



# THE READY-MIXER



Virginia Ready-Mixed Concrete Association Newsletter

February 2014

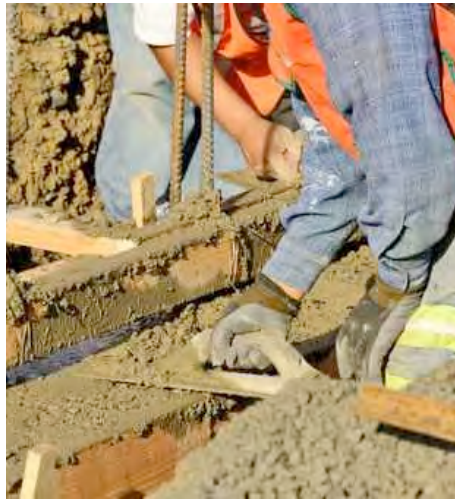
## EPA Issues Clean Bill of Health For Fly Ash Concrete and Synthetic Gypsum Wallboard

The U.S. Environmental Protection Agency has released a new study that concludes the use of coal fly ash in concrete and synthetic gypsum in wallboard are safe and appropriate beneficial uses.

“... Environmental releases of constituents of potential concern (COPCs) from CCR fly ash concrete and FGD gypsum wallboard during use by the consumer are comparable to or lower than those from analogous non-CCR products, or are at or below relevant regulatory and health-based benchmarks for human and ecological receptors.” the EPA said in its report. “EPA supports the beneficial use of coal fly ash in concrete and FGD gypsum in wallboard. The Agency believes that these beneficial uses provide significant opportunities to advance Sustainable Materials Management (SMM).”

Barnes Johnson, director of the EPA Office of Resource Conservation and Recovery which authored the report, spoke about it at the Winter Meeting of the American Coal Ash Association in Albuquerque on Wednesday, February 5, 2014.

The study was released along with




an EPA-authored “Risk Evaluation Methodology” the Agency says any party can use to evaluate various encapsulated uses for Coal Combustion Products.

EPA began developing the methodology in 2011 after the Agency’s Inspector General criticized the Coal Combustion Products Partnership (“C2P2”) for “inadequately” evaluating the risks of coal ash beneficial uses the program promoted. EPA shut down the C2P2 program after the report. EPA officials have not expressed any interest in restarting the

C2P2 program now that the methodology is complete and have indicated that they do not plan to conduct any additional studies utilizing the methodology.

The Agency also plans to develop a methodology for evaluating risks of unencapsulated beneficial uses of coal ash. The Agency originally planned to develop that methodology by April of 2014, but it likely will not be complete by then.

A copy of the encapsulated beneficial use risk evaluation and the study on fly ash concrete and synthetic gypsum is available on EPA’s website here: <http://www.epa.gov/epawaste/conserv/imr/ccps/benfuse.htm>.

For more information, please contact Hank Keiper, P.E. at (804) 380-8078 or email [hkeiper@sefagroup.com](mailto:hkeiper@sefagroup.com). 

### in the mix ...

|   |    |
|---|----|
| Upcoming 2014 ACI Classes .....   | 2  |
| Residential Market Improving? Roanoke’s South Peak Back Under Construction .....            | 3  |
| Titan America’s CEO honored with ACI Concrete Sustainability Award..                        | 3  |
| The First Net-Zero Elementary School in Virginia Using Insulating Concrete Forms (ICF)..... | 4  |
| 2014 Mixer Truck Rodeo .....  | 6  |
| Transportation Emission Reductions Should Look Beyond Cars and Trucks .....                 | 8  |
| VRMCA Spring Convention .....   | 8  |
| Not Your Parents’ NLRB: Major Headaches on the Horizon for Employers .....                  | 10 |
| Calendar of Upcoming Events .....   | 11 |

Visit us online

[www.VRMCA.com](http://www.VRMCA.com)



Virginia Ready-Mixed Concrete Association  
**2014 Mixer Truck ROADEO**  
**Monday, May 5, 2014**  
 The Meadow Event Park • Doswell, Virginia  
[www.vrmca.com](http://www.vrmca.com)

