



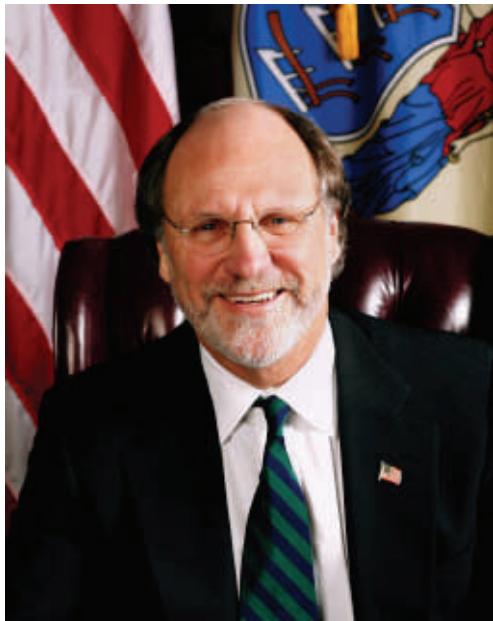
New Jersey  
Dept. of Environmental Protection



*OPEN PUBLIC  
RECORDS ACT  
2006 - 2007*



5th Year Annual Report



Jon Corzine  
Governor of New Jersey

Open Public Records Act, 2007 Annual Report  
New Jersey Department of Environmental Protection



I'm pleased to present the New Jersey Department of Environmental Protection's Open Public Records Act Annual Report for 2006-2007. This report details the number of Open Public Records Act (OPRA) requests received by the Department along with the cost to process these requests. As the report shows, the Department has spent more than \$15 million in processing 55,174 OPRA requests we received in the five years since the OPRA legislation was implemented. This number represents sixty-three percent of all requests received by all the state departments and agencies since the inception of OPRA. The Department receives no additional funding to operate its OPRA program.

The Department takes very seriously the responsibility to remain open, accountable and accessible and strives to make it as easy as possible for people to obtain DEP records. For example, our web site provides real-time access to public documents through our online "Data Miner" systems. This easy access reduces the need for OPRA requests submitted to the Department and provides the public with an immediate response to an inquiry. "Data Miner" may be accessed at <http://www.nj.gov/dep/opa/online.html>.

I firmly believe that an engaged and active citizenry can be a valuable partner in pursuit of the Department's mission to protect public health and the environment. While there are instances when the Department must withhold confidential or privileged information pursuant to the OPRA law, OPRA staff always begins its review of a request for documents with the presumption that the more information the public has, the more effectively democratic government operates.

My thanks for your interest in our OPRA work, the work of the Department and New Jersey's environment.

If you have any questions regarding this report, please contact the Office of the Records Custodian at 609-341-3121.

Lisa P. Jackson  
Commissioner



A  
**Message  
from**

**Lisa P.  
Jackson  
Commissioner**

*"The Department takes very seriously the responsibility to remain open, accountable and accessible and strives to make it as easy as possible for people to obtain information."*



# Table of Contents

<b>I. Introduction .....</b>	<b>5</b>
<b>II. Internet Access .....</b>	<b>6</b>
<b>III. Statistics for All State Agencies .....</b>	<b>8</b>
OPRA Requests Received .....	9
<b>IV. Statistics for NJDEP .....</b>	<b>10</b>
Expenditures .....	11
Requests Received Monthly .....	12
Assignment of Requests .....	13
Requests Granted and Denied .....	14
Method of Access .....	15
In-Person Reviews .....	16
Copying & Extraordinary Charges .....	17
<b>V. Outreach &amp; Commendations .....</b>	<b>18</b>
<b>VI. Appeals .....</b>	<b>23</b>

Management & Budget  
Ved Chaudhary, Assistant Commissioner

Office of the Records Custodian  
Richard Yarsinsky  
Wayne F. Grennier



# Introduction

The Open Public Records Act (OPRA) took effect on July 7, 2002. This Act defined what is a public record and established timeframes for providing access to state and local government documents. The definition of a government record is any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of official business or has been received in the course of official business. The Department makes every effort to fulfill requests within 7 business days as stipulated in the Act. If a record is in storage or archived, the Department informs the requestor and negotiates a time by which it will be made available.

In an effort to process approximately 12,000 requests we receive every year, the Department of Environmental Protection has created the Office of the Records Custodian (ORC), which receives all record requests, determines whether a request is complete, inputs paper forms into a central database, assigns requests to the appropriate program areas Records Custodians, makes policy/legal determinations, (i.e.; exceptions, confidentiality) and notifies requestors of the outcome of requests, copying costs, any extraordinary charges and access arrangements. ORC has a staff of 12.

The Department has assigned approximately 20 employees to function as Records Custodians. They monitor the OPRA tracking system each day and ensure that file officers in the program areas respond to requests from the Office of the Records Custodian. The Records Custodians work with the staff in determining whether any requested records are confidential and need to be redacted. Records Custodians also raise policy questions to the Office of the Records Custodian.

The Department assigned approximately 120 employees to serve as file officers. Not all file officers work on OPRA related activities full time. They are responsible for monitoring the OPRA tracking system to identify new requests, review files, determine if requested records exist, and update the database to reflect responses to requests. The ORC then notifies the requestor, both in writing and by phone.

