

VIA FACSIMILE AND EMAIL

March 27, 2012

Jacqueline B. Caldwell
FOIA Officer
1724 F Street, N.W., Room 514
Washington, D.C. 20508

Re: Freedom of Information Act Request

Dear Jacqueline B. Caldwell:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), requests that the Office of the United States Trade Representative produce all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, call sheets, tape recordings, video/movie recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things that refer or relate to the following in any way, within twenty (20) business days:

Documents regarding the Mexican Government regulations that now require all passengers aboard US fishing vessels including commercial sport fishing vessels must obtain a Visa in order to enter Mexican Waters to fish, in addition to the required Fishing License. In addition, any information the US has provided to Mexican officials regarding this matter as a violation of NAFTA and any response.

If any responsive record or portion thereof is claimed to be exempt from production under FOIA, sufficient identifying information (with respect to each allegedly exempt record or portion thereof) must be provided to allow the assessment of the propriety of the claimed exemption. *Vaugh v. Rosen*, 484 F.2d 820 (D.C. Cir 1973), *cert denied*, 415 U.S. 977 (1974). Additionally any reasonably segregable portion of a responsive record must be provided after redaction of any allegedly exempt material, in as the law requires, 5 U.S.C. § 552(b).

In order to help determine my status for purposes of determining the applicability of any fees, you should know that I am an individual seeking information for personal use and not for a commercial use. I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest. The information provided will be distributed to the local news media so that all those affected by the Mexico Visa issue that fish in Mexican waters can make informed decisions.

I look forward to receiving the requested documents and a full fee waiver within twenty (20) business days.

Sincerely,


Salvatore B. D'Anna


Spring Valley, CA 91977


EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

April 17, 2012

Mr. Salvatore B. D'Anna
3941 ¾ Kenwood Dr.
Spring Valley, CA 91977

Dear Mr. D'Anna:

This letter is USTR's response to your Freedom of Information Act request for **“documents regarding the Mexican Government regulations that now require all passengers aboard US fishing vessels including commercial sport fishing vessels must obtain a visa in order to enter Mexican Waters to fish, in addition to the required Fishing License. In addition, any information the US has provided to Mexican officials regarding this matter as a violation of NAFTA and any response”**.

After a search of our files we have located one (1) document within the scope of your request. We are releasing one (1) document in part. The document has been redacted for non-responsiveness and additional redacted portions of the document have been referred to the Department of State from which it originated for final disclosure determination. The agency will respond directly to you with regard to this document.

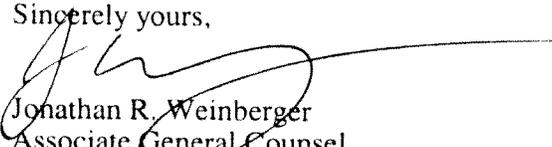
Inasmuch as this constitutes a complete response to your request, I am closing your file in this office. In the event that you are dissatisfied with USTR's determination, you may appeal such a denial, within thirty (30) days, in writing to:

FOIA Appeals Committee
Office of the United States Trade Representative
1724 F Street, N.W.
Washington, DC 20508

Both the letter and the envelope should be clearly marked: "Freedom of Information Act Appeal". In the event you are dissatisfied with the results of any such appeal, judicial review will thereafter be available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, where we searched for the records you seek.

Should you have any questions, please feel free to contact the FOIA office at (202) 395-3419.

