

INTRA-AGENCY COMMUNICATION
PRIVILEGED & CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

CONFIDENTIALITY OF THE DECALS DATABASE

As you know, because of concerns relating to personal privacy as well as identify theft, the Department has established various procedural safeguards regarding the handling of the DECALS database. For reasons of personal privacy and pursuant to a commitment that the Department has made to sportsmen and women, the Department treats the DECALS database as confidential and not for public release.

The New York State Assembly requested that it be given access to the Department's information on deer management permits which, as you know, is part of the DECALS database. The Department informed the Assembly that the database was confidential and would not be released. As a result, the Assembly sued the Department to obtain access to the DECALS database. On November 29, 2005, the New York Supreme Court (Albany County) ruled in favor of the Department and held that the Department could keep the database confidential.

In light of this litigation, we thought it would be useful to provide this reminder about the procedural safeguards that should be followed to protect the confidentiality of the DECALS database.

Requests for Information from DECALS from outside the Department (individuals or organizations):

Except for the following two exceptions, all requests for information from the DECALS database from individuals, organizations, other government agencies, or any other party outside the Department are to be directed to the Department's Records Access Officer, with a copy of the request to the central office program attorney for Fish, Wildlife

& Marine Resources and the License Sales Supervisor. No information should be provided to anyone outside the Department unless approved by the Department's Records Access Officer, the central office program attorney for Fish, Wildlife & Marine Resources, and the License Sales Supervisor.

Exception #1 – Law Enforcement: Where a request is received from a law enforcement officer or law enforcement agency from outside the Department, the request is to be referred to the Division of Law Enforcement. The Division of Law Enforcement will verify that the requestor is a bona fide representative of an appropriate law enforcement agency and that the request is for legitimate law enforcement purposes. Only if the request and the requestor are determined to be legitimate will the Division of Law Enforcement then obtain the necessary information from the DECALS system and fill the request. When information from the database is provided, the Division of Law Enforcement shall advise the outside law enforcement officer or agency that the information provided is confidential and is only to be used for the purpose requested.

In the event that the Division of Law Enforcement receives any request of a questionable or non-routine nature, the Division of Law Enforcement will consult with the central office law enforcement program attorney and the central office program attorney for Fish, Wildlife & Marine Resources, and will also advise the Director of Law Enforcement, the Assistant Commissioner for Public Protection, and, where appropriate, the Records Access Officer of that request.

Exception #2 – Simple Inquiry: Where there is a request from a non-law enforcement source from outside the Department and that request seeks only to confirm whether an individual has a sporting license (that is, where a simple “yes” or “no” is sufficient to answer the request), those requests should be referred to the License Sales Supervisor. To the extent that those requests subsequently involve inquiries for more detailed information, the License Sales Supervisor will so advise the Records Access Officer.

Requests for Information from Department Personnel: With respect to requests from Department personnel, information from the DECALS database is only to be provided to Department personnel who require that information as part of their work responsibilities (for example, Department law enforcement officers seeking to enforce hunting and fishing laws, Department personnel preparing information for Department publications and reports to hunters, etc.).

Outside License Sales Vendors: The Department has reminded our outside license sales vendors of the importance of personal privacy with respect to the DECALS database. The following article appeared in a recent issue of "The Agent: License Sales News from DEC" which is sent out to the Department's outside vendors:

"Anyone requesting licensee information other than the licensee themselves, the Department's Environmental Conservation Officers (ECOS) or Forest Rangers (Rangers) must adhere to the Freedom of Information Law (FOIL) process. Please refer them to the Department's Records Access Officer by mail at 625 Broadway, Albany, NY 12233-1016 or by phone at (518) 402-8000. A "Record of Access" form is available to them on our Website at <http://www.dec.state.ny.us/website/about/abtfoil3.html>. Licensees, ECOS, and Rangers may obtain information upon presentation of proof of identification. Licensees are entitled to their own information ONLY, and are **not** entitled to information on any other family member or any other person."

Please be advised that these requirements are meant to ensure that the personal privacy of sportsmen and sportswomen is protected and any inappropriate disclosure is prevented.

If you have any questions, please contact the Department's Records Access Officer (Ruth Earl) at (518) 402-8000.

Dated: March 8, 2006