

The

READY-MIXER



Virginia Ready-Mixed Concrete Association
600 Peter Jefferson Parkway, Suite 300
Charlottesville, VA 22911
Phone: 434-977-3716 Fax: 434-979-2439
E-mail: easter@easterassociates.com www.vrmca.com

newsletter

May 2006

Capital Concrete, Inc. and Tidewater Community College: A "Win-Win" Relationship

For three years, Capital Concrete, Inc. has been utilizing Tidewater Community College (TCC) as a resource for skilled and certified drivers.

Established in 1979, TCC's driver training program offers a flexible (day and evening) 280-hour curriculum. The program provides students with classroom and hands-on opportunities to learn the ropes about truck driving and obtain their Class A driver's license through the Virginia Department of Motor Vehicles (DMV). Students gain 15 hours of college credit upon satisfactory completion of the program.

Jerry Ledbetter, one of TCC's permanent driving instructors, explains that the program lasts for six to seven weeks and is designed to instruct students in all facets of truck driving, from 'hook and drop' and loading and unloading cargo, to hazardous materials and reading a road atlas.

Class sizes are typically comprised of approximately 24 students and the program strives to maintain a 1:6 student-teacher ratio. The methodological approach during first week of the program involves classroom lectures introducing students to the industry and seminars on the basics of truck driving.

After the first week of the program, students

receive their instructional permit from the DMV, so that they may proceed with the practical section of the program.

Students are required to pass written and practical exams before graduating, including a pre-trip inspection, a driver's road test and a skill range test, which focuses on backing maneuvers.

Once students pass their exams, they can use TCC's driving equipment on campus to test with the DMV.

"There is a shortage of drivers in this region. The purpose of the program is to train individuals in the field of commercial driving. TCC does not guarantee job placement for graduates. However, anyone who successfully passes and makes it through the program can get a job," maintains Ledbetter.

Capital Concrete, Inc. provides a prime opportunity for students by visiting prospective graduates on 'career day' and offering them a chance to apply for a job at the company as a ready-mixed driver.

Driver Training Manager Tina Harvey of Capital Concrete, Inc. explains, "I talk with the students about the benefits of working at our company and hand them an application when I leave. Once they complete the program at TCC and get their license from the DMV, they can basically walk into the plant and get a job interview."

Many of the graduates of TCC's driver training program are hired on the spot at Capital Concrete, Inc.—provided, of course, that they pass a drug test. Prospective drivers must also provide a written report from the DMV, proving their licensure.

Once drivers are hired, they participate in

a two-week training program, which specifically trains them to drive and operate ready-mixed trucks and provides them with the knowledge they need to work in the concrete industry.

"The driver training program at TCC benefits Capital Concrete, Inc. as a company seeking skilled driving professionals, and benefits the new driver looking for a start as well," states Harvey. "It's good for TCC and it's good for us. It's a win-win."

TCC's driver training program is becoming a resource among other concrete companies, and programs such as these are sure to continue to gain popularity within the industry. ♦



TCC driver instructors Bob Brewer (left) and Jerry Ledbetter (right).



Tina Harvey of Capital Concrete, Inc.



TCC student applies his newly learned skills during the practical segment of the driver training course.

Virginia Fuel Tax

Fuel used in a concrete mixer vehicle is eligible for a refund equal to 35 percent of the Virginia fuels tax paid when the concrete mixer is operated by the vehicle's propulsion tank. To apply for a refund, complete an Application for Fuels Tax Refund form TS216.

Mail the completed application with your original receipts to DMV, Fuels Tax Refund Section, P.O. Box 27422, Richmond, VA 23269-7422. The receipts must meet the requirements in the instructions on the back of the refund application.

Companies that fuel their cement mixers from their own fuel storage tank are required to submit an itemized fuel disbursement record (form TS218) in addition to the application and fuel invoices indicating the fuels tax was paid. The refund forms are available on DMV's website at www.dmvNow.com/customerforms or by calling the DMV Fuels Tax Refund Section at (804) 367-1306, (804) 367-2198 or (804) 367-0304.