## 2014 VRMCA Officers & Directors

### PRESIDENT

**Bob Chandler**  
Chandler Concrete of Virginia Inc.

### VICE PRESIDENT

**Jay McNeely**  
Eagle Corporation

### SECRETARY/TREASURER

**Stephen Render**  
Vulcan Materials

### EXECUTIVE DIRECTOR

**Douglas Easter**  
Easter Associates, Inc.

### PAST PRESIDENT

**Larry Bullock**  
Boxley Materials Company

### DIRECTORS

**Mark Bundy**  
Branscome

**Billy Chenault**  
Luck Stone Corp.

**Morgan Nelson**  
S.B. Cox Ready-Mix

**Robert O'Brian**  
Lynchburg Ready-Mix

**Robert Sells**  
Titan Virginia

**Jim Simons**  
Capital Concrete Inc.

**Jeff Slagle**  
Chaney Enterprises

**Genevieve Walker Switzer**  
T&W Block Inc.

**Tony Wilt**  
Superior Concrete

Virginia Ready-Mixed Concrete Association  
250 West Main Street, Suite 100 • Charlottesville, VA 22902  
Phone: (434) 977-3716 • Fax: (434) 979-2439  
easter@easterassociates.com • www.vrmca.com



## Concrete Field Testing Technician Certification Program

**Register Now! ... Space is limited to the first 35 registrants!**

**ONLINE  
REGISTRATION  
AVAILABLE AT  
www.vrmca.com**

### Upcoming ACI classes:

|                |   |
|----------------|---|
| Harrisonburg   | <del>March 11, 12, 13</del> <b>FULL</b> |
| Fredericksburg | <del>March 25, 26, 27</del> <b>FULL</b> |
| Roanoke        | <del>April 8, 9, 10</del> <b>FULL</b>   |
| Virginia Beach | <b>April 22, 23, 24</b>                 |
| Warrenton      | <b>April 29, 30, May 1</b>              |
| Richmond       | <b>May 27, 28, 29</b>                   |
| Bristol        | <b>June 10, 11, 12</b>                  |
| Harrisonburg   | <b>June 24, 25, 26</b>                  |
| Virginia Beach | <b>July 8, 9, 10</b>                    |
| Roanoke        | <b>July 22, 23, 24</b>                  |

Questions? Contact George Boykin at (434) 906-2186  
or email [george.boykin@easterassociates.com](mailto:george.boykin@easterassociates.com).

## 2014 VRMCA Advisory Council Regions

**Jay McNeely**  
VRMCA Advisory Council Chairman  
Eagle Corporation  
Charlottesville, VA  
Phone: (434) 971-2686  
pjm@eagle-corp.com

### BLUE RIDGE

**Buddy Murtaugh Jr.**  
Chairman  
Rockingham Redi-Mix  
Harrisonburg, VA  
Phone: (540) 433-9128  
buddy.murtaugh@conmatgroup.com

### SCOTT BOSHA

Secretary/Treasurer  
Superior Concrete  
Harrisonburg, VA  
Phone: (540) 433-2482  
sboshart@superiorconcreteinc.com

### HAMPTON ROADS

**Barb Nelson**  
Chairman  
Titan Virginia Ready-Mix  
Norfolk, VA  
Phone: (757) 533-7130  
bnelson@titanamerica.com

### LEE FLEMMING

Secretary/Treasurer  
Essroc  
Chesapeake, VA  
Phone: (757) 647-9409  
edward.flemming@essroc.com

### NORTHERN VIRGINIA

**Dave Snider**  
Chairman  
Vulcan Materials Company  
Springfield, VA  
Phone: (703) 354-7100  
sniderd@vmcmail.com

### ZMARC GRANAHAN

Secretary/Treasurer  
Lehigh Cement  
Stone Ridge, VA  
Phone: (703) 618-0735  
mgranahan@lehighcement.com

### RICHMOND/CENTRAL VIRGINIA

**Todd Miller**  
Chairman  
Vulcan Materials  
Chester, VA  
Phone: (804) 751-2666  
millerto@vmcmail.com

### ANDREW OWENS

Secretary/Treasurer  
Advantage Environmental Consultants  
Chester, VA  
Phone: (804) 454-0072  
aowens@aec-env.com

