



Realistic Expectations for Colored Concrete

The acceptance and use of colored-decorative concrete is rapidly growing in both residential and commercial applications. Not only does colored-decorative concrete provide all the benefits of conventional concrete, it also can enhance the hardscape of a project. Along with this comes a higher expectation of what the finished project will look like. Unlike conventional grey concrete which is sold primarily based on strength and other quantifiable properties, colored-decorative concrete has the added dimension of being judged by aesthetics or appearance. This judgment can often be highly subjective. Therefore it is critical for all



parties involved to have a very clear understanding upfront of the "Realistic Expectations" for the project. Whether you are the consumer, specifier, supplier, or installer of the colored-decorative concrete it is critical to understand your role and the role of the other parties involved as well as to be aware of what is realistically achievable for the project.

Concrete is made from multiple materials all of which will have some degree of normal variations in their properties that can influence the final appearance of the finished product. Also, concrete is unique in that it is not a finished product when delivered to a project. The finished product is made on site and subjected to many variables, such as installation practices and weather, which can affect the finished product. Therefore the expectations for consistency in appearance cannot be the same as for a factory made product manufactured under controlled conditions.

There are certain aspects of colored-decorative concrete that must be understood to avoid developing unrealistic expectations. In the initial color selection it must be recognized that the color swatches in the brochures supplied by the pigment manufacture are more in line with a painted surface and are only intended to provide a general representation of the color hue that might be achieved in the finished product. So don't expect the finished product to look exactly like a painted color chip.

Many factors can impact the color of the finished product including, but not limited to: materials, water content of the concrete, finishing techniques and timing, surface texture, weather conditions, curing conditions, the method of curing, and length of time the concrete is cured.

The texture of the finished surface can drastically change the color simply by scattering the light differently or casting

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Richmond	August 9, 10, 11
Fredericksburg	August 30, 31, September 1
Warrenton	October 4, 5, 6
Bristol	October 25, 26, 27
Richmond	November 15, 16, 17
Harrisonburg	November 29, 30, December 1
Roanoke	December 6, 7, 8

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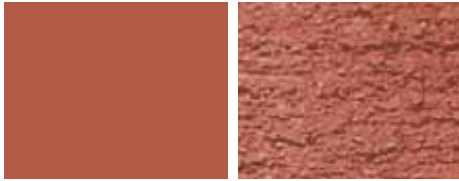
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Colored Concrete *continued from page 1*

shadows on the surface. In addition if some of the fine aggregate particles are exposed their color will contribute to the overall color of the finished product. An example of the influence of surface texture on color is shown by comparison of Exhibit A and B below. Exhibit A is an image of a standard painted color chip and Exhibit B is the exact same color but with a broomed surface.

**Exhibit A****Exhibit B**

Variation of moisture on the surface of the concrete during finishing is another common cause for variations in color. Water should never be added to the surface of the concrete, either directly or indirectly through the use of wet finishing tools. One of the more common causes of color variation is the use of wet finishing tools and wet brooms. Exhibit C is an image showing significant color variations caused by the use of a wet broom.

**Exhibit C**

The color and uniformity of color can also be highly affected by the method of curing used on the concrete. Colored-decorative concrete should only be cured by the application of a high quality, clear, non-yellowing curing compound specifically designed for use on colored concrete. Also, the curing compound must be applied evenly in strict accordance with the manufactures recommendations. It is important to remember that uneven curing equals uneven drying, which results in uneven color! Never use water or coverings (such as plastic or curing blankets) to cure colored-decorative concrete as this will discolor the surface of the concrete. To further enhance and protect the colored concrete a sealer should be applied at a later date.

Decorative walls are also becoming more common. However, decorative walls are not your normal wall. Depending on the design, they may require special forming materials or form liners. Standard plywood forms should be avoided. Higher grade, non-absorbent materials such as HDO boards should be considered. Special attention and thought should go into form seams and wall ties, including patching methods. All seams, including corners, should be sealed to prevent grout loss. Form release agents used must be approved for use with colored concrete. Thought should go into the timing of form removal to allow for consistent curing, both the time in the form and after stripping. Curing time can and will impact color. A smooth wall is the most difficult to produce with a consistent surface and should be avoided. Breaking the wall up with different textures is always a good idea.

