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Climate-Change Putsch

States should refuse to comply with Obama's lawless power rule.

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Rarely do American Presidents display the raw willfulness that President Obama did Monday in rolling out his plan to reorganize the economy in the name of climate change. Without a vote in Congress or even much public debate, Mr. Obama is using his last 18 months to dictate U.S. energy choices for the next 20 or 30 years. This abuse of power is regulation without representation.

The so-called Clean Power Plan commands states to cut carbon emissions by 32% (from 2005 levels) by 2030. This final mandate is 9% steeper than the draft the Environmental Protection Agency issued in June 2014. The damage to growth, consumer incomes and U.S. competitiveness will be immense—assuming the rule isn't tossed by the courts or rescinded by the next Administration.

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States have regulated their power systems since the early days of electrification, but the EPA is now usurping this role to nationalize power generation and consumption. To meet the EPA's targets, states must pass new laws or regulations to shift their energy mix from fossil fuels, subsidize alternative energy, improve efficiency, impose a cap-and-trade program, or all of the above.

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Coal-fired power will be the first to be shot, but the EPA is targeting all sources of carbon energy. As coal plants have retired amid seven years of EPA assault, natural gas recently eclipsed coal as the dominant source of electric power. This cleaner-burning gas surge has led to the cheapest and fastest emissions plunge in history, but the EPA isn't satisfied.

Thus the new rule's central planning favors green energy sources like wind and solar. The plan expands their quotas and funding, while punishing states that are insufficiently enthusiastic. The EPA estimates renewables will make up 28% of U.S. electric capacity by 2030, up from less than 5% today.

The rule is the first step in a crescendo of climate-change politics that Mr. Obama is planning for his final days. In September he will commune with Pope Francis on the subject, and then jet to Paris in hopes that his new rule shows enough U.S. progress that the climate treaty conference in December will reach some grand accord.

As for the home front, the point is to bull-rush states into making permanent changes to their energy systems. The investments and lead times in new power plants and transmission lines on this scale are generational. Yet state compliance plans are due in September 2016, and most of the carbon reductions must be complete by 2022.

The White House and EPA know they are distorting the law beyond recognition and that this rule will be litigated for years. But they figure that if they can intimidate the states into enacting as much change as fast as possible, a legal defeat won't matter because the outcome will be a fait accompli.

The Supreme Court did give EPA the authority to regulate carbon emissions in *Mass. v. EPA* in 2007. But that was not a roving license to do anything the EPA wants. The High Court has rebuked the agency twice in the last two years for exceeding its statutory powers.

"When an agency claims to discover in a long-extant statute an unheralded power to regulate a significant portion of the American economy, we typically greet its announcement with a measure of skepticism," the Court warned last year. "We expect Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance."

Congress did no such thing with the Clean Power Plan, which is a new world balanced on a fragment of the Clear Air Act called Section 111(d). This passage runs a couple hundred words and was added to the law in 1977, well before the global warming stampede. Historically Section 111(d) has applied "inside the fence line," meaning the EPA can set performance standards for individual plants, not for everything connected to those sources that either produces or uses electricity.

When the EPA rule does arrive before the Justices, maybe they'll rethink their doctrine of "Chevron deference," in which the judiciary hands the bureaucracy broad leeway to interpret ambiguous laws. An agency using a 38-year-old provision as pretext for the cap-and-tax plan that a Democratic Congress rejected in 2010 and couldn't get 50 Senate votes now is the all-time nadir of administrative "interpretation."

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Meantime, states can help the resistance by refusing to participate. The Clean Air Act is a creature of cooperative federalism, and Governors have no obligation to craft a compliance plan. The feds will try to enforce a fallback, but they can't commandeer the states, and they lack the money, personnel and bandwidth to overcome a broad boycott. Let's see how much "clean power" the EPA really has.

The states have good reason to avoid collaborating in a scheme that will result in higher prices for consumers and business as the EPA mandates are passed down the energy chain. The plan also endangers electric reliability, and the strains to the grid could lead to brownouts or worse. The EPA added a reliability "safety valve" in the final rule as a concession that these risks are real, but this offers little protection in practice.

This plan is essentially a tax on the livelihood of every American, which makes it all the more extraordinary that it is essentially one man's order. Mr. Obama's argument is that climate change is too important to abide by relics like the rule of law or self-government. It is an important test of the American political system to prove that he is wrong.