### SOUTHWEST

**Sam Woolwine**  
Chairman  
Boxley  
Roanoke, VA  
Phone: (540) 777-7623  
swoolwine@boxley.com

### GEORGE KUHN

Secretary/Treasurer  
Chandler Concrete  
Christiansburg, VA  
Phone: (540) 382-1734  
george.kuhn@chandlerconcrete.com

## Residential Market Improving? Roanoke's South Peak Back Under Construction

By Bob Nablo,  
Director of Industry Services

High on a hill overlooking the intersection of US Routes 419 and 220 in Roanoke, the long-delayed South Peak development is active again. After years of planning and piecemeal construction the model condominiums are open and work is ongoing for the hotel and retail space buildings that will be a major part of this combined residential/commercial development. Site work is also underway for the single family homes section of the planned community. A large gazebo near the top of the small mountain allows owners and guests a sweeping view of the Roanoke Valley and other amenities will include a dog park and walking trails.

Smith-Packett Developers report that initially South Peak will include five condo buildings with 32 units in the "Arts and Crafts" style, 23 luxury single family homes in the Estates section, and a 117-room, 80,000 sq. ft., Hilton Garden Inn hotel with 2,000 sq. ft. of conference space, an indoor heated pool and a full service restaurant. There are future plans for retail shopping buildings and offices within the complex, and the condos could grow to 176 units.



Construction has been slowed by the poor economic conditions and an almost complete halt to residential construction, but the situation seems to be improving. The project was also hampered by the partial collapse of a very large retaining wall that was caused by leaking drainage pipes behind the wall, but that situation was quickly remedied and the

site repaired. The General Contractor for the project is Integrated Construction of Jacksonville, FL and the site contractor is BLJ Associates of southwest Virginia. Two architectural firms, Trotter and Associates of Gatlinburg, TN and Jones & Jones Architects of Roanoke, collaborated on the design, and Concord Hospitality will manage the hotel. 🚧

### Titan America's CEO honored with ACI Concrete Sustainability Award

Aris Papadopoulos, CEO of Titan America LLC, was awarded the Concrete Sustainability Award by the American Concrete Institute at its fall convention in Phoenix, Arizona. The award was presented by ACI President, Anne Ellis.

According to officials at ACI, Papadopoulos was chosen "for his unprecedented and exemplary leadership in unifying the concrete industry in North America in developing a common direction on concrete sustainability and his international pioneering efforts on sustainability and resilience of concrete."

"I'm personally honored, and it is also recognition of the impact Titan America has made in the industry," stated Papadopoulos. "It's particularly meaningful for us because this is the first time a cement executive has been awarded by the American Concrete Institute."

In addition to Titan America's CEO, Papadopoulos is Founding Chair of the Concrete Joint Sustainability Initiative (CJSI); the Chair of the Portland Cement Association (PCA) Nominating Committee and a past Chair of PCA and the PCA Sustainability and Communication Committees; and a past Chair of the United Nations International Strategy on Disaster Reduction (UN-ISDR) Private Sector Advisory Group.

He serves as a Board member of CTL Group and as an Industry Advisory Group member for the MIT Concrete Sustainability Hub. He also served on the Editorial Board for ACI-U.S. Green Concrete Council's two publications: The Sustainable Concrete Guide—Strategies and Examples and The Sustainable Concrete Guide—Applications. Papadopoulos has testified numerous times before Congress on industry and job issues. He advocated for the cause of resilience and disaster risk reduction before two United Nations Global Platform Conferences and at Rio+20. 🚧

# The First Net-Zero Elementary School in Virginia Using Insulating Concrete Forms (ICF)



By Hessam Nabavi,  
Director of Industry Services

Richardsville Elementary School near Bowling Green in Warren County, Kentucky is the first Net Zero elementary school using an ICF wall system. The school was designed by architect Kenny Stanfield, principal at Sherman Carter Barnhart Architects in Lexington, Kentucky and was completed in August of 2010. VRMCA invited Kenny Stanfield to speak about the design and construction process of this school at the 2011 Annual Building Green with Concrete Workshop in NOVA. Kenny's presentation and his attention to detail offered an opportunity to the audience to get exposed to an untraditional way of designing schools and ultimately thinking outside of the box. By definition, a Net-Zero or Zero Energy Building (ZEB) uses the same amount of energy measured annually as it produces using on-site renewable energy sources. Basically it generates as much energy as it consumes. It is a building that operates without purchasing energy.