To facilitate online access to records, the Department has established a web site at: [www.nj.gov/dep/opa](http://www.nj.gov/dep/opa). The web site contains links that provide immediate access to key documents. OPRA requests may be mailed, hand carried or submitted online. To improve efficiency and response, the Department encourages citizens to submit requests online.

The following report provides information about Open Public Records requests since the OPRA law took effect.

# OPRA Organization

## Office of the Record Custodian

- Assigns requests to the appropriate program area Records Custodian(s)
- Develops policy and gives advice on what is and is not confidential
- Reviews findings from file officers and program Record Custodian(s)
- Contacts requesters, approves or denies requests and seeks legal advice when necessary

## Program Area Records Custodian

- Assigns requests to appropriate file officers
- Reports the findings to the Office of the Records Custodian and ensures deadlines are met

## File Officers

- Retrieves files
- Redacts confidential information
- Reports findings to their program area Record Custodian



2002

2007

## Internet Access

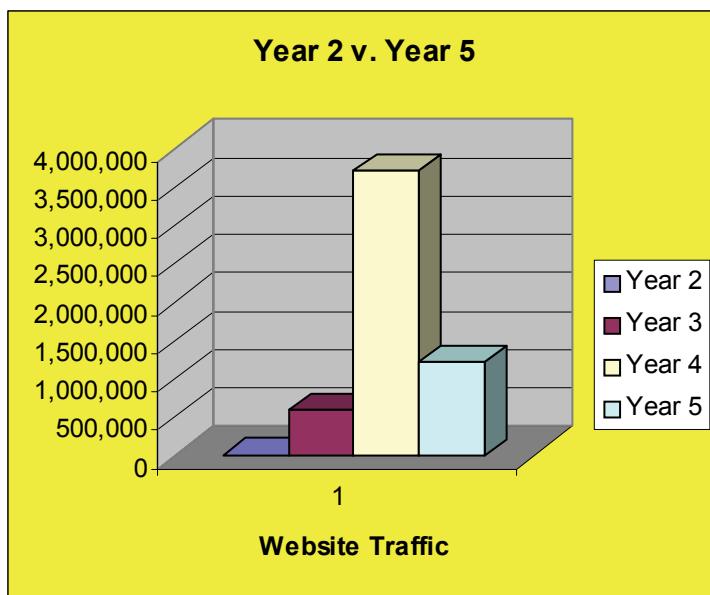
### Enhancing Communication

**Web site:** The DEP's web site is rapidly becoming its most powerful communication medium. During year five the site had 1,215,440 requests with reports issued. To ensure the site meets users' needs, it is continually updated with new items, new data downloads, reports, rules and event information.

**Every day, right away:** Honoring the public's right to know by offering better access to information about environmental protection, the DEP "Data Miner," is an enhanced web site that provides easy, round-the-clock access to key environmental reports and other public documents seven days a week.

The NJDEP has made it very easy to submit a request online (through the NJDEP OPRA website, [www.nj.gov/dep/OPRA](http://www.nj.gov/dep/OPRA)).

\*The chart and table illustrate the number of requests to the NJDEP DataMiner for year two through year five. This represents a substantial increase in Website traffic. Please note that the figure in *year five* is not comparable to past years as it now reports the number of reports generated vs. the number of website hits.



Period	Website Traffic	# of Reports
7/03 - 7/04 Yr. 2	11,348	
7/04 - 7/05 Yr. 3	593,048	
7/05 - 7/06 Yr. 4	3,708,077	
<b>Total</b>	<b>4,312,473</b>	
<b>7/06 - 7/07 Yr. 5</b>		<b>1,215,440</b>

The NJDEP OPRA website which includes Online reports, Data Miner, OPRA submittal forms, OPRA rules and other useful information may be accessed at:

**[www.nj.gov/dep/OPRA](http://www.nj.gov/dep/OPRA)**

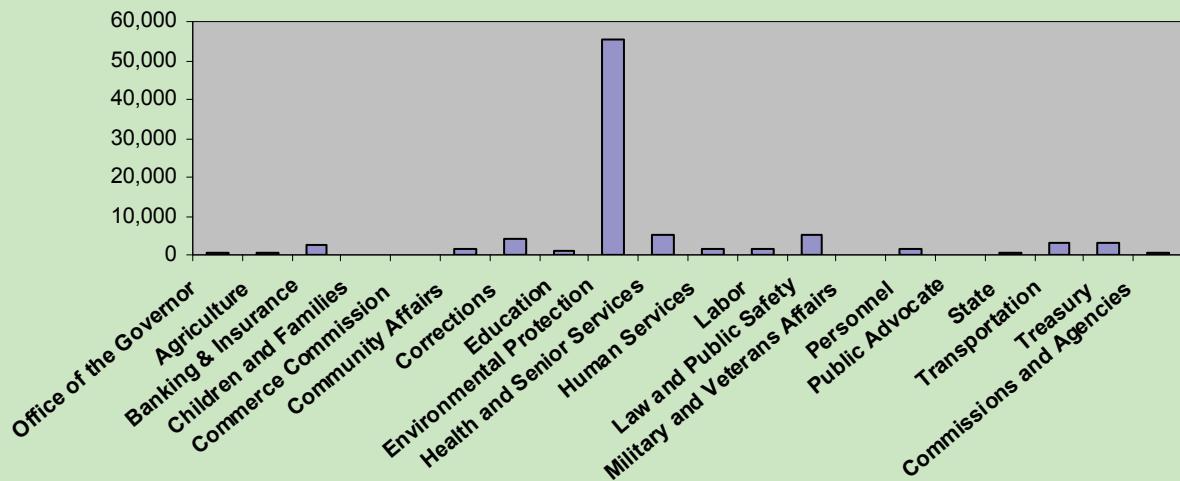
### **III. Statistics for all State Agencies**

