



Low Impact Development Practices, Design, Evaluation Conducted at the Science Museum of Virginia

By J. Keith Beazley,
Director of Industry Services

The Virginia Science Museum of Virginia is leading a project to design and evaluate low impact development practices. The intent of this project is to retrofit portions of the Science Museum site in Richmond to achieve a more natural hydrology consistent with the goals of Low Impact Development practice. Virginia Tech is assisting the Science Museum in design, monitoring, and extension and outreach activities in support of the project: Urban Retrofitting Demonstration, Monitoring, Training, and Certification.

The project is being funded by the National Fish and Wildlife Foundation. The Museum's project partners include Virginia Tech and the Alliance for the Chesapeake Bay, the City of Richmond, Virginia Commonwealth University, Virginia Department of Conservation and Recreation, Virginia Networked Education of Municipal Officials, University of New Hampshire Stormwater Center, and the National Oceanographic and Atmosphere Administration. The projects will result in the retrofit of a highly visible facility with the low impact development stormwater management practices and assess their effectiveness through monitoring, and develop a training system that showcases the stormwater management practices.



The projects to be designed and studied include:

- Bioretention devices within the parking area of the Science museum.
- Tree planters along entrance and a water quality swale.
- Pervious Concrete Pavement/Infiltration system in the entrance drive.
- Green Roof over a portion of the Science Museum.
- Rainwater Harvesting System and Irrigation System fed by Rainwater Harvesting.

continued on page 3

in the mix ...

Sam Kirby Named Recipient of Engineering Achievement Award	3
Roanoke Cement Continues Sponsorship of Sustainability Seminars.....	3
NVCAC 2012 Pervious Concrete Contractors Technician Certification.....	4
Virginia Chapter of ACI Names 2011 Excellence in Concrete Awards.....	6
Asphalt Cost Excalator Provisions Tax State Transportation Budget.....	8
Hampton Roads Council Announces Dates for Spring Golf Tournament.....	8
Concrete Testing Lab Forum and Round Robin Held by CVCAC.....	9
F&R President Presents Geotechnical Program to HRCAC	9
Time to Reassess Your Disability Policies....	10
Calendar of Upcoming Events	10

Visit us online
www.VRMCA.com

2012 VRMCA Officers & Directors

PRESIDENT

Larry Bullock
Boxley Materials Company

VICE PRESIDENT

Robert B. Chandler
Chandler Concrete of Virginia Inc.

SECRETARY/TREASURER

Jay McNeely
Eagle Corporation

EXECUTIVE DIRECTOR

Douglas Easter
Easter Associates, Inc.

PAST PRESIDENT

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

DIRECTORS

Terence Crispell
Lehigh Cement Company

D. Hill Felton, Jr.
Felton Brothers Transit Mix, Inc.

Mel Howard
DuBrook Concrete Inc.

Tyler Johnson
Rappahannock Concrete Corp.

Robert O'Brian Jr.
Lynchburg Ready-Mix

Stephen Render
Virginia Concrete Company

Robert Sells
Titan Virginia Ready-Mix LLC

Jim Simons
Capital Concrete Inc.

Genevieve Switzer
T&W Block Inc.

Robert Swope
Swope & Associates Inc.

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:

Roanoke	April 3, 4, 5 FULL
Hampton	April 17, 18, 19 FULL
Warrenton	May 1, 2, 3 FULL
Bristol	June 5, 6, 7
Richmond	June 12, 13, 14 FULL
Harrisonburg	June 26, 27, 28
Hampton	July 17, 18, 19
Roanoke	July 31, August 1, 2
Richmond	August 7, 8, 9
Fredericksburg	August 28, 29, 30

Questions? Contact Christina Sandridge at 434/326-9815
or email christina.sandridge@easterassociates.com.

