

NJ Department of Environmental Protection

Open Public Records Act

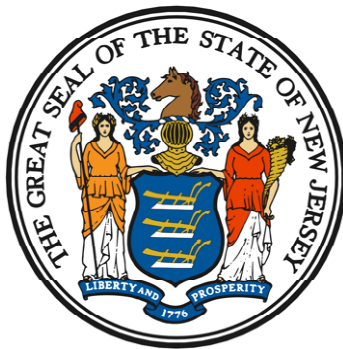


2008 Annual Report



Jon Corzine
Governor of New Jersey

Open Public Records Act, 2008 Annual Report New Jersey Department of Environmental Protection



It is a great pleasure to present the New Jersey Department of Environmental Protection's Open Public Records Act Annual Report for 2008. This report memorializes the extraordinary challenge the Department addresses in responding to OPRA requests. As detailed in the report, the Department has spent more than \$18 million in processing 69,098 requests we received in the six years since OPRA was implemented. The Department receives over 63 percent of all OPRA requests submitted to state agencies.

The importance of the Department's records to the environmental and economic health of the State is readily apparent with almost 97 percent of the requests received from consultants, legal firms, and commercial/industrial entities for commercial purposes, such as property and business transactions as well as development and redevelopment projects.

The Department continually strives to improve the accessibility of our records through our online Data Miner systems that provide dynamic real-time environmental data and the Geographic Information Systems data. Both systems can be accessed through the Department's Record Access Program's Web portal at www.nj.gov/dep/opra/.

The Department's commitment to being open and accountable is clearly evident; only 16 of the 69,098 record responses issued in the past 6 years were challenged. As detailed in the report, the New Jersey Government Records Council and New Jersey Superior Court upheld all of the challenged Department's OPRA request responses with the exception of 1 that stemmed from the misinterpretation of the request. These numbers show that while there are times when the Department must withhold confidential and privileged information pursuant to OPRA, the Department is committed to providing as much information as possible. We understand that by making more information public, more stakeholders can evaluate it and provide feedback, so we can more effectively fulfill our mandated responsibilities.

If you have any questions about this report, please contact the Office of Record Access at (609) 341-3121.

Mark N. Mauriello
Acting Commissioner



A Message From
Mark N. Mauriello
Acting Commissioner

"We understand that by making more information public, more stakeholders can evaluate it and provide feedback, so we can more effectively fulfill our mandated responsibilities."

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State of New Jersey
Department of Environmental Protection
Office of Record Access
Matthew J. Coefer, Chief Records Custodian
March 2009

Introduction

The Open Public Records Act took effect on July 8, 2002. This Act defined what is a government recordⁱ and established timeframes for providing access to state and local government documents. OPRA also identified 24 exceptionsⁱⁱ to the definition of a government record, thereby restricting access to certain types of public recordsⁱⁱⁱ.

The Department fulfills requests within 7 business days as stipulated by the Act and its intent. However, if the nature of the request requires clarification or the volume of the responsive records require additional time for investigation or evaluation for any privilege records, the Department will work with the requester to establish an extension of time for response or access that will not disrupt Department operations. Similarly, if a record is in storage or archived, the Department informs the requester and sets a date by which it will be made available.

Unlike many state agencies, the Department created a singular office to receive all submitted OPRA record requests, review them for administrative completeness, refer them to the appropriate program areas, coordinate program responses and record access, and provide a single point contact for the requester. The Office of Record Access, formerly the Office of the Records Custodian, employs a staff of 13 to coordinate OPRA activities with the 10 program area's Assistant Commissioner Records Custodians (ACRCs) and 104 File Officers addressing 11 NJDEP building locations throughout the state.

Each program area designated ACRC refers record requests to the various File Officers within the program and coordinates the program's responses to record requests with the Office of Record Access. The various staff designated as program area's File Officers function either full-time or part-time in responding to record requests, coordinating the preparation of responsive records for file reviews, copy jobs and faxing.

To support the efficient handling of record requests, the Department created an OPRA Tracking System that all Record Custodians and File Officers access, update their activities, and produces the Government Record Request Forms. To facilitate online access, the Department's Record Access Program's Web site, www.nj.gov/dep/opra, provides easy online record request submission, OPRA information, and links to up-to-date NJDEP electronic environmental data.

The following provides detailed information concerning the Department's OPRA processing for the reporting period of July 2, 2002 to June 30, 2008.

