

## HOUSE BILL NO. HB0262

Very rare and uncommon areas.

Sponsored by: Representative(s) Semlek, Davison and Miller  
and Senator(s) Townsend

A BILL

for

1 AN ACT relating to the Environmental Quality Act;  
2 eliminating the authority of the environmental quality  
3 council to designate lands as "very rare" or "uncommon";  
4 providing a procedure for legislative designation of lands  
5 as "very rare" or "uncommon"; amending the basis for  
6 denying a mining permit for lands designated as "very rare"  
7 or "uncommon"; and providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 35-11-112(a)(v) and 35-11-406(m)(iv)  
12 are amended to read:

13

14 **35-11-112. Powers and duties of the environmental**  
15 **quality council.**

16

1           (a) The council shall act as the hearing examiner for  
2 the department and shall hear and determine all cases or  
3 issues arising under the laws, rules, regulations,  
4 standards or orders issued or administered by the  
5 department or its air quality, land quality, solid and  
6 hazardous waste management or water quality divisions. At  
7 the council's request the office of administrative hearings  
8 may provide a hearing officer for any rulemaking or  
9 contested case hearing before the council, and the hearing  
10 officer may provide recommendations on procedural matters  
11 when requested by the council. Notwithstanding any other  
12 provision of this act, including this section, the council  
13 shall have no authority to promulgate rules or to hear or  
14 determine any case or issue arising under the laws, rules,  
15 regulations, standards or orders issued or administered by  
16 the industrial siting or abandoned mine land divisions of  
17 the department. The council shall:

18

19           (v) ~~Designate~~ For purposes of W.S.  
20 35-11-406(m)(iv), at the earliest date and to the extent  
21 possible, consider designation of those areas ~~of the state~~  
22 which are very rare or uncommon and have particular  
23 historical, archaeological, wildlife, surface geological,  
24 botanical or scenic value. When areas of ~~privately~~

1 nonfederally owned lands are to be considered for such  
2 designation, the council shall give notice to the record  
3 owner and hold hearing thereon, within a county in which  
4 the area, or major portion thereof, to be so designated is  
5 located, in accordance with the Wyoming Administrative  
6 Procedure Act. The council shall submit a report  
7 containing its findings and recommendations to the joint  
8 minerals, business and economic development interim  
9 committee no later than one hundred twenty (120) days  
10 before the start of the next legislative session. The  
11 joint minerals, business and economic development interim  
12 committee shall consider the council's report and may  
13 sponsor legislation seeking legislative approval of the  
14 designation. A designation under this paragraph shall only  
15 occur through legislative enactment. No designation of a  
16 very rare or uncommon area shall be made by the state for  
17 federal lands where there is an approved land use  
18 management plan in effect;

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20 **35-11-406. Application for permit; generally; denial;**  
21 **limitations.**

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23 (m) The requested permit, other than a surface coal  
24 mining permit, shall be granted if the applicant

1 demonstrates that the application complies with the  
2 requirements of this act and all applicable federal and  
3 state laws. The director shall not deny a permit except for  
4 one (1) or more of the following reasons:

5

6 (iv) The proposed mining operation would  
7 irreparably harm, destroy, or materially impair any area  
8 that has been designated ~~by the council~~ in accordance with  
9 W.S. 35-11-112(a)(v) as a rare or uncommon area and having  
10 particular historical, archaeological, wildlife, surface  
11 geological, botanical or scenic value;

12

13 **Section 2.** This act is effective July 1, 2009.

14

15

(END)