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सत्यमेव जयते
भारत सरकार
GOVERNMENT OF INDIA

परमाणु ऊर्जा विभाग
DEPARTMENT OF ATOMIC ENERGY



अणुशक्ति भवन
Anushakti Bhavan
छत्रपति शिवाजी महाराज मार्ग,
मुंबई - ४०० ००१
Chatrapati Shivaji Maharaj Marg,
MUMBAI - 400 001

No.45/1/2012-ER / 1432

18 July, 2012

To,

→ Shri Venkatesh Nayak
B-117, 2nd Floor, Sarvodaya Enclave
New Delhi - 110 017

Sub : Information under Right To Information Act, 2005

Sir,

This has reference to the second appeal dated 22.03.2012 preferred by you before Hon'ble Central Information Commission, New Delhi in respect of your RTI application dated 20.01.2012.

2. Pursuant to decision No.CIC/SG/A/2012/001023/19365 dated 26.06.2012 passed by Hon'ble Central Information Commission, a clear photocopy of Cabinet Note dated 19.08.2011, alongwith annexures, seeking approval of Union Cabinet for introducing the Nuclear Safety Regulatory Authority Bill, 2011 in the Lok Sabha is enclosed.

Yours faithfully,

(A. Anandaraj)

Officer on Special Duty (ER) &
Central Public Information Officer
Tel. 022 2282 1533

Mumbai, the August 19, 2011

NOTE FOR THE CABINET

Subject : The Nuclear Safety Regulatory Authority Bill, 2011

1. Introduction

The present proposal seeks approval of the Cabinet for introducing the Nuclear Safety Regulatory Authority Bill, 2011 in Parliament. The proposed legislation seeks to establish an Authority and such other regulatory bodies for regulating radiation safety and nuclear safety and to constitute a Council of Nuclear Safety to oversee and review policies relating thereto.

2. Background

2.1 The Atomic Energy Act was originally enacted in 1948 which was repealed in 1962 when the Atomic Energy Act, 1962 (AE Act) was enacted. It essentially provides the legal framework for development, control and use of atomic energy for the welfare of the people of India and for other peaceful purposes and for matters connected therewith. Except for certain minor amendments in 1986 and 1987, the AE Act has not been amended even though a need was felt as far back as 1990.

2.2 On 25th November, 1992, the Department introduced a Bill in the Rajya Sabha for amendment of section 26 (Cognizance of Offences) of the AE Act. While the 1992 Bill was pending consideration in Parliament, the Department felt the need for some more amendments to different sections of the AE Act. It was, therefore,

SECRET
No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

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proposed to withdraw the Atomic Energy (Amendment) Bill, 1992 and replace it with a new Bill which would be a comprehensive one. Such a proposal was placed before the Cabinet which, in its meeting held on 8th February, 2000, directed that the DAE should bring up a comprehensive amendment for consideration of the Cabinet and the proposal for withdrawal of the Atomic Energy (Amendment) Bill, 1992 could be considered at that stage.

2.3 A proposal was therefore sent to the Cabinet Secretariat in August, 2007 seeking approval of Cabinet for -

- (i) introduction of the Atomic Energy (Amendment) Bill, 2007 in Parliament, and
- (ii) to withdraw the Atomic Energy (Amendment) Bill 1992 pending in Rajya Sabha.

The proposal was, however, withdrawn in the meeting of the Cabinet held on 06.09.2007.

2.4 In the wake of radiological incident in Mayapuri area of Delhi, the Department of Atomic Energy constituted an internal committee on 18th June, 2010, to examine the Cabinet Note drafted in 2007 for amendments to the Atomic Energy Act, 1962 and to suggest necessary modifications in the proposal to strengthen the Atomic Energy Regulatory Board and put in place a framework for regulation, inspection, penalties, accounting and safe disposal of radioactive sources.

2.5 The Committee submitted its report suggesting various amendments to the Atomic Energy Act, 1962 on 10th December, 2010. The report of the Committee has been further deliberated in the Department and also in the Atomic Energy

SECRET
No. AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

Commission and it was felt that it would be more appropriate to introduce an independent Bill to provide for radiation safety and nuclear safety and for establishment of regulatory bodies therefor.

