



THE READY-MIXER



Virginia Ready-Mixed Concrete Association Newsletter

October 2009



VRMCA President Morgan Nelson, Congratulates Bob Swope, Swope & Associates.

Fall Golf Tournament Supports College Scholarships

by J. Keith Beazley
Director of Industry Services

The Annual Fall Golf Tournament held by the Central Virginia Concrete Advisory Council in October was highly enjoyable for participants and very successful in the funding of the annual college scholarship. The tournament is held on the Hunting Hawk Golf Course in Hanover County on a highly rated course designed with rolling terrain, mature stand of trees, and wetland areas. The course has a par of 71 from the longest tees.

The weather could have not been better and teams were highly competitive for the first prize trophy. Two teams, Swope and Associates and Atlantic Bulk,

were tied at the end of play and the winner was decided by the score on a single hole. Swope took the hole and the day.

The winners included First Place-Swope and Associates (62), Second Place- Atlantic Bulk (62), and Third Place-Solite (63). Prizes were also given for Longest Drive-Todd Hoyle, Straightest Drive-Harry Bryant III, and Closest to the Pin Harry Bryant, Jay Gammon, Randy Dunlop, and Scott Finney.

The Council awards a scholarship each year to a student majoring in architecture, building management, or engineering. The criteria states a recipient must attend a Virginia College or University; the past winners are attending the University of Virginia and Virginia Tech. The scholarship is funded

through the proceeds of the tournament and the award is presented in the spring of each year in the Advisory Council meeting.

The Chairman of the Golf Tournament is Glenn Webb, S. B. Cox Ready Mix. Glenn is very proud of the organization of the annual tournament and the scholarship award for the students. Past winners are nearing graduation this year and will be returning to our community and each has stated that they will remember us in their decisions on usage of concrete for their projects.

This tournament and scholarship has been very rewarding for the enjoyment of the golf play and for the students receiving the award. ♦

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"Construction Day" at New Charlottesville ICF School

by Bob Nablo
Director of Industry Services

For the 2010 school year the Lower School students at St. Anne's-Belfield in Charlottesville will have new classrooms, a new theater and new administrative offices – all constructed primarily of Insulating Concrete Forms. On October 16 the students and faculty were treated to a "Construction Day" during which they participated in a contest in which classes were asked to build anything they could imagine with ICF blocks, visited booths staffed by various construction-related companies, toured the actual construction site, and watched a demonstration of the VRMCA "Air Cannon."

Virginia has seen other educational facilities, such as school gymnasiums, built from ICF, but this will be the first complete school using the system. VRMCA Executive Director Doug Easter has described the school as "a game-changing project for the Commonwealth", and Jay McNeely, Vice-President of Eagle Corp., has noted that the ready-mixed industry statewide will be able to show school boards that this construction method is viable and proven.

The day concluded with several firings of the Air Cannon at a framed wall, a brick veneer wall, a block-and-brick wall and an ICF wall with brick veneer. As most VRMCA members would expect, the hurricane-speed timbers easily penetrated most of the target walls but were unable to seriously damage the concrete-filled ICF wall. Based on the surprised shrieks and cheers from the children, the demonstration was a huge success.

English Construction is the General Contractor for the 110,000 sq. ft. project, and ICON Construction is the ICF contractor. VRMCA members wishing to visit the site can do so, with permission from English, throughout the construction process. A webcam site is available for viewing at www.stab.org/about_us/learningvillage.aspx. This will be an excellent opportunity to show interested school board officials how their communities can benefit from such a system. ❖



VRMCA Promotes Pervious To Reduce Chesapeake Bay Pollution



by **Hessam Nabavi**
Director of Industry Services

Despite successes in certain parts of the ecosystem and specific geographic areas, the overall health of the Chesapeake Bay did not improve in 2008. The Bay continues to have poor water quality, degraded habitats and low populations of many species of fish and shellfish. Based on these three areas, the overall health averaged 38 percent, with 100 percent representing a fully-restored ecosystem which includes Water Quality, Habitats & Lower Food Web, and Fish & Shellfish.

The Bay and its tidal tributaries are overweight with nitrogen, phosphorus and sediment. The excess nutrients fuel harmful algal blooms that rob the water of oxygen while sediment blocks sunlight from reaching underwater bay grasses. To resolve this problem, the EPA is establishing a federal Total Maximum Daily Load (TMDL) for nutrients and sediment for the Chesapeake Bay and its tidal tributaries. The TMDL represents the maximum amount of a pollutant that a body of water may receive and still meet its water quality standards, with a margin of safety.

Pollutants are anything that prevents a water body from attaining the national goal of being "fishable and swimmable." The "loadings" are allocated to sources contributing to the problem. A TMDL is comprised of waste load allocations for "point sources" like sewage treatment plants, urban storm water systems and large animal feeding operations, load allocations for non-point sources such as polluted rainfall runoff from agricultural lands and impervious surfaces, and a margin of safety.