2012 VRMCA Advisory Council Regionals

Larry Bullock
VRMCA Advisory Council Chairman
Boxley Materials Company
Roanoke, VA
Phone: 540/777-7600
lbullock@boxley.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: 540/820-5563
sboshart@superiorconcreteinc.com

HAMPTON ROADS

Joe Bradshaw
Chairman
Commercial Ready Mixed Products
Suffolk, VA
Phone: 757/925-3368
joecrmp1@hotmail.com

LEE FLEMING

Secretary/Treasurer
Lafarge North America
Chesapeake, VA
Phone: 757/647-9409
lee.flemming@lafarge-na.com

NORTHERN VIRGINIA

Jeff Slagle
Chairman
Rowe Materials
Fredericksburg, VA
Phone: 540/809-1999
jslagle@rowematerials.com

ZACK SWANSON

Secretary/Treasurer
Grace
Elkridge, MD
Phone: 410/794-6973
zack.swanson@grace.com

RICHMOND/CENTRAL VIRGINIA

Steve Kerr
Sales Representative
GreenRock Concrete
Quinton, VA
Phone: 804/966-8601
skerr@greenrock.net

ANDREW OWENS

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

SOUTHWEST


Robert O'Brian Jr.
Chairman
Lynchburg Ready Mix Concrete
Lynchburg, VA
Phone: 434/846-6563
rmobrian@gmail.com

GEORGE KUHN

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

Museum *continued from page 1***VRMCA will conduct a series of educational seminars in the Museum during the two year study.**

Construction should be completed in the summer of 2012 and a combined team of the project partners will evaluate the performance of the Low Impact Development performance. Virginia Tech will be providing a weather station at the SMV for a period of approximately two years in order to collect data and provide it to the project partners and potential exhibits.

Pervious Concrete has been placed in the parking lot of the Science Museum over a special base material of Solite Aggregate. The pervious concrete was furnished by Powhatan Ready Mix Concrete and the Concrete Contractor was NRMCA Certified Master Craftsman Richard Hite of Williamsburg. VRMCA will conduct a series of educational seminars in the Museum during the two year study. This project will greatly increase the awareness of Pervious Concrete and benefits of usage. 

Sam Kirby Named Recipient of Engineering Achievement Award


F&R is proud to announce that President Samuel H. Kirby, Jr., PE was named the recipient of the first Richmond Joint Engineers' Council (RJEC) Career Achievement Award.

Mr. Kirby was honored for his significant contributions and dedication to the engineering profession in the Richmond area over the course of his 40+ year career. The career highlights which were considered by the RJEC board during their deliberations included:

- Mr. Kirby has served as president of F&R since 1989.
- He held several positions with the American Council of Engineering Companies, Virginia, including president.
- Mr. Kirby held several leadership roles with the American Council of Independent Laboratories and the Construction Specifications Institute.
- He is active in the Virginia Chamber of Commerce.

After reviewing these and other qualifications, the board of the RJEC unanimously agreed that Mr. Kirby was well deserving of this unique recognition.




RJEC is an all-volunteer coalition of engineering, scientific and technical societies in the Richmond/ Petersburg Metropolitan Areas of Virginia. The Council's mission is to promote engineering education, and provide a vehicle to disseminate knowledge and information relating the art and science of engineering to its member societies and the general public. 

Roanoke Cement Continues Sponsorship of Sustainability Seminars

Roanoke architect Steve Sunderman recently offered another presentation in his series of "Paving The Way To The Triple Bottom Line" seminars sponsored by Roanoke Cement. Sunderman has given this seminar to several architectural and engineering groups, and this time presented to the Southwest Virginia Chapter of the USGBC in Roanoke. Chandler Concrete generously offered their facilities for the presentation, and also provided refreshments and sandwiches.

Sunderman discusses how various paving materials impact sustainability and the bottom line. He compares concrete to asphalt and various other composite paving materials as to initial cost, life-cycle savings, global warming potential, durability, embodied energy pollutants, fuel economy, storm water management, natural resource conservation, public safety, urban heat island effects, noise pollution and other comparisons.