2.6 The Atomic Energy Regulatory Board (AERB) was constituted under a notification dated 15th November, 1983 to enforce the Regulatory and Safety Programme envisaged under the Atomic Energy Act, 1962. The Board is the sole competent authority to administer the safety related rules promulgated under the AE Act. The AERB has been vested with powers for enforcement of Factories Act in-so-far as it applies to Department of Atomic Energy installations as well as provision of radiation safety in the country in the case of radiation users, both Government and private, in various fields of radiation applications in medicine, industry and research. The AERB functionally reports to the AEC.

2.7 The Fukushima incident in Japan has led to worldwide concerns and apprehension on safety issues related with nuclear power. Government of India attaches the highest importance to nuclear safety. In the wake of the Fukushima incident, Government made a statement on the floor of the Lok Sabha on 14th March, 2011 and assured that work is underway in the Department of Atomic Energy towards further strengthening of India's national nuclear safety regulatory authority.

2.8 Accordingly, a draft Bill for setting up Nuclear Safety Regulatory Authority was drafted and submitted to Atomic Energy Commission (AEC) for approval. The AEC at its meeting held on 18th June, 2011, approved the draft Bill with certain amendments.

SECRET
No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

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2.9 The amendments suggested by the AEC and also other Ministries/Departments have been incorporated in the draft Bill. A copy of the draft Nuclear Safety Regulatory Authority Bill, 2011 after incorporating all the suggestions is at **Annex. I (Page 14)**.

2.10 The salient features of the Bill are as under:-

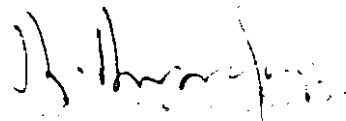
- i. the Nuclear Safety Regulatory Authority Act, 2011 shall extend to the whole of India and come into force on such date as the Central Government may notify;
- ii. the Central Government shall establish a council to be called the 'Council of Nuclear Safety' headed by the Prime Minister of India;
- iii. the Council shall oversee and review the policies with respect to radiation safety, nuclear safety and other matters connected therewith or incidental thereto;
- iv. the Central Government shall establish an authority to be called as the Nuclear Safety Regulatory Authority to exercise the powers conferred on and perform the functions assigned to it;
- v. the Authority shall consist of a Chairperson, two whole-time Members and upto four part-time Members to be appointed by the Central Government;
- vi. the Chairperson and Members shall be appointed by the Central Government on the recommendations of search committee(s) to be constituted by the Council of Nuclear Safety;
- vii. the Chairperson and other Members shall hold office for a term of three years and shall be eligible for reappointment for a further period of three years;

SECRET

SECRET
No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

- viii. the maximum age limit shall be 70 years for the Chairperson and 65 years for whole-time Member;
- ix. the Central Government can remove the Chairperson or any Member from office in certain circumstances like conviction, insolvency, etc;
- x. on and from the date of establishment of the Nuclear Safety Regulatory Authority, the Atomic Energy Regulatory Board shall stand dissolved and the Chairman and Members of the Board transferred as such to function as Chairperson and Members of the Authority until the Chairperson and Members of the Authority are appointed in accordance with the provisions of the Act;
- xi. the jurisdiction of the Authority shall extend to all areas to which the Act is applicable and to activities relating to production, development or use of atomic energy and radiation in all its applications or transport, transfer by sale or otherwise, import, export or storage or disposal of nuclear and radioactive material and the Authority shall take measures to ensure that use of radiation and atomic energy is safe for the health of the radiation workers, members of the public and the environment;
- xii. the Authority shall strive to be a knowledge organization with state of the art scientific capabilities in the domain of its responsibilities, arrange for and conduct research in areas relevant to its functions and develop linkages with technical support organizations and for this, the Board shall engage, with the consent of head of concerned bodies, institutions, technical support organizations, industries, etc. who have expertise in scientific, technical,

SECRET
No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY



sociological, legal and other disciplines related to nuclear, radiation and industrial safety, to assist the authority in the discharge of its functions;

xiii. the Central Government may, for the purposes of national defence and security, exempt from the jurisdiction of the Authority-

(a) any nuclear material, radioactive material, facilities, premises and activities, and

