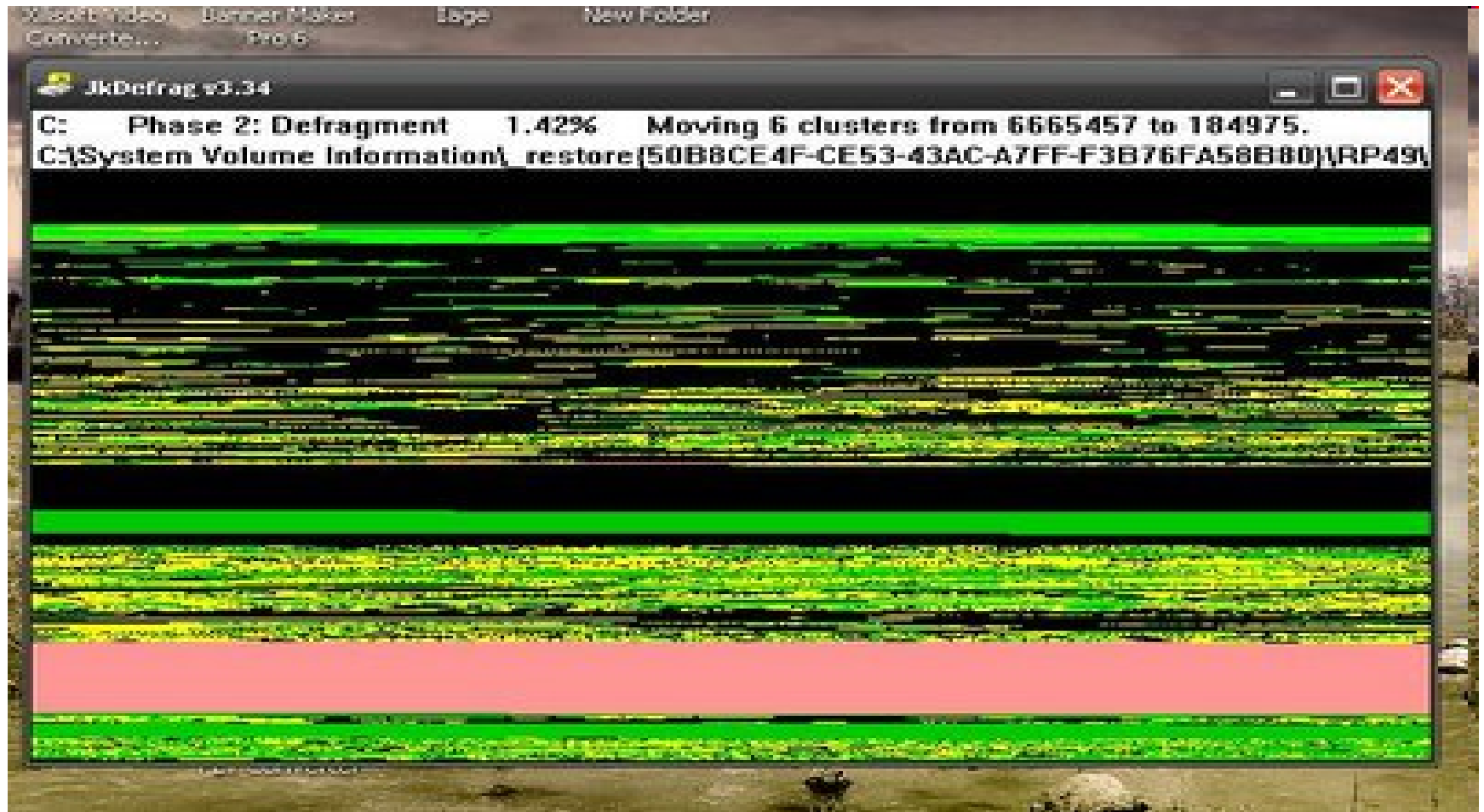


Defragmenting the Regulatory Process

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June 22, 2009

Defragmenting The Regulatory Process



Requirements applicable to rules of all agencies	
Administrative Procedure Act	Procedures required for informal rulemaking, also known as notice-and-comment rulemaking
Congressional Review Act	Submission of rules to Congress for review
Endangered Species Act	Analysis of impact on endangered or threatened species
National Environmental Policy Act	Analysis of environmental impacts
National Technology Transfer and Advancement Act	Use of voluntary consensus standards
Paperwork Reduction Act	Analysis of paperwork burden and submission to OIRA for approval of new information collections
Regulatory Flexibility Act	Consideration of regulatory alternatives to lessen the burden on small entities
Requirements applicable to rules of cabinet departments and independent agencies, but not to rules of independent regulatory agencies	
Unfunded Mandates Reform Act	Analysis of costs and benefits of federal mandates and consideration of alternatives
Executive Order 12372	Consultation with state and local elected officials
Executive Order 12630	Analysis of impact on constitutionally protected property rights
Executive Order 12866	Submission of significant rules for OIRA review and analysis of costs, benefits, and regulatory alternatives
Executive Order 12898	Consideration of environmental justice impact on minority and low-income populations
Executive Order 12988	Ensuring clarity of regulatory language regarding legal rights and obligations
Executive Order 13045	Evaluation of environmental health or safety effects on children
Executive Order 13132	Consultation with state and local officials on federalism implications
Executive Order 13175	Consultation with Indian tribal governments
Executive Order 13211	Analysis of effects on energy supply, distribution, or use

Executive Orders (not 12866)

- Impact of rule on . . .
 - BCA with distributional impacts could cover
- One paragraph off the shelf language
- Low cost to the process
- No benefit

Paperwork Reduction Act

- Ten years – Two billion burden hour increase
- Does it do anything (a good) BCA wouldn't?
- Cost not trivial
- Benefit questionable at best

Regulatory Flexibility Act

- SBA claims large impact but no outside analysis
- Could be handled by BCA with distributional impacts
- Cost not trivial
- Benefit questionable

Unfunded Mandates Act

- More complicated (also intended to affect legislation)
- But main regulatory impact to codify BCA
- Effects on states and local governments?
- Costs small
- Benefits small

What Would That Leave

- Public comment
- BCA (judicially reviewable?)
- Executive review
- Legislative review
- Streamlined/Defragmented process
- Political challenges.