

**OPEN
PUBLIC
RECORDS
ACT**

**2005
Annual
Report**

New Jersey

Dept. of Environmental Protection

State of
New Jersey



Environmental Regulation



Beach Water Quality



Fish & Wildlife



Hazardous Waste Cleanup



Green Acres



Richard J. Codey
Acting Governor of New Jersey

Open Public Records Act, 2005 Annual Report
New Jersey Department of Environmental Protection



I'm pleased to present the New Jersey Department of Environmental Protection's (NJDEP) Open Public Records Act, July 2005 Annual Report. This report details the number of Open Public Records Act requests received within the Department along with the monies spent processing these requests. As the report shows, the NJDEP receives the bulk of all Open Public Records Act requests within the State.

It is important to note that out of 29,580, Open Public Records Act requests received during the first three years since the OPRA legislation was implemented, there have only been 6 appeals and three have already been through the appeals process. The decisions were that the Department correctly denied access to those documents. The Department has lost no cases on appeal.

One of my first goals since becoming Commissioner was to ensure that the citizens of New Jersey had quick and easy access to Department documents. People have a right to know about the air they breath and the water they drink. In carrying out the mission of providing easy access to documents, we must also be mindful of the legislature's intent that we do not abridge the fundamental right to privacy and public safety.

We continue to strive to make it as easy as possible for people to obtain information. For example, the NJDEP has a newly improved Web site that provides easy access to key environmental reports and other public documents seven days a week at no charge. The improved Web site further enhances the demonstrated efficiency, effectiveness and responsiveness of DEP's OPRA process. Easier, faster real-time access to public documents online through DEP Data Miner likely will reduce the number of OPRA requests submitted to the NJDEP. DEP Data Miner may be accessed at: <http://www.nj.gov/dep/opra/online.html>

I have directed staff to continue to be responsive, accountable and open in providing access to documents. The public's rights to know and have access to information are an essential part of open government. Therefore, we are committed to ensuring that people have easy and swift access to documents.

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

Bradley M. Campbell
Commissioner



A Message from

**Bradley
M. Campbell
Commissioner**

"...we are committed to ensuring that people have easy and swift access to documents..."

I. Introduction

The Open Public Records Act (OPRA) took effect on July 7, 2002. The Open Public Records Act establishes strict timeframes for providing access to state and local 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. Access must be provided within 7 business days and immediate access for bills, vouchers and contracts. If a record is in storage or archived, the Department must identify a time by which it will be made available.

In an effort to process requests within the strict timeframes, the Department of Environmental Protection created the Office of the Record 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 Assistant Commissioner Record Custodians (ACRC), makes policy/legal determinations, (i.e. exceptions, confidentiality, etc.) and notifies requesters of the outcome of requests, copying costs and access arrangements.

The Department has assigned approximately 20 people to be ACRCs. These people monitor the tracking system each day and ensure that file officers in the program areas respond to requests from the Office of the Record Custodian.

The Department assigned approximately 150 people to be file officers. They are responsible for monitoring the computer system to identify new requests, review files and determine if requested records exist, determine whether any requested records are confidential or need to be redacted, notify the ORC of availability of requested records and any reasons for denial or redaction, update the database to reflect responses to requests and raise any policy questions to the Office of the Records Custodian. The Department then notifies the requestor, both in writing and by phone.

The Department has established an Open Public Records Act Web page at: www.nj.gov/dep/opra to explain the law and assist citizens in making records requests. The Web site also contains links that provide immediate access to key documents. OPRA requests may be mailed, hand carried or submitted online. Most people elect to have their requests submitted to the Department online.

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



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Office of Management & Budget
Irene Kropp, Assistant Commissioner

Office of the Records Custodian
Richard Yarsinsky, Chief

Report prepared by:
Wayne F. Grennier, Supervisor of Operations
Office of the Records Custodian

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II. DEP Outreach



Since the implementation of OPRA, the Office of the Records Custodian (ORC) has provided presentations on the Open Public Records Act (OPRA). 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**

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III. Commendations

During the last three 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

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Commendations

“I am 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.