He points out that for many years the "default" paving material has been asphalt, mostly due to cheap and abundant oil, but with today's poor economy, over-dependence on foreign oil, escalating oil and fuel prices, rising greenhouse gas emissions, aging transportation infrastructure, increasing traffic counts and our realization that we need a more sustainable future, it is time to reevaluate our priorities to achieve the "triple bottom line" of prosperity (saving money), social equity (improving people's lives) and a sustainable environment (natural resource stewardship).

Sunderman, and Roanoke Cement, are willing and eager to present this seminar to any interested audience. If you are interested, or know an interested group, please contact Robert Marek of Roanoke Cement. 

NVCAC 2012 Pervious Concrete Contractors Technician Certification Course & Training

By Hessam Nabavi,
Director of Industry Services

NVCAC and VRMCA organized a NRMCA Pervious Concrete Contractors Technician Certification Course and Hands-On Training in March. More than 20 county engineers/inspectors and contractors were in attendance.


Interest in learning more about pervious concrete has grown among counties in Northern Virginia. This has been a direct result of the requirements by the state to provide sustainable design/LEED on all newly designed public projects.

Several projects in Loudoun County are a direct result of this requirement, they include: public schools, the Administration Building, the Respite Center, the Youth Shelter and the upcoming High School 7.

Our hope is that by offering hands-on training, we will inspire students to participate in the certification process and to move on to the next level as an NRMCA Pervious Concrete Installer. Installer is the second level of NRMCA certification which requires experience in placing pervious concrete.

This course was a self-study course which included a review session by William Rafferty from Swope & Associates, Inc. in the morning. The written exam was overseen by Lars Hill, P.E. from Rummel, Klepper & Kahl Engineers in the afternoon and was followed by a hands-on training performed by Pervious Concrete Craftsman, Matt Cockerham from North Star Foundations.

We would like to thank all of our patrons for the success of this training: William Rafferty, Swope & Associates, Inc.; Lars Hill, P.E., RK&K Engineers; Matt Cockerham, North Star Foundations; Tony Thompson, Vulcan Materials; Lewis Lee, Luck Stone Corp. and Merle Goolsby, Luck Stone Corp.

For detailed information about the levels of Pervious Concrete Certification, visit <http://www.nrmca.org/certifications/pervious/index.asp>. 



THE FUTURE OF FLY ASH IS HERE.

INTRODUCING STAR[®] REFINED POZZOLAN

SEFA's proprietary thermal beneficiation process—STAR[®] (Staged Turbulent Air Reactor)—optimizes the quality of fly ash. What does that mean for you? A refined pozzolan product that not only looks better, but also performs better.

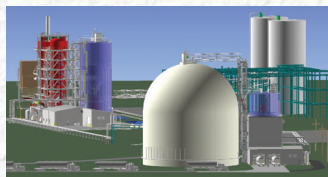
Let one of our Technical Sales Representatives show you how STAR[®] Refined Pozzolan can improve the quality of your concrete.

Hank Keiper, P.E. 804.380.8078

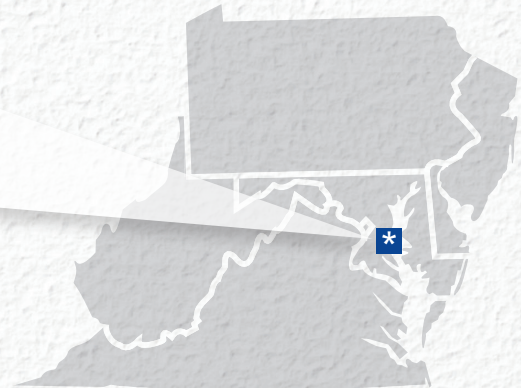
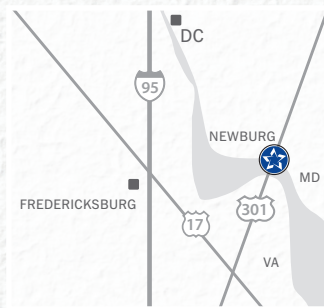
Tom Wahl, P.E. 540.525.9331



Revolutionizing the industry with breakthrough performance.



