

commenters were uncomfortable without some guidance as to what we will consider "adequate experience," we revised this section to require at least 100 hours of hands-on experience with the types of species (not each and every specific species) that the applicant intends to rehabilitate, or "comparable experience." Applicants' experience with migratory bird rehabilitation must span at least 1 year. This indicates an enduring interest in the field, as opposed to a temporary enthusiasm. Up to 20 hours of the time requirement may be fulfilled through attending migratory bird rehabilitation seminars and training courses.

*Comment:* There should be a formal examination or review process to ensure that applicants have the necessary knowledge to treat migratory birds. Or the Service should set up a training and accreditation program to train prospective rehabilitators.

*Service response:* While a written test or accreditation program may have value, our priority is that the applicant have hands-on experience in migratory bird rehabilitation. We believe that the application requirements and issuance criteria of this rule will adequately ensure that permittees are qualified.

*Comment:* People should not be required to have experience before getting their own rehabilitation permit. It is too hard for them to get that experience without first having a permit. Having a permitted rehabilitator with little or no experience is better than having no rehabilitator at all, as would be the case in some areas. In order to gain the prior experience, the Service could institute a "novice" class of rehabilitators who would be more tightly regulated. They could gain their experience during the time spent in the novice class. Also, applicants may not want to admit to experience acquired without a permit.

*Service response:* We do not believe it is advisable to allow people with little or no experience to handle migratory birds, which are wild animals and have very particular needs. We do not think it would be safe for the people or the birds. Providing safe and effective rehabilitative care for sick and injured migratory birds requires knowledge that is difficult to impossible to acquire without rehabilitation experience. To gain experience, a person dedicated to becoming a migratory bird rehabilitator can volunteer as a subpermittee for a federally permitted rehabilitator. Most rehabilitators can always use the assistance of capable individuals who are willing to learn.

*Comment:* The regulations should provide for a licensed sponsor who

could determine after a year if the subpermittee was ready to receive permittee status.

*Service response:* We feel that this rule accomplishes the same objectives as a formal 1-year requirement for a sponsor, but with more flexibility. We expect most applicants to gain experience by working with permittees as subpermittees, and we ask the permit applicant to include a letter of reference from a permitted rehabilitator who has knowledge of the applicant's experience.

*Comment:* The rule should require permittees to have at least 6 months of experience in rehabilitation, a portion of which must occur in the spring.

*Service response:* The rule has been revised to require that an applicant have experience spanning an entire year, in order to qualify for a permit. The purpose of this provision is primarily to ensure that the applicant's interest is more than fleeting, but it will also make it more likely that successful applicants will have rehabilitation experience during nesting season.

*Comment:* People should not have to show prior experience with every species they wish to rehabilitate, since more than 800 species of birds are protected by the MBTA.

*Service response:* The rule requires experience with the types of species you intend to rehabilitate, not with each and every species. For example, if you have adequate experience working with red-tailed hawks, goshawks, and barred owls, we may issue you a permit authorizing rehabilitation of raptors, even though you have never handled Cooper's Hawks, Harris's Hawks or American Kestrels. Of course, issuance of the permit would also be contingent on whether you have adequate facilities for rehabilitating raptors.

*Comment:* The rule states that the Service will consider how much experience a person has rehabilitating species that are federally listed as threatened or endangered. This language should be removed because most people will have no experience with listed species, since these species are rare.

*Service response:* We agree with this comment. Although some listed species may be locally abundant where they do occur, most are rarely encountered. Furthermore, rehabilitative treatment for most listed species will not differ categorically from treatment for unlisted birds. The language of the rule has been revised to reflect that permittees will be authorized to accept listed species with the condition that they immediately contact the Service to ascertain whether the Service will require the permittee to

transfer the bird to a designated special facility.

*Comment:* The requirement to have a working relationship with a veterinarian should not apply to rehabilitators who are veterinarians or "other qualified biological specialists" such as ornithologists or raptor biologists.

*Service response:* We agree that an applicant need not have an agreement with a licensed veterinarian if the applicant is a licensed veterinarian. The rule has been revised to reflect this. However, we do not agree that an advanced degree in biology or ornithology includes the type of medical education that can substitute for veterinary expertise.

*Comment:* Some rehabilitators do not have access to a veterinarian. They should be able to send birds to rehabilitators who have such a relationship.

*Service response:* A veterinarian must be available to treat birds that need medical care. To involve another rehabilitator in the transfer to the veterinarian is an unnecessary burden on the second rehabilitator and is not in the best interest of the bird, which may need more immediate medical attention. We believe, and the rule reflects, that the originating rehabilitator should establish his or her own agreement with the veterinarian without going through another rehabilitator, particularly if the veterinarian will wind up treating the bird anyway.

*Comment:* The rule should state that the veterinarians will provide "medical care," not "veterinary assistance." Also, the rule does not define "qualified" veterinarian. It should be changed to "licensed."

*Service response:* We agree with these comments and have revised the rule accordingly.

*Comment:* The rule should contain provisions addressing what happens if the relationship with the veterinarian is terminated. Commenters make no suggestion of what kind of provisions would be appropriate. The rule should state that the rehabilitator must maintain a working relationship with a veterinarian throughout the tenure of the permit.

*Service response:* We agree with this comment and have revised the rule to add a condition within § 21.31(e) that the permittee must maintain a working relationship with a licensed veterinarian.

*Comment:* Veterinarians could encounter liability issues if they commit on paper to providing assistance.

*Service response:* No veterinarian is required to enter into such an agreement. None need participate in