ⁱ 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.

ⁱⁱ See: <http://www.state.nj.us/grc/laws/>

ⁱⁱⁱ See: <http://www.state.nj.us/grc/public/exempt/>

Statistics for NJDEP

The importance of the NJDEP's records to the economic growth and commerce of the state can clearly be identified in comparing the NJDEP to other state agencies and analyzing the type of requesters that submit OPRA records requests to the NJDEP. The NJDEP's records are vital to development and redevelopment projects, property and business transactions, farm and open space preservation, and recreational purposes.

State Agencies Comparison		
State Agency	6 Years 7/2/02-6/30/08	Percentage
Environmental Protection	69,098	63.33%
Law & Public Safety	6,223	5.70%
Health & Senior Services	6,179	5.66%
Corrections	4,855	4.46%
Transportation	3,931	3.60%
Treasury	3,717	3.41%
Banking & Insurance	3,458	3.17%
Community Affairs	2,009	1.84%
Personnel	1,960	1.80%
Labor	1,900	1.74%
Human Services	1,820	1.67%
Education	1,605	1.47%
State	528	.48%
Governor, Office of	459	.42%
Agriculture	397	.36%
Commissions & Agencies	383	.35%
Commerce Commission	256	.24%
Children & Families	170	.16%
Military & Veterans Affairs	145	.13%
Public Advocate	10	.01%
TOTAL:	109,103	100.00%

Categorizing NJDEP OPRA Requesters		
Requester Type	7/2/02-6/30/08	Percentage
Consultant	52,832	76.46%*
Legal Firm	11,940	17.28%*
Commercial/Industrial	1,900	2.75%*
Individual Citizen	947	1.37%
Government Agency	560	.81%
Watchdog Group	387	.56%
Press Agency	276	.40%
Data Service Provider	187	.27%*
Other	69	.10%
TOTAL:	69,098	100.00%

* 96.76% is for commercial use

The NJDEP has continually seen an increase in the number of OPRA record requests submitted from year to year. For the past several years, the NJDEP received approximately 1,000 requests per month.

Yearly Breakdown of OPRA Request Numbers						
Month	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
	7/2/02 – 7/6/03	7/7/03 – 7/6/04	7/7/04 – 7/6/05	7/7/05 – 7/6/06	7/7/06 – 7/6/07	7/7/07–6/30/08
July	419	599	748	726	771	958
August	753	610	1,118	1,208	1,192	1,324
September	551	738	894	1,044	1,030	1,189
October	735	833	822	1,116	1,079	1,308
November	583	647	1,015	1,013	1,047	1,057
December	481	817	896	975	806	996
January	710	778	964	1,140	1,110	1,254
February	682	1,021	1,156	1,074	926	1,265
March	630	1,006	1,131	1,183	1,201	1,282
April	660	871	1,039	1,043	952	1,140
May	684	734	1,084	1,180	1,119	1,275
June	719	908	1,086	974	1,165	1,116
July	109	123	190	69	247	0
TOTAL:	7,716	9,685	12,143	12,745	12,645	14,164
Percentage Increase from prior year	N/A	26%	25%	5%	-.8%	12%

Note: Some changes to reporting criteria may have slightly shifted requests to other months and changed the monthly numbers reported in previous Annual Reports.

The NJDEP receives over 95 percent of OPRA requests through Web submissions.

Method of Submitting OPRA Requests to NJDEP						
Method	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
	7/2/02–7/6/03	7/7/03–7/6/04	7/7/04–7/6/05	7/7/05–7/6/06	7/7/06–7/6/07	7/7/07–6/30/08
Hardcopy	788	620	572	779	651	617
Web	6,928	9,065	11,571	11,966	11,994	13,547
TOTAL	7,716	9,685	12,143	12,745	12,645	14,164
% Submitted via Web	90%	94%	95%	94%	95%	96%

Location of Requesters

Over 78 percent of the OPRA record requests received by the NJDEP are from requesters within the state. The NJDEP receives over 21 percent of OPRA record requests from requesters outside of New Jersey. These requesters benefit from accessing the NJDEP's records but, unlike New Jersey's taxpayers, do not bear any of the costs incurred in administering the NJDEP's OPRA program. This equates to over \$700,000 per fiscal year.