(b) the premises, assets and areas associated with the material and activities referred to in (a) above,

and establish one or more regulatory bodies and demarcate responsibilities thereof to discharge one or more of the functions in respect thereof;

xiv. the Central Government may, for the purposes of national defence and security, exempt any area, nuclear material, radioactive material, nuclear facility or plant from the jurisdiction of the Authority or other regulatory bodies under this Act and carry out those functions itself;

xv. any person aggrieved by an order made by the Authority under sections 28 and 29 may file an application for review;

xvi. the Council of Nuclear Safety shall constitute an Appellate Authority consisting of a Chairperson and not more than two Members (to be selected in consultation with the Chief Justice of India or his nominee), to hear appeals from any order or decision passed by the Authority under section 28 or section 29 or under subsection (3) of section 34;

xvii. the Central Government may make to the Authority grants of such sums of money as may be required;

SECRET

No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

- xviii. the accounts of the Authority shall be audited by the Comptroller and Auditor General of India and the accounts of the Authority together with audit report thereon shall be forwarded annually to the Central Government for laying before each House of Parliament;
- xix. the Authority shall prepare an annual report giving a summary of its activities during the previous year and forward to the Central Government for laying before each House of Parliament;
- xx. the maximum punishment for an offence under the Act shall be imprisonment for a term of five years or fine or both;
- xxi. the Central Government may issue to the Authority or other regulatory bodies directions in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign states, public order, decency or morality or in the public interest;
- xxii. no civil court shall have jurisdiction in respect of any matter which the Authority or other regulatory bodies are empowered to determine under the Act;
- xxiii. the provisions of the Right to Information Act, 2005 shall not apply to the sensitive information and commercially sensitive information of technology holders as explained in the Act;
- xxiv. no court inferior to that of the Chief Judicial Magistrate shall take cognizance of an offence punishable under the Act;
- xxv. the Central Government shall have power to supersede Authority under certain circumstances;

SECRET
No. AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

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- xxvi. the Central Government may make rules for carrying out the provisions of the Act;
- xxvii. the Act amends the Atomic Energy Act, 1962, the Disaster Management Act, 2005 and the Civil Liability for Nuclear Damage Act, 2010 to the extent specified in the Second Schedule thereto.

3. Proposal

It is now proposed to introduce the Bill titled 'The Nuclear Safety Regulatory Authority Bill, 2011'.

4. Financial Implications

As per section 18 of the proposed Act, on and from the establishment of the Authority, the Atomic Energy Regulatory Board (AERB) shall stand dissolved and the Chairman and Members of the AERB transferred as such to function as Chairperson and Members of the Authority under this Act and be deemed to be the Chairperson and Members of the Authority until the Chairperson and Members of the Authority are appointed in accordance with the provisions of this Act. Similarly, on and from the date of commencement of this Act, every officer and employee holding a post in the AERB shall hold the post in the Authority by the same tenure, and upon the same terms and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefit as he would have held such post as if this Act had not been passed and shall continue to do so as an officer or employee of the Authority for a period of three years from the date of the commencement of this Act unless he, within three years, opts not to be an employee of the Authority or until his tenure, remuneration or other terms and conditions of service are duly altered by the

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SECRET
No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

regulations. Therefore, there may not be any significant increase in the financial implication on constitution of the Authority.

5. Justification

The Nuclear Safety Regulatory Authority Act once enacted would give statutory status to regulatory body to be called the Nuclear Safety Regulatory Authority and establish the Council of Nuclear Safety.

6. Inter-Ministerial Consultations

6.1 This Department has carried out necessary consultations with 1) Ministry of Environment and Forests, 2) Ministry of External Affairs, 3) Ministry of Health and Family Welfare, 4) Ministry of Home Affairs, 5) Ministry of Science and Technology 6) Ministry of Finance, 7) Ministry of Labour 8) Ministry of Law and Justice and 9) Ministry of Defence. The views of various Ministries and Departments and observations of DAE thereon are tabulated at **Annex. II (Pages 52 - 57)**.