2002

2007

# OPRA Requests Received

**NJDEP Received Over 63% of Requests to All State Agencies**



**NJDEP Received  
Over 63% of the  
87,307 requests  
submitted during  
2002 - 2007**

Agency	5 Years
Office of the Governor	402
Agriculture	331
Banking & Insurance	2,738
Children and Families	74
Commerce Commission	235
Community Affairs	1,503
Corrections	3,877
Education	1,241
Environmental Protection	55,174
Health and Senior Services	4,964
Human Services	1,497
Labor	1,464
Law and Public Safety	5,169
Military and Veterans Affairs	120
Personnel	1,663
Public Advocate	6
State	425
Transportation	3,185
Treasury	2,914
Commissions and Agencies	325
<b>Grand Total</b>	<b>87,307</b>



## **IV. Statistics for NJDEP**

7/02 to 7/07

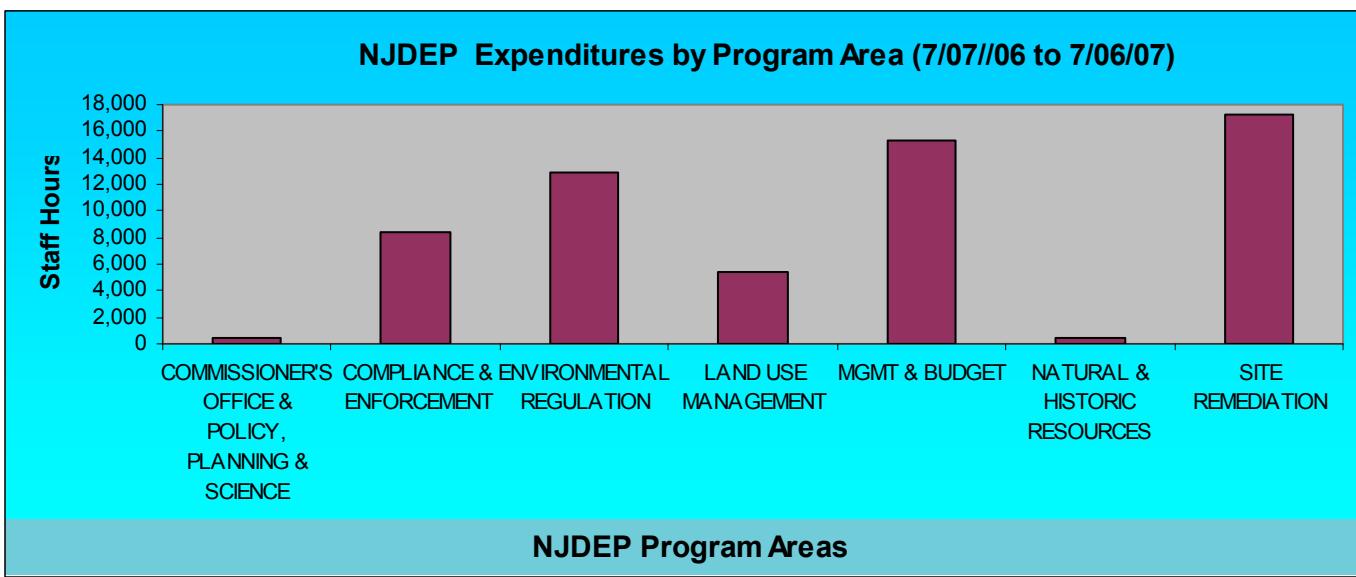
7/02 to 7/07

## OPRA Expenditures

*DEP has spent over \$15 million in the last five years processing OPRA requests. The Department receives no additional funding to operate its OPRA program.*

	Hours	Salary & Additive	Fringe Rate	Indirect Rate	Total Expenditure
FY03	52,622	\$1,773,522.59	24.15%	26.19%	\$2,778,487.13
FY04	53,110	\$1,724,677.40	29.15%	26.21%	\$2,811,227.87
FY05	59,598	\$1,895,033.56	33.25%	26.21%	\$3,186,969.37
FY06	64,535	\$2,132,040.64	32.75%	26.21%	\$3,572,101.36
FY07	60,089	\$2,070,160.61	34.75%	21.24%	\$3,382,040.03
				Grand Total	\$15,730,825.76
	<b>Note: FY07 Total Expenditure/Total Hours = \$56/hour</b>				