Period: July 2, 2002 to June 30, 2008

State	Total
New Jersey	54,342
Pennsylvania	6,684
New York	3,206
Massachusetts	661
Maryland	536
Connecticut	463
Texas	438
California	319
Illinois	289
Virginia	236
Colorado	223
Delaware	205
Georgia	166
Florida	164
Washington, DC	151
Ohio	149
Michigan	137
Tennessee	77
Kentucky	76
New Hampshire	70
North Carolina	60
Maine	47
Arkansas	36
Indiana	32
Rhode Island	31
Washington	31
Missouri	27
South Carolina	25

State & Countries	Total
Wisconsin	25
Oregon	21
Kansas	19
Arizona	18
Louisiana	17
Minnesota	16
Vermont	14
Oklahoma	13
West Virginia	12
Utah	9
Nevada	8
Indonesia	6
Alabama	6
Alaska	5
Idaho	5
Nebraska	3
Iowa	3
Mississippi	3
Germany	2
South Dakota	2
North Dakota	2
Hawaii	2
Portugal	1
Trinidad & Tobago	1
Australia	1
New Mexico	1
Italy	1
France	1

Type of Request	Total	Percentage
In State	54,342	78.64%
Out of State	14,756	21.36%
Total Requests	69,098	

NJDEP Program Assignments

The NJDEP's Office of Record Access receives all submitted OPRA record requests, reviews them for administrative completeness, and assigns them to the appropriate NJDEP program area based on the records being sought. However, a single request may be assigned to multiple program areas. The following table provides a summary of OPRA request assignments to the various program areas within NJDEP.

Total Number of Assignments

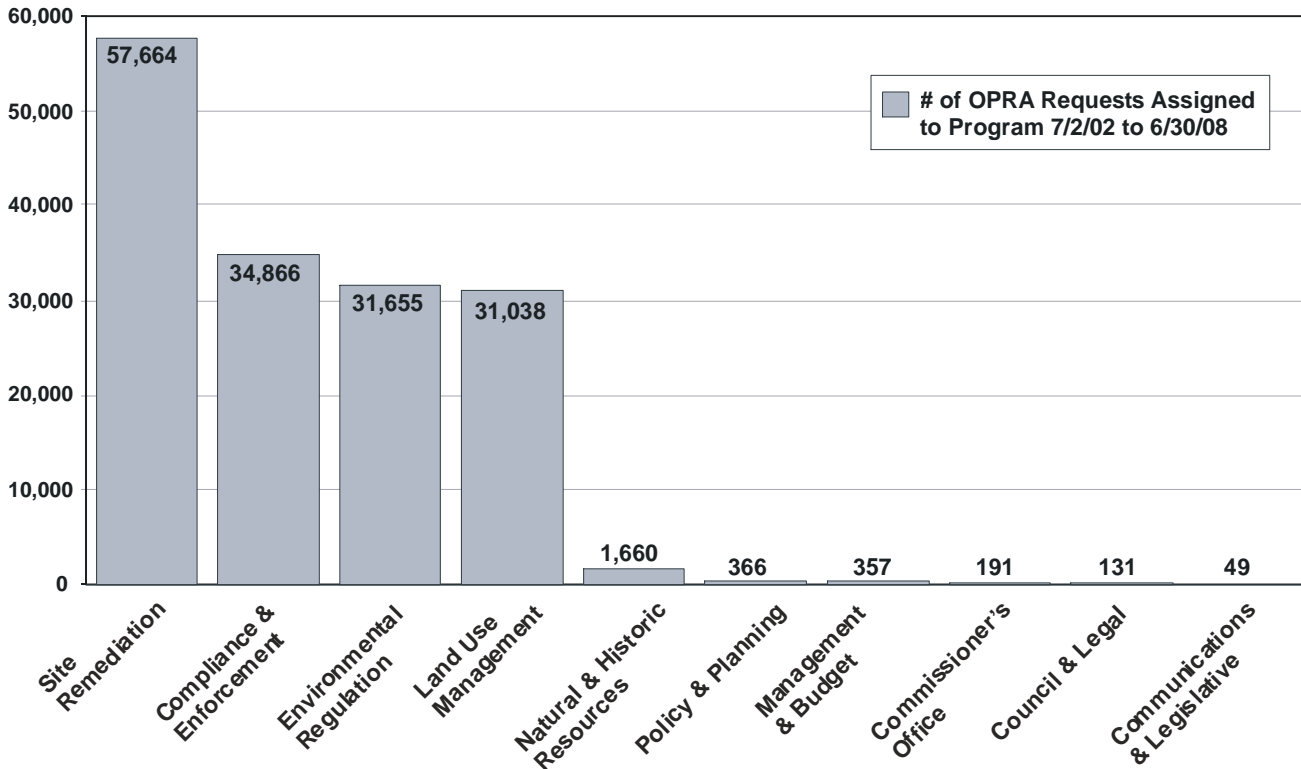
Program Area	Year 1 7/2/02-7/6/03	Year 2 7/7/03-7/6/04	Year 3 7/7/04-7/6/05	Year 4 7/7/05-7/6/06	Year 5 7/7/06-7/6/07	Year 6 7/7/07-6/30/08	TOTAL Assignments
Site Remediation	6,378	8,463	10,308	10,509	10,485	11,521	57,664
Compliance & Enforcement	3,333	5,246	6,604	6,284	5,874	7,525	34,866
Environmental Regulation	2,561	4,419	5,938	6,270	5,618	6,849	31,655
Land Use Management	2,092	4,508	6,248	6,496	5,654	6,040	31,038
Natural & Historic Resources	149	316	347	320	247	281	1,660
Policy & Planning	28	62	75	81	74	46	366
Management & Budget	48	40	96	59	49	65	357
Commissioner's Office	18	29	48	23	34	39	191
Council & Legal	17	16	25	20	17	36	131
Communications & Legislative	7	8	9	11	8	6	49
Number of Assignments	14,631	23,107	29,698	30,073	28,060	32,408	157,977
Number of OPRA Requests	7,716	9,685	12,143	12,745	12,645	14,164	69,098