Information provided by Betty Jessie, Deputy Director of the Fuels Tax Refund Section at DMV (reference 2005 VA Code § 58.1-2259 (B.) and § 58.1-2261). ♦

The Virginia Ready-Mixed Human Resource Consortium

Human Capital: The Elusive Asset—Measuring and Managing Human Capital

by Becky Meade

Human capital is arguably the most valuable asset held by an organization today. It is also the most elusive asset to manage for a variety of reasons. Calculating the value of human capital is not easy. It simultaneously represents the single greatest potential asset and the single greatest potential liability that an organization will acquire as it goes about its business.

It is the only asset that can be influenced, but never completely controlled, invested in wisely, or wasted thoughtlessly, and still have tremendous value.

Most CEOs are acutely aware of their investments in their most valuable asset (salaries, benefits, training, recruitment programs, and the like), but almost none could tell you what their most valuable asset is worth. Let's outline the business elements that create value in an organization. Organizational value is comprised of three major classes of assets that are integral to an organization's ability to produce goods and services.

Financial Assets: Financial assets include assets such as cash and marketable securities and may be referred to as financial capital.

Physical Assets: Physical assets include property, plant and equipment, and other furnishings.

Intangible Assets: Intangible assets include patent formulas, product designs, process technology, goodwill, and human capital. A company's human capital asset is the collective sum of the attributes, life experience, knowledge, inventiveness, energy, and enthusiasm that its people choose to invest in their work.

The focus here is on the intangible asset of human capital. What are the important factors to build and maintain the human capital investment?

1. Continuing education and on-the-job training for employees is the top factor in the success of workplace learning programs. Focus awareness on the development of people, management and employees alike, as a major source of obtaining and maintaining competitive advantage.

2. Human resource development is responsible for anticipating and preparing the workforce of the future; at the same time, this function cannot lose sight of the fact that it must maintain the competencies of the existing staff. Develop continuing education and training programs designed to maintain core competencies; partner with universities, colleges, and other learning institutions to supplement in-house training efforts.

3. In an environment where mergers and acquisitions are commonplace and downsizing is a natural byproduct, many employers are beginning to assume responsibility for employee career development opportunities, in addition to on-the-job training and development. Competency enhancement is based on the premise that individuals should be planning their next career move while they are still employed. The benefits to an employer are enhanced employee morale and loyalty, a more competent work force prepared for future internal growth, and reduced expenditures associated with the cost of employees in transition. Develop continuing education and training programs with a focus on career planning and competency enhancement.

If we believe that people are our greatest asset, then we must also believe that organizations compete for business through the people they employ. If this is the case, the organization must ensure its greatest asset, human capital, is utilized to its best and highest use.

Please contact Becky Meade at (804) 364-0500 or bmeade@coxreadymix.com if you would like information about our group. ❖



The VRMCA Ready-Mixed Human Resource Consortium at their May meeting.

VRMCA 2006-2007 OFFICERS AND DIRECTORS

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Diggs Bishop
Cardinal-Virginia Concrete Co.

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Portsmouth Habitat House Survives Vandalism

by J. Keith Beazley
 Director of Industry Services, Central Virginia and Hampton Roads

The Hampton Roads Habitat for Humanity house in Portsmouth was the site of vandalism as construction was underway in building the ICFA project for a Habitat family.

The house is sponsored as part of the ICFA convention held in Norfolk and co-sponsored by PCA, ICFA, LOXIX Forms, and the Hampton Roads Concrete Advisory Council.

Construction started on the house on Wednesday, May 3rd, and the concrete forms were delivered to the site and construction began with 30 volunteers. Layout was completed and the building of the house began with the stacking of the ICF block.

A large thunderstorm developed and work was stopped until Thursday morning. Upon arrival on Thursday, it was discovered that the entire supply of corner block was destroyed by vandals during the night. The corners are the most expensive parts of the ICF system and the estimate for the corners loss was in the amount of \$2,500.

Buddy Hughes, Logix, ordered corners to be shipped immediately to the job and work continued with the construction until the corners arrived. A number of area volunteers worked on the house for the three day construction time period. Volunteers from the Navy Helicopter Squadron in Norfolk worked each day with 15 to 18 people working of all parts of the house.

This is the first house the Navy personnel have built with Habitat and the ICF block was of great interest with the security of the concrete walls. Letters of commendation are being mailed to their Commanding Officer and the local Congressman for their service in building this house.

The house will be home for a single mother and three children and a handicapped grandmother. The owner, Sheryl Walton, was present for the pumping of the concrete walls and was very happy to have a home for her family to purchase.