“...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

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Commendations

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

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

“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

“...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

“...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



NJDEP Process

Office of the Record Custodian

Assigns requests to the appropriate program area Records Custodian(s)
Develops policy and gives advise 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

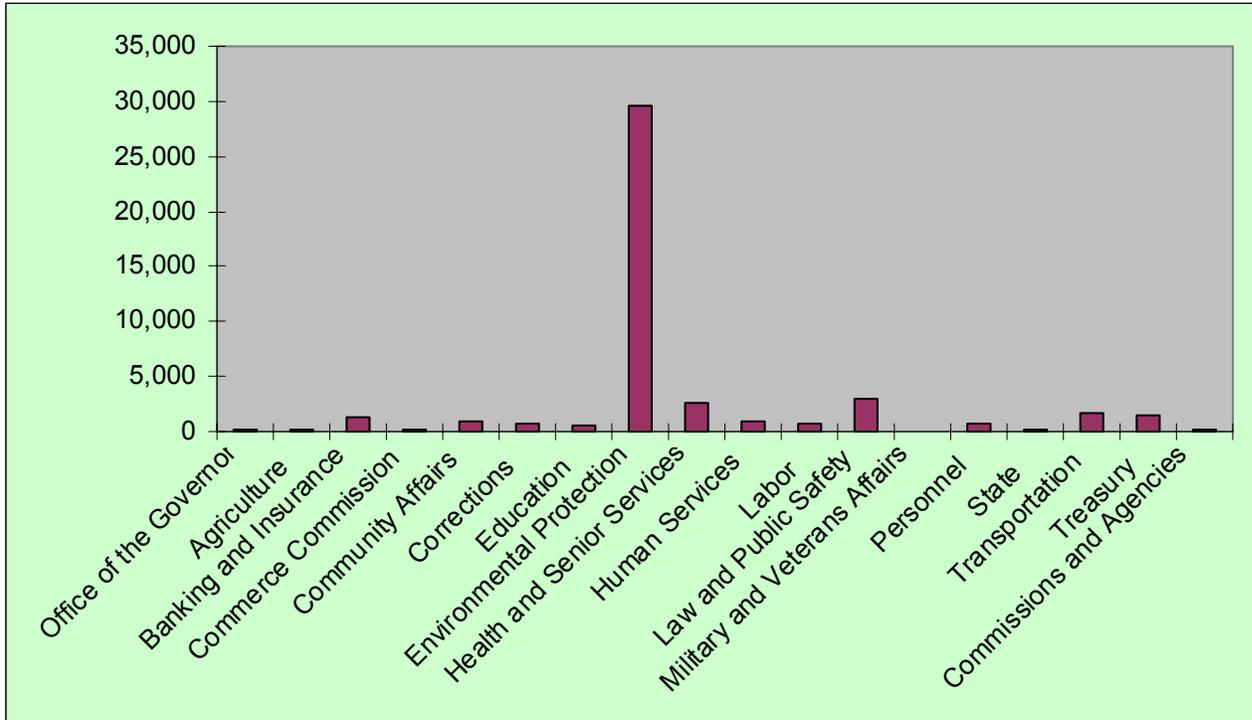