Sincerely yours,


Jonathan R. Weinberger
Associate General Counsel

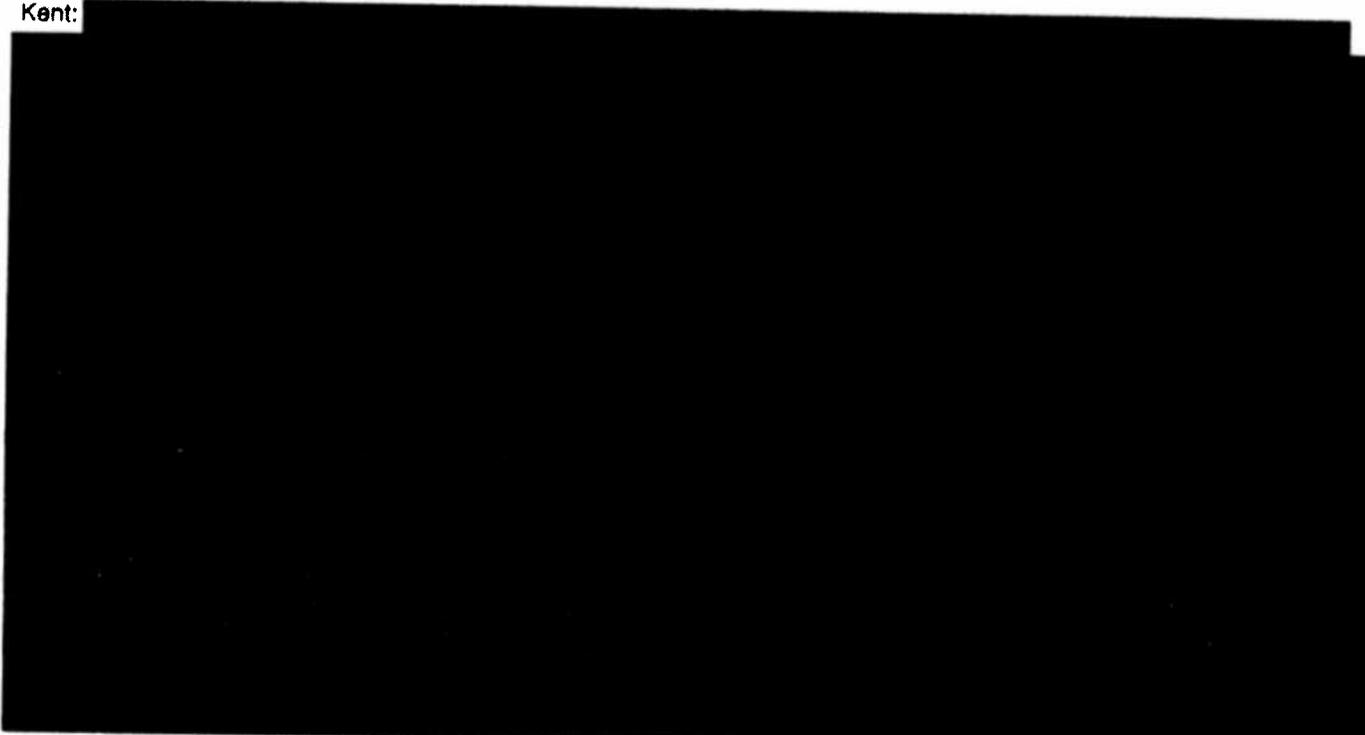
Case File# 12031312

Shigetomi, Kent C.

From: Belme, Vincent J [BelmeVJ] [mailto:BelmeVJ@...]
Sent: Tuesday, February 07, 2012 6:00 PM
To: Shigetomi, Kent C.
Cc: Bednarz, Jacquelyn A
Subject: FW: Fwd: Mexican Boat Visa?

referred to State Dept.

Kent:



From: Bednarz, Jacquelyn A
Sent: Wednesday, February 01, 2012 6:07 PM
To: Shigetomi, Kent C.; Belme, Vincent J
Subject: RE: Fwd: Mexican Boat Visa?

referred to State Department

Kent:




This email is UNCLASSIFIED.

From: Shigetomi, Kent C. [mailto:Kent_Shigetomi@...]
Sent: Tuesday, January 31, 2012 2:18 PM
To: Bednarz, Jacquelyn A
Subject: FW: Fwd: Mexican Boat Visa?

Hi Jackie,

Has State been contacted about this issue? Mexico seems to require a visa for sports fishermen.

From: Melle, John
Sent: Tuesday, January 31, 2012 1:50 PM
To: Shigetomi, Kent C.
Subject: Fw: Fwd: Mexican Boat Visa?