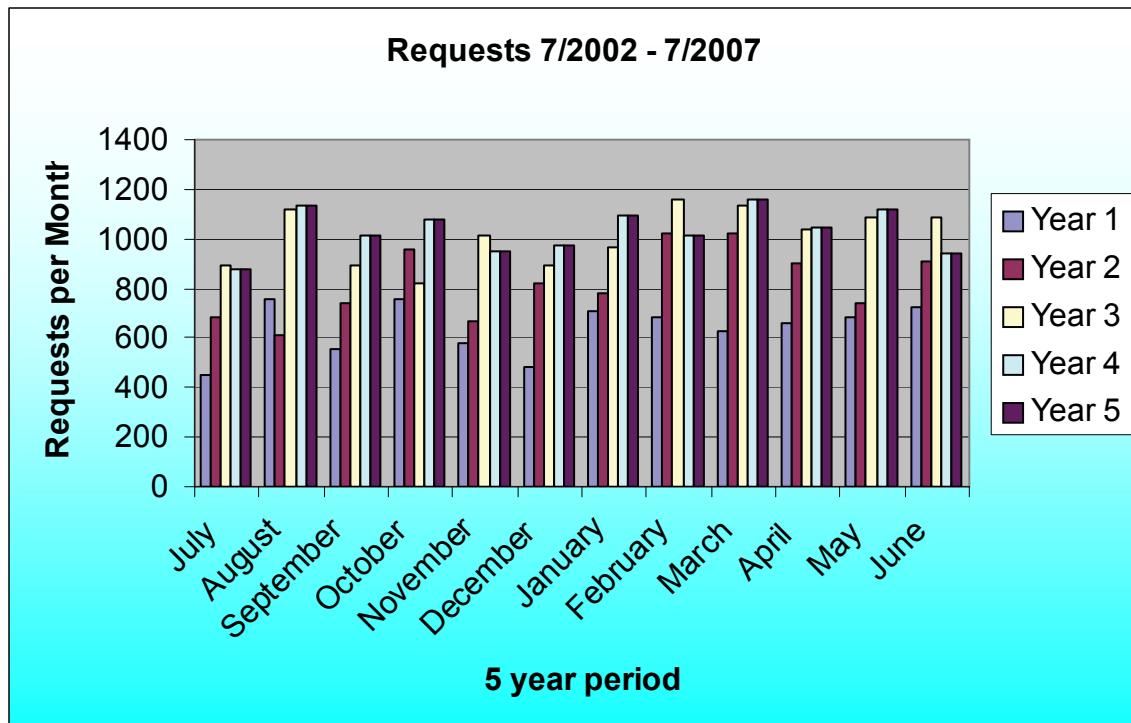
DEP Program Areas FY 2007	Staff Hours
COMMISSIONER'S OFFICE & POLICY, PLANNING & SCIENCE	466
COMPLIANCE & ENFORCEMENT	8,429
ENVIRONMENTAL REGULATION	12,864
LAND USE MANAGEMENT	5,387
MANAGEMENT & BUDGET	15,308
NATURAL & HISTORIC RESOURCES	421
SITE REMEDIATION	17,214
<b>Total</b>	<b>60,089</b>



7/02 to 7/07

7/02 to 7/07

## OPRA Requests Received Monthly



**Monthly Requests Data**  
**Approximately 1,000 Requests Are Received**  
**Every Month in DEP**

OPRA  
Requests  
Submitted  
Have Increased  
Over 161 %  
Since Year 1.

	Year 1	Year 2	Year 3	Year 4	Year 5
July	447	680	892	875	1078
August	753	612	1118	1133	893
September	552	739	894	1014	1190
October	755	958	822	1077	1032
November	583	668	1015	950	956
December	481	820	896	977	796
January	711	780	964	1093	1110
February	682	1023	1156	1012	893
March	631	1024	1131	1155	1171
April	661	899	1039	1049	953
May	686	737	1084	1119	1099
June	722	909	1086	938	1191
Total	7664	9849	12097	12392	12362

7/2006

7/2007

## Assignment of Requests

Each request received in DEP is assigned to the appropriate program areas. However, a single request may be assigned to multiple Program areas. As a result, ORC actually made 28,105 assignments.

<b>Program Name</b>	<b>Requests Assigned</b>	<b>Percentage</b>
Site Remediation	10,424	37.09%
Compliance & Enforcement	5,874	20.90%
Land Use Management	5,755	20.48%
Environmental Regulation	5,630	20.03%
Natural & Historic Resources	240	0.85%
Management & Budget	50	0.18%
Commissioner's Office & Policy, Planning and Science	132	0.47%
<b>Total Number:</b>	<b>28,105</b>	<b>100.00%</b>