IV. Statistics for all State Agencies

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OPRA Requests Received

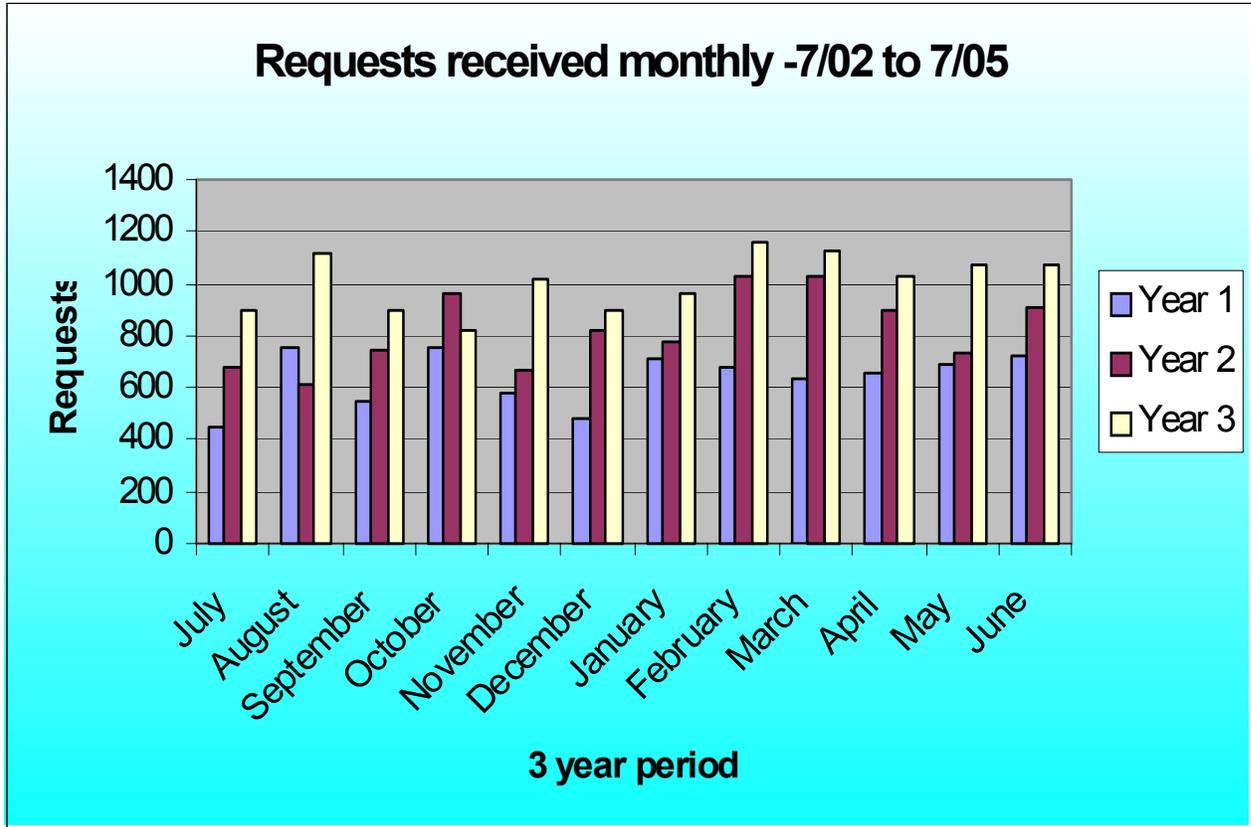


**NJDEP Received
Over 65% of the
45,000 requests
submitted**

Agency	3 Years
Office of the Governor	265
Agriculture	162
Banking and Insurance	1,212
Commerce Commission	155
Community Affairs	874
Corrections	831
Education	531
Environmental Protection	29,580
Health and Senior Services	2,640
Human Services	879
Labor	743
Law and Public Safety	3,020
Military and Veterans Affairs	70
Personnel	729
State	220
Transportation	1,718
Treasury	1,459
Commissions and Agencies	210
Grand-Total	45,298