[REDACTED] non responsive

From: sal danna [mailto:saldanna@gmail.com]
Sent: Tuesday, January 31, 2012 01:48 PM
To: Melle, John
Subject: Fwd: Mexican Boat Visa?

FYI

----- Forwarded message -----

From: sal danna <saldanna@gmail.com>
Date: Tue, Jan 10, 2012 at 7:56 AM
Subject: Re: Mexican Boat Visa?
To: "Brooks, Lee" <lee.brooks@mail.house.gov>
Cc: ed.zieralski@uniontrib.com

Hi Lee and Ed,

I have been searching and asking for someone to point me to the new Mexican regulations to no avail. I was able to find the actual Immigration Law that those Regulations are supposed to enforce. Upon extensive review of that document, I have reached the conclusion that this whole Mexican Visa issue is a made up sham and is not nor can be in the new law.

There is one section that may apply, but even if it does, it only requires electronic submission of the information. Also, I can state without a doubt that the crew members on boats and planes are not required to have a Visa.

Please excuse the bad translation as I used Babelfish and speak Italian, not spanish.

http://dof.gob.mx/nota_detalle.php?codigo=5190774&fecha=25/05/2011

Artículo 37. Para internarse al país, los extranjeros deberán:

I. Presentar en el filtro de revisión migratoria ante el Instituto, los documentos siguientes:

a) Pasaporte o documento de identidad y viaje que sea válido de conformidad con el derecho internacional vigente, y

b) Cuando así se requiera, visa válidamente expedida y en vigor, en términos del artículo 40 de esta Ley; o

c) Tarjeta de residencia o autorización en la condición de estancia de visitante regional, visitante trabajador fronterizo o visitante por razones humanitarias.

II. Proporcionar la información y los datos personales que las autoridades competentes soliciten en el ámbito de sus atribuciones.

III. No necesitan visa los extranjeros que se ubiquen en alguno de los siguientes supuestos:

a) Nacionales de países con los que se haya suscrito un acuerdo de supresión de visas o que no se requiera de

- visado en virtud de una decisión unilateral asumida por el Estado mexicano;
- b) Solicitantes de la condición de estancia de visitante regional y visitante trabajador fronterizo;
 - c) Titulares de un permiso de salida y regreso;
 - d) Titulares de una condición de estancia autorizada, en los casos que previamente determine la Secretaría;
 - e) Solicitantes de la condición de refugiado, de protección complementaria y de la determinación de apátrida, o por razones humanitarias o causas de fuerza mayor, y
 - f) Miembros de la tripulación de embarcaciones o aeronaves comerciales conforme a los compromisos internacionales asumidos por México.

Article 37. To enter the country, foreigners should:

I. Present review filter migration to the Institute, the following documents:

- a) Passport or identity and travel document that is valid under international law in force, and
- b) Where applicable, visa duly issued and in force, in terms of Article 40 of this Act, or
- c) A residence card or permit in the condition of regional visitor's stay, visitor, worker or visitor border for humanitarian reasons.

II. Provide information and personal data requested by the competent authorities in the scope of their authority.

III. No foreigners need visa to be placed in any of the following assumptions:

- a) Nationals of countries with which it has concluded an agreement removing the visa or not requiring a visa under a unilateral decision taken by the Mexican State;
- b) Applicants for the condition of regional visitor stay and visitor frontier worker;
- c) Holders of a permit to leave and return;
- d) Holders of a condition of authorized stay in the cases previously determined by the Secretariat;
- e) Applicants for refugee status, complementary protection and the determination of nationality, or for humanitarian reasons or force majeure, and
- f) Crew members of commercial ships or aircraft in accordance with commitments made by Mexico international.

Artículo 44. Las empresas de transporte internacional de pasajeros marítimo o aéreo, tienen la obligación de verificar que los extranjeros que transporten, cuenten con la documentación válida y vigente que se requiere para internarse al territorio nacional o al país de destino final.

Article 44. Firms in international passenger transport by sea or air, are required to verify that aliens transported, have valid and current documentation is required to penetrate into the country or the country of final destination.