Morgantown STAR[®]
Newburg, Maryland
opening early 2012



217 Cedar Road
Lexington, South Carolina 29073
Toll Free 1 888.339.7332
SEFAGroup.com

Virginia Chapter of ACI Names 2011 Excellence in Concrete Awards



In the Residential category the award winner was the Mr. And Mrs. Ashok Patel residence along the James River in Goochland County

By Hank Keiper, The SEFA Group

Each year the Virginia Chapter of the American Concrete Institute names winners of their Excellence In Concrete Awards in several categories: Residential, Commercial, Infrastructure and Innovation. There is also a Commonwealth Award for the best overall project. This year the winners were named, and plaques presented, at the annual Virginia Concrete Conference.

ACI Awards Chairman Hank Keiper of The SEFA Group reminded attendees that nominees must be essentially or substantially completed in the award year, must be located in the Commonwealth, and must have concrete as a substantial part of the construction.

In the Residential category the award winner was the Mr. And Mrs. Ashok Patel residence along the James River in Goochland County. One of the key objectives for the homeowners was high performance energy efficiency. To achieve this goal the 16,000 sq. ft. home combines the insulation and mass of EcoBlock Insulating Concrete Forms with a geothermal ground source heat pump and a vertical loop. Above the concrete walls



The US Customs and Border Protection Canine Center in Front Royal won the Innovation category.

the stud and rafter cavities are filled with Icynene insulation, completing a tightly sealed building envelope. The project used 649 cu. yds. of concrete. Jim Dunkum of Dunkum, Inc. and Glenn Webb of S. B. Cox Ready Mix accepted the award.

The Commercial category winner was the new headquarters and production facility of Wellness Concepts, LLC in Grottoes. Wellness Concepts is a pharmaceutical packaging and distribution company owned by Dan and Cathie Atwell. Several years ago builder Glen



Infrastructure winner Launch Pad Zero Alpha located at the Mid-Atlantic Regional Spaceport on Wallops Island (left) and Commercial category winner Wellness Concepts new facility in Grottoes (right).

All of these projects illuminate the vision, entrepreneurial spirit and cooperation between government and private organizations in the Commonwealth of Virginia.

Stolfus constructed a new home for the Atwells using ICF, and the Atwells were so impressed with the low utility bills and general quality of their home that they insisted the new 19,000 sq. ft. commercial building be built the same way. The Atwells report that the current utility bills are the same as they were for their former offices..., which was one-third the size. A new solar heating system is being completed, which will lower the bills even more. The walls are PolySteel ICF, with the second floor deck being 12 inches of insulated concrete and the third floor 10 inches of insulated concrete decking. There is also a 16,000 sq. ft. concrete parking area, and rainwater is collected from roof and parking runoff to flush toilets. The project used 1,050 cu. yds. of concrete and has been submitted as a LEED Platinum Award candidate. Owner Cathie Atwell, Glen Stolfus and Darren Birky of Stolfus Builders and Keith Wilt and Scott Boshart of Superior Concrete accepted the award.

The US Customs and Border Protection Canine Center in Front Royal won the Innovation category. Prior to the Canine Center relocating to the facility in 1974, the location had been a beef cattle research center and a US Cavalry station. Many of the original structures

have been preserved and renovated as classrooms and kennels over the years, and the specifications required that the new walkway, stoop, stairs and low wall exactly match the shape, color and texture of the historic stone columns and building façade. The monolithic concrete wall had to appear as separate stones and cap as if it were built 100 years ago, and this was executed using integrally colored stamped concrete and a custom, hand-applied stain. Ozark Concrete completed the work using an Ashlar slate pattern with concrete by Vulcan Materials and a cocoa liquid color from Grace. Each "stone" was individually highlighted by hand and the concrete was sealed with a solvent-based acrylic sealer. Because of the effort to preserve an historic site, and because of the vision and craftsmanship, ACI presented the Innovation Award to Coy Holt of Ozark Concrete and Tony Thompson and Greg Miller of Vulcan Materials Co.