V. Statistics for NJDEP

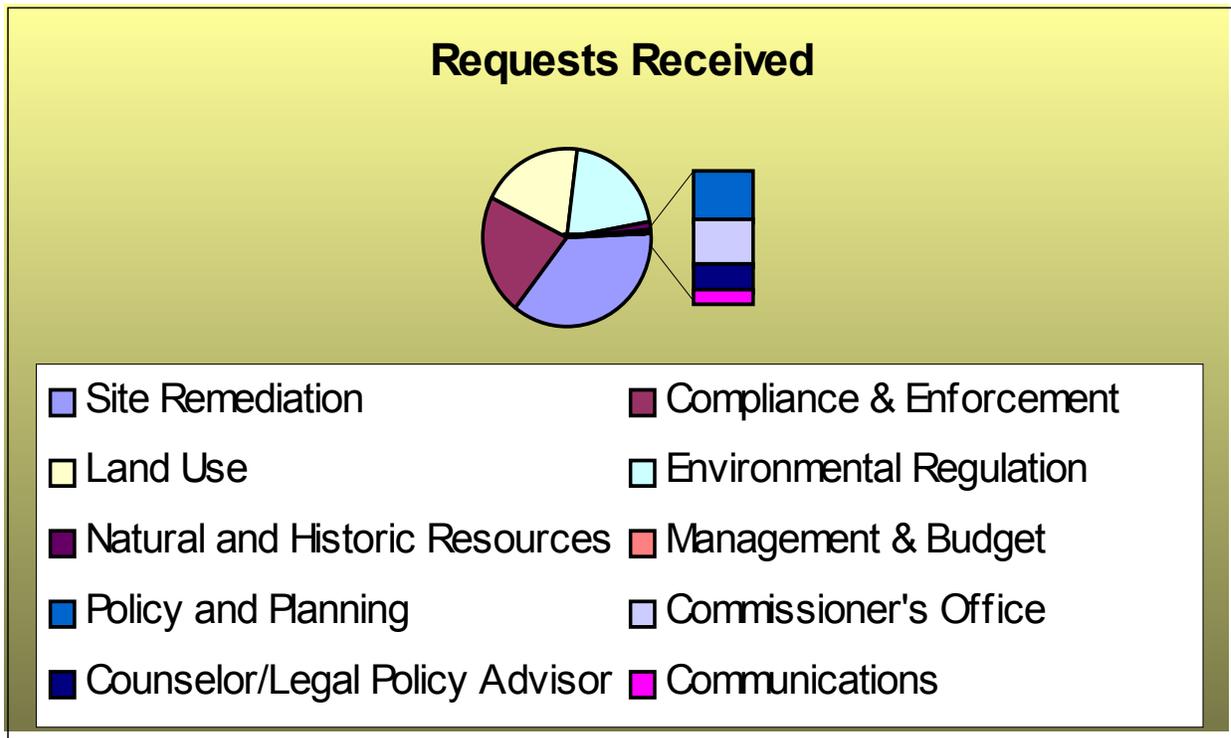
Requests Received Monthly



The above chart illustrates the number of requests submitted by month during the first three years of operation. The average number of requests submitted in our third year was 1,006 per month. (See page 22, for data table)



