

Cutting through H-2B visa red tape



Cape employers and job seekers attend a job fair in Westport last month.

Cape Cod Times File/Paul Blackmore

By **Sarah Shemkus**
sshemkus@capecodonline.com
May 23, 2008

The U.S. Department of Labor yesterday proposed changes to the regulations governing H-2B visas, the seasonal work authorizations that bring thousands of foreign employees to the Cape each summer.

The suggested modifications to the program are intended to simplify and modernize the application process.

However, some local labor experts said that, without an increase in the number of visas issued, the potential rule changes are unlikely to solve what some are calling a labor crisis on the Cape and Islands.

"It will help a little bit, but it won't necessarily fix our problem," said Wendy Northcross, CEO of the Cape Cod Chamber of Commerce. "We still need physically more numbers than are allowed in the country — that's the real problem."

The H-2B visa program authorizes foreign workers to enter the country to fill temporary and seasonal positions.

Every year, between 5,000 and 6,000 such workers are employed on the Cape and Islands.

Nationally, the number of H-2B visas that can be issued each year is capped at 66,000. For each of the past few years, however, last-minute legislation has loosened that limit, allowing returning workers to enter the country without counting against the cap.

This year, no such provisions was passed, leaving many of the area's seasonal businesses scrambling to find summer help.

One element of the regulations proposed yesterday would change the way that employers prove that their positions are temporary, that they have sought local employees, and that they are offering the prevailing local wage for the type of work offered.

Currently, this stage of the application process is handled by workforce agencies at the state level; the proposed changes would have employers submit this paperwork directly to the U.S. Department of Labor's Employment and Training Administration.

This modification is intended to eliminate duplicate efforts by state and federal agencies, allowing the application process to proceed more quickly.

Many Cape employers have previously complained about the tortuous application process and local business leaders have worked with area congressmen to propose changes to the system.

"I always chuckle when people say employers use H-2B workers because it's cheap and easy," Northcross said. "There's nothing easy about it and it's a long process."

Nonetheless, the strict imposition of the visa cap is really the area's biggest seasonal labor problem, said Matthew Lee, an immigration lawyer with Tocci, Goss and Lee in Centerville.

The proposed regulations, he said, "have nothing to do with the cap, which is what is preventing people from getting help on the Cape."

Jane Nichols Bishop of Peak Season Workforce, a West Dennis company that pairs foreign workers with seasonal positions, is more optimistic about the potential changes.

The proposed streamlining, she said, could shave 30 days off the application process, a difference that, this year, might have given employers a "fighting chance" to obtain visas before the cap was reached.

"First base is when (the application) goes to the state, second base is when it goes to the Department of Labor," she said, using a baseball analogy. "If we skip first base, and go right to second, it means everybody starts out hitting a double."