The final award was for Infrastructure, and this year's award winner was also the Commonwealth Award winner. Launch Pad Zero Alpha, located at the Mid-Atlantic Regional Spaceport on Wallops Island. ACI is used to having Infrastructure Award winners move people and goods horizontally, but this is

the first project to move goods vertically – out of the Commonwealth, out of the country, and off the planet! This Launch Pad is part of a commercial venture in cooperation with NASA, and Orbital Sciences Corp., a private company, has a contract to resupply the International Space Station. The facility has been significantly modified to launch the Anteres Expendable Launch System, which can carry a payload of 15,000 lbs. (or 3.75 cu. yds. of concrete!) into low earth orbit. Over 7,500 cu. yds. of high performance concrete were produced and installed to exacting tolerances for the launch pad itself, the rocket fuel tank farm and the bridge that delivers the vehicle to the launch pad. Accepting for Mid-Atlantic Regional Spaceport was Shelia Taylor. For Reynolds, Smith and Hills were Richard Pruss and Pat Gibbons. For BRPH Construction Services was Ed Smith, and for Branscome Concrete were Mark Bundy and Scott Hubbard.

All of these projects illuminate the vision, entrepreneurial spirit and cooperation between government and private organizations in the Commonwealth of Virginia ... and the fact that concrete is the right building material for tough, durable – and even elegant – building solutions. 🚚

Asphalt Cost Escalator Provisions Tax State Transportation Budget



Beyond fuel and transportation, rising oil prices directly impact street and highway building and maintenance costs, compounding the hundreds of millions of dollars states lose due to outdated bidding policies that favor petroleum-based asphalt over other paving materials.


In a recent report, PCA Chief Economist Ed Sullivan describes how asphalt no longer has a competitive cost advantage compared to concrete at the time projects are bid. However, policies like the use of escalators benefit asphalt

suppliers; such clauses are post-bid adjustment provisions that allow paving contractors to raise their construction price based on a fluctuation in asphalt binder costs which, typically, are directly related to the price of oil.

As a result, taxpayers take on the risk of increasing asphalt prices and the resulting higher maintenance costs of asphalt roads, PCA contends. The association calculates that in 2003 asphalt enjoyed a \$225,000 or 39 percent cost advantage over concrete for one mile of two-lane roads. Since then, both oil and

asphalt binder prices have increased by more than 200 percent. Concrete prices during the same period increased a relatively modest 37 percent. A reversal occurred in 2009, when concrete roads enjoyed a \$65,000 cost advantage over asphalt, largely due to oil price jumps. Today, PCA calculations show concrete's cost advantage has climbed to \$192,700 for one mile of two-lane urban roadway.

"In a level playing field, where the free market dictates winners, concrete wins," says Sullivan. "Yet that's not the case in many states, where outdated public works policies fail to respond to changes in prices. Distortions caused by these policies are partially responsible for the rise in paving and highway maintenance costs, which are straining already cash-strapped state budgets.

"Compare it to buying a product where the price you pay at the time of delivery is higher than the price you agreed to when the order was placed. With road building projects, bids are placed, prices are agreed upon, and then construction proceeds to build a road. But when you go to actually build the road and pay for it, the asphalt contractor says, 'Sorry but oil prices went up. You're going to have to pay more because our costs went up.'" 