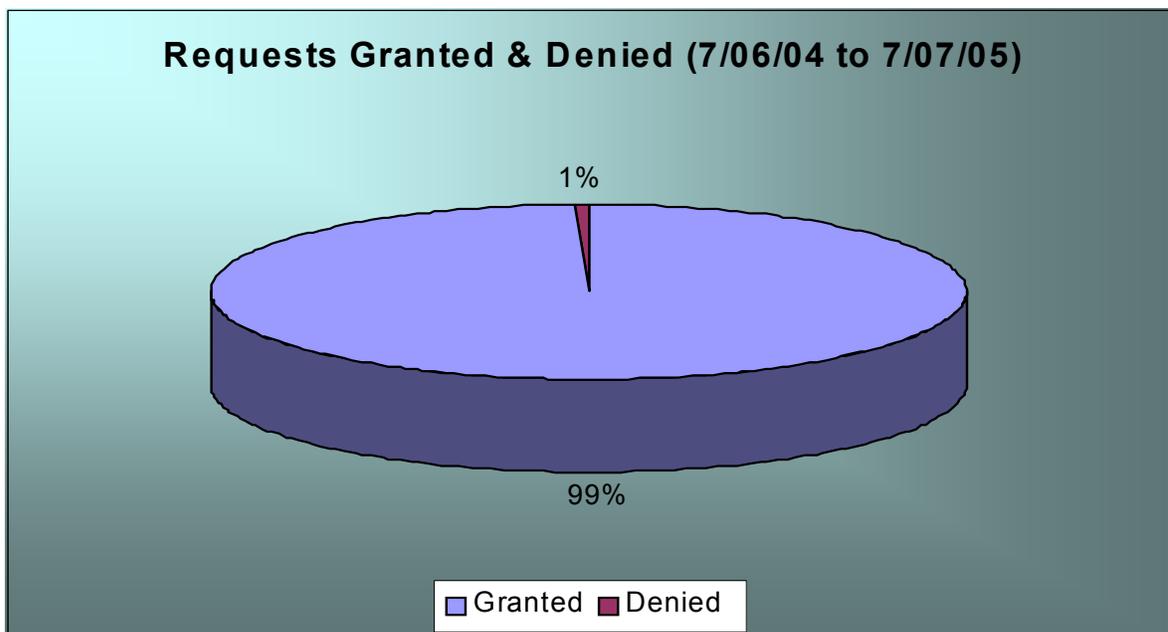
Assignment of Requests



Each request received is assigned to the appropriate ACRC(s). This chart illustrates the primary program where each of the 12,067 requests was assigned. A single request may be assigned up to ten times (i.e. to each of the Assistant Commissioner Programs). As a result, NJDEP's programs actually handled 30,249 requests. The table on page 22 is based on 30,249 "requests" figure; it shows the percentage handled by each of the programs based on that figure.

Requests Granted and Denied

The following chart and table illustrate the number of requests granted and denied out of the 12,067 requests received by the Department in our third year. 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 (ie; Deliberative, Attorney Client Privileged, Domestic Security). A request is considered “granted” when the file search is completed and the requestor has been notified. The chart below shows that more than 99% of all requests were granted.



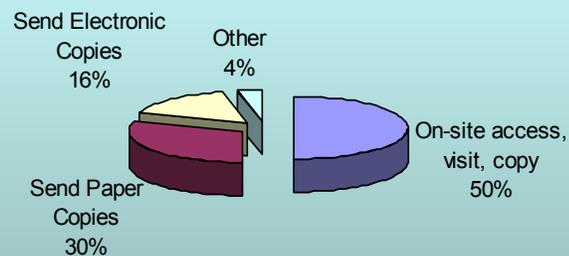
Disposition	Number of Requests	Percentage
Granted	11,984	99.31%
Denied (Approximately)	83	0.69%
Total	12,067	100.00%

Method of Access

50% elect to review documents at NJDEP Offices...

Requestors are given several choices regarding how they wish to receive access to government records: in-person review (reviews the document at a NJDEP office); purchase paper copies; electronic copies; or other access method. The following chart and table illustrate what the requestors chose between 7/7/04 & 7/6/05. As the chart shows, half elected to come in to review documents at the NJDEP's office.

Methods of Access Initially Requested



Access Method	Number of Requests	Percentage
On-site access, visit, copy	6,044	50.09%
Send Paper Copies	3,647	30.22%
Send Electronic Copies	1,933	16.02%
Other	443	3.67%
Totals	12,067	100.00%