7/02 to 7/07

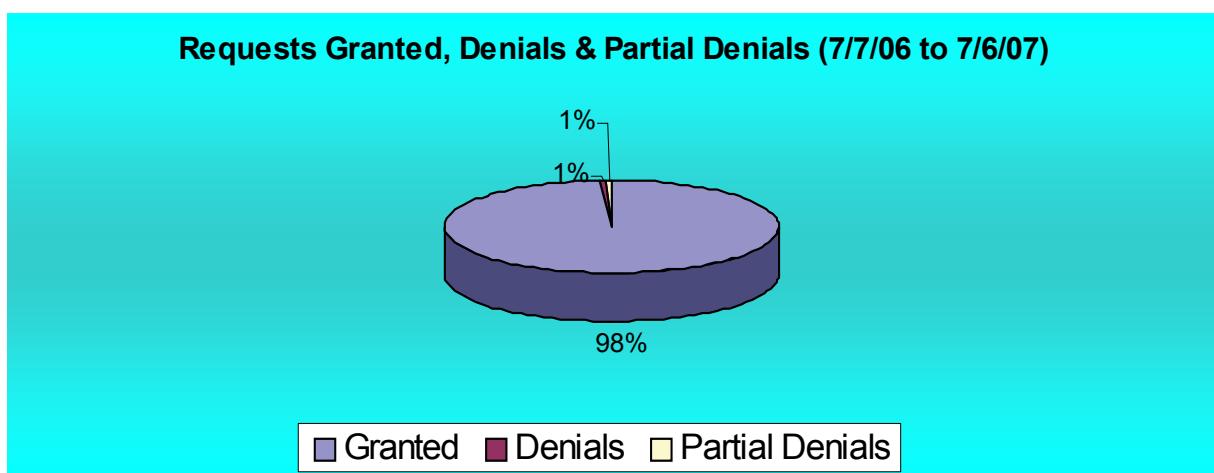
7/02 to 7/07

## Requests Granted and Denied

The following chart and table illustrate the number of requests granted and denied out of the 12,362 requests received by the Department during 2006 - 2007.

A request is marked “denied” for any of the following reasons: The request was improperly submitted, incomplete or subject to an exemption pursuant to the Open Public Records Act (i.e.; Deliberative, Attorney Client Privilege, Domestic Security).

A request is considered “granted” when the file search is completed and the requestor has been notified. The chart below shows that 99% of all requests were granted.

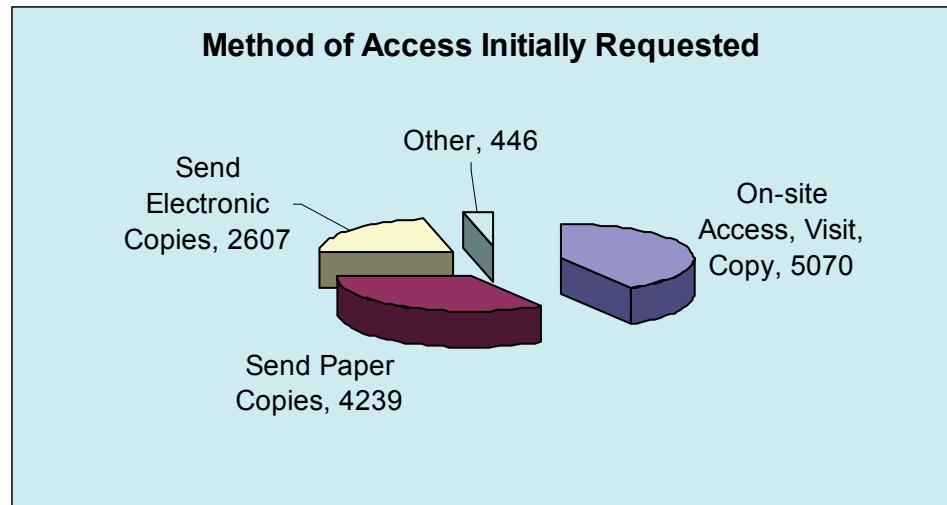


Disposition	Number of Requests	Percentage
<b>Granted</b>	<b>12,232</b>	<b>98.95%</b>
<b>Denials</b>	<b>68</b>	<b>0.55%</b>
<b>Partial Denials</b>	<b>62</b>	<b>0.50%</b>
<b>Total</b>	<b>12,362</b>	<b>100.00%</b>

## Method of Access

**41% of all requestors elected to review documents at NJDEP Offices...**

Requestors are given several choices regarding how they wish to access government records: in-person review at a NJDEP office; purchase paper copies; electronic copies; or other access method. The following chart and table illustrate what the requestors chose between 7/7/06 & 7/6/07. As the chart shows, 41% elected to come in to review documents at the NJDEP's office.



Access Method	Number of Requests	Percentage
On-site Access, Visit, Copy	5,070	41.01%
Send Paper Copies	4,239	34.29%
Send Electronic Copies	2,607	21.09%
Other	446	3.61%
<b>Totals:</b>	<b>12,362</b>	<b>100.00%</b>

