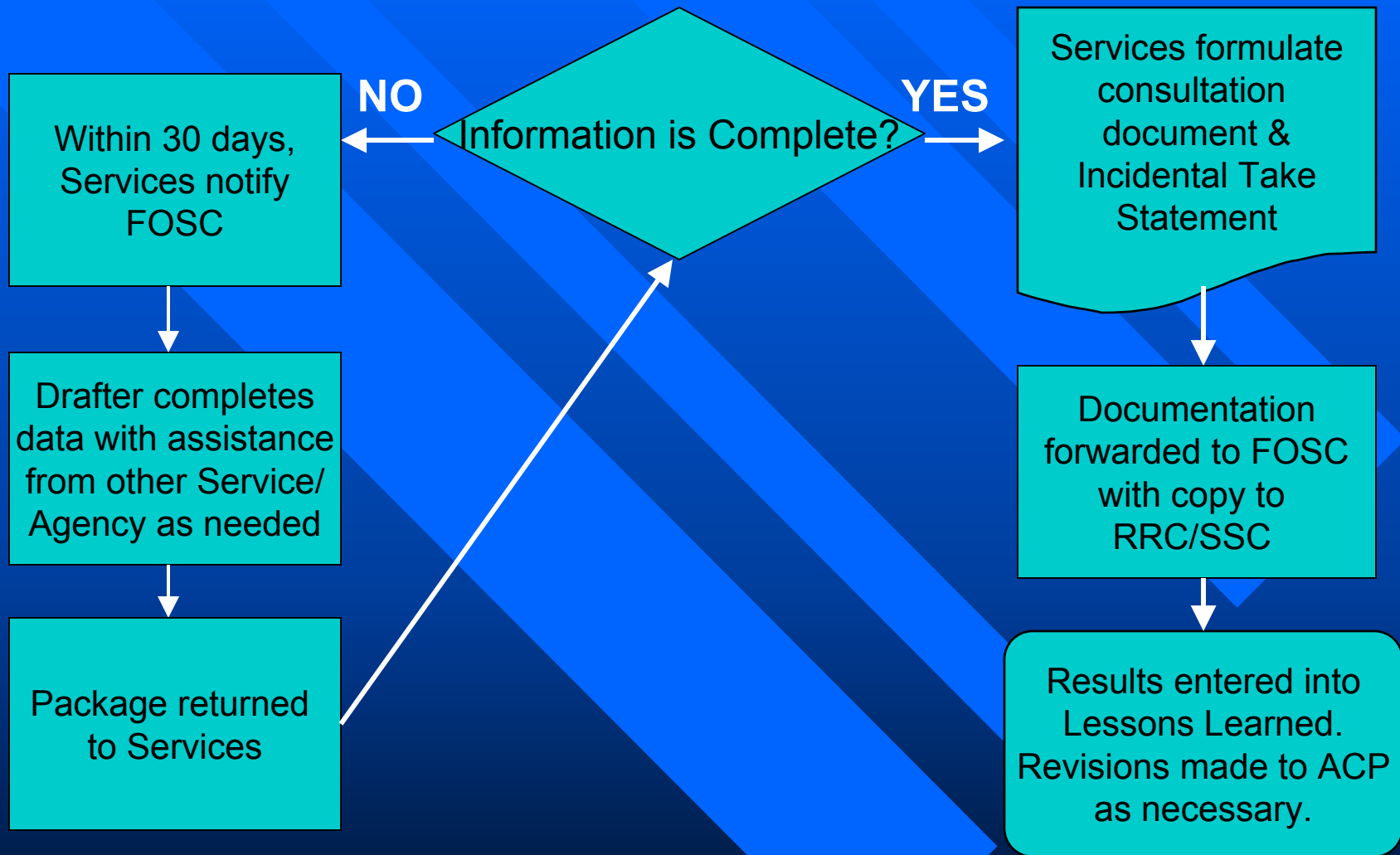


# Post Response Highlights

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

# Post Response Procedures







# What next?

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

# Training Package

- CD Rom
  - Guidance manual
  - Sample letters, documents, etc.
  - Power point training (1-4 hours)
- Complete by April 2002
- Available for conferences, agency resident training, RRT training, etc.