7/04 to 7/05

7/04 to 7/05

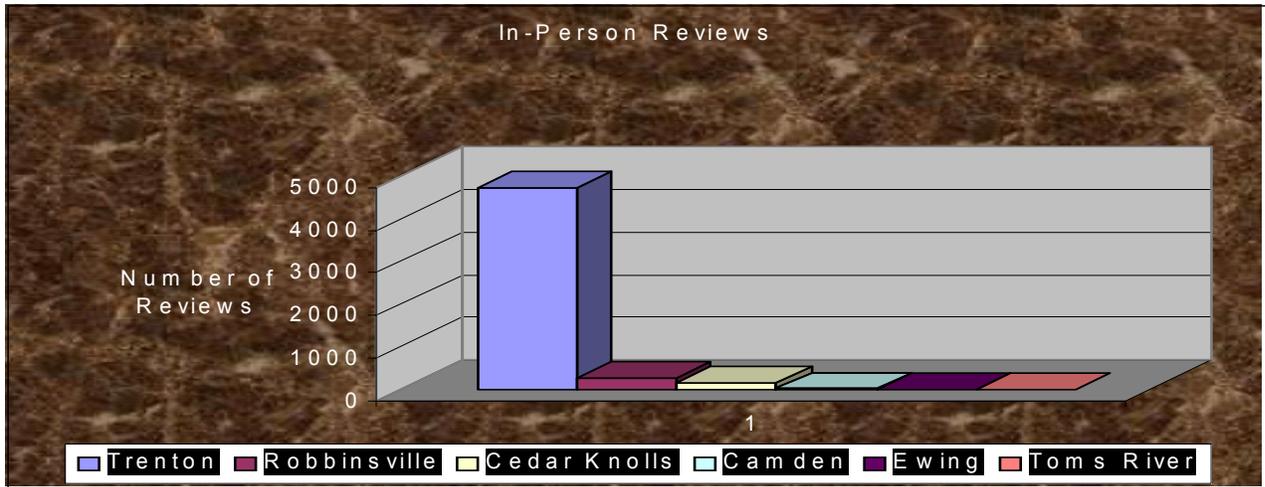
In-Person Review

**9,857 Appointments
in
Three 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 main offices between 7/7/04 & 7/6/05. In all, the Department scheduled 5,102 appointments in our third year, reflecting a 67 percent increase from the previous year. A total of 9,857 appointments were scheduled for the three-year period ending 7/6/05.



Location	# of In-Person Reviews
Trenton	4720
Robbinsville	241
Cedar Knolls	135
Camden	4
Ewing	1
Toms River	1
Total	5102



7/04 to 7/05

7/04 to 7/05

Document Copying

**In 3 Years,
approximately
\$876,382 Dollars
was spent by
requestors for copies**



John Hartnagel and Steve Fischberg of the New Jersey Treasury Print Shop making copies for OPRA requestors

Most copy jobs are sent to the Treasury Print Shop located within the DEP. Treasury has a staff of three full time employees making copies.

The Treasury Print Shop collected \$334,959 in copying fees for the year ending July 6, 2005. Occasionally ORC and the program areas will complete copy jobs internally. The Department has collected \$19,049 during the year for these copying charges.

The copy rate is \$0.75 for one through ten pages, \$0.50 for eleven through twenty pages and \$0.25 for every page thereafter. Approximately 2,099 copy jobs have been processed between 7/07/04 & 7/06/05.

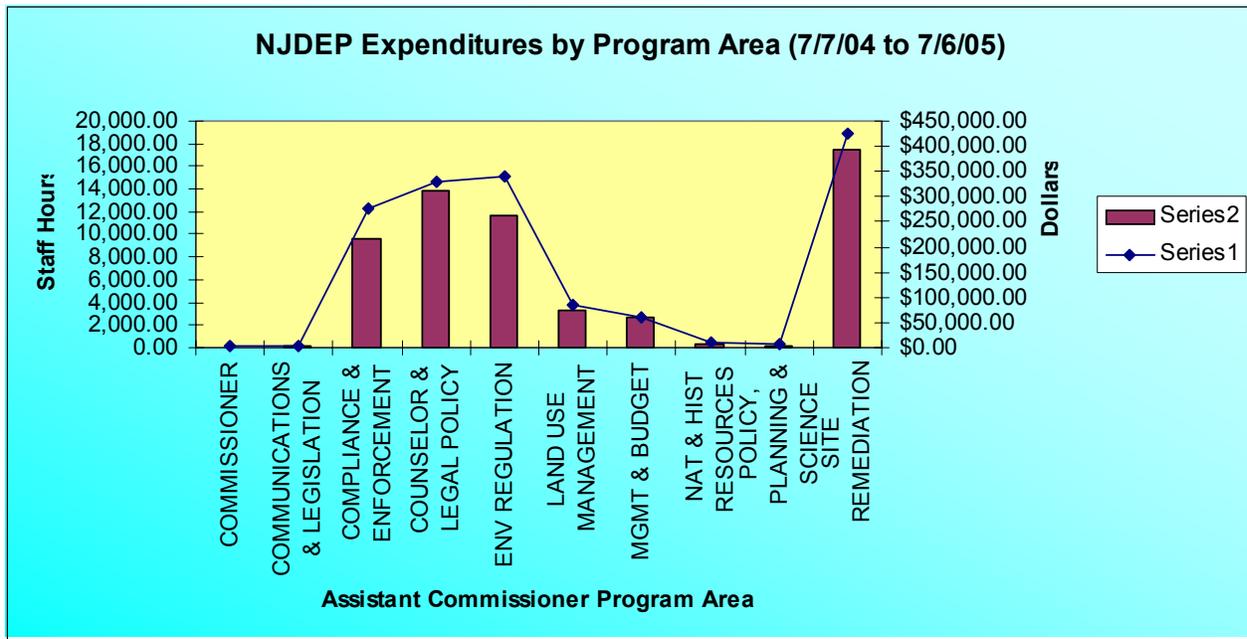
Agency	First Year Revenue	Second Year Revenue	Third Year Revenue	Total Revenue
	Jul-03	Jul-04	Jul-05	
Treasury	\$185,082	\$296,825	\$334,960	\$816,867
NJDEP	\$22,084	\$18,382	\$19,049	\$59,515
Total	\$207,166	\$315,207	\$354,009	\$876,382