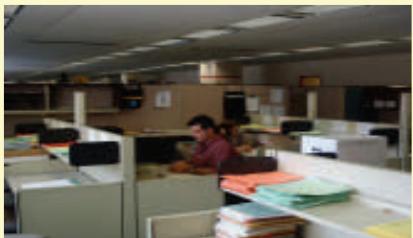


7/02 to 7/07

7/02 to 7/07

## In-Person Reviews

**18,210 Appointments  
scheduled in  
Five Year Period...**

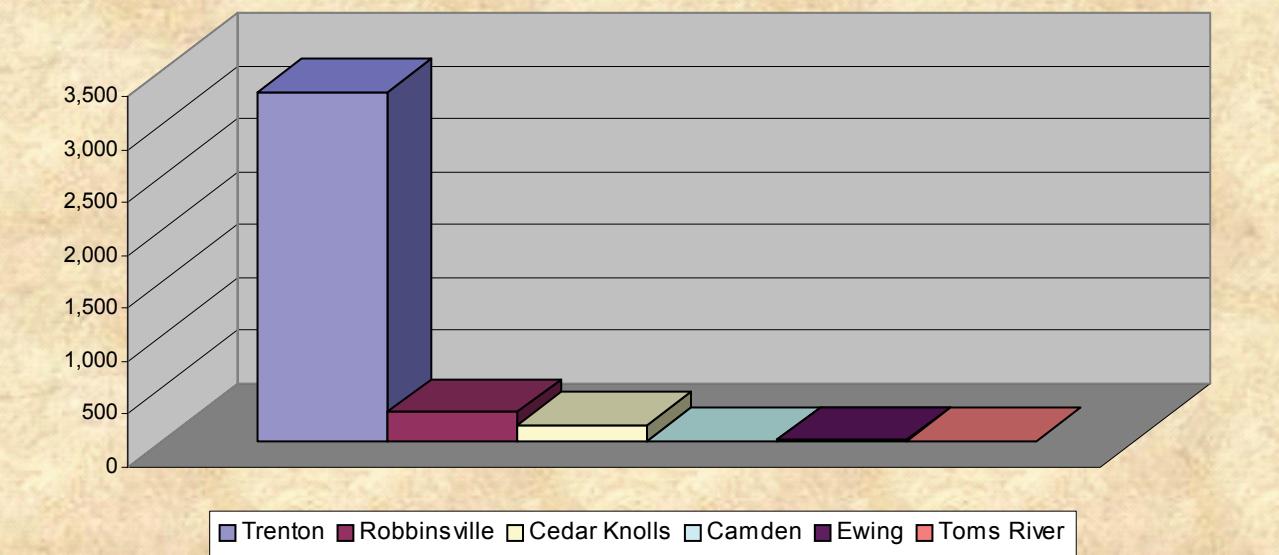


*OPRA Requestors  
Reviewing  
SRP Documents*

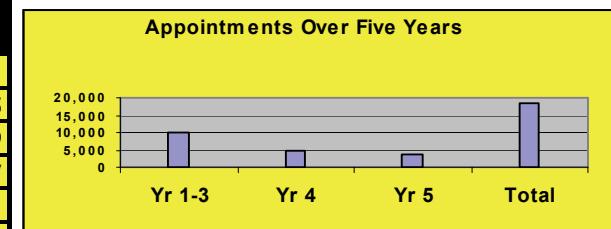
In-person reviews are an efficient way to provide requestors access for requests that generate a large number of records. Requestors schedule appointments and come to our offices to conduct their own file review. The table and chart below show the number of file reviews scheduled at all of NJDEP's offices between 7/7/06 & 7/6/07. In all, the Department scheduled an estimated 3,753 appointments in our fifth year. An estimated total of 18,210 appointments were scheduled for the five-year period ending 7/6/07.

In addition, approximately, 387 requestors were able to benefit from the utilization of electronic files by some of the Environmental Regulation programs and have their requested documents sent via the internet or on a CD.

**In-Person Reviews at DEP Offices**



Location	# of In-Person Reviews
Trenton	3,311
Robbinsville	275
Cedar Knolls	149
Camden	7
Ewing	11
Toms River	0
<b>Total:</b>	<b>3,753</b>



7/02 to 7/07

7/02 to 7/07

## Copying & Special Service Charges

Most requests for copying services are sent to the Treasury Print Shop located within the DEP. Treasury has a staff of three full-time employees making copies.

The copy rate is \$0.75 per page for one through ten pages, \$0.50 for eleven through twenty pages and \$0.25 for every page thereafter.

The Treasury Print Shop invoiced \$415,127 in copying fees for the year ending July 6, 2007. Occasionally ORC and the program areas may complete smaller copy jobs internally. The Department has collected \$5,311 during the year for these copying charges.

Approximately 2,544 copy jobs have been processed during 2006 - 2007.

### **Special Service Charges**

The OPRA legislation at N.J.S.A. 47:1A-5c, allows an agency to impose a special service charge where the agency must make an extraordinary expenditure of time and effort to fulfill a request to access government records. The Department has collected \$28,675 during the year for extraordinary time charges in processing these requests.

## **V. DEP Outreach & Commendations**

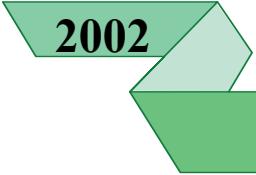
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## DEP Outreach

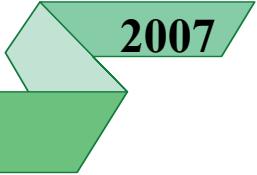


Since the implementation of OPRA, the DEP Office of the Records Custodian (ORC) has provided presentations on the Open Public Records Act (OPRA) to many agencies. Below is a listing of the presentations given by the ORC:

- **County Environmental Health Act Officials, 9/16/02**
- **Water Environment Association, 10/29/02**
- **Office of Information Resource Management / OPRA Overviews, 1/22/03**
- **Environmental Air Compliance Audit Seminar, Rutgers University, 3/25/03**
- **Association of Government Accountants Public / Administration Conference, 5/9/03**
- **Rutgers University, 6/10/03**
- **Chemical Council Fall Regulatory Conference, 12/3/03**
- **Rutgers University, 6/9/04**
- **NJWEA Seminar, 10/26/04**
- **Chinese Delegation, 12/9/04**
- **New Jersey Chapter of the Air Waste Management Association, 3/16/05**
- **New Jersey Environment Work Council, 6/22/05**
- **New Jersey Department of Transportation, 11/9/05**
- **Department of Public Advocate, 3/30/06**



2002



2007

## Commendations

During the last five years, the New Jersey Department of Environmental Protection has received praise for the Department's OPRA Program.