An average school uses around 70 KBTu/sf/year. A high performance



school uses around 40 Kbtu/sf/year. According to National Building Institute, a "Net Zero Ready" building uses 35 Kbtu/sf/year or less. Richardsville Elementary School uses 18 Kbtu/sf/year, which is a 75% EUI reduction.

To benchmark a building energy use, one of the key metrics is Energy Use Intensity (EUI). EUI expresses a building's energy use as a function of its size and/or other characteristics. The EUI is expressed as energy per square foot per year. It is also known as KBTU/sf/year. BTU stands for British thermal unit.

Since Richardsville Elementary School has been completed, many other schools have been designed as Net-Zero Energy schools as well. Among those are Turkey Foot Middle School in Kentucky, Lady Bird Johnson Middle School in Irving, Texas, NYC Elementary School in Staten Island, New York and Elementary School #1 in Arlington, Virginia.

Elementary School #1 is going to be a two story, 98,000 sf building with a capacity of 650 students in grades Pre-K through 5, located on the campus

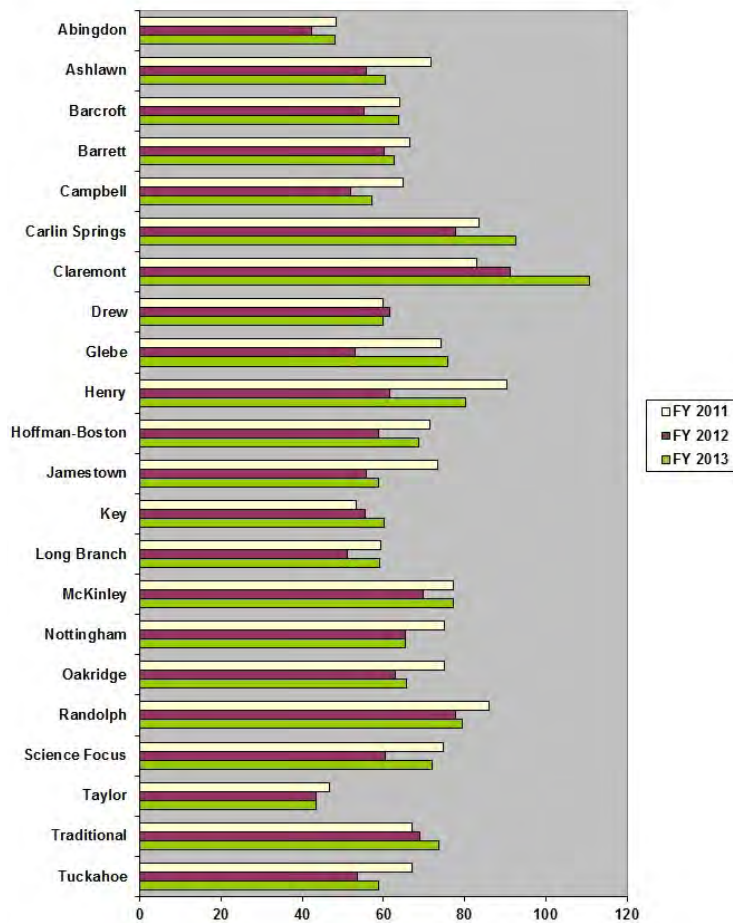


of the Williamsburg Middle School in Arlington. This is going to be the first Net-Zero school in the Mid-Atlantic region, and possibly upon opening in August of 2015, it may be one of the first Net-Zero schools on the east coast.

The building is designed for an Energy Use Intensity (EUI) of 23 KBTU/sf/year which is one third of the energy use of a typical Arlington County elementary school. There are 22 elementary schools in Arlington County. At right, is the county elementary schools Energy Use Intensity Chart for the past three fiscal years.