7/04 to 7/05

7/04 to 7/05

Expenditures

The following chart and table illustrates the Department's expenditures for administering the OPRA Public Records Act program between 7/7/04 & 7/6/05. Expenditures are shown by program area. The Department spent a total of \$1,537,662 not including indirect costs such as equipment, supplies, etc. The Department has not received any additional funding from the legislature for the processing of OPRA requests.



Assistant Commissioner Program	Staff Hours	Dollars Spent
COMMISSIONER'S OFFICE	75.00	\$3,045.91
COMMUNICATIONS & LEGISLATION	88.50	\$2,341.71
COMPLIANCE & ENFORCEMENT	9,652.20	\$274,711.00
COUNSELOR & LEGAL POLICY	13,918.75	\$328,051.13
ENV REGULATION	11,730.25	\$341,329.49
LAND USE MANAGEMENT	3,338.90	\$85,838.90
MGMT & BUDGET	2,718.00	\$59,275.95
NAT & HIST RESOURCES	291.50	\$9,775.21
POLICY, PLANNING & SCIENCE	161.50	\$7,166.87
SITE REMEDIATION	17,423.00	\$426,126.16
Grand Total:	59,397.60	\$1,537,662.33

First Three Years Expenditures	Dollars Spent
2002-2003	\$1,404,203
2003-2004	\$1,369,287
2004-2005	\$1,537,662
Total	\$4,311,152
Departments Indirect Costs @ 26.21%	\$1,129,953
Estimated Grand Total	\$5,441,105

The Department of Environmental Protection has spent \$5,441,105 processing OPRA requests over 3 years...and has received no additional funding from the Legislature for the processing of OPRA requests.

7/04 to 7/05

7/04 to 7/05

Data Tables for Charts

OPRA
Requests
Submitted
Have Increase
Over 20%
each year.

Monthly Requests Data

	Year 1	Year 2	Year 3
July	447	680	892
August	753	612	1118
September	552	739	894
October	755	958	822
November	583	668	1015
December	481	820	896
January	711	780	964
February	682	1023	1156
March	631	1024	1131
April	661	899	1029
May	686	737	1074
June	722	909	1076
Total	7664	9849	12067

Assignment of Requests

ACRC Program Name	Number of Requests Assigned	Percentage
Site Remediation	10,447	34.54%
Compliance & Enforcement	6,723	22.23%
Land Use	6,359	21.02%
Environmental Regulation	6,041	19.97%
Natural and Historic Resources	372	1.23%
Management & Budget	101	0.33%
Policy and Planning	82	0.27%
Commissioner's Office	65	0.21%
Counselor/Legal Policy Advisor	44	0.15%
Communications	15	0.05%
Total	30,249	N/A

VI. Appeals

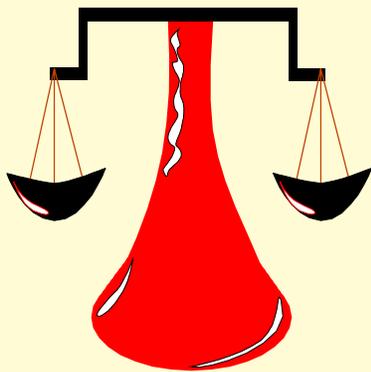
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Appeals

**OPRA Requests
to Date
29,580**

**Appeals Lost
0**



An appeal of a decision made regarding an OPRA request may be made to the Government Records Council or directly to Superior Court. To date, of the 29,580 OPRA requests submitted to the New Jersey Department of Environmental Protection, there have been only three cases that went through the appeals process and the decisions were that the Department correctly denied access to the documents. There have been no decisions against the Department. There were five cases appealed but later withdrawn. Presently, there are three 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 (ie; 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.