For commercial projects or large residential jobs, it's recommended to do a mock placement for the owner to approve at least 30 days prior to actual construction. When doing mock placements, the mockup shall be placed using all of the construction techniques that will be used on the job. Placement shall be done with the same finishers, forming materials, sub-base, curing, sealing, jointing, etc. If joints are required on the job, then joints should be cut into the mockup. If repairs are a concern, then repair method should be demonstrated on the mock placement. This is especially critical for vertical surfaces.

Before any decorative project begins it should be mandatory for all parties involved to participate in a pre-concrete placement meeting. This is a critical time where all parties involved can review their role in the project, assure that the specification requirements are consistent with those needed for colored-decorative concrete, and that the project conditions will be conducive to a successful outcome. And finally and most importantly that all parties involved have arrived at and agreed upon Realistic Expectations. 🚚

Article courtesy of Sammy Davis, Engineering and Products Service Group, Grace Construction Products.

Construction Employment Stats

Construction employment increased in 149 out of 337 metropolitan areas between June 2010 and June 2011, declined in 141 and stayed level in 47, according to a new analysis of federal employment data released by the Associated General Contractors of America. Association officials noted that the local employment data posted slightly stronger gains largely because of growing private sector demand for construction.

"A lot of metro areas appear to be benefitting from growing demand from the private sector for new construction," said Ken Simonson, the association's chief economist. "Declining public sector demand is clearly taking a toll on just as many metro areas, however."

Dallas-Plano-Irving, Texas, again added more construction jobs (5,600 jobs) than any other metro area during the past year while Lake County-Kenosha County, IL-WI, added the highest percentage (2,600 jobs).

The largest job losses were in the Las Vegas-Paradise, NV area (-7,000 jobs); followed by Los Angeles-Long Beach-Glendale, CA (-5,400 jobs); New York City (-5,000 jobs); Riverside-San Bernardino-Ontario, CA (-3,900 jobs) and Philadelphia (-3,700 jobs). Redding, CA (-500 jobs) lost the highest percentage.

Association officials said they were concerned that the construction industry would continue to suffer more than other sectors from new efforts to cut federal spending. They cited recent measures enacted, or proposed, by Congress that would significantly cut investments in highway, clean water, federal building and flood control construction programs.

"Cutting construction budgets without addressing out of control entitlement spending is a lot like neglecting your leaky roof while you continue to dine out every night," said the association's chief executive officer Stephen E. Sandherr. "Congress may save some money in the short run, but fixing all that broken, neglected infrastructure is going to cost a lot more later than maintaining it now would." 🚚

Council Visits New Office of Charlottesville Architect

By Bob Nablo,
Director of Industry Services

The Gaines Group, a long-standing Charlottesville architectural firm, recently moved to spacious new offices and hosted an open house event in the new Luxor Business Park. Dozens of local architects and friends, including the VRMCA Blue Ridge Council, attended the event and enjoyed refreshments and fried chicken.

The Gaines Group, headed by Ray Gaines, calls itself a firm "that has a commitment to designing for the future". With two registered architects and several support personnel, the firm does not espouse any single architectural style, but has a long history in the promotion of green building and sustainable development. The group was awarded the 2008 Virginia Sustainable Building Network's Innovation Award, and has worked on the first LEED For Homes certified project in the Southwest U.S.,



Ray Gaines visits with guests.

and the first LEED For Homes high school student-built project in the U.S.

The Gaines Group also has a new office

in Harrisonburg serving the upper Shenandoah Valley. The firm was established in 1987. 🚚

Virginia Tech Transportation Institute Creates Online Resource for Commerical Drivers

Researchers at the Virginia Tech Transportation Institute's Center for Truck and Bus Safety recently launched the "Driving Healthy" resource network for commercial motor vehicle drivers. The www.drivinghealthy.org website, along with Facebook and Twitter access, is sponsored by the National Surface Transportation Safety Center for Excellence in accordance with their mission to disseminate advanced transportation safety technologies,

Truck driver health affects the safety of the entire transportation system, and has become a focus of the Federal Motor Carrier Safety Administration's current monitoring system, CSA 2010. Commercial truckers have a near-epidemic level of lifestyle-related health issues, with obesity and sleep apnea at the top of the list.