- i. Ministry of External Affairs, Ministry of Health and Family Welfare, Ministry of Environment and Forests and Ministry of Science and Technology have concurred with the proposal and have not offered any comments.
- ii. Ministry of Finance (Department of Expenditure) has no objection to the proposed Nuclear Safety Regulatory Authority Bill subject to certain comments, which are tabulated in **Annex. II (Pages 52 – 54)**. The observations of the Department against each of the points are also tabulated in **Annex. II (Pages 52 – 54)**.

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SECRET
 No.AEA/37(1)/2011-ER
 DEPARTMENT OF ATOMIC ENERGY

- iii. Ministry of Labour and Employment concurred with the proposal and has commented that the Union Minister-in-charge of Labour and Employment may also be considered as a member of the Council of Nuclear Safety, that minimum amount of fine may be specified, and on the jurisdiction of the Authority over mining of atomic minerals from mines. Observation of the Department on these points are tabulated at **Annex. II (Page 55)**.
- iv. Ministry of Defence concurred with the proposal and have suggested inclusion of SA to RM / representative from DRDO in the Authority. The observation of the Department on this point is tabulated at **Annex. II (Page 57)**.
- v. Ministry of Law and Justice concurred with the proposal and have commented on constitution of the Appellate Authority and on delegation of powers and functions to the Chairperson or members of the Authority. Observations of the Department against these points are tabulated in **Annex. II (Pages 56 - 57)**.
- vi. No comments have been received from Ministry of Home Affairs. It is presumed that MHA may offer their comments, if any, during the Cabinet meeting
- vii. On the advice of the Ministry of Finance, the Draft Bill has also been circulated to Department Personnel and Training (DoPT) and their comments are awaited. It is presumed that DoPT may offer their comments, if any, during the Cabinet meeting.

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SECRET
No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

6.2 Subsequent to the consultation with the above referred Ministries it has been felt necessary to provide for industrial safety in the facilities engaged in Research and Development activities related to radiation or atomic energy and owned or administered by the Central Government. Reference of such facilities has for this purpose been included in sub-clause (1) of clause 23.

6.3 The draft Bill has been vetted by the Legislative Department.

7. Approval Sought

Approval of the Cabinet is solicited for introducing the Bill titled "The Nuclear Safety Regulatory Authority Bill, 2011" in the monsoon session of Parliament as per draft at **Annex. I** with such modifications of drafting or consequential nature to be carried out in consultation with the Legislative Department as may be considered necessary.

8. The Statement of Implementation Schedule is at **Appendix-I (Page 12)**.

9. The Statement of Equity, Innovation and Public Accountability is at **Appendix-II (Page 13)**.

10. Prime Minister, as Minister-in-Charge, has approved the Note.

Srikumar Banerjee

(Srikumar Banerjee)
Secretary
Tel: 022 2202 2543
19th August, 2011

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D. Banerjee
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APPENDIX-I

(Refer para 8 page 11 of the Note)

STATEMENT OF IMPLEMENTATION SCHEDULE

Subject : The Nuclear Safety Regulatory Authority Bill, 2011

Gist of decision required	Project benefits/results	Time-frame and manner of Implementation/ Reporting to Cabinet Secretariat
Approval of the Cabinet is solicited for introducing the Bill titled "The Nuclear Safety Regulatory Authority Bill, 2011" in the monsoon session of Parliament with such modifications of drafting or consequential nature as may be considered necessary	The proposed legislation will enable constitution of Council of Nuclear Safety, Nuclear Safety Regulatory Authority and other regulatory bodies.	After approval of the Cabinet the Nuclear Safety Regulatory Authority Bill, 2011 will be introduced in the Parliament.

Srikumar Banerjee

(Srikumar Banerjee)
Secretary
Tel: 022-2202 2543
19th August, 2011

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APPENDIX-II

(Refer para 9 page 11 of the Note)

STATEMENT ON EQUITY, PUBLIC ACCOUNTABILITY AND INNOVATION

Subject : The Nuclear Safety Regulatory Authority Bill, 2011

Sl. No.	The required goal	How does the proposal advance this goal?
1	Equity or inclusiveness	The proposed Act enables constitution of Council of Nuclear Safety Nuclear Safety Regulatory Authority and other regulatory bodies
2.	Public Accountability	The proposed Act ensures radiation safety and nuclear safety with regard to production, storage, disposal, transport within India or outside India, transfer by sale or otherwise import, export and use of any nuclear material, radioactive material or any other substance or equipment used for production or use of atomic energy.
3.	Innovation	Statutory Authority is being created to regulate radiation safety and nuclear safety.