Artículo 45. Los tripulantes extranjeros de empresas en tránsito internacional de transportes aéreos, terrestres o marítimos que lleguen al territorio nacional en servicio activo, sólo podrán permanecer en el país por el tiempo necesario para reiniciar el servicio en la próxima salida que tengan asignada.

Los gastos que origine la presentación, deportación o salida del país de tripulantes que no cumplan con esta disposición, serán cubiertos por la empresa de transporte para la cual laboran.

Article 45. The foreign crew in international transit business of air, land or sea to reach the country on active duty may only stay in the country for the time necessary to restart the service at the next exit which are assigned.

Expenditures arising from the presentation, deportation or departure of crew not complying with this provision shall be paid by the shipping company for which they work.

Artículo 46. Las empresas aéreas y marítimas, así como las aeronaves y los barcos de carácter privado que efectúen el transporte internacional de pasajeros deberán transmitir electrónicamente al Instituto la información relativa a los pasajeros, tripulación y medios de transporte que entren o salgan del país.

En el Reglamento se especificará la información que se solicitará, y los términos para su envío serán determinados en las disposiciones administrativas de carácter general que expida el Instituto.

Article 46. Airline and shipping companies, as well as aircraft and private vessels engaged in international transport of passengers shall transmit electronically to the Institute's information on passengers, crew and means of transport entering or leaving the country.

The Regulations specify the information requested, and the terms for submission will be determined in the general administrative provisions issued by the Institute.

III. VISITANTE REGIONAL. Autoriza al extranjero nacional o residente de los países vecinos para ingresar a las regiones fronterizas con derecho a entrar y salir de las mismas cuantas veces lo deseen, sin que su permanencia exceda de tres días y sin permiso para recibir remuneración en el país.

Mediante disposiciones de carácter administrativo, la Secretaría establecerá la vigencia de las autorizaciones y los municipios y entidades federativas que conforman las regiones fronterizas, para efectos del otorgamiento de la condición de estancia de visitante regional.

III. Regional visitors. Authorizes the foreign national or resident of the neighboring countries to enter the border regions with the right to enter and leave them as many times as they wish, without his stay exceeding three days and not allowed to receive remuneration in the country.

Through administrative arrangements, the Secretary shall establish the validity of the authorizations and the municipalities and states that make up the border regions for the purposes of granting the status of regional visitor's stay.

Artículo 82. El personal del Instituto tiene prioridad, con excepción del servicio de sanidad, para inspeccionar la entrada o salida de personas en cualquier forma que lo hagan, ya sea en medios de transportes nacionales o extranjeros, marítimos, aéreos o terrestres, en los puertos, fronteras y aeropuertos.

Article 82. Institute staff have priority, except for the health service, to inspect the entry or exit of persons in any way to do so, either in media or foreign transportation, maritime, air and land at ports, borders and airports.

Artículo 83. Ningún pasajero o tripulante de transporte marítimo podrá desembarcar antes de que el Instituto efectúe la inspección correspondiente.

Article 83. No passengers or crew may disembark shipping before the Institute for carrying out the inspection.

Artículo 84. Ningún transporte aéreo o marítimo en tránsito internacional podrá salir de aeropuertos o puertos, antes de que se realice la inspección de salida por el Instituto y de haberse recibido de éstas la autorización para su despacho.

Article 84. No air or maritime transport in international traffic may leave airports or ports, before the inspection is carried out by the Institute and they have received the authorization for release.

Artículo 127. La solicitud de visa deberá presentarla personalmente el extranjero interesado en las oficinas consulares, con excepción de los casos de derecho a la preservación de la unidad familiar, oferta de empleo o

razones humanitarias, que podrán tramitar en territorio nacional, en los términos establecidos en el artículo 41 de esta Ley.

Article 127. The visa application must be submitted personally interested in overseas offices Consular except law cases to preserve the family unit, offer of employment or humanitarian reasons, which may be processed within the country, under the terms established in the Article 41 of this Act

Those are the only provisions that I could find that may apply to this matter.