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Appeals - Continued

Pending Appeals

3

Pending Appeals

OPRA Request #22116/ NJ Environment Work Council

The OPRA request was submitted on December 2, 2004 requesting the following: The latest available drafts of the DEP MOA with chemical industry trade association and specific chemical companies concerning site security, latest available draft prescriptive orders by DEP and the Domestic Security Task Force concerning chemical site security for the chemical sector and the latest copy of the chemical industry "best practices" document. This request was denied for domestic security reasons. An appeal was filed with the New Jersey Government Records Council.

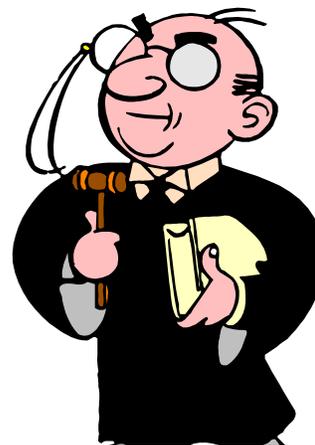
OPRA Request # 4990/ Kim Haris

On March 3, 2003, Kim N. Haris submitted an OPRA request to DEP for the following: "Fish and Wildlife Council meeting minutes for the months of December, 1998, January, 1999 and February, 1999." On April 10, 2003, the Office of the Records Custodian mailed the requestor the documents which were requested in the OPRA request. Kim N. Haris paid \$20.00 (check number 3556)

for the copies. The requestor filed an appeal in Superior Court.

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.



VII. Internet Access

Enhancing Communication

Web site: With more than 10,000 Web pages and nearly 6,000 PDF documents, the DEP's Web site is rapidly becoming its most powerful communication medium. Every day, the site receives more than 11,000 visitors who view over 40,000 Web pages. 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 unveiled its "Data Miner," a newly improved Web site that provides easy, round-the-clock access to key environmental reports and other public documents seven days a week.

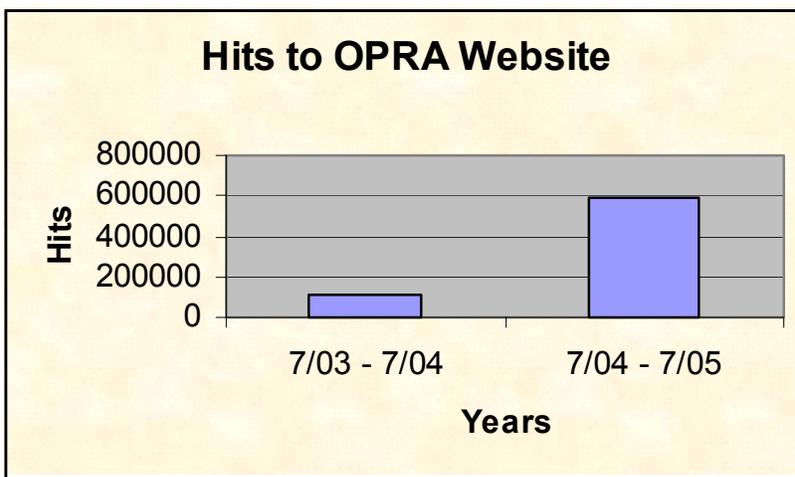
Enforcement alerts: To improve customer service and communications with its constituencies, the DEP began regularly issuing Enforcement Alerts to regulated communities to keep them informed about plans to target certain compliance problems and ways in which the department will continue to provide compliance assistance.

"By putting technology to work, we are making it possible for more people to get more information about environmental protection in New Jersey's communities."

–DEP Commissioner
Bradley M. Campbell

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

The chart and table illustrate the number of hits to the NJDEP DataMiner between July 7, 2004 through July 6, 2005; the number totals over **593,048** hits. This represents a substantial increase in website traffic from our first year of operation.



Period	Website Hits
7/03 - 7/04	113,346
7/04 - 7/05	593,048
Total	706,394
Percent Increase	523.22%

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

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

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