Hampton Roads Council Announces Dates for Spring Golf Tournament



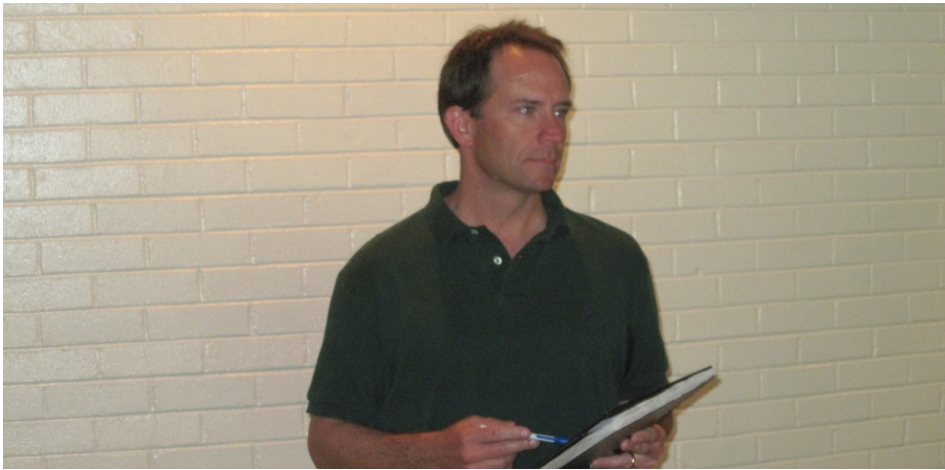
The Hampton Roads Concrete Advisory Council is pleased to announce the dates for the Annual Spring Golf Tournament held at the Kiln Creek Golf Club in Newport News.

The Golf Tournament Chairman Charlie Malbon has set the date for Thursday, May 3, 2012 for the annual event. The format will be Four Man Florida Best Ball with a 11:00 a.m. check-in and 12:00 p.m. shotgun start.

The cost for each team is set at \$400 per team with \$75 for the Hole sponsors. The event will also include range balls, box lunch, dinner and raffle items. Prizes will be awarded for 1st, 2nd, and 3rd and longest drive and closest to the pin. Proceeds from the Golf Tournament will fund the Annual Scholarship awarded each year at Cox High School in Virginia Beach. The scholarship is given to a student who stands in the upper 20% of their class and majoring in civil engineering, building construction, or architecture. The student must attend a Virginia College or University and demonstrate a financial need. The student must also be active in extracurricular activities in school, community or church. The Memorial Scholarship is given in the name of Lane Malbon who was a student of Cox High School.

Make checks payable to Hampton Roads Concrete Advisory Council and submit fees by April 25, 2012 to Charles Malbon, North American Bilk, P.O. Box 5155, Virginia Beach, VA 23455. Any questions, call Charlie at 757-630-6902. 

Concrete Testing Lab Forum and Round Robin Held by CVCAC




By J. Keith Beazley,
Director of Industry Services

A special meeting was held in Richmond of the Concrete Testing Laboratories and Engineers and the Central Virginia Concrete Advisory Council membership. The annual meeting is a review with the testing facilities to discuss positive and negative concerns for the testing of concrete in general construction and with the Virginia Department of Highways. The new ASTM and ACI requirements were discussed and a new awareness of items featured in the new specifications.

A Round-Robin Testing of Cylinders will be conducted this late spring or early

summer. The testing will introduce testing on samples from testing laboratories cured in the open and samples cured in a controlled environment of a curing box. The values will be recorded and analyzed and shared by members attending the forum. The comparison will be very interesting and demonstrate the importance of proper handling of concrete samples from the job site.

The Central Advisory Council will hold the forum each spring and with the relationship and understanding of proper testing and procedures the industry will benefit. The VRMCA is responsible for the certification of members of the companies providing testing for the industry products. 