Program Assignment Percentages

The following table identifies the percentage of program area assignments based on the record requests received, reviewed and assigned to the various program areas within NJDEP.

Program Area	# of OPRA Requests 7/2/02–6/30/08	# of OPRA Requests not Assigned *	# of OPRA Requests Assigned	# of OPRA Requests Assigned to Program 7/2/02–6/30/08	% of Requests Received by Program
Site Remediation	69,098	3,130	65,968	57,664	87%
Compliance & Enforcement	69,098	3,130	65,968	34,866	53%
Environmental Regulation	69,098	3,130	65,968	31,655	48%
Land Use Management	69,098	3,130	65,968	31,038	47%
Natural & Historic Resources	69,098	3,130	65,968	1,660	2.5%
Policy & Planning	69,098	3,130	65,968	366	0.6%
Management & Budget	69,098	3,130	65,968	357	0.5%
Commissioner's Office	69,098	3,130	65,968	191	0.3%
Council & Legal	69,098	3,130	65,968	131	0.2%
Communications & Legislative	69,098	3,130	65,968	49	0.07%

* Requests are not assigned to program areas due to being an invalid OPRA request, duplicate request, being closed by the requester, or being denied by the NJDEP after clarification was sought.

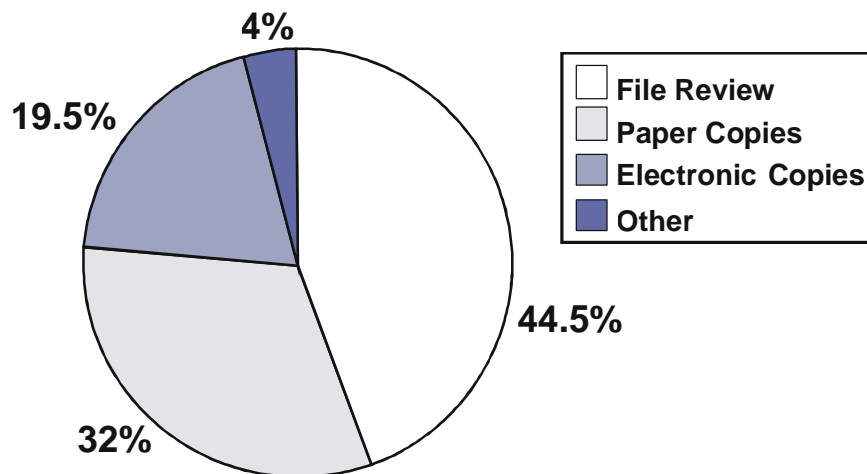


Accessing NJDEP Records

The following table identifies the Access Method preferred by requesters upon submitting an OPRA request. However, the method of accessing the NJDEP's government records is directly related to the number of responsive records, the cost of copying, and the media in which the NJDEP maintains the records. Normally, if the number of responsive records is large, requesters schedule file reviews and tag the records of interest for copying, thereby reducing the copying costs. If the responsive records are fewer than 25 pages, the NJDEP will fax the records to the requester. Electronic records are provided either on CD, DVD, or e-mailed depending on the size of the electronic file(s).