Since drivers' health is related to their on-road safety, the "Driving Healthy" program provides practical and free health information and best practices to help ensure drivers will be able to pass their CDL Medical Screening. For example, a website link explains that drivers being prescribed Provigil to address sleep apnea (a disorder that can cause drivers to fall asleep at the wheel and increases their risk of being involved in a crash) should not be qualified to operate a commercial vehicle until they have been monitored closely by their physician for at least 6 weeks while using this prescription medication, and then must be re-certified annually as long as they continue to use this medication.

Although weight-issues and apneas are highly manageable with lifestyle changes, CMV drivers face challenges while on the road that make maintaining a healthy lifestyle difficult. They often have limited access to healthy dining options, exercise opportunities and typical support networks.

To date, much of the available healthy lifestyle information is either not practical for truckers or requires a fee-based membership to view. Research indicates an increasing number of truckers are interested in leading healthier lives in addition to new CMV driver regulations making driver health an important component.

The Driving Healthy resource network provides practical and accessible tools needed to adopt and maintain a healthy lifestyle, including a collection of online health resources, daily health and wellness tips and forums for discussing health and wellness issues with other drivers.

By improving drivers' health, the Driving Healthy collection of resources seeks to improve not only truck drivers' health and safety, but also the safety of all drivers on the roadway. 🚚

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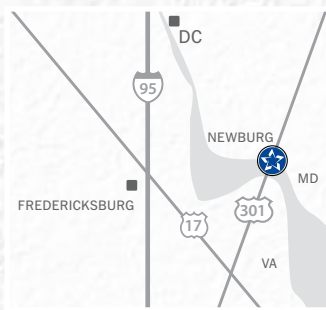
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Pervious Concrete: Applications, Testing and Measurement Topic of Special Advisory Council Meeting

By J. Keith Beazley,
Director of Industry Services

Pervious Concrete was the topic of a special program of the Central Virginia Concrete Advisory Council in July. Will Rafferty, Technical Services Manager, Swope and Associates, presented the program which included a short history of Pervious Concrete, usage, best management practices, sustainability, strength, mix designs, freeze thaw resistance. Will also presented an overview of present testing methods and changes to the methods by ACI and ASTM and the quality controls in place for Pervious Concrete.

Will Rafferty has been involved in the Ready Mixed Concrete Industry for over thirty years. Will has been with Swope and Associates since 2007. Previously, he served as Technical Services manager for ESSROC in Martinsburg/Frederick and also with Florida Rock Industries in Tampa. He is currently Vice-President of the Maryland ACI Chapter and is active in train-



ing for ACI Field Testing Grade 1, Concrete Flatwork Technician and the NRMCA Pervious Contractor Certification.

Will Rafferty's program was successful in explaining why some of the old methods of testing were not reliable and why the new methods better enable the concrete producer and contractor to control

the quality and condition of the concrete delivered. Will explained the sources available and the dates the testing methods would be in force for testing laboratories to certify the concrete. Will has made his presentation available and the information will be very helpful in the production and testing and measurement of Pervious Concrete.

Pervious Concrete is becoming the product being considered as a storm water management tool for Virginia's Tidewater area and compliance with the regulations of the EPA and the Chesapeake Bay ACT. The interest in sustainability and environmental benefits have created Pervious Concrete the pavement of choice and the new testing methods and measurement are needed for quality control to protect the ready mixed producer, engineer, and contractor as the demand continues to grow.

The production of quality concrete is a goal of the Central Virginia Concrete Advisory Council. 🚚

VRMCA Meets with VDOT Salem District

Several members of the VRMCA Advisory Council and the Southwest Virginia Council met with officials of the Salem District Land Development Office to discuss the ongoing VRMCA promotion of Streets and Local Roads. The meeting had several purposes, including making sure that VDOT personnel are aware of the policy allowing the submission of concrete street proposals, and to discuss the procedure followed by developers when they design streets that will ultimately be accepted into the VDOT system.

VRMCA President Larry Bullock, Board member Bob Sells, SW Council Committee Chairman Robert Marek and Bob Nablo attended the meeting and were welcomed by Land Use Director Anne Booker and Land Development Engineer Brian Blevins. The meeting also gave VRMCA members a chance to get to know VDOT officials we have not worked with previously.