*"...I want to commend you and your entire staff for their courtesy, willingness to offer assistance, and the remarkably expeditious manner in which they are able to put the requested files together. In 25 years working in New Jersey, I have never seen a new program come on line so quickly and effectively."*

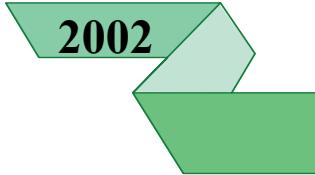
—September 25, 2002  
Harry H. Elias, P.E. CHMM  
Director of Engineering  
Code Enviro-Sciences, L.L.C.

*"...For those who do not work in either a government agency or some other large bureaucracies, the idea of being able to take advantage of the new Open Public Records law is exciting but very intimidating. Most of us don't have a clue of even where to begin....Once I arrived there, she did everything she could to see that I got what I needed. If only all government employees were so helpful!"*

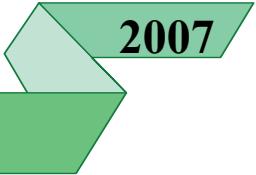
—February 16, 2003  
Mary Shaughnessy

*"...You guys are doing a terrific job...."*

—September 10, 2003  
Marc Pfeiffer, Acting Executive Director  
New Jersey Government Records Council



**2002**



**2007**

## Commendations

***I'm writing to express my appreciation for the department's help...."***

***"...The experiences between 10 years ago and today are different as night and day...."***

*"...I would like to take a minute of your time to compliment...(the)Open Records Office for updating and streamlining the document review process. Those of us who rely on NJDEP for specific site information appreciate what you've done to speed the process up..."*

-August 20, 2003  
-Ken Bolender  
Nationwide Insurance

*"I am writing to express my appreciation for the Department's help...."*

-January 8, 2004  
John A. Rhodes, V. P.  
Haley & Aldrich

*"...It is noteworthy that of the 17,513 OPRA requests filed in the DEP, only two appeals of ORC decisions made it through the appropriate government or judicial venues. In both cases decisions were rendered in favor of the Department...."*

-August 31, 2004  
Kristina Bas, Staff Representative  
Local 1034, AFL-CIO, CLC

*"...First, please note that I have been dealing with the DEP for about 16 years. I have not made a request for documents in about 10 years. The experiences between 10 years ago and today are different as night and day...The request process via Internet is easy to use and effective. Many documents are actually available on line. However, what impressed me most was the turnaround time."*

-December 22, 2004  
Ronald S. Bergamini, Esq.

*"I am writing to inform you of the commendable effort demonstrated by several received documents within a time frame that enabled me to meet a critical deadline...."*

-January 6, 2005  
Jennifer Allaire  
Kirkpatrick & Lockhart &  
Nicholson Graham, LLP



2002

2007

## Commendations

**“...‘good job and keep up the good work’ to all...”**

**“...The Department of Environmental Protection responded quickly, professionally, courteously ...”**

*“...It was a pleasure meeting you on my recent visit to your offices...Please relay my gratitude to your colleague who also tried to help on my recent visit. Both of you were very kind and attentive.”*

-March 30, 2005  
Hector L. Navarro, Paralegal  
Greenberg Traurig

*“...In an attempt to identify areas for cost savings, between February 18 and 25 Assembly Republicans sent Open Public Records Act (OPRA) requests to every state department...The Department of Environmental Protection responded quickly, professionally, courteously allowing staff to see the requested documents immediately....”*

-March 30, 2005  
Press Release  
Assembly Republican News  
Assembly Republican Office

*“...I am sending this message to your Department to thank you and your staff for providing me with courteous and helpful services”..Please forward a good job and keep up the good work’ to all.*

-March 31, 2005  
Len Fritz  
Kluk Consultants

*“...The Office of the Records Custodian. Our many dealings with them have been the best, most professional, and most pleasant of any dealings we have ever enjoyed with representatives of government....”*

-December, 2005  
Robert J. Chitren  
Environmental Advocate

*“...I wanted you to know that I was speaking to a reporter end of last week regarding OPRA and state agencies. I held your department out as one of the best in keeping up with OPRA. This reporter had positive response from DEP in the past...”*

August 20, 2006  
Elizabeth Mason  
NJ Foundation for Open - Government  
(NJFOG)



## **VI. Appeals**

2002

2007

# Appeals

**OPRA Requests  
to Date  
55,174**

**Appeals Lost  
0**

“...GRC has received **1,115** appeals involving state agencies and municipalities...only **5...appeals...** against the DEP...”



An appeal of a decision made regarding an OPRA request may be made to the Government Records Council (GRC) or directly to Superior Court. To date, **55,174** OPRA requests have been submitted to the New Jersey Department of Environmental Protection (DEP). The New Jersey Government Records Council (GRC) has received **1,115** Appeals involving state agencies and municipalities. Even though the DEP has received **63%** of all requests sent to state agencies, only **5 people** filed Appeals with the GRC against the DEP which were not later withdrawn. There were six cases appealed but later withdrawn. Presently, there are zero appeals pending. The following are brief summaries of those requests where a decision was made.