F&R President Presents Geotechnical Program to HRCAC

The March meeting of the Hampton Roads Concrete Advisory Council was host to Sam Kirby, F & R President, who presented a special program on Land, Streets, and Roads: The Geotechnical Report. Sam Kirby is a graduate of Virginia Military Institute, B.S. and Virginia Tech, M.E. He has 35 years experience with F&R and is responsible for company administration and performance of regional work and oversight of F&R contracts and is integral to F&R's work overseas including Romania and Jordan. Sam also directs F&R's classified projects.

Sam Kirby's initial years were with VDOT Materials and he continues to be involved in materials engineering and construction engineering services. These services include the specification, design, and use of Portland cement concrete, bituminous concrete, soils and aggregates.

Sam Kirby stated that designing any road or street requires knowledge of the soils that will support them. The geotechnical study of the soils is the avenue to this understanding. Variations in soil type, consistency and site conditions can have an effect on the type of pavement selected and the design. The geotechnical study involves evaluation of in-place conditions; collecting samples; laboratory testing and analysis and design recommendations.

The VRMCA is very appreciative of the time and effort of Sam Kirby and F&R to educate the Concrete Advisory Councils on the geotechnical requirements for Local Streets and Roads. Sam has presented this program to four of our Advisory Councils over a three month period and this has been of great benefit to the marketing effort of the LSR'S program. 

Time to Reassess Your Disability Policies



Due to the EEOC's increased focus on employers' leave of absence and attendance policies, and its likely extension of that focus to the automatic exclusion of certain benefits to probationary or introductory employees, it is advisable for employers to carefully reassess how they apply those policies.

By John G. Kruchko and Kathleen A. Talty

In recent years, the Equal Employment Opportunity Commission ("EEOC"), which is the federal agency vested with the authority to enforce the federal employment discrimination laws, has focused its attention on employers' leave of absence and attendance policies to determine whether those policies negatively impact persons with disabilities in the employment setting. Many employers use leave of absence policies which provide that, when an employee is unable to work due to medical or disability reasons for a year, the employee is separated from employment. Most of these policies have "automatic" separation dates when an employee has not worked in a year or a specific period of time.

Also, most employers have "no-fault" attendance policies which are designed to remove subjective considerations from an employee's absences. Under a "no-fault" at-

tendance policy, the reason for an employee's unscheduled absence is not considered in the evaluation of the employee's attendance record. Supervisors, therefore, are not asked to assess whether the excuse for an employee failing to report to work is a good or valid excuse or not. Rather, under a "no-fault" attendance policy, it is the number of days or occurrences over a specific period of time which is considered and which may be counted toward potential disciplinary action. Most employers also have policy statements which state that during a new employee's initial period of employment or during the probationary period, the new or probationary employee is not eligible for leaves of absence or paid days off from work, etc. Such limitations on the new or probationary employee's access to certain leave benefits is intended to ensure that the probationary period provides a full opportunity to assess the employee's performance in the job. While these policies appear to

be reasonable and objectively based, the Equal Employment Opportunity Commission has taken a different view.

Last year, the EEOC entered into a landmark \$20 million dollar settlement with a major telecommunications company to resolve a nationwide disability discrimination claim. The subject of the underlying lawsuit was the EEOC's challenge to the company's "no fault" attendance policy, which counted the number of an employee's "chargeable absences" to determine whether a disciplinary action was warranted. The EEOC contended that the employer's application of the policy failed to accommodate employees with disabilities. Specifically, the EEOC alleged that the employer failed to provide reasonable accommodation as required by the Americans with Disabilities Act ("ADA"), such as making an exception to its attendance policies for individuals whose "chargeable absences" were caused by disabilities. Rather

than accommodating the employees, the EEOC argued that the employer disciplined or terminated employees who needed an accommodation.


In addition to the monetary settlement as part of the resolution of the legal action, the telecommunications company agreed to revise its attendance plans, policies and ADA policy to include reasonable accommodations for persons with disabilities, including excusing certain absences which are attributable to a disability. The company also agreed to provide periodic ADA training to employees who administered the company's attendance policies.