Bob Sells took the opportunity to emphasize the importance of the SLR promotion to ready-mix association members, and he also made sure they were aware of the recent VDOT memo discussing the requirement that concrete paving proposals

receive the same attention as other paving materials. Larry Bullock asked several questions concerning the submission procedure and the roles played by developers, consultants, the VDOT Materials Division, and local municipalities. It was learned that in quite a few cases local cities and counties play major roles in the acceptance system. The new StreetPave design software was also discussed, and Sells noted that we expect—and insist on—equal opportunity concerning alternate design and alternate bid processes. Brian Blevins made the point that the Salem Land Use office has no problem accepting concrete paving proposals that follow VDOT paving specifications and meet acceptance criteria.

Each of the nine VDOT Districts has at least one Land Use Office, and most have several offices spread throughout the district. Because the majority of new streets and roads designed to serve residential and commercial developments will be submitted by private developers and their consultants to these offices, the directors and engineers are people we need to know. 🚚

4th Annual Building Green with Concrete Workshop: An Event to Remember

**By Hessam Nabavi,
Director of Industry Services**

"One of the best and most informative events I have attended in the most recent years. Thank you," said Ken Ellis, P.E., Director of Engineering, William Gordon and Associates. We have received many comments like this about this year's workshop. Phrases like, "it was timely", "outstanding", "speakers were superb", "good information", "food was good", etc., have been repeatedly mentioned.

NVCAC hosted its 4th Annual Building Green with Concrete Workshop at the office of Wetland Studies and Solutions Inc. (WSSI) in Gainesville on July 13th. According to our guests, this year's workshop topped our previous workshops and events. It offered them a unique opportunity to receive some of the most up to date information about concrete, its sustainable benefits and the green value that brings to the project from some of the most experienced and knowledgeable individuals in the design and construction field. Over one hundred architects, engineers, county officials, testing labs personnel, USEPA representatives, developers, builders, contractors, ready-mixed producers and suppliers were in attendance.

The workshop covered the following:

- Sustainable Development Utilizing Concrete Technology (Dr. Heather J. Brown)
- Role of ICF in Designing the 1st Net-Zero Energy Public School (Kenny Stanfield, AIA, LEED A.P.)
- Report on St. Anne's Belfield Learning Village, New ICF School. Charlottesville, VA, (Ren Angle)
- Designing Roads & Pervious Pavements at the Local Level (Dr. Heather J. Brown)
- Principles of Pervious Concrete Testing (Charles R. Mitchell, P.E.)
- Panel Discussion with the Speakers, Q & A (speakers)

Speakers for this event included; Dr. Heather J. Brown, Director and Associate Professor with the Concrete Industry Management Program at Middle Ten-



nessee State University; Architect, Kenny Stanfield, AIA, LEED AP, Principal at Sherman Carter Barnhart Architects; Ren Angle, ICF Consultant; Charles R. Mitchell, P.E., Principal with Specialized Engineering. The moderator for the panel discussion and Q & A was Philip Kresge, the Senior Director of National Resources for National Ready Mixed Concrete Association. For the speakers' bios, please check www.vrmca.com. VRMCA / NVCAC appreciates their contribution to the success of this event.

Special thanks to Mr. Michael Rolband, president of WSSI for allowing NVCAC to use WSSI's beautiful facilities. We in NVCAC greatly appreciate his friendship and partnership in promoting the concrete industry.

We would also like to thank our sponsoring companies and their staff for their participation and assistance in NVCAC's promotional effort. The success of this workshop was made possible by the contribution of the following companies; BASF, Essroc, Fibermesh, Grace, Holcim, Lafarge North America, Lehigh Cement, Luck Stone, North Star Foundations, Roanoke Cement, Separation Technologies, LLC., Vulcan Materials, VRMCA / NVCAC, Wetland Studies and Solutions Inc., and Z.Con, Inc., (Concrete specialist).

Sponsors were recognized through a banner display, program handouts, and VRMCA website. Sponsoring companies' representatives were also able to display

their concrete related brochures and had the opportunity to network with the participants.

"After attending your workshop I am sold on the value that concrete offers to sustainable design. Speakers were great and they delivered the message very clearly. I learned a lot about ICF and its role in Net-Zero Energy School in Kentucky from Mr. Stanfield. Thank you." Tim Huggler, P.E. with Loudoun County Public Schools

John D. Gordon, AIA, LEED AP, had this to say, "the topics were timely, great networking opportunities, overall one of the best workshops I have attended. I learned a lot. Thanks."