Thanks,

Salvatore B. D'Anna

On Mon, Jan 9, 2012 at 10:23 AM, sal danna <saldanna@gmail.com> wrote:
Hi Lee,

I copied Ed from the Union Tribune on this email as he will be writing about these issues in the Union Tribune. Please read the story below posted on wonews.com regarding a trip to Mexican waters where all crew members and passengers had paid for their Visas, only to be told that the boat required a visa as well. Apparently they are referring to a boat permit. That boat permit was required ten years ago when the sportfishing boats were required to buy one for the entire year. Back in 2005 or 2007, President Bush met with the President of Mexico and the result was that this boat permit was no longer required. It has been reported that the boat mentioned below received a \$2,000 fine for not having this permit.

My nephews had a trip booked to Colonet this past weekend and had no problems with the Mexican Navy who did circle the boat, but only shined their light on them and never boarded or asked for visas or boat permit. This leads me to believe as I suspected that this whole sham is being conducted from Baja California with the result being to increase sportfishing out of Ensenada. They want the anglers to get so frustrated with the fees and BS that they will stop fishing on US boats and instead drive down to Ensenada.

Further proof of this can be seen in the actual Visas issues to those leaving the US landings. These supposedly new visas are not new and are not specifically for entry by sea as has been suggested. They are the same visas used when you land on a plane in Mexico and are given to all of the passengers for free. In addition, I believe there is an agreement with Mexico that does not require visas if traveling to Mexico from the US for less than 72 hours. This is simply extortion, plain and simple. The images of the visas used for sea entry are below.

Thanks,

Salvatore B. D'Anna
[619-602-6647](tel:619-602-6647)

From WONEWS.com

Sunday, January 08, 2012
Visa, issues

There are still way more questions than answers to the new visa requirements for U.S. anglers that want to cross the border via boat, be it private or sport, and fish within 24 miles of land.

Here are the big three that I am still trying to figure out:

"Why can't an angler use a 180-day FMM visa instead of the visas that Mex Tour Assist 'sponsors' (for lack of a better term) that are sold at the landings?"

"Why are anglers flying into Mexico not required to purchase a visa for each trip, like anglers fishing Mexican waters out of San Diego are?"

"Why did the *Malihini* get turned around at the Coronado Islands on Saturday for not having a boat permit?"

Yeah, the first sportboat to fish the Coronados since the new visa requirement was announced was boarded by the Mexican Navy at the Coronados on Saturday. The Navy officials didn't want to see the visas, but rather they asked for a boat permit.

Mikey Schmidt, owner/operator of the *Malihini*, said that there is no boat permit. Literally. There is no boat permit required. One can't even be bought. It's been like that for almost a decade.

The Mexican Navy told Schmidt he had to leave immediately, since he had no boat permit. The boat and all 43 people--all of whom paid for visas---left the islands. Schmidt said that the *Malihini* is now off line from running 3/4-day trips to the Coronados for the next few weeks, until answers come about to all the questions. With the *San Diego* and *Mission Belle* doing boat work, there are no trips scheduled to the islands at this time. And it looks like the issue goes beyond sportboats. At least one skiff was told to leave the islands, since they didn't have a "boat permit."

In the meantime, the H&M Landing 3/4-day boat will be fishing the local coastline. Tickets are only \$70.

There is a ton of confusion over the visa issue, and sources close to *WON* said that there could be a 180-day visa that could take the place of the current visa sold at the landings that is only good for a single trip. Time will tell.

The 180-day FMM visa that can be purchased at the border has been purchased by some.

Troy Williams at Mex Tour Assist said that the 180-day FMM visa is not a re-entry visa and can not be used for sea travel, since it's stamped "for land only" if acquired in Tijuana; but those going to the border have been issued 180-day visas for both land and sea by IMANI officials, officials that said the visa is valid for re-entry. So which is it?

The questions keep sprouting up, but so far there have been no solid answers.

But this week should be a big week in terms of news on the visa issues. Stay tuned. There will be more details in the next issue of *WON*.