The South Hampton Roads Habitat Board members attended the building of the house and were interested in building other ICF houses in the future and were very pleased with the insulated concrete walls and speed of construction.

Television and newspaper coverage have been part of this special project in Portsmouth and the public awareness should increase because of the project. Concrete pumping companies are pumping ICF block in all areas of Hampton Roads and the companies state that

they average four houses per week using ICF construction for a total of 208 concrete houses per year. The area is perfect for ICF construction with storm safety, quiet space without jet noise, and energy efficient walls. ❖



Habitat Humanity recipient Sheryl Walton with VRMCA Advisory Council Chairman Keith Beazley.



Workers at the site.

2006 VRMCA ADVISORY COUNCIL REGIONALS

Morgan Nelson
 VRMCA Advisory Council Chairman
 S.B. Cox Ready-Mix, Inc.
 Phone: 804-364-0500
 mnelson@coxreadymix.com

BLUE RIDGE

Buddy Murtaugh
 Chairman
 Rockingham Redi-Mix
 Phone: 540-433-9128
 buddy.murtaugh@conmatgroup.com

Robert Dunigan
 Secretary/Treasurer
 Allied Concrete Company
 Phone: 434-296-7181
 bdunigan@allied-concrete.com

HAMPTON ROADS

Jim Simons
 Chairman
 Capital Concrete, Inc.
 Phone: 757-627-0630
 j.simons@cox.net

Lee Flemming
 Secretary/Treasurer
 Lafarge North America
 Phone: 757-647-9409
 lee.flemming@lafarge-na.com

NORTHERN VIRGINIA

Duane Laughlin
 Chairman
 Crider & Shockey, Inc.
 Phone: 540-323-3301
 dlaughlin@crider-shockey.com

Mike Kavka
 Secretary/Treasurer
 Lehigh Cement Company
 Phone: 410-386-6332
 mkavka@lehighcement.com

RICHMOND/CENTRAL VIRGINIA

Gus Ward
 Chairman
 Titan Virginia Ready-Mix LLC
 Phone: 804-236-4122
 gward@titanamerica.com

George Tomaras
 Secretary/Treasurer
 Roanoke Cement
 Phone: 540-915-0390
 gtomaras@roanoke-cement.com

SOUTHWEST

Andy Faulconer
 Chairman
 Boxley Materials Company
 Phone: 540-777-7600
 afaulconer@boxley.com

George Kuhn
 Secretary/Treasurer
 Marshall Concrete Products
 Phone: 540-382-1734
 gkuhn@marshallconcrete.com

The VRMCA Technical Committee is developing a series of Technical Bulletins in order to address various issues of interest to the ready mixed concrete industry.

Technical Bulletin #3 is now posted on the website. The first two bulletins are also available. Please visit the VRMCA website at: www.vrmca.com to download electronic versions. You may also contact the Association Headquarters at 434.977.3716 for printed copies.

Please make every effort to distribute these to contractors, engineers, and testing labs in your area.

VRMCA Board Member Profile: Andy Faulconer

Name?

Andy Faulconer

Company?

Boxley Materials Company

Title?

Director of Technical Services and Safety

Where is your company located?

Roanoke

Where is your place of birth/hometown?

I grew up in Madison Heights.

What college or university did you attend?

I graduated from Virginia Military Institute (VMI) and received a B.S. in Civil Engineering.

How many years have you been in the industry?

I have been in the concrete industry since 1986.

What current project or activity are you working on?

Presently, we are installing a company wide quality control program for our plants and concrete mixes.

What was your motivation to get involved as a Regional Chairman?

I think the regional promotion councils are very important. I've been involved for a long time,

and I have goals that I would like to help accomplish. Primarily, these goals are to continue to work with the Engineering schools in Virginia, including VMI and Virginia Tech. I also believe it is pertinent to develop a pervious concrete market and to continue to promote architectural concrete in this area.

Describe some of your other major duties.

I am responsible for directing safety efforts in all of our ready-mixed locations and for reviewing specifications and submittals on all of our projects. I am also involved on the project management side of our larger jobs.

What is the accomplishment you are most proud of?

Working with a great team to successfully grow our ready-mixed business.

What is the best thing about living in Madison Heights?