Srikumar Banerjee

(Srikumar Banerjee)
Secretary

Tel: 022-2202 2543
19th August, 2011

D. Sharma
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SECRET
No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

ANNEX II
(para 6 page 9)

**SUGGESTIONS OF VARIOUS MINISTRIES ON THE NUCLEAR SAFETY
REGULATORY AUTHORITY BILL AND COMMENTS THEREON**

Name of the Ministry/Deptt.	Comments	Observations
1. Ministry of External Affairs	Concurred with the proposal.	--
2. Ministry of Finance (Department of Expenditure)	<p>Ministry of Finance has 'no objection' to the proposed Nuclear Safety Regulatory Authority Bill subject to the following comments.</p> <p>(a) The AERB at present comprises a total of five Members including part time Members and the Chairman and Member Secretary (who are full time members). However, the NSRA is proposed to comprise seven members, viz. Chairperson, full time Members-2 and part time Members-4, besides a Secretary. The DAE may satisfy itself about the functional necessity of having additional Members in the proposed NSRA.</p> <p>(b) Section 17(1) of the draft Act provides that the Authority may appoint such number of officers, employees, consultants or experts as it considers necessary for the efficient discharge of its functions. However, the powers to create posts in authorities/regulatory bodies vest in the Government of India and not in the authorities/regulatory bodies themselves, and therefore, the proposals for creation of posts in the proposed Authority or regulatory bodies</p>	<p>The Authority shall consist of a Chairperson, two whole-time Members (who shall be its employees) and maximum four part-time Members. Provision of four part-time Members is made to ensure representation of various disciplines relevant for the functions of the Authority as mentioned in the sub-clause (3) (b) of clause 9.</p> <p>Accepted and a proviso to clause 17(1) has been added.</p>

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SECRET
No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

	under it would continue to be referred to this Department for approval of the competent authority.	
	(c) The provision in Section 17(2) relating to salaries, allowances, pensions and other terms and conditions of service of the officers and employees of the Authority should be amended to delete the provision for incentives and privileges other than those given to the employees of the Central Government.	Accepted and clause 17(2) modified accordingly.
	(d) The provision of Section 18(4) presupposes that all employees of the Atomic Energy Regulatory Board are Central Government officers or employees. In case AERB has employees who are not Central Government officers or employees, provision for them may need to be made separately.	All employees of AERB are Central Government employees.
	(e) The draft Bill as annexed to this draft Cabinet Note appears to have certain changes as compared to the draft considered by the AEC in its meeting held on 18 th June 2011. The changes made to the draft as considered by the AEC may be listed and in each case it may be indicated whether the change is based on the recommendation of the AEC or on consultations with M/o Law & Justice or any other basis which may be specifically mentioned.	Changes made are not of substantive nature except the one pertaining to the provision related to the appeals which has been modified in consultation with the Legislative Department of the Ministry of Law and Justice Other additions / modifications were suggested by the Ministry of Law and Justice for providing details of existing provisions. Draft Bill circulated for Inter-Ministerial consultation has the approval of the

SECRET
No.AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY

		Department of Legal Affairs as well as the Legislative Department under them.
	(f) DoP&T may be consulted on Section 46 (exemption from RTI Act, 2005) as also w.r.t Section 18 on transition of officers and employees from AERB to NSRA.	Ministry of Law and Justice (Department of Legal Affairs as well as the Legislative Department) was consulted and they have concurred with the proposed provision. Reference, as suggested, has however been made to DoPT. DoPT may offer their comments during Cabinet meeting.
	(g) DAE may append a Financial Memorandum to the proposed Bill, inter alia bringing out (a) financial implication/quantum of fund requirement, itemwise; (b) nature of funds viz. Plan/Non Plan, (c) sections/clauses in the Bill entailing financial implications; (d) source of revenue, if any; and (e) the source from which the expenditure liability on account of the proposed legislation would be met.	As per para 9.6 of the Manual of Parliamentary Procedure, the Financial Memorandum is to be prepared in consultation with the Ministry of Finance after the Cabinet approval for the draft legislation and sent accordingly to the Ministry of Law & Justice (Legislative Department) before finalization.