Finally a very special thank you to the following members for their effort during the event: Art Nettle (Lafarge North America), Brian Dulaney (Separation Technologies), Brian DeChirico (BASF), Bill McNamara (Essroc), David Accot (Titan Virginia), Dave Snider (Vulcan Materials), James Murray (Rowe Materials), Jim Progar (Titan Virginia), Joel Woerl (Titan Virginia), Kevin Terry (Vulcan Materials), Lewis Lee (Luck Stone), Matt Cockerham (North Star Foundations), Marc Granahan (Lehigh Cement), Tom (Zeke) Zinchiak (Z.Con Inc.), Tony Thompson (Vulcan Materials), Zack Swanson (Grace).

All the presentations are available online in PDF format. To view them, visit: <http://www.vrmca.com/regions/default.aspx?region=4>. 🚚

Cement Sector Regulatory Relief Act of 2011 Provides Opportunity for Thoughtful, Appropriate Regulations

Rep. John Sullivan (R-OK) and Rep. Mike Ross (D-AR), along with a bipartisan group of their colleagues, have introduced the "Cement Sector Regulatory Relief Act of 2011" (H.R. 2681). This legislation requires the U.S. Environmental Protection Agency (EPA) to re-propose three recent environmental rules directed at the portland cement industry.

Although domestic cement manufacturers are among the most highly regulated enterprises in the country, they recently faced an avalanche of new regulations. The bill addresses the National Emission Standards for Hazardous Air Pollutants (NESHAP) rule for the portland cement industry, the commercial and industrial solid waste incinerator rule and its change in the definition of "solid waste," and the new source performance standards rule.

"The bill introduced yesterday by Reps. Sullivan and Ross will allow the industry to continue its dialogue with the EPA with the goal of crafting rational and feasible emission standards," Brian McCarthy, president and CEO of the Portland Cement Association (PCA) said. "We are not shying away from environmental regulations. We take our environmental stewardship seriously and have a long history of investing in continuous improvements that preserve U.S. manufacturing capacity and the economy."

Reflecting the Congress' widespread concern regarding job loss, in addition to Reps. Sullivan and Ross, H.R. 2681 was co-sponsored by Reps. Jason Altmire (D-PA), Joe Barton (R-TX), Dan Boren (D-OK), John Carter (R-TX), Charlie Dent

(R-PA), Adam Kinzinger (R-IL), Bob Latta (R-OH) and Greg Walden (R-OR).

A recent study found that one of these regulations alone – NESHAP - will force the closure of approximately 18 of the United States' nearly 100 cement manufacturing plants. The production volume lost by these closures will require cement to be sourced from other countries, thereby exporting U.S. jobs and importing cement from countries with emissions standards much weaker than those already in place in the U.S. In addition to further downsizing domestic payrolls and manufacturing capacity, the rule will cost \$3.4 billion during a three-year period for an industry that currently generates barely more than \$6.5 billion in annual revenue.

According to McCarthy, the plant closures will hit areas that can least afford an economic downturn. Cement plants are often located in rural areas where the plant is the tax base of the community. Not only does the community lose jobs, but also a strong contributor of tax revenue and supporter of local schools, charities and activities is abolished when a cement plant closes.

"This legislation is consistent with the President's recent executive order for reasonable regulations. PCA views this legislation as an acknowledgement that members of Congress can work with the Administration in a bi-partisan manner to craft policies that balance environmental protection and economic growth. I commend Congress for the introduction of bipartisan legislation," concluded McCarthy. 🚚

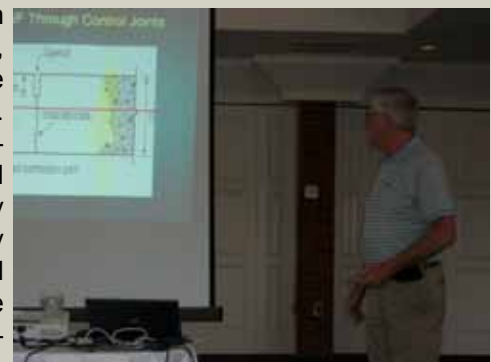
Residential Concrete Construction Guide Presented to Hampton Roads Council

By J. Keith Beazley, Director of Industry Services

The Hampton Roads Concrete Advisory Council held a special program of Residential Construction by Bob Neal, P.E., Technical Services Engineer, Lehigh Cement. Bob is a member of the VRMCA Technical Committee and is the administrator of Technical Bulletins published by the committee.