The EUI of 23 for Elementary School #1 is being achieved by the use of technologies such as Insulating Concrete Forms wall system (ICF), all LED lighting, daylighting without control-heavy light “harvesting”, a new approach to kitchen design, a distributed on-demand pumping system for ground source heat pumps, and a different approach to the scheduling of building systems while still maintaining heavy after-hours use. A 496 KW rooftop solar array is also designed as a deduct alternate. This project is currently out to bid. Construction is going to start in late March, and the school is scheduled to open in August of 2015. 🚧

Elementary Schools Site Energy Intensity (k/Btu/f<sup>2</sup>)



Virginia Ready Mixed Concrete Association

# 2014 Mixer Truck

# ★★ ROADEO ★★

**Monday, May 5, 2014**

**The Meadow Event Park, 13111 Dawn Boulevard, Doswell, Virginia**



## Is Your Mixer Driver the BEST in the State?

Put on your hat and saddle on up to the Virginia Truck Center on **Monday, May 5th** to participate in this year's rodeo. Mixer truck drivers compete and accumulate points in three categories to compile a final score: written exam, pre-trip inspection and a driving/challenge course. The highest combined score Wins First Place!

**Registration is only \$150 per driver.**

## Schedule

- 9:30 a.m.**  
Driver Roundup/  
Registration
- 10:00 a.m.**  
Written Exam
- 10:30 a.m.**  
Course Walk-thru with  
Drivers & Judges
- 11:00 a.m.**  
Lunch Buffet  
(BBQ, Hamburgers, Fried Chicken)
- 11:30 a.m.**  
Pre-trip Inspection/  
Driving Competition  
begins!
- 3:00 p.m.**  
Awards Presentation

## Prizes

- 1st Place**  
\$500 cash plus  
additional prizes!
- 2nd Place**  
\$350 cash

# REGISTRATION

Register online at [www.vrmca.com](http://www.vrmca.com) or complete registration form and fax to (434) 979-2439 or mail to: VRMCA Rodeo, 250 West Main Street, Suite 100, Charlottesville, VA 22902. Call (434) 326-9815 or email [christina.sandridge@easterassociates.com](mailto:christina.sandridge@easterassociates.com) for more information.

## DRIVERS

Competing Driver 1 \_\_\_\_\_ Mixer Preference  Automatic  Manual  
Competing Driver 2 \_\_\_\_\_ Mixer Preference  Automatic  Manual  
Competing Driver 3 \_\_\_\_\_ Mixer Preference  Automatic  Manual  
Competing Driver 4 \_\_\_\_\_ Mixer Preference  Automatic  Manual

## Volunteers/Additional Attendees (from company):

1. \_\_\_\_\_  Volunteer  Judge  
2. \_\_\_\_\_  Volunteer  Judge  
3. \_\_\_\_\_  Volunteer  Judge  
4. \_\_\_\_\_  Volunteer  Judge  
5. \_\_\_\_\_  Volunteer  Judge  
6. \_\_\_\_\_  Volunteer  Judge

*All Drivers should plan to wear their own company hats during the event.*

**Lodging Recommendations:** There are several hotels located off of I-95 at exit 98 in Doswell near the Meadow and Kings Dominion. Suggestions include: Country Inns & Suites (804) 612-8450; Days Inn at Kings Dominion (804) 612-8680; Best Western Kings Dominion (804) 876-3321; and La Quinta Inn & Suites (804) 876-6900.

# SPONSORSHIP

## SPONSORS ARE NEEDED AND AVAILABLE AT TWO LEVELS:

### VRMCA 3-Meeting Sponsorship—\$1,200

**VRMCA 2014 Meeting Sponsors** will receive recognition in all 2014 VRMCA Newsletters and all meeting-related emails, as well as on the VRMCA website. Sponsors will be recognized at the Truck Rodeo and Spring and Fall Conventions with sponsorship signage. Sponsors will have the option to hang a banner and have an exhibit table at the Rodeo.

### VRMCA Truck Rodeo Sponsorship—\$500

**Truck Rodeo Sponsors** will be recognized at the Spring Convention and will be mentioned in the emails and newsletter articles related to the VRMCA Mixer Truck Rodeo.