Another significant legal settlement was between the EEOC and a major restaurant chain and involved, in part, the company's maximum medical leave policy, which the EEOC regarded as an "inflexible leave" policy. According to the EEOC, the company's leave policy automatically denied employees any additional medical leave beyond a pre-determined limit, even when additional leave was required under the Americans with Disabilities Act ("ADA") as a reasonable accommodation. The application of the leave policy, according to the EEOC, resulted in the unlawful termination of a class of employees. To resolve the matter, the restaurant chain agreed to pay \$1.3 million dollars and to take certain other measures. In a statement issued by the EEOC about the settlement, an EEOC official was quoted as stating: "Industry should take note that federal law requires employers to make exceptions to generally applicable policies and work rules---such as limits on the amount of medical leave an employee may take--when necessary to reasonably accommodate employees with disabilities, unless providing an

exception to a particular individual is an undue hardship."

Although there are no reported settlements involving the EEOC and an employer that maintains a policy on excluding probationary employees from applying for a leave of absence, it is probable that such policies will run afoul of the EEOC under the EEOC's view of the employer's "inflexible leave" policies. By the EEOC's reasoning, policies or practices which automatically bar an employee from access to a leave of absence without consideration of the employee's need for a reasonable accommodation because of a disability are likely to be found in violation of the Americans with Disabilities Act.

Due to the EEOC's increased focus on employers' leave of absence and attendance policies, and its likely extension of that focus to the automatic exclusion of certain benefits to probationary or introductory employees, it is advisable for employers to carefully reassess how they apply those policies. The reassessment may have employers take some additional steps, such as:

- Amend fixed-leave policies that adhere to automatic medical or disability limits;
- Evaluate each employee's leave request on a case-by-case basis;
- Consider whether a probationary employee's extended absence from work is due to a disability;
- Train managers on the importance of the interactive process under the ADA and the need for reasonable accommodation; and
- Document all requests for reasonable accommodations and steps taken during the interactive process. 

Copyright 2012 Kruchko & Fries

John G. Kruchko is a Partner with the Management Labor & Employment Law Firm of Kruchko & Fries in McLean, Virginia; Kathleen Talty is a Senior Counsel with the Firm. For more information, please contact Mr. Kruchko at (703) 734-0554 or Ms. Talty at (410) 321-7310 or JKruchko@KruchkoandFries.com, or KTalty@KruchkoandFries.com. This article is published for general information purposes, and does not constitute legal advice.

On the Horizon Calendar of Upcoming Events

APRIL 3-5, 2012

ACI Concrete Field Testing Seminar and Examination*

Chandler Concrete
614 Norfolk Avenue SW
Roanoke, VA

*PRE-REGISTRATION REQUIRED

APRIL 12, 2012

NVCAC Business Meeting

7:30 AM - 9:00 AM
Manassas, VA

APRIL 13, 2012

VRMCA Technical Committee Meeting

10:00 AM - 2:00 PM
The Place at Innsbrook
306 Cox Road
Glen Allen, VA

APRIL 17-19, 2012

ACI Concrete Field Testing Seminar and Examination*

Crowne Plaza Hampton Marina Hotel
700 Settlers Landing Road
Hampton, VA

*PRE-REGISTRATION REQUIRED

APRIL 18, 2012

SWCAC Business Meeting

8:00 AM - 9:30 AM
Roanoker Restaurant, Roanoke, VA

Please visit the online calendar for an up-to-date list of events.
www.VRMCA.com/calendar

Got News?

For coverage in future issues, send press releases and photos to marci.malinowski@easterassociates.com or mail materials to:

VRMCA Newsletter
250 West Main Street, Suite 100
Charlottesville, VA 22902

Submissions may be edited for length. Inclusion is not guaranteed and may be excluded due to space.



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.

ROANOKECEMENTTM

A TITAN AMERICA BUSINESS