AMENDMENT NO._____ Calendar No._____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

H. R. 677

To establish a process to expedite the review of appeals of certain decisions by the Department of the Interior.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. LEE

Viz:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Expedited Appeals Review Act'' or the ''EARA''.

SEC. 2. DEFINITIONS.

In this Act:

(1) BOARD.—The term ''Board'' means the Board of Land Appeals of the Office of Hearings and Appeals of the Department.

(2) COVERED PARTY.—The term ''covered party'' means a party—

(A) to an appeal of a Department decision described in section 4.1(b)(4) of title 43, Code of Federal Regulations (or a successor regulation); and

(B) that—

(i) initiated the appeal to seek Department approval to engage in conduct for which Department approval is required; or

(ii) seeks relief from any sanction or civil penalty imposed on that party by the Department.

(3) DEPARTMENT.—The term ''Department'' means the Department of the Interior.

SEC. 3. EXPEDITED REVIEWS.

(a) NOTICE OF EXPEDITED REVIEW.—

(1) IN GENERAL.—A covered party may submit to the Board written notice that the covered party seeks expedited review of the appeal.

(2) FINAL DECISION.—If a covered party submits a written notice under paragraph (1), the Board shall issue a final decision on the applicable appeal by not later than the date that is 6 months after the date on which the written notice is received, subject to the condition that the deadline

may not be earlier than the date that is 18 months after the date on which the applicable appeal was initially filed with the Board.

(b) NO FINAL DECISION.—If the Board does not issue a final decision on an appeal by the deadline required under subsection (a)(2)—

(1) the Department decision shall be considered a final agency action for purposes of section 704 of title 5, United States Code; and

(2) notwithstanding section 706 of title 5, United States Code, judicial review of the Department decision shall be de novo.

(c) APPLICABILITY.—This section shall apply to any appeal described in subsection (a) that—

(1) is pending before the Board as of the date of enactment of this Act; or

(2) is filed with the Board after the date of enactment of this Act.

(d) CONFLICT.—In the event of a conflict between the deadline required under subsection (a)(2) and a deadline under section 115(h) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(h)) or section 525(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1275(b)), the deadline required under subsection (a)(2) shall control.