The Residential Concrete Construction Guide was published to address pertinent materials and construction issues related to residential construction. The recommendations are based on both code and industry standards. The guide addresses sub-grade preparation, concrete quality and recommended strengths, air entrainment, slump, jointing, placing and finishing, and curing. The Guide is recommended for ready mixed concrete producer to ship the proper concrete type for each special project in residential construction. The Guide follows recommended requirements by the Portland Cement Association, American Concrete Institute, and the International Building Code.

The Quick Reference Guide for Residential Construction is posted online at www.vrmca.com. A copy should be part of information for anyone involved with the ordering of concrete of residential usage to reference when placing or shipping an order of concrete for housing. The shipping of the correct type and strength of concrete is very important for compliance to building code requirements. Bob Neal, Lehigh Cement, is presenting this information on the Building Code requirements to the VRMCA membership and is emphasizing the importance of proper concrete for the different steps residential construction. 🚚



New Study Addresses Issues Facing Virginia's Secondary Roads

On June 29th, Secretary of Transportation Sean T. Connaughton announced the publication of a new study titled Policy Options for Secondary Road Construction and Management in the Commonwealth of Virginia. The study, authored by Dr. Jonathan L. Gifford, a professor at the George Mason University School of Public Policy, discusses historical aspects of Virginia's secondary roads policy, the current issues facing secondary roads in Virginia and potential policy options for the Commonwealth's secondary roads.

"The Commonwealth of Virginia is one of only four states in the nation that maintains responsibility for the vast majority of its secondary roads," said Secretary Connaughton. "Virginia's nearly 98,000 miles of secondary roads are vital to the Commonwealth's economic prosperity and our citizens' quality of life. This study looks at every option to adequately address future secondary road system needs."

The study identifies 10 findings related to the secondary roads program:

- The secondary road system as currently configured is not an appropriate administrative apparatus for maintenance and operations of the roads it contains;
- The condition of the secondary system is deteriorating;
- In recent years the VDOT secondary construction program has provided minimal funding support for constructing new roads in the secondary system;
- The current budget allocation process for maintenance funds gives relatively low priority to the secondary system;
- The current "devolution mechanisms" for construction and maintenance are not attracting county participation;
- County officials generally agree that state payments will not cover all the costs of a local road program for maintaining secondary roads;
- Many counties have limited capacity to assume secondary maintenance responsibilities;
- Local control over local roads and streets affords significant opportunity to integrate decision making over transportation and land use and improve development outcomes;
- Local option transportation taxes have been used throughout the U.S. to generate revenue for local road construction and maintenance programs; and
- Current secondary road acceptance procedures have and may continue to add roads to the secondary system in ways that exacerbate the maintenance budget shortfall.

Secretary Connaughton continued, "Our secondary road program is facing an enormous array of challenges. VDOT's current resources are sufficient to do a few missions well or many missions inadequately. This report provides an excellent overview of the choices ahead."

Several policy options are discussed in the report, including:

- Maintaining the current policy on construction and maintenance devolution;
- Maintaining the current policy with enhanced budgetary priority for secondary road construction and maintenance;
- Restructuring the secondary road system;
- Performance-based maintenance contracting on the secondary system;
- Empowering counties to raise revenues;
- Imposing devolution on all counties; and
- Imposing devolution on select urban counties.

"The Commonwealth of Virginia is currently in a unique position," said Dr. Gifford. "While decreases in available funding and statutorily mandated prioritizations have led to deteriorating secondary roads, Virginia has a number of viable options to consider in solving these challenges."

A link to the study is provided here:

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1865957. 