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

- YES!** My Company wants to be a **3-Meeting Sponsor at \$1,200!**
- YES!** My Company wants to be a **Truck Rodeo Sponsor at \$500!**
- Number of Competing Drivers -- \$150/each

\$ \_\_\_\_\_ **TOTAL AMOUNT ENCLOSED**

# Transportation Emission Reductions Should Look Beyond Cars and Trucks

Yesterday President Barak Obama announced plans to introduce a rule for higher fuel efficiency standards for medium and heavy-duty trucks by 2016. At an appearance at a grocery distribution center in Upper Marlboro, Md., President Obama charged Department of Transportation Secretary Anthony Foxx and U.S. EPA Administrator Gina McCarthy to “develop fuel economy standards for heavy-duty trucks that will take us well into the next decade.”

According to the White House, heavy-duty trucks account for just four percent of highway vehicles, but are responsible for 20 percent of carbon pollution from the transportation sector. Current fuel-economy standards are aimed


at reducing truck fuel use by as much as 20 percent.

Gregory M. Scott, president and CEO of the Portland Cement Association, said it is time to not only look at the efficiency of cars and trucks on the road, but to look at the actual road for fuel economy and emission reductions.

“We should expand the debate beyond making more efficient cars and trucks to making more efficient infrastructure. Stiffer pavements – such as pavements made from concrete – produce less rolling resistance and better fuel economy,” Scott said.

Researchers at the MIT Concrete Sustainability Hub recently found that how the road is constructed could have a

significant impact on the fuel economy of cars and trucks. Research models predict the use of stiffer pavements, for example, could reduce fuel use by as much as three percent, a savings that would add up to 273 million barrels of crude oil per year.

Florida International University tested MIT’s research models in real-world conditions with similar results. They studied vehicles traveling on I-95 and found that riding on rigid pavements consumes 3.2 percent less fuel than riding on flexible pavements for passenger vehicles and 4.5 percent less fuel for loaded tractor-trailers. If all Florida pavements were rigid, it could amount to an annual fuel savings of more than \$2 billion for highway users. 

**2014**  
Virginia Ready-Mixed Concrete Association

## SPRING CONVENTION

**May 18-20, 2014**

**The Greenbrier**  
White Sulphur Springs, West Virginia

  
[www.vrmca.com](http://www.vrmca.com)



## THANK YOU

VRMCA gratefully acknowledges the support of our 2014 Meeting & Convention Sponsors







PROVIDING HIGH QUALITY  
REFINED POZZOLAN  
TO THE MID-ATLANTIC REGION

MARKETING

MANUFACTURING

TRANSPORTATION

ENGINEERING



Available in bulk tanker deliveries, 2000-lb (0.9 Metric Ton) Bulker Bags, or easy to handle 50-lb (22.7kg) bags palletized on 2000 – 3000-lb skids.

For transportation/dispatch: Brannon McGiboney (301) 259-2179

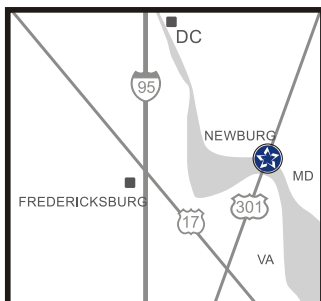
Let one of our Technical Sales Representatives show you how STAR® Refined Pozzolan can improve the quality of your concrete.

Hank Keiper, P.E. 804.380.8078

Tom Wahl, P.E. 540.525.9331

[www.sefagroup.com](http://www.sefagroup.com)

MORGANTOWN STAR®  
Newburg, MD



# NOT YOUR PARENTS' NLRB: Major Headaches On the Horizon for Employers

By John G. Kruchko  
and Kevin B. McCoy

By now, most companies large and small are familiar with the Equal Employment Opportunity Commission ("EEOC") and the state-agency equivalents that have dominated the employment law landscape for the last few decades. The rise in both number and prominence of employment discrimination, harassment, and retaliation claims have consumed the media attention and occupied a significant portion of employers' time and resources. The EEOC is certainly still aggressively rooting out employment discrimination where it finds it, but employers are now used to it. They have adapted. They have trained their managers; they have revised their handbooks; they have implemented anti-harassment procedures; and are used to responding to EEOC charges. In short, many employers are utilizing compliance techniques and are, if necessary, prepared to combat EEOC charges. However, one agency is quietly gaining renewed strength and is positioning itself to be the preeminent agency enforcing employee workplace rights: the National Labor Relations Board ("NLRB").