Access Method	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
	7/2/02-7/6/03	7/7/03-7/6/04	7/7/04-7/6/05	7/7/05-7/6/06	7/7/06-7/6/07	7/7/07-6/30/08
File Review	3,695	4,870	6,079	5,106	5,193	5,790
Paper Copies	2,446	2,944	3,688	4,752	4,359	3,934
Electronic Copies	1,272	1,622	1,932	2,225	2,636	3,797
Other	303	249	444	662	457	643
TOTAL	7,716	9,685	12,143	12,745	12,645	14,164

Access Method	Total #	Total %
	7/2/02-6/30/08	7/2/02-6/30/08
File Review	30,733	44.5%
Paper Copies	22,123	32%
Electronic Copies	13,484	19.5%
Other	2,758	4%
TOTAL	69,098	100%



OPRA Expenditures

The NJDEP receives no additional funding to operate its OPRA response program. The following chart identifies the costs of managing OPRA from inception and resource startup to the end of Fiscal Year 2008. The NJDEP has expended over \$18 million processing OPRA record requests.

Fiscal Year	Based Salary Costs	Salary Additive	Fringe Rate	Indirect Rate	Total Salary Costs	Non Salary Costs	Total Costs
2002	\$7,563.69	25.16%	25.85%	26.96%	\$13,953.03	\$139,365.00	\$153,318.03
2003	\$1,432,825.38	24.50%	24.15%	26.19%	\$2,589,928.59	\$1,492.22	\$2,591,420.81
2004	\$1,406,173.89	23.00%	29.15%	26.21%	\$2,602,328.68	\$58,410.55	\$2,660,739.23
2005	\$1,547,133.17	23.00%	33.25%	26.21%	\$2,941,216.19	\$48,752.69	\$2,989,968.88
2006	\$1,738,542.10	23.00%	32.75%	26.21%	\$3,294,406.89	\$72,757.11	\$3,367,164.00
2007	\$1,679,548.09	23.00%	34.75%	21.24%	\$3,140,461.01	\$59,931.63	\$3,200,392.64
2008	\$1,727,157.49	23.00%	33.15%	21.24%	\$3,195,491.79	\$123,512.67	\$3,319,004.46
Total OPRA Costs:							\$18,282,008.05

Note: The inclusion of non-salary costs and other OPRA-related costs resulted in changes to the past fiscal year amounts reported in previous Annual Reports.

Even though the number of OPRA records requests has continually increased over the years, the NJDEP's efficiency has reduced the average cost per request.

Fiscal Year	Total Costs	# of OPRA Requests Received	NJDEP Costs Per Request
2002	\$153,318.03	N/A	N/A
2003	\$2,591,420.81	7,716	\$335.85
2004	\$2,660,739.23	9,685	\$274.73
2005	\$2,989,968.88	12,143	\$246.23
2006	\$3,367,164.00	12,745	\$264.19
2007	\$3,200,392.64	12,645	\$253.10
2008	\$3,319,004.46	14,164	\$234.33
TOTAL	\$18,142,643.05	69,098	\$262.56 Average Cost Per Request

Copying Services

The New Jersey Department of Treasury's Print Shop maintains a DEP Copying Unit at the main NJDEP Building and copies most of the records requested from the NJDEP, with the exception of very small numbers of responsive records from field office and satellite locations. The majority of requesters use Treasury's copying services and the state copying rate is 75 cents per page for the first 10 pages, 50 cents for the next 10 pages, and 25 cents per page thereafter. **The NJDEP receives no money for any copy jobs completed by the Department of Treasury.**

Treasury normally produces the records and issues an invoice to the requester within 10 business days of receiving the records. Requesters do have the option of employing a copy vendor service, which unlike the state may charge for time and labor, to receive the copies faster.