## Appeals That Went to Decision

### OPRA Request #8619/ James Lockwood.

Requestor submitted an OPRA request seeking the name and address of the woman involved in a bear incident on Wingdam Trail in Wawayanda State Park on Aug. 10, 2003, as well as the incident report and any other additional records that may exist regarding the incident. The DEP, while producing the records, redacted the portions that revealed the woman's identity and an appeal was filed with the Government Records Council (GRC). The GRC ruled on April 8, 2004 that the Department acted properly because, as the person who reported the incident to the DEP, the woman was entitled to confidentiality under the “identity of a complainant”.

### OPRA Request #9353/

#### Jordan Mariano

Requestor submitted an OPRA request seeking a list of chlorine gas users which was denied for domestic security reasons and an appeal was filed. The GRC ruled in March 2004 that the Department correctly denied access to these records because “the information requested falls squarely within the ambit of Executive Order No. 21 and falls under the exceptions set forth in N.J.S.A. 47:1A-1.”

### OPRA Request #4766/

#### Susan Steinman

The OPRA request was submitted on February 21, 2003 requesting the following: Princeton Township Community Based Deer Management application for 2001-2002, including all attachments (i.e.; consent forms provided by property owners to permit net and bolt bait sites.) Princeton Township Based Deer Management Application for 2002-2003, with all attachments and consent forms. This request was denied for the reason that people that signed the consent forms have an expectation of privacy. An appeal was filed in Superior Court and the court upheld the denial.



**2002**

**2007**

## Appeals—Continued

### **OPRA #29637 David Mann**

On June 10, 2005, David Mann faxed an OPRA request directly to the Department's file officer seeking a May 10, 2005 letter which outlines the December 21, 2004 engineering project. The file officer responded stating that the file could not be located. A Complaint was made with the New Jersey Government Records Council. The GRC ruled in the Departments favor since the OPRA request was faxed and therefore, it was an invalid OPRA request.

### **OPRA #37691/DiMattia**

On February 24, 2006, Mr. DiMattia submitted an OPRA request seeking all documents relating to a unit of the Department regarding daily bank deposit list, cash receipts, new internal controls, standard operation procedures, emails to staff, management improvement measures, etc. The Department denied the request since it was a broad request requiring a substantial amount of research. A Complaint was made to the New Jersey Government Records Council. The GRC ruled in the Departments favor stating that the OPRA request was invalid since the request was not submitted on an official OPRA request form.

### **Pending Appeals**

#### **OPRA Request #17261/Allison Lassiter**

An OPRA request was submitted on June 29, 2004 requesting a complete digital copy of the NJEMS database for the whole state in database format and a data dictionary. This request was denied for a number of reasons (ie; proprietary, disruption to agency operations, trade secrets, computer security, ongoing enforcement). An appeal was made to the Government Records Council and the case was referred to the Office of Administrative Law for a hearing.

#### **OPRA Request #38277/Scott Fegley**

On March 9, 2006, Scott Fegley submitted an OPRA request seeking "Scoring forms entitled "Interview Questions for HSMS 1 Solid and Hazardous Waste Program" conducted on or about October 17, 2005, as well as any resumes on file for the following individuals: Robin Heston, Carolyn Hansel, Scott Frow, Jennifer Meyer, Mary Goldman, Timothy Disbrow, John Edwards and Ronald Wienckoski; Report of disposition of Certification PS052636 issued September 29, 2005, and returned December 8, 2005." The Department had four of the eight resumes requested and those were provided to the requestor. The request was partially denied. The partial denial stated that the scoring forms are confidential pursuant to N.J.S.A.

47:1A-1.1 and N.J.A.C. 7:1D-4.2

(a) Test questions, scoring keys and other examination data pertaining to the administration of an examination is exempt. An appeal was made to the New Jersey Government Records Council.

### **Tierra Solutions, Inc.**

Drinker Biddle Law firm submitted many OPRA requests for access to any and all documentation pertaining to discharges to the Passaic River. The Department denied several of these requests on the basis that the requests were broad-based requests for information that would have required extensive research. There were several requests made for lists of job/project numbers created. The Department denied these requests stating that the requested lists do not exist and would have to be have been created. There were several requests made for all documents pertaining to pertaining to job numbers. The Department denied these requests since it would have required the Department to conduct extensive research across numerous agency and Department program files to identify all personnel that coded to the requested job numbers and to compile, collate and analyze any potentially responsive records that might have been identified. The requestor filed Complaints against the DEP in New Jersey Superior Court.



Open Public Records Act Requests may be made by contacting:

State of New Jersey  
Dept. of Environmental Protection  
Management & Budget  
Office of the Records Custodian  
PO Box 442  
Trenton, New Jersey 08625-0442  
(609) 341-3121

or online at:

[www.nj.gov/dep/opra](http://www.nj.gov/dep/opra)

The Office of the Records Custodian may be contacted if there are any questions regarding submission of an Open Public Records Act Request.



New Jersey Department of Environmental Protection

