

SHAPING NUCLEAR WASTE POLICY AT THE JUNCTURE OF FEDERAL AND STATE LAW

LAWRENCE FLINT*

Abstract: Nuclear waste has long been the Achilles' heel of the civilian nuclear power industry. The spent nuclear fuel that reactors generate remains radioactive for hundreds of thousands of years; however, all the spent fuel that has been generated to date is stored in temporary, short-term facilities. As the federal government struggles to develop a permanent solution, many temporary storage facilities are nearing capacity. A few states in which civilian reactors are located have placed severe constraints on the construction of additional needed storage, potentially causing the shutdown of the federally-financed reactors. In part because of this pressure from the states, Congress has sought to create a federal, centralized interim storage facility while development of a permanent repository proceeds. This controversial effort has yet to succeed. This note will suggest that a new approach to the interim storage problem is necessary—one that involves granting the federal government exclusive authority over nuclear waste storage facilities.

"[W]here a specific duty is assigned by law, and individual rights depend upon the performance of that duty . . . the individual who considers himself injured, has a right to resort to the laws of his country for a remedy."

—*Marbury v. Madison*¹

INTRODUCTION

On January 31, 1997, several electric utilities operating commercial nuclear reactors petitioned the United States Court of Appeals for the D.C. Circuit for a writ of mandamus to require the federal government to begin accepting highly radioactive spent nuclear fuel from the utilities by a statutory deadline the following January.² Congress set this deadline fifteen years earlier by enacting the Nuclear

* Note Editor, *Durham College Environmental Affairs Law Review*, 2004-05. The author wishes to thank his brother, Alex, for his help in finishing the notes on this Note.

¹ 5 U.S. (1 Cranch) 137, 166 (1803).

² *See N. States Power Co. v. United States Dep't of Energy*, 124 F.3d 754, 755 (D.C. Cir. 1997) (hereinafter *Norfolk States Power*).

Shaping Nuclear Policy For The 1990s

Jessica J Manson



Shaping Nuclear Policy For The 1990s:

The Enigmatic Realm of **Shaping Nuclear Policy For The 1990s**: Unleashing the Language is Inner Magic

In a fast-paced digital era where connections and knowledge intertwine, the enigmatic realm of language reveals its inherent magic. Its capacity to stir emotions, ignite contemplation, and catalyze profound transformations is nothing in short supply of extraordinary. Within the captivating pages of **Shaping Nuclear Policy For The 1990s** a literary masterpiece penned by way of a renowned author, readers attempt a transformative journey, unlocking the secrets and untapped potential embedded within each word. In this evaluation, we shall explore the book's core themes, assess its distinct writing style, and delve into its lasting affect the hearts and minds of those that partake in its reading experience.

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Table of Contents Shaping Nuclear Policy For The 1990s

1. Understanding the eBook Shaping Nuclear Policy For The 1990s
 - The Rise of Digital Reading Shaping Nuclear Policy For The 1990s
 - Advantages of eBooks Over Traditional Books
2. Identifying Shaping Nuclear Policy For The 1990s
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Shaping Nuclear Policy For The 1990s
 - User-Friendly Interface
4. Exploring eBook Recommendations from Shaping Nuclear Policy For The 1990s
 - Personalized Recommendations
 - Shaping Nuclear Policy For The 1990s User Reviews and Ratings
 - Shaping Nuclear Policy For The 1990s and Bestseller Lists

5. Accessing Shaping Nuclear Policy For The 1990s Free and Paid eBooks
 - Shaping Nuclear Policy For The 1990s Public Domain eBooks
 - Shaping Nuclear Policy For The 1990s eBook Subscription Services
 - Shaping Nuclear Policy For The 1990s Budget-Friendly Options
6. Navigating Shaping Nuclear Policy For The 1990s eBook Formats
 - ePub, PDF, MOBI, and More
 - Shaping Nuclear Policy For The 1990s Compatibility with Devices
 - Shaping Nuclear Policy For The 1990s Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Shaping Nuclear Policy For The 1990s
 - Highlighting and Note-Taking Shaping Nuclear Policy For The 1990s
 - Interactive Elements Shaping Nuclear Policy For The 1990s
8. Staying Engaged with Shaping Nuclear Policy For The 1990s
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Shaping Nuclear Policy For The 1990s
9. Balancing eBooks and Physical Books Shaping Nuclear Policy For The 1990s
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Shaping Nuclear Policy For The 1990s
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Shaping Nuclear Policy For The 1990s
 - Setting Reading Goals Shaping Nuclear Policy For The 1990s
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Shaping Nuclear Policy For The 1990s
 - Fact-Checking eBook Content of Shaping Nuclear Policy For The 1990s
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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