## Some Historical Perspective

The NLRB is not a new agency. With the passage of the 1935 Wagner Act were born the National Labor Relations Act ("NLRA") and the agency charged with enforcing that statute, the NLRB. The purpose behind the NLRA was to regulate the field of union-management relations and provide an agency to oversee and, where necessary, resolve disputes born out of the union-management relationship. For many decades the NLRB concentrated its efforts on unionized workforces and the relationships between companies, unions, and the employees that made up those unionized workforces. However, over the last few decades, union membership has declined precipitously. According to the Bureau of Labor Statistics, in 2013 only 11.3% of the workforce was union-



ized (counting both private and public employees). Only 6.7% of private sector employers had unionized workforces. Consider, by contrast, that in 1983, the total percentage of unionized workers in America stood in excess of 20% and you begin to understand why the NLRB's influence has waned.

None of these statistics are news to the NLRB; the agency has been combating declining union rolls for many years. However, about three or four years ago the agency underwent a philosophical reevaluation of its role in the unionization process and its role in workforce management, in general. What the agency came away from this process with was a two-pronged approach to (1) reinvigorate unionization; and (2) to provide new avenues of workplace governance for the NLRB. These efforts now have the NLRB on the cusp of reestablishing itself as a dominant enforcement presence for employee workplace rights.

## The NLRB Decides to Change the Rules of the Union Election Game

Workforces become unionized through secret ballot elections where employees can vote "yes" or "no" as to whether they want to be represented by a particular union. A simple majority vote either way wins the election. That election process is governed in large measure by internal NLRB rules and procedures. The election process for a

currently non-unionized workforce is started by an election petition filed by a union with the NLRB who is seeking to be the employees' exclusive bargaining representative. The period of time between the filing of the election petition and the date of the actual election has historically encompassed a myriad of procedural hoops and administrative challenges that both the union and employer may avail themselves of to resolve such issues as unfair influences on the election process, scope of the correct bargaining unit, identity of the unit members, etc. There is no hard and fast deadline by which every election must take place; but according to the NLRB's own statistics, the average representation election takes place 38 days following the filing of the election petition. During that 38-day period, employers are allowed to campaign (using lawful means) to try and convince their employees that they should vote "no" to unionization. That average 38-day period currently allows employers to win about 40% of the representation elections. The NLRB has deemed that winning percentage too high.

As a result, on February 5, 2014, the NLRB announced it was reissuing its "quickie election" rule, which the agency hopes will drastically alter the election process and spur increased unionization. The NLRB previously issued this rule in June 2011, and federal courts struck

down a version of this rule based on procedural grounds that had little to do with the substance of the rule. With those procedural issues now resolved, the NLRB is again focused on altering the election rules. Essentially, the proposed “quickie election” rule puts off until after the election several procedural issues that are currently resolved before the election takes place. By deferring some of these issues, the NLRB hopes to significantly shorten the window between the filing of an election petition and the actual election.

In fact, the NLRB anticipates the new rule will shorten the current 38-day window down to a 10 to 21-day window. By shortening that window, the NLRB is seeking to give employers less time to campaign against unionization and hopefully drive up the number of elections that are won by the union.

Employers are advised to stay abreast of the NLRB’s proposed election changes as they develop over the next several months and to consult experienced labor counsel before trying to manage a union organizing drive or election process on their own.

### The NLRB Delves Into the Non-Unionized Workforce


In addition to changing some of the current rules of the game, the NLRB is trying to spread its wings and delve into non-unionized workforces. Although traditionally viewed by business leaders as the federal law dealing with unions and collective bargaining, the text of the NLRA is quite broad and Section 7 of the Act gives all employees (regardless of their union status) the right to engage in “protected concerted” activity for the purpose of their “mutual aid or protection.” Over the last few years, the NLRB has begun using this broad phraseology

to try and regulate non-unionized workplaces—primarily by attacking employer policies and procedures. The NLRB’s underlying premise is, of course, that employer policies that interfere with or “chill” an employee’s communication rights under Section 7 is unlawful.