On the Horizon Calendar of Upcoming Events

AUGUST 9, 2011

HRCAC Business Meeting
with special guest Bob Long, ACPA
11:30 AM - 1:00 PM
Surf Rider Restaurant
Cypress Point Shopping Center
Virginia Beach, VA

AUGUST 9-11, 2011

ACI Concrete Field Testing Seminar and Examination*
Virginia Society of Certified Public Accountants
4309 Cox Road
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*PRE-REGISTRATION REQUIRED

AUGUST 10, 2011

BRCAC Business Meeting
12 NOON - 1:30 PM
Rowe's Family Restaurant
74 Rowe Road
Staunton, VA

AUGUST 11, 2011

NVCAC Business Meeting
7:30 AM - 10:00 AM
Manassas, VA

AUGUST 16, 2011

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

AUGUST 17, 2011

SWCAC Business Meeting
8:00 AM - 9:30 AM
Rowe's Family Restaurant
74 Rowe Road
Staunton, VA

AUGUST 30-SEPT. 1, 2011

ACI Concrete Field Testing Seminar and Examination*
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Having your employment counsel perform regular reviews of your Employee Handbook is an easy, cost effective way to correct out-of-date or unlawful policies.

In addition, many companies want to create a rigid, defined procedure for reporting harassing behavior. The legal reality is that no specific form of complaint is required and, further, an employer cannot through a handbook policy restrict the avenues by which an employee can lodge an internal complaint. Therefore, requiring written complaints to certain, limited individuals provides absolutely no legal defense for the company should a lawsuit ever develop. Instead, craft a policy that allows an aggrieved employee the flexibility to complain internally in a manner and to an individual with whom they feel comfortable. Employees are often reluctant to complain at all due to feelings of embarrassment, reprisal, or job security. Crafting a “one size fits all” procedure for harassment complaints simply ignores the reality that people are different and a complaint about unlawful harassment should be treated seriously by the company, regardless of the form in which it is brought to the company’s attention.

You Must Have an Electronic Communications Policy

Unless you are running a farmer’s market, chances are excellent that you have one or more employees who use a computer as part of their daily activities. It is also likely that you have one or more employees who are using e-mail and accessing the internet – either as part of their job, or in spite of their job. Rest assured, if your company has employees who utilize computers with internet access at work, they are accessing the internet. Often overlooked are PDA’s and cell phones, and their ability to now access growing segments of the internet, send e-mails and text messages, or perform video conferencing. As a result, it is now imperative that companies have an Electronic Communications policy.

However, it is not simply enough to have a policy that categorically restricts all “personal use” of the internet. Such policies are commonly being viewed by Courts and by the National Labor Relations Board (“NLRB”) as wildly overbroad and unrealistic in today’s world. In fact, the NLRB has found that such blanket internet restrictions might be a violation of all employees’ Section 7 rights to collectively bargain or to discuss the terms and conditions of their workplace.

Moreover, many companies fail to realize that the company owns the computers (sometimes the cell phones) and the communications that come from that hardware. Thus, it is important that any policy appropriately advise the employees that they do not have any expectation of privacy in the internet sites they access or the information they share with others whether over the internet, via e-mail, or using their PDA.


Suffice it to say, the law of electronic communications is rapidly changing, and your policy should reflect the realities of the world we live in, while still advising employees of their obligations to complete their jobs in an effective and timely manner without abusing the privilege of having access to new avenues of electronic communication.

Controlling Overtime Begins with Your Handbook

Uncontrolled overtime can create financial hardship for any company. Yet, we are continually surprised at how many companies fail to address the issue in their Employee Handbooks.

Overtime compensation is driven (largely) by the federal Fair Labor Standards Act, which obligates companies to pay employees “time and ½” for all hours worked in excess of forty (40) hours per work week. First, you should create a handbook policy on overtime that defines the term “work week.” If the company does not define it, the employee is free to define it to their advantage, which may potentially increase overtime liability. Second, the policy should caution employees that they may not work overtime without prior authorization from their supervisor. While an employer may not refuse to pay an employee for overtime hours actually worked, an employer is free to discipline an employee (even up to and including termination) who works overtime without the proper authorization, as set out in the Employee Handbook.

Revise Your Handbook Regularly

An Employee Handbook is not something you may simply create once and forget about. It should change as your organization changes and as existing laws change that govern the employment relationship. Labor and Employment law is and will continue to be a volatile subject area and crafting policies that you never again review is a recipe for disaster. The best practice is to calendar a “handbook review” for once every two (2) years (unless there is a significant change in the law that requires action sooner). Having your employment counsel perform regular reviews of your Employee Handbook is an easy, cost effective way to correct out-of-date or unlawful policies, and it can help your company avoid potential defense costs down the road. 

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