

better for the bird not to be moved so soon.

Service response: We have revised the rule to state that the bird must be transferred within 48 hours. The rule also now provides that the permittee must contact the issuing office for authorization to retain the bird until it can be transferred, if a rehabilitator authorized to receive the bird is not available within 48 hours.

Comment: Rehabilitators should be able to use their birds in educational programs.

Service response: The purpose of the rehabilitation permit is to rehabilitate birds for release to the wild. Birds held under a rehabilitation permit can be used for education only if transferred to an educational permit—after being deemed nonreleasable by a veterinarian. Birds undergoing rehabilitative care that are exposed to humans in educational programs could become imprinted, compromising successful reestablishment in the wild. (Within the context of this rulemaking, the word imprinted means *habituated to humans*). Even if not imprinted, the stress from this type of exposure can inhibit the rehabilitation of the bird.

Application process and fee § 21.31(c). *Comment:* The rule does not say what form the applicant must use to apply for a rehabilitation permit.

Service response: The rule has been revised to state that the applicant must use Service Form 3–200–10b. We removed the provisions within this section that specified what the application must include, since all application requirements are specified on the application form. Notice is published in the **Federal Register** every 3 years alerting the public of their opportunity to review and comment on Service permit application forms and other forms used to collect information from the public. The current Rehabilitation permit application form was open for public comment on September 6, 2000 (65 FR 54060) and March 8, 2001 (66 FR 13947), and will be open for review and comment again in 2003 or 2004.

Comment: The applicant must submit a letter from a permitted rehabilitator stating that the rehabilitator will provide assistance to the applicant, but the rule does not specify what kind of assistance is envisioned. Is it for mentoring purposes for new rehabilitators, or is it supposed to ensure that there is a “back-up” rehabilitator available in case of illness or absence? If the former, the requirement to have a relationship with another permitted rehabilitator seems to be geared towards novices. Persons

renewing their permits should not need to show this.

Service response: The purpose of this requirement is primarily for mentoring purposes for new applicants. A rehabilitator renewing a permit does not need to resubmit the same information he or she provided in the original permit application. Instead, he or she will use a Service permit renewal form, which only asks for any information that has changed since the applicant last applied.

Comment: The requirement to have another permitted rehabilitator vouch for the applicant's experience is unnecessarily burdensome and implies distrust.

Service response: The letter serves to show that the applicant has had experience rehabilitating birds. We do not believe that asking for a showing of experience implies distrust. It is merely a way to distinguish those applicants who have experience from those who do not. We also do not agree that this requirement is overly burdensome. The letter need not be lengthy. Furthermore, this requirement is not new; it has been a requirement on the Special Purpose—Rehabilitation permit application form for over a decade.

Comment: As part of the application requirements, the cooperating veterinarian should not be required to state knowledge of the training and qualifications of the applicant.

Service response: The application does not require such a statement; rather, it recommends that the veterinarian provide such knowledge if he or she has it. However, we will reconsider the need for this language when the application form is eligible for revision.

Comment: People should not be required to have facilities in place before obtaining their permit. It is not reasonable to ask the applicant to build expensive facilities without knowing whether the permit will be granted.

Service response: Having adequate facilities in place is a standard requirement for all permits authorizing possession of live wildlife. A permit can be issued to authorize rehabilitation of types of birds that do not require extensive or expensive facilities. Then, the permittee can upgrade his or her facilities at any time after the permit is issued to house more birds or different species. When such additions are made, the issuing office will expand the authorization on the permit, assuming the other criteria are also met (i.e., the applicant must also have the required experience to rehabilitate the new species he or she wishes to add to the permit).

Comment: The permit application fee should be waived because of the vital public service rehabilitators perform. Rehabilitators voluntarily do the Service's work for them, and are funded through donations and community support. Some may not be able to afford to pay the fee.

Service response: Although we believe the work of rehabilitators is very valuable, it is not a Service responsibility. None of the applicable laws or treaties make provision for care of individual birds, nor are funds appropriated by Congress for such a purpose. Rather, we are charged with and receive funding for implementing the various Migratory Bird Treaties and the Migratory Bird Treaty Act, which prohibit virtually any human contact with migratory birds unless authorized by regulations we issue, or by a permit from us. The permit program has significant costs, and we are directed by Congress and the Office of Management and Budget to charge a fee for providing permits, to recover at least some of these costs. Because of this, we do not receive appropriated funding sufficient to cover all costs of issuing permits, and must depend upon application fee revenues to make up the balance. In this particular case, the permit application fee is \$5 or \$10 dollars annually, which is not a significant financial burden upon any one applicant.

What criteria will the Service consider before issuing a permit? § 21.31(d).

Comment: What criteria will the Service use to decide what species a person will be qualified to rehabilitate? The rule only says he or she must have “adequate experience.” What is “adequate experience?”

Service response: We were reluctant to define exactly what type and amount of experience will be considered adequate, because of the different types of experiences that a person could have that might contribute to his or her ability to rehabilitate birds. An applicant who has cared for hundreds of uninjured orphaned nestlings, but who has never had any hands-on experience with injured birds, will not be qualified for a permit that authorizes rehabilitation of injured and sick birds. Depending on the extent of the applicant's experience working with baby birds, he or she may be qualified for a permit that is restricted to caring for orphaned nestlings. Similarly, hands-on experience working with injured and sick songbirds will not be sufficient to qualify an applicant for a permit to rehabilitate eagles—though it may be enough to enable the applicant to obtain a permit to work with passerines. However, because numerous