For example, the NLRB has recently attacked employer policies and individual agreements governing (a) social media, (b) confidentiality and non-disclosure, (c) non-disparagement of the company, (d) conduct and discipline policies, (e) employment at-will disclaimers, and (f) arbitration of employee claims. While the shortcomings in each policy will differ from employer to employer and from policy to policy, the basic problem that the NLRB is attacking is the language in these policies that run afoul of employees’ broad Section 7 rights to engage in protected concerted activity for their mutual aid and protection.

In short, the NLRB is using existing law to reimagine the scope of its enforcement rights under the NLRA. In the coming years, employers should expect to hear from the NLRB about employee complaints just as often, if not more often, than it currently hears from the EEOC. In the meantime, be proactive; have your labor counsel review your handbook and other workplace policies for compliance with the NLRB’s new initiatives.

### Conclusion

Issues surround union elections and the NLRB’s new attempts at governing non-unionized workforces are and will continue to be in a state of flux. Employers are advised to stay abreast of these new changes at the NLRB as they continue to develop and to consult experienced labor counsel if issues or questions arise with their own employees. 

Copyright 2014 Kruchko & Fries, PLC

John G. Kruchko is a Partner with the Labor & Employment Law Firm of FordHarrison, LLP in Tysons Corner, Virginia; Kevin B. McCoy is also a Partner with the Firm. For more information, please contact Mr. Kruchko or Mr. McCoy at (703) 734-0554 or by e-mail at jkruchko@fordharrison.com, or kmccoy@fordharrison.com. This article is published for general information purposes, and does not constitute legal advice.

## On the Horizon Calendar of Upcoming Events

**MARCH 1-3, 2014**

**NRMCA 2014  
Annual Convention**  
Las Vegas, NV

**MARCH 6-7, 2014**

**Annual Virginia  
Concrete Conference**  
Richmond, VA

**MARCH 11, 2014**

**HRCAC Business Meeting**  
11:30 AM - 1:00 PM  
Crazy Buffet and Grill  
Chesapeake, VA

**MARCH 13, 2014**

**NVCAC Business Meeting**  
11:30 AM - 2:00 PM  
Bull Run Country Club  
Haymarket, VA

**MARCH 18, 2014**

**CVCAC Business Meeting**  
11:30 AM - 1:00 PM  
Meadowbrook Country Club  
Richmond, VA

**MARCH 19, 2014**

**SWCAC Business Meeting**  
8:00 AM - 9:30 AM  
The Roanoker Restaurant  
Roanoke, VA

**APRIL 23, 2014**

**Technical Committee Meeting**  
The Place at Innsbrook  
Glen Allen, VA

**MAY 5, 2014**

**VRMCA Mixer Truck Rodeo**  
The Meadow Event Park  
Doswell, VA

**MAY 18-20, 2014**

**VRMCA Spring Convention**  
The Greenbrier Hotel  
White Sulphur Springs, WV

Please visit the online calendar  
for an up-to-date list of events.  
[www.VRMCA.com/calendar](http://www.VRMCA.com/calendar)



WHEN SO MUCH IS RIDING ON  
YOUR CHOICE OF CEMENT,  
MAKE THE **RIGHT** CHOICE

THE **RIGHT** PRODUCT & SERVICE  
IN THE **RIGHT** PLACE  
AT THE **RIGHT** TIME

*Roanoke Cement has supplied ready-mix producers and the construction industry with consistent, dependable, high quality cement for over 50 years.*

*A superior product, backed by excellent customer service, the latest technology, and reliable distribution shows our commitment to serve our customers.*

*When so much depends on your cement, choose Roanoke Cement. Call 800-782-7622 or 540-992-1501 today.*

*The Smart Road bridge, at 175 feet tall, is Virginia's tallest bridge. Approximately 9,647 cubic yards of high-strength concrete were used to construct the 2,000-foot long bridge.*

**ROANOKECEMENT**<sup>TM</sup>

A TITAN AMERICA BUSINESS