It is a fantastic place to raise a family and a great location for pursuing the outdoor activities that I love—skiing in the mountains and boating on Smith Mountain Lake.

What is the best part of the job?

Building things (a task I really enjoy). I also love being involved in a fast paced business that requires decisions to be made quickly and accurately.

What did you do before this job?

I worked for Grace Construction Products in the Admixtures business as a Sales Representative.

Hobbies?

I enjoy golf, skiing and boating.

Favorite Vacation Spot?

We love Sunset Beach, North Carolina.

Family?

I have my wife Celya, my daughter Elizabeth, who is a graduate of Lynchburg College and a Registered Nurse in Roanoke and my 18-year-old twin sons Drew and Tommy. Tommy will be a freshman at Christopher Newport University and Drew will be a "RAT" at VMI.



Tech or UVa?

"Hoo" did you say? I've got to go with VMI.

Last Book?

Walter Isaacson's *Benjamin Franklin: An American Life*.

What is the perfect day off?

A round of golf in the morning, floating on Smith Mountain Lake with family in the afternoon and a cookout with friends in the evening would be perfect. It doesn't get any better than that. ♦

Southwest Virginia Council Plans Concrete Driveway Seminar

by Bob Nablo, Director of Industry Services, Western Region

As the next step in a continuing promotion of residential concrete driveways, the SW VA Council is planning to sponsor a seminar on concrete driveways in conjunction with the already-scheduled picnic and baseball game on June 20. At a recent Council meeting it was suggested that combining the two events might increase interest and attendance, and since the Salem Civic Center and Salem Memorial Baseball Park adjoin one another, logistics would not be difficult. Since some of the same builders and contractors would be invited to both events it made sense to offer free admittance to the picnic to any guest attending the seminar.

While the picnic and baseball game are primarily events for relaxation and camaraderie, the seminar will be somewhat more serious. Council research has determined that area developers and builders do not use concrete driveways as a part of their "normal" residential package, but they are interested in knowing more about the process – and especially in knowing more about colored concrete. They also admit to knowing little about initial cost and life-cycle costs.

The plan is to create a small panel discussion covering the "Why," "How" and "How Much" aspects of concrete driveways. The Council hopes to attract about 50 developers, homebuilders and driveway installers, and to make this event brief, informative and to-the-point. After the one hour seminar guests will be escorted to the picnic and will have a chance to discuss the seminar topics more extensively. The SW VA Council hopes, and expects, that this combined event will make "just another seminar" more attractive and will lead to increased interest in better, more durable, more attractive driveways. ♦

Colored Concrete and a Game of Golf

by Hessam Nabavi, R.A., Director of Industry Services, Northern Virginia

Experts are saying the demand for colored concrete will more than double in the next five years. The liquid color dispensing technology has opened up new opportunities for ready mixed producers, design professionals and contractors.

This certainly is not a niche market anymore. It has become mainstream. This system is a very attractive option, especially from the standpoint of consistency and repeatability.

As an architect, I have always been concerned about consistency of colors and also the ability to match the existing color on the building or pavement, several years later if it is needed.

Many architects and landscape architects also share the same concerns, which can now be satisfied by an automated liquid color dispensing system. This is why Northern Virginia Concrete Advisory Council decided to choose

the topic of "Integrally Colored and Application of Textures for Concrete" for our annual golf outing.

Sammy Davis of Grace Construction Products was invited to share his knowledge and experience

on this topic and offer some confidence to our participants, due to the capability of this system versus the traditional method.



Attendance at the pavilion in the South Riding Golf Course.



Sammy Davis of Grace Construction Products.

The golf retreat took place in the beautiful South Riding Golf Course. Imagine this setting for our guests: sitting under a covered pavilion, surrounded by the golf course and overlooking the most scenic view of the green. It provided the ultimate relaxed learning atmosphere.

This year, NVCAC had experienced an overwhelming response to this annual event, to the point that we had to increase the number of foursomes from 10 teams to 13 teams.

A good mix of architects, engineers, public school officials and contractors were present. **Over 35 guests, outside of the members, attended.**

It was the biggest turnout ever. Tables were set

around the pavilion with a variety of promotional literature and samples. Among the samples, a 3'X3' wall detailed ICF and pervious concrete.

This display drew the most attention.