Copying Information

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Treasury	7/2/02-7/6/03	7/7/03-7/6/04	7/7/04-7/6/05	7/7/05-7/6/06	7/7/06-7/6/07	7/7/07-6/30/08
# of Copy Jobs	862	1,216	648	1,770	2,638	2,712
* Amount Invoiced	\$185,082	\$296,825	\$334,960	\$425,282	\$415,127	\$ 413,002

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
NJDEP	7/2/02-7/6/03	7/7/03-7/6/04	7/7/04-7/6/05	7/7/05-7/6/06	7/7/06-7/6/07	7/7/07-6/30/08
# of Copy Jobs	543	454	331	214	100	194
* Amount Invoiced	\$23,437	\$18,584	\$19,112	\$11,459	\$5,311	\$12,302
Amount Collected	\$21,659	\$18,423	\$19,014	\$11,459	\$5,087	\$12,302

Note: The above dollar amount is the amount invoiced and not the amount collected. Requesters who authorize copy jobs but later refuse to pay (for example, requesters needing the records one day may not need them the next in matters such as settlements between two parties) and copying errors reduces the actual amount collected by Treasury and NJDEP. Both Treasury and the NJDEP do not provide copies until the copying costs have been paid.

Extraordinary Time Service Charges

Pursuant to OPRA (C.47:1A-5Cⁱ & C.47:1A-5Dⁱⁱ), a state agency may impose a special service charge when the agency must make an extraordinary expenditure of time and effort to fulfill a request to access government records. If a request is applicable for an extraordinary time (EOT) service charge, the requester will be notified, and payment of the charge must be received before access of the subject records. The NJDEP current extraordinary time rate is \$48/hour.

The impact of the number of OPRA requests received by NJDEP has resulted in the NJDEP creating very efficient processes to handle OPRA requests. The normal processing time per OPRA requests is approximately 2 hours. The bulk of the OPRA requests received by the NJDEP fall into this normal processing time. As such, the NJDEP is unable to recover large amounts of money through the assessment of extraordinary time service charges.

The occurrence of the special charge is directly related to the broad nature of a request that may involve multiple NJDEP program areas or the nature of the media that the responsive records are maintained in such as electronic mail, which creates additional search, review and production time factors.

The following table identifies the number of requests that had extraordinary time service charges assessed either through the amount of time expended during the investigation of responsive records or from the time required to collect and produce the requested records.

# of Requests	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
	7/2/02–7/6/03	7/7/03–7/6/04	7/7/04–7/6/05	7/7/05–7/6/06	7/7/06–7/6/07	7/7/07–6/30/08
EOT Charges Assessed	N/A*	N/A*	58	1217	921	1612
EOT Charges Paid	N/A*	N/A*	0	582	536	904

* No extraordinary time rate was applied during the initial 2½ years because of the NJDEP’s focus on establishing the resources and processes to address OPRA after the implementation of the Act and then the time needed to derive the extraordinary time hourly rate.

As identified in the table above, many requesters decline authorizing extraordinary time activities, thereby never accessing the responsive records.

ⁱ Pursuant to OPRA (C.47:1A-5C), whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an extraordinary expenditure of time and effort to accommodate the request, the public agency may charge, in addition to the actual cost of duplicating the record, a special service charge that shall be reasonable and shall be based upon the actual direct cost of providing the copy or copies.

ⁱⁱ Pursuant to OPRA (C.47:1A-5d), the NJDEP will charge a special charge that shall be reasonable and shall be based on the cost for any extensive use of information technology, or for the labor cost of personnel providing the service, that is actually incurred by the NJDEP or attributable to the NJDEP for the programming, clerical, and supervisory assistance required, or both, if a request is for a copy of a record: in a medium not routinely used by the agency; not routinely developed or maintained by an agency; or requiring a substantial amount of manipulation or programming of information technology.



Currently, the NJDEP tracks the extraordinary time service charges in a memo field within its OPRA Tracking System and manually issues an invoice once the requester authorizes the special charges. This process results in an inability to easily acquire a dollar amount of the extraordinary time charges assessed or incurred. In the near future, the NJDEP will be tracking and issuing invoices through a NJDEP assessment system that will not only provide better reporting capabilities but automatically issue invoices and collect payments through the Department of Treasury's systems.

