This morning, Trump issued an executive order intended to kill all new regulations by creating impossible obstacles. It requires that an agency repeal two old rules and offset the entire cost of the new rule before it can do anything to protect public health, safety, or the environment. It’s a terrible idea. But at the end of the day, it won’t make much difference. Here’s why.

There are two categories of regulations. There are regulations that an agency has discretion over. The agency can decide whether or not to start a rule making at all, with almost no judicial oversight.It’s already clear that the Trump Administration wasn’t planning to issue any new rules protecting health, safety, or the environment if they could avoid it. The new rule would make it even harder to do that because they would have to find two other regulations to kill, start rule makings to do that too, and then use the repeals to create cost savings to offset the costs of the new rule. The Executive Order just underlines the point that they have no intention of ever starting this process.

The other category of rules are those that the agency is required to issue by law. Usually these are subject to a deadline, and if the agency misses the deadline, it will be sued. A court is not going to accept the excuse that the new regulation hasn’t been offset under the executive order, because the statute says they have to issue the regulation. These mandatory rules are the only ones that the Trump Administration would ever issue, and they won’t be blocked by an Executive Order. Simply put, statutes trump Executive Orders.

This is not to say that the Executive Order will have zero effect. What it *will* do is cause chaos and uncertainty. It’s full of undefined terms, such as how to define the relevant regulatory costs, which are going to require new guidelines from OMB. Those will be complicated and will take time to issue. In the meantime, a lot of routine government actions — say about procurement requirements — will be left hanging, with no one knowing whether they are subject to the Executive Order or how to comply with the Order. In other words, as with the immigration order, this one will add to the chaos that is rapidly being the hallmark of this Administration. On the bright said, maybe the resulting debacle will help discredit the whole “regulatory reform” campaign.