

offsite or otherwise unavailable to oversee activities conducted under his or her permit. In that case, only those four volunteers need to be on file with the Service as subpermittees. The remaining 21 people do not need to be named subpermittees as long as the permittee or one of the four listed subpermittees is present when they conduct activities that require permit authorization. We believe that, even for large centers with high volunteer turnover, the need to update named subpermittees will not be onerous, since not everyone assisting with permitted activities is required to be on file with the Service.

*Comment:* This requirement to list subpermittees would be particularly burdensome as applied to those who transport birds to and from the facility. Transporters don't really have contact with the birds anyway. Could they merely be listed with the rehabilitator's records, and not with the permit office?

*Service response:* Many transporters have frequent contact with the birds they pick up and deliver to rehabilitators, so we believe they should be treated like other subpermittees.

*Comment:* The subpermittee system should be replaced by an apprentice licensing program with mandatory training.

*Service response:* We believe the subpermittee requirements of the rule, together with the oversight of permitted rehabilitators, will provide sufficient training for persons entering the field of migratory bird rehabilitation. This system has been in place for many years, with few problems.

*Comment:* The rule does not specify whether the subpermittee's facilities must meet the same requirements as the permittee's facilities.

*Service response:* The rule has been revised to state that the subpermittee's facilities must meet the same standards as the permittee's facilities.

*Comment:* Do a subpermittee's facilities really need to be approved when it is just a shoe box for nestlings?

*Service response:* The Service does not need to see photographs and diagrams of a shoe box. However, the address where any subpermittee will be caring for nestlings outside of the permittee's premises must be provided in writing to the permit office and authorized by the permit office before any nestlings are transferred to the alternate site.

*Comment:* The rule does not state whether subpermittees are bound by all the requirements of the regulation. Also, who is responsible to supervise off-site activities of subpermittees?

*Service response:* The final rule states that "As the primary permittee, you are legally responsible for ensuring that your subpermittees, staff, and volunteers adhere to the terms of your permit when conducting migratory bird rehabilitation activities."

*Comment:* Subpermittees who provide frequent or long-term care offsite should be required to obtain their own permits.

*Service response:* We have considered mandating that permittees who provide frequent and/or, long-term care off-site obtain their own permits, but decline to do so because some people simply do not want to be permittees but may be able to provide quality care for birds under another person's permit. The rule requires the same standards for subpermittee facilities, and because it requires the permittee to be responsible for the subpermittee's rehabilitation activities, we believe that permittees will keep sufficient oversight over subpermittees to protect the birds under their care.

*Imprinting § 21.31(e)(4)(i). Comment:* The provision requiring imprinted birds to be turned over to the Service should be removed from the rule. Sometimes rehabilitators receive birds that have already been imprinted. And, some imprinting is likely to occur no matter what.

*Service response:* The rule has been revised to clarify that the requirement to transfer imprinted birds to a third party applies only to birds that have been imprinted while under the care of the permittee. The permittee will be required to transfer any bird imprinted under his or her care to another facility specified by the Service. After no longer than 180 days, however, all surviving birds that are nonreleasable, whether imprinted or not, must be transferred to another permit (unless additional authorization is granted from the permit office)—since the rehabilitation permit only authorizes possession of birds undergoing rehabilitative care.

*Comment:* Turning birds over to the Government will result in needless euthanasia. Rehabilitators will have to tell the public that the birds were transferred and possibly euthanized.

*Service response:* In the rare situations when the Service has removed imprinted birds from a permittee, we have placed the birds with migratory bird education permit holders to use in educational programs.

*Comment:* Some degree of imprinting will not interfere with a bird's ability to survive in the wild. If birds are too imprinted to survive in the wild, they should be placed in licensed sanctuaries.

*Service response:* The intent of this provision is to require rehabilitators to take precautions to prevent birds from becoming so habituated to humans that they cannot survive in the wild. It is in the best interest of migratory birds as a whole that they not be perceived as pets by the public or treated as such by permittees. Therefore, the rule requires that rehabilitators take precautions to avoid imprinting, and provides that the Service may remove birds from the care of those who do not do so.

*Comment:* The Service should not take imprinted birds away from rehabilitators because the Government doesn't have good facilities for holding them.

*Service response:* We do not hold birds in these situations. We place them with other permittees whom we have identified prior to the transfer.

*Comment:* The rule should require that all imprinted birds that are not listed as threatened or endangered be euthanized.

*Service response:* We do not agree that all non-listed imprinted birds should be euthanized. (See next comment.)

*Comment:* Imprinted birds should be allowed to be used for education or for foster parenting.

*Service response:* Imprinted birds may be used for foster parenting under the proposed rule—but the rule does not allow persons to use birds they themselves have allowed to become imprinted. The Service places imprinted birds with other permit holders for foster parenting or educational use.

*Release § 21.31(e)(4)(ii) Comment:* The 180-day limit for keeping birds in rehabilitation without additional authorization is too short. Many birds take over a year to be ready for release, plus it must be done during an appropriate season. A specific limit is arbitrary and not necessary. This decision should be left to the rehabilitator.

*Service response:* Rarely do birds need to be kept longer than 180 days. If more time is needed for rehabilitation, or if a bird must be held until the appropriate season for its release, the rule provides that the permittee need only contact the permit office for authorization. The instances where birds need longer than 180 days to be readied for release are infrequent enough that we do not consider this notification requirement to be burdensome. The longer birds remain in rehabilitation, the greater the chance they will become habituated to captivity. Moreover, without a limit, birds could be kept indefinitely.

*Comment:* The 180-day provision is good for experienced rehabilitators, but