Very rare and uncommon areas.

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

A BILL

for

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

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

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

35-11-112. Powers and duties of the environmental quality council.
(a) The council shall act as the hearing examiner for the department and shall hear and determine all cases or issues arising under the laws, rules, regulations, standards or orders issued or administered by the department or its air quality, land quality, solid and hazardous waste management or water quality divisions. At the council's request the office of administrative hearings may provide a hearing officer for any rulemaking or contested case hearing before the council, and the hearing officer may provide recommendations on procedural matters when requested by the council. Notwithstanding any other provision of this act, including this section, the council shall have no authority to promulgate rules or to hear or determine any case or issue arising under the laws, rules, regulations, standards or orders issued or administered by the industrial siting or abandoned mine land divisions of the department. The council shall:

(v) **Designate**—For purposes of W.S. 35-11-406(m)(iv), at the earliest date and to the extent possible, consider designation of those areas of the state which are very rare or uncommon and have particular historical, archaeological, wildlife, surface geological, botanical or scenic value. When areas of privately
nonfederally owned lands are to be considered for such designation, the council shall give notice to the record owner and hold hearing thereon, within a county in which the area, or major portion thereof, to be so designated is located, in accordance with the Wyoming Administrative Procedure Act. The council shall submit a report containing its findings and recommendations to the joint minerals, business and economic development interim committee no later than one hundred twenty (120) days before the start of the next legislative session. The joint minerals, business and economic development interim committee shall consider the council's report and may sponsor legislation seeking legislative approval of the designation. A designation under this paragraph shall only occur through legislative enactment. No designation of a very rare or uncommon area shall by made by the state for federal lands where there is an approved land use management plan in effect;

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

(m) The requested permit, other than a surface coal mining permit, shall be granted if the applicant
demonstrates that the application complies with the requirements of this act and all applicable federal and state laws. The director shall not deny a permit except for one (1) or more of the following reasons:

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

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