Many thanks to Mark Quinn of Project Services Management for building the ICF wall, and to David McIlwain of Creative Building Products Inc. for building the pervious display.

This 1.5 AIA credited presentation was well received by the audience. Sammy Davis did an outstanding job and we are very thankful for his effort.

The seminar was followed by lunch and a great game of golf. It was a great day for networking and building relationships.

The day ended with the presentation of awards and additional networking opportunities. In conclusion, we would also like to thank the following member companies for their support: Aggregate Industries, Cardinal-Virginia Concrete Company, Crider & Shockey, Inc., Essroc Cement, Handyman Concrete, Lafarge Cement, Lehigh Cement, Luck Stone, Titan Virginia and W.R. Grace. ♦



From left to right: Architect Huntley Kendall with Chesapeake Public Schools, Lewis Rauch, Director of Design & Construction with Fairfax County Public Schools and NVCAC's Council Chairman Duane Laughlin of Crider & Shockey, Inc.

Lorber Honored for Services as Council Chairman and President

Outgoing VRMCA President Gus Lorber was honored on May 22 for his substantial service to the Association.

During the presentation, Executive Director Peter Easter called the members' attention to the superb leadership of all of the Association's presidents in the last 25 years, but pointed out Lorber's remarkable enthusiasm and commitment to promotion and marketing.

Within his own company, he has promoted stamped concrete—making stamps available to contractors, trained concrete finishers and established stand-alone display centers in Ruckersville and Zion Crossroads.

For the Council, Lorber has worked on getting a Tilt-Up school project, pushed the Association to promote stamped and ICF, maintained a close working relationship with the UVa School of Architecture and helped develop a national curriculum for finishers.

Lorber was presented with a wooden model of a mixer truck to commemorate his outstanding service. ♦



VRMCA Past President Gus Lorber (left) with Executive Director Peter Easter (right).



From left to right: Architect Samuel Gross and NVCAC Residential Committee Chairman Tom Yendall of Titan Virginia with NVCAC's new portable ICF wall display.

Employment Update: Internet Applicants and “English Only” Work Rule

1. NEW INTERNET APPLICANT RULES

Last October, the Office of Federal Contract Compliance Programs (“OFCCP”) issued its final rule regarding the long anticipated changes to the definition of an “internet applicant.” The rule is entitled “Obligation to Solicit Race and Gender Data for Agency Enforcement Purposes.” The new definition of “internet applicant” will be included in the Uniform Guidelines on Employee Selection Procedures. The new rule took effect on February 6, 2006, however many covered employers remain in the dark about their obligations.

A. Background

The OFCCP enforces federal non-discrimination laws against federal government contractors and subcontractors. Part of a contractor’s requirement has always been to keep records regarding certain background and immutable characteristics of their job applicants. However, with the advent and subsequent boom of the “on line” job market, the number of “internet applicants” mushroomed. Contractors became inundated with on-line applications and the task of recording, for example, the race, ethnicity, and gender of thousands of applicants became an increasingly unworkable burden. As a result, a lot of information about applicants was not being collected and OFCCP’s enforcement was less effective because it could not accurately determine whether a contractor was basing hiring decisions on unlawful, discriminatory bases.

B. The New Rule

To assist employers and its own enforcement goals, the OFCCP’s new definition of “internet applicant” better sets out who will qualify as having submitted an application for employment. An “internet applicant” is a person that meets the following four (4) criteria:

1. The person submits an “expression of interest in employment” through the internet or related electronic data technologies or submits an expression of interest on paper, where the employer accepts for electronic and paper applications;
2. The employer considers the individual for employment in a particular position;
3. The person’s “expression of interest” indicates that the individual meets the “basic qualifications” for the position; and
4. The person does not remove himself or herself from consideration at any point before receiving an offer of employment.

The new definition is somewhat intricate. For example, an “expression of interest in employment” is quite broad and includes “all expressions of interest, regardless of the means or manner in which the expression of interest is made.” This definition includes even “hard copy” applicants for a position *if* the employer also accepts electronic applications for that position as well.

Also, an employer has “considered” a person for employment when it reviews whether that person meets any criteria for the job in question. Under this approach then, an employer may narrow the field of people it wishes to “consider” by placing non-qualification specific limitations on the applications it receives, such as refusing to accept unsolicited resumes, “considering” only a random sampling of the “expressions of interest received,” or limiting the “expressions of interest” to a finite number.

