



Rule Petition Summary Sheet

Date Rule Petition received: February 27

Deadline for Rule Petition response: April 28

Rule Petition Topic: Request for a modified Special Use Permit (SUP) for a temporary disability

Petitioner(s): Dr. Francis Estalilla, MD

Background summary of rule petition topic:

Dr. Estalilla, an Ophthalmologist in Montesano, is petitioning the department to amend WACs 220-413-140 (Hunting of game birds and animals by persons with a disability), 220-413-120 (Hunt or possess a wild animal or wild bird without an access permit) and 220-305-120 (Harvesting of shellfish, food fish or game fish by persons with a disability) to create a modified Special Use Permit (SUP) for individuals who have a documented time-limited or *temporary* disability. Dr. Estalilla would like to shellfish and bird hunt based on his current temporary disability. In his petition, he requests the creation of a new, temporary SUP for either 6-, 12- or 18-month intervals. Currently, an individual must have a medically documented *permanent* disability under WAC 220-200-160 to qualify for a SUP.

Rationale against temporary SUP:

The department has previously evaluated issuing temporary SUPs based on an individual's time-limited disability but decided against this measure because of the administrative challenges that such a permit would create for department staff to regulate.

Primarily, the adoption of a rule that created a temporary SUP would likely increase both SUP requests and the resulting staff workload across programs that would involve processing, reviewing, tracking and checking on temporarily-issued SUPs. DFW Officers

may have difficulty policing individuals with a temporary SUP. For example, if an individual's estimated recovery period for his/her patient is too liberal, the patient may hold the SUP under the guise of still needing a reasonable accommodation. At that point, a DFW Officer would be forced into making a medical determination (disability or no disability) of an individual's disability status who is using the SUP but appears to be fully capable of engaging in recreational activities without it. This scenario is relevant to Officers who are required to enforce WAC 220-220-170(5). Similarly, a temporary SUP would create challenges for Licensing staff who would have to track a population of individuals whose temporary disabilities expire over different periods of time.

The department has chosen a policy that requires that an individual's disability is permanent as defined under WAC 220-200-160. Furthermore, the department does not plan on codifying the requirements for a SUP in any of its rules. The department is not planning a future rule project on this topic.

Recommendation:

The programs that were consulted on this rule petition - – Enforcement, Licensing and Director's Office – all recommend denying the petition based on the administrative and potential legal challenges that managing such a permit would create for staff.