The following table provides the amount of special charges collected, which is recorded. The increase in Fiscal Year 2008 is related to better NJDEP time management on OPRA activities and several litigation cases involving the NJDEP where opposing parties are using OPRA for discovery purposes and submitting a multitude of requests that involve large amounts of responsive records over numerous NJDEP program areas.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
# of Requests	7/2/02-7/6/03	7/7/03-7/6/04	7/7/04-7/6/05	7/7/05-7/6/06	7/7/06-7/6/07	7/7/07-6/30/08
EOT Amount Collected	N/A*	N/A*	N/A*	\$19,849	\$28,676	\$65,684

OPRA Requests Denials

OPRA contains 24 exemptions restricting access to certain records. Pursuant to these exemptions, a state agency may deny an entire record request or partially deny a portion of the responsive records. The following table identifies the number and percentage of denials issued by the NJDEP from the inception of OPRA until the end of fiscal year 2008.

FY	# of Denials	# of OPRA Requests	% of Denials
2003 (7/2/02 – 7/6/03)	376	7,716	4.9 %
2004 (7/7/03 – 7/6/04)	39	9,685	0.4 %
2005 (7/7/04 – 7/6/05)	11	12,143	0.1 %
2006 (7/7/05 – 7/6/06)	55	12,745	0.4 %
2007 (7/7/06 – 7/6/07)	68	12,645	0.5 %
2008 (7/7/07 – 6/30/08)	32	14,164	0.2 %
TOTAL:	581	69,098	0.8%

Note: In the first year, many requesters were inappropriately using OPRA for requests for information.

Partial denials refer to some portion of the responsive records to a submitted records request being exempt from disclosure pursuant to OPRA. A Partial Denial can be as little as a part of a sentence on a page being denied or entire document(s). In such cases, the NJDEP redacts that privileged portion and provides the remainder of the record(s). The NJDEP preserves the requester's right to challenge a denial to access records by notifying the requester on the NJDEP's Government Records Request Form response, providing a privilege log, or maintaining a redacted record in the public file with the identified exemption cited.

Appeals

OPRA permits a requester who believes he or she has been illegally denied access to a public record to appeal a state agency decision by filing a complaint with the New Jersey Government Records Council, or file suit in New Jersey Superior Court to challenge the decision and compel disclosure.

The Government Records Council has received **1,422** Denial of Access complaints from July 2, 2002 to June 30, 2008 involving state agencies and municipalities. Even though the NJDEP has received **over 63 percent** of all OPRA requests submitted to state agencies (**69,098 requests**), only **14 people** filed appeals against the NJDEP, which were not later withdrawn. This amounted to **1 percent** of the Government Records Council's universe of complaints from the inception of OPRA to June 30, 2008.

The following table identifies the number and percentage of appeals in response to NJDEP government record request responses.

# of Government Records Council Appeals	Year 1 7/2/02-7/6/03	Year 2 7/7/03-7/6/04	Year 3 7/7/04-7/6/05	Year 4 7/7/05-7/6/06	Year 5 7/7/06-7/6/07	Year 6 7/7/07-6/30/08
Government Records Council	1	3	0	4	2	4
Superior Court	1	0	0	0	0	1
Total Appeals #	2	3	0	4	2	5
# of Requests	7,716	9,685	12,143	12,745	12,645	14,164
% of Appeals v. Requests	.03%	.03%	0%	.03%	.02%	.04%

Note: The table above does not reflect 7 appeals that were filed, but later withdrawn.

Total Appeals 7/2/02 – 6/30/08	Appeals Pending
16	4

Appeals Completed	NJDEP Favorable	Not NJDEP Favorable
12	11	1 *

* The NJDEP responded to an OPRA request that another state agency maintains the responsive records. However, in responding to the Government Records Council Denial of Access Complaint, the evidence of record indicated that although the Custodian's initial response of no records resulted in a denial of access, the Custodian did eventually provide all records responsive to the Complainant's request. Additionally, the evidence of record shows that both the Custodian and staff misinterpreted the Complainant's OPRA request to be for only one record: a NJDOP Department of Personnel - Universal Job Analysis Questionnaire versus related records. Therefore, it was concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances. However, the Custodian's unlawful denial of access appears negligent and heedless since he is vested with the legal responsibility of granting and denying access in accordance with the law.

Open Public Records Act Requests may be made by contacting:

State of New Jersey
Department of Environmental Protection
Office of Record Access
PO Box 442
Trenton, New Jersey 08625-0442
(609) 341-3121

or online at:

www.nj.gov/dep/opra