A person’s “basic qualifications” for a particular job must be objective, relevant to the performance of the job in question, and non-comparative (that is, not based on comparisons between individuals). For example, if an employer were hiring a lawyer, a law degree and law license would be basic requirements, while a requirement that the person be a “team player” would not. The basic qualifications for the position should be advertised externally or established internally through documentation.

Finally, a person may remove himself or herself from “applicant” status by informing the employer that they are no longer interested in the position. Or an employer may, in some cases, remove the person from applicant status if he or she fails to respond to repeated inquiries from the employer about their “expression of interest.”

C. What it all Means for Employers

The employer’s task will be to identify those persons who qualify as “internet applicants” under the new rule and to keep the records required by OFCCP. Those records include a determination of each applicant’s race, sex, and ethnicity. Employers must also: (1) keep all “expressions of interest” in a position that it “considered;” (2) add electronic resumes to an internal resume data base (if they maintain one), including the date the resume was added to the database, the position for which each search of the database was made, and for each search, the criteria used; and (3) for external resume databases (Monster.com, Careerbuilder.com, etc.), keep a record of the position for which each search of the database was made, and for each search, the criteria used, the search date, and the resumes that met the basic qualifications and were “considered.”

As always, the OFCCP has sent out notices of 2006 audits to many companies. However, it has also indicated that some companies not already notified may be subject to a “surprise” audit. Employers can avoid the headaches that such audits often bring by keeping their Affirmative Action Plans and their data gathering “up to snuff.”

2. “ENGLISH ONLY” WORKPLACE POLICIES

The American workforce is becoming increasingly diverse. Not only can most people expect

to work alongside individuals who were not born in this country, but people can expect that many of those individuals will not speak English very well. That can pose a significant problem for employers who must communicate with their employees and run their business in a safe and productive fashion.

A. One Possible Solution

To combat this dilemma, some employers have instituted rules restricting communication in languages other than English, often called “English-only rules.” Such rules, however, pose an obvious problem under Title VII, which prohibits employment discrimination on the basis of national origin. As a result, the Equal Employment Opportunity Commission receives hundreds of Charges of Discrimination each year challenging the legality of English-Only policies. However, if tailored properly, “English-only” rules can be lawfully implemented.

Title VII will permit employers to adopt “English-only” rules under certain circumstances. As with any other workplace rule, “English-only” rules must be implemented for non-discriminatory reasons and based on “business necessity.” Such a rule would be unlawful if it were adopted with the intent to discriminate or that in its application discriminated against certain employees on the basis of national origin. Similarly, a rule that prohibited the use of some but not all foreign languages in a workplace, such as a no-Spanish rule, would be unlawful.

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“A Night at the Ball Park” Event Planned for Hampton Roads

by J. Keith Beazley
Director of Industry Services,
Central Virginia and Hampton Roads

The Hampton Roads Concrete Advisory Council will host the annual “Night at the Ball Park” on Wednesday, July 26, 2006 at 7:30 P.M.

This year’s game will be the Norfolk Tides vs. Indianapolis. This annual event is very popular and Council members invite customers, company personnel and family members to the in-game picnic and game.

The Chairman for the event is Marie Derby and reservations must be made before the second week in July so tickets may be purchased. The cost is \$23.00 per person and tickets can be picked up at the game or by calling Marie at 757.880.5631. Everyone is welcome to attend this time of food, fellowship, and baseball. ♦

Southwest Virginia Council Hosts ACI Class

by Bob Nablo,
Director of Industry Services,
Western Region

In early May, Roanoke Cement Co. once again offered the use of its facilities for an ACI Field Testing Technician Grade 1 Class and Exam. Spring showers made the practical exam somewhat difficult, but a class of more than 30 students was successfully examined by members of the SW VA Council and several much-needed Lynchburg VDOT volunteers.

As ACI-certified members of our supplier industry become fewer and fewer, we find the ready-mixed producer members having to pick up the duties of supplemental examiners. This, of course, can be a challenge on a day when business intervenes. We are very pleased that the Virginia Department of Transportation allows several employees to volunteer as examiners for classes near their respective districts, and while it is still quite difficult to find enough examiners to handle large classes, these VDOT volunteers often make the difference. At this event, Lynchburg VDOT employees **Laura Layne**, **Gail Weston** and **Larry Johnson** generously donated their services.