SECRET
 No.AEA/37(1)/2011-ER
 DEPARTMENT OF ATOMIC ENERGY

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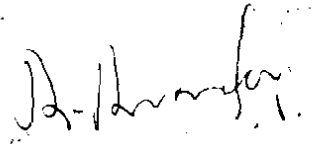
3. Ministry of Labour and Employment	<p>Concurred with the proposal</p> <p>(i) In Chapter III (Section 5) : In the Nuclear Regulatory Authority Bill the Union Minister in-charge of the Labour and Employment may also be considered as a member of the Council of Nuclear Safety so that the occupational safety and health of the workers in the nuclear installations are not neglected in any manner.</p>	<p>The main object of the Bill is to provide for regulation of radiation safety and nuclear safety. However, clause 5 has provision for inclusion of any other Union Minister in the Council. This may take care of the point raised.</p>
	<p>(ii) In Chapter X (Section 40): Minimum amount of fine may be specified instead of mentioning 'or fine', in line with similar enactments such as the Environment (Protection) Act, 1986, Factories Act, 1948 etc.</p>	<p>The quantum of fine has been left to the discretion of the Court so as to have a scope for flexibility in deciding the amount of fine taking into consideration the facts of a particular violation.</p>
	<p>(iii) Under Section 19, the extraction of atomic minerals in mines i.e. mining of atomic minerals does not appear and therefore, it is presumed that the proposed Act is primarily meant for regulation of safety in production, development and use of any nuclear material, radioactive material or any substance or equipment used for production or use of atomic energy only; and the system of enforcement of safety, health and welfare of persons employed in mines engaged in extraction of atomic minerals would continue to be looked after under the Mines Act, 1952. Rules and Regulations made thereunder by the Directorate General of Mines Safety under the</p>	<p>Atomic minerals are radioactive materials and jurisdiction of the Authority covers <i>inter- alia</i> production of such materials. The issue therefore is adequately addressed by the provisions in the draft Bill</p>

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SECRET
 No.AEA/37(1)/2011-ER
 DEPARTMENT OF ATOMIC ENERGY

	Ministry of Labour and Employment.	
4. Ministry of Health and Family Welfare	Concurred with the proposal.	--
5. Ministry of Environment and Forests	Concurred with the proposal.	--
6. Ministry of Law and Justice	Concurred with the proposal. However they have made following comments- (i) Suggestion has been made to the administrative Department to confer power upon the Central Government to designate any existing tribunal or appellate authority constituted under any existing law to deal with appeals under this Act. But the administrative Department has emphasised that the Council be empowered to constitute an Appellate Authority as and when required, which is the departure from the existing legislative practice.	(i) The proposed Bill deals with highly specialised area of radiation and nuclear safety and therefore, inclusion of members (in the Appellate Authority) with domain knowledge of relevant disciplines is necessary. Such specialisation may not be available in any of the Tribunal or Appellate Authority under any other existing law.
	(ii) The Authority is empowered to delegate its powers and functions to the Chairperson or Members or officers of the Authority or the State Government or such officer or authority subordinate to State Government. It is presumed that the delegation of powers of the Authority to the State Government is a	(ii) This provision has been made to enable State Governments to regulate certain activities / facilities such as diagnostic x-rays as it is felt

SECRET
No. AEA/37(1)/2011-ER
DEPARTMENT OF ATOMIC ENERGY



	conscious decision.	that this can be done more effectively at local level.
7. Ministry of Science and Technology	Concurred with the proposal.	--
8. Ministry of Home Affairs	No comments received.	MHA may offer their comments, if any, during the Cabinet meeting.
9. Ministry of Defence	Concurred with the proposal. However, Ministry of Defence have suggested inclusion of SA to RM / Representative from DRDO in the Authority.	Jurisdiction of the Authority is restricted to the activities / facilities in the civilian domain. As such representation of Ministry of Defence / DRDO therein is not considered necessary.