

birds, but in some States a designated State agency is responsible for receiving those calls. While this information may be of some use to the Service, we do not have primary responsibility for responding to reports of contagious diseases that are considered to be public health threats, even when such diseases are carried by birds. Requiring rehabilitators to contact the responsible State or local agency, rather than the Service, will eliminate what would have been a redundant notification. Because rehabilitators are in a good position to contribute to nationwide efforts to monitor contagious avian diseases, the requirement to notify the appropriate State or local authority will benefit to the public by enhancing efforts to protect the health and safety of humans, livestock and wildlife.

Comment: The Service should set up a 24-hour hotline to receive the required calls from rehabilitators, and it should be an 800 number.

Service response: Aside from the notifications required in circumstances involving threatened and endangered species, which we believe will not be exercised often, the rule does not contain excessive requirements to contact the Service (see above).

Comment: The rule relies too heavily on the Internet for obtaining phone numbers of other Service offices. Other forms of access to such information should be provided.

Service response: We are revising our permit information tracking system so that it can record and generate the phone numbers for Service Law Enforcement offices that are local to the permittee. Permits will be issued using this new capacity, with the necessary contact information printed on the permit. The rule has been revised to reflect the fact that the contact information for these offices is listed on the permit.

Comment: Rehabilitators should not have the burden of contacting the Service immediately upon receiving a threatened or endangered species. This provision fails to recognize the actual conditions under which rehabilitators are working. Immediate notification could jeopardize the bird, which may need immediate stabilization. Often personnel are not there to receive the calls (e.g., on weekends).

Service response: The rule has been revised to require the permittee to contact the Service within 24 hours of receiving a threatened or endangered species. If Service personnel cannot be reached, you should leave a message.

Comment: The proposed rule requires rehabilitators to report birds that appear to have been injured by criminal activity

to both the Office of Law Enforcement and to the Migratory Bird Permit Office. Rehabilitators should not have to call two Service offices to report this.

Service response: We agree with this comment and have revised the rule to remove the requirement to notify the permit office.

Comment: Immediate notification to law enforcement where birds appear to have been injured as the result of criminal activity is not practicable. Rehabilitators are often busy stabilizing bird(s). Instead, the requirement to notify the Service should be "within 48 hours."

Service response: Service Law Enforcement personnel need to be notified immediately when it appears a crime has taken place. Otherwise, evidence needed to build a successful investigation may be compromised or lost before it can be collected.

Comment: "Criminal activity" should be more clearly defined. Poisoning and electrocution should not be considered criminal activity.

Service response: Poisoning and electrocution are considered criminal activity in many circumstances. Power companies and pesticide manufacturers and applicators are frequently held liable for killing birds, particularly when ample evidence exists that they knew or should have known that their actions were likely to kill birds. Electrocution of birds on power lines is generally considered a prosecutable violation, since reasonable industry-accepted measures have been identified that can be implemented to avoid killing migratory birds. We believe that the rule need not further specify what is meant by criminal activity, since it is not possible to define all the criminal activities that could take place, or always clearly identify under what circumstances a particular action is criminal. The provision requires that rehabilitators notify the Service when they have reason to believe that birds under their care were injured as the result of a criminal act, so that we have the opportunity to pursue the case, if appropriate.

Comment: The rule should require permittees to contact their State conservation agencies as well as the Service whenever notification is required.

Service response: Not all States want these notifications. As a Federal agency, we will not impose this requirement on States that do not wish to be contacted. It is more appropriate for State regulations to address this requirement.

Recordkeeping § 21.31(e)(7).
Comment: It would be useful to some States if the information required in the

recordkeeping provisions included the county and distance to the nearest town.

Service response: The information required to be kept in the permittee's records is the same information that we ask for in the annual report. It is not useful for our purposes to document the county or the nearest town, and we do not have enough staff to sift through extra information that we will not use. Also, we do not wish to burden permittees by requiring them to keep and submit information that we will not use. Those States that find that information useful may wish to include those items as reporting requirements in their State regulations.

Comment: Rehabilitators should be required to record the location where the bird was found, if known, because it is important for purposes of data collection and release. Also, the location of release should be required in records for enforcement purposes. The incident that caused the distress or injury should be recorded (e.g., collision with window, cat attack), if known, for purposes of future analysis. Records should include the name and contact information of the person who found and/or delivered the bird because of possible exposure to zoonotic diseases.

Service response: While much of this information could be useful to the rehabilitator, or to a third party, we do not at this time have a need to collect this information. If permittees wish to keep these records, we encourage them to do so, but we see no reason to require information to be collected and submitted to us when we will not use it.

Comment: Why should the permittee be required to keep the records for 5 years? That should be the Service's responsibility. This requirement is an unnecessary burden on the permittee.

Service response: The requirement that permittees keep records for 5 years predates this rule and applies to all Service permits, and is codified at 50 CFR part 13.46. We also keep the information submitted via annual reports, but if discrepancies arise, permittees may benefit by being able to produce their own records.

Additional Conditions May be Placed on the Face of the Permit. § 21.31(e)(9).

Comment: There should be no further reason to condition permits if a person meets the requirements set forth in the rule. This provision appears to contradict the rule's stated intent to "codify * * *, clarify * * *, and * * * specify" migratory bird rehabilitation permit policy. The Service should specify what sort of "additional conditions" are meant by