Thanks once again to VRMCA members **Robert Marek** of Roanoke Cement Co., **Andy Faulconer** of Boxley Co. and **Corrie Brice** and **Johnny Underwood** of Marshall Concrete. **Keith Beazley** and **Bob Nablo** of VRMCA also helped with the practical exam. ❖

Hampton Roads Council Hosts a Paving Symposium

by J. Keith Beazley
Director of Industry Services, Central Virginia and Hampton Roads

The Hampton Roads Advisory Council hosted a special "Concrete Paving Symposium" in April at Virginia Beach. The special seminar was designed for the professional engineer, architect, and municipal engineer to increase their understanding of all aspects of concrete paving.

This is the third year for the symposium sponsored by the Advisory Council and previous topics have been Insulated Concrete Forms and Tilt-Up Construction.

The symposium was divided into four parts with three speakers presenting the information. The first session was conducted by Bob Long, Executive Director, Mid-Atlantic Chapter of the ACPA, and was titled Introduction to Concrete Paving.

The session covered elements of concrete paving, design and application, types and usage. The second section was Pervious Concrete Pavements by Robb Jolly, Senior Vice-President of the ACPA.

This covered how previous pavements work, mitigates surface pollutants, storm water run elimination, and environmental reasons for using pervious concrete.

Bob Long presented the third part of the symposium the Applications of Concrete

Pavements and covered usage of pavements in commercial and municipal projects, intersections and turning lanes, repairs and maintenance. The final section was Stamped and Patterned Concrete presented by Sammy Davis, Grace, and covered colors and textures of concrete, special finishing techniques, cost effective ways to finish, colors and coloring of concrete.

The symposium was well attended and each of the localities in Hampton Roads participated in the program. A special plated luncheon was part of the program as well as door prizes at each break. A special grand door prize is presented at the close of the session. Informational packets of information are given to participants about the subject topic and contact information for more personal attention.

Local engineers and architects stated that the symposium and information about concrete topics is very good and plan to attend the symposium next year. VDOT personnel also were in attendance as concrete roads are a large segment of their system in Hampton Roads.

The Council program provided learning units to architects and engineers are given credit for attending the conference. Planning is underway for the fourth year's symposium and the attendance and interest continues to grow each year. ❖

"English Only"

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B. Some Examples

Due to its growing Hispanic workforce, a shoe manufacturing plant adopts an "English-only" rule that requires employees to speak only English while in the workplace, including when speaking to co-workers, during breaks, and while making business and personal telephone calls would likely be unlawful. The rule is not specific to a particular "business necessity" and goes beyond the work environment to break periods and personal phone calls when there would be no clear reason to require employees to speak English.

By contrast, what if the same company implemented a rule that required employees speak in English while performing job duties on the assembly floor and processing areas where there is the danger of equipment malfunction or injury, and the rule did not apply to casual conversations between employees in the surrounding workplace areas when they are *not* performing a job duty? In this case, the "English-only" rule would likely be lawful.

C. Best Practices

In evaluating whether to adopt an "English-only" rule, companies should carefully weigh business justifications for the rule against the possible discriminatory effects. While there is no hard and fast test for making this determination, important considerations include: (1) evidence of safety justifications; (2) evidence of other business-related justifications, such as effective supervision or communication; (3) whether the rule is likely to achieve its objectives; and (4) the English proficiency of those workers affected. As a matter of practice, companies would be well-advised to first consider whether other, less intrusive alternatives might achieve the same "business related" objectives without implementing an "English-only" policy.

82006 Kruchko & Fries

John G. Kruchko is a partner with the Management Labor & Employment Law Firm of Kruchko & Fries in McLean, Virginia, Kevin McCoy is an Associate with the Firm.

For more information, please contact Mr. Kruchko or Mr. McCoy at (703) 734-0554 or jkruchko@kruchkoandfries.com, or kmccoy@kruchkoandfries.com. This article is published for general information purposes, and does not constitute legal advice. ❖

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September 10-12, 2006
Wintergreen Resort
Wintergreen, Virginia



2006 Truck Roadeo
November 1, 2006
Richmond International Raceway
Richmond, Virginia



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