Under a Virginia consent decree, the Chesapeake Bay TMDL must be established no later than May, 2011. The EPA is working with the state of Virginia to establish an accelerated schedule.

It is very important for the Ready-Mixed industry to be more aggressive in promoting pervious concrete as the best stormwater management systems. VRMCA NOVA, in partnership with WSSI, has been involved with various counties regarding the use of pervious concrete as one of the Low Impact Developments (LIDs) to reduce the stormwater runoff pollution in the Bay. More recently VRMCA in Northern Virginia has had a series of conversations with the office of Congressman Gerry Connolly, who

testified in late September before the Water Resources and Environmental Subcommittee, House Transportation and Infrastructure Committee regarding the health of the Chesapeake Bay.

"We must reduce impervious surface areas in the Chesapeake Bay watershed in order to reach overall Bay restoration objectives," said Connolly. "Between 1990 and 2000, population in the Bay watershed grew 8%, while impervious surface area grew 41%, covering an additional 250,000 acres in our region."

"The EPA's draft... (suggests that) we must reduce stormwater runoff pollution in order to save the Bay. Maintaining predevelopment hydrologic performance simply means that no more water runs off a site after development than it did before." This control should happen at the county level.

Since the Board of Supervisors amended the Public Facilities Manual (PFM) to allow for Low Impact Development techniques (LIDs), developers have incorporated rain gardens, tree box filters, green roofs, infiltration trenches, pervious pavement, and other LIDs throughout the County. These LIDs dramatically reduce the volume of stormwater entering streams and the Bay.

Groups as diverse as American Rivers, the Chesapeake Bay Foundation, and the Metropolitan Washington Council of Governments have expressed their support for the Chesapeake Bay Restoration Act.

"We must act now to reverse the growing volume of pollutants from urban and suburban runoff, in a manner that protects local governments' land use planning prerogatives and our region's continued ability to grow," said Connolly. "I believe the Chesapeake Bay Restoration Act represents this balanced, measured approach, which is based on experience at the local level."

As emphasized earlier, VRMCA NOVA will be continuously working at the county level to promote and implement pervious concrete, but it is up to all members to actively promote this BMP and maintain contact with their respective legislators. Keep in mind that the Chesapeake Bay TMDL must be completed by May, 2011. ♦

Stormwater Regulations SW Council Meets with Virginia Tech

Governor Timothy M. Kaine recently highlighted the adoption of enhanced stormwater regulations by the Virginia Soil and Water Conservation Board. The regulations are expected to reduce the impact of polluted runoff from new developments into the waters of the Chesapeake Bay and other waterways in the Commonwealth.

"We mark a significant milestone in the protection of the Chesapeake Bay and Virginia's rivers, lakes and streams," said Governor Kaine. "As we continue working to reduce the impacts of severe channel erosion and downstream flooding from new development on citizens and communities, we're proud of the progress we're making to ensure today's policies correspond with today's pollution challenges."

The adoption of enhanced stormwater regulations will update requirements established twenty years ago and long-since eclipsed by new science and techniques that allow practitioners and engineers to retain and reuse water on site and incorporate stormwater management practices into the designs of many new developments - often reducing costs in the process.

Although new construction is not the only source of polluted runoff to the Bay, it is the fastest growing source. The enhanced stormwater regulations build on ongoing efforts by the Commonwealth to make improvements on pollution abatement by agriculture and sewage treatment plants.

The adoption of the regulations marks the end of a four year process undertaken by the members of the Virginia Soil and Water Conservation Board and the staff of the Virginia Department of Conservation and Recreation. With the affirmative vote by the Virginia Soil and Water Conservation Board, the regulations will undergo an additional 30 day comment period.

"I commend the Board and DCR for their untiring leadership in bringing Virginia to this point," said Preston Bryant, Virginia Secretary of Natural Resources. "While I acknowledge that the work is not finished, I am confident that, once finally adopted and implemented, these regulations will provide real benefits to the quality of our waters." ❖

by Bob Nablo
Director of Industry Services

The SW VA Council held its regular monthly breakfast meeting for October... but in an unusual location. Twenty-five Council members gathered in Bishop-Favrao Hall at Virginia Tech for a brief business meeting and a longer tour of the VRMCA-sponsored laboratory.

The Council was welcomed by Dr. Yvan Beliveau, Director of the Myers-Lawson School of Construction, who remarked on the generosity of VRMCA members, which made construction of the new building and lab possible, and the further contributions that produced equipment to make the lab functional. A sophomore-level materials class was in session during the visit, and Teach-

ing Assistant Kathleen Short halted the instruction on making concrete beams and invited the students and Council members to participate in a lengthy question-and-answer period. Council members were visibly impressed with the quality of the questions asked by students, and the students seemed pleased with the responses, which gave them valuable "real-world" insights.

After the meeting a few Council members remained to take an informal tour of the building, and Building Construction Dept. personnel invited the Council to discuss possible classroom visits with appropriate faculty members. The Council plans to do this for future business meetings, and will suggest several mini-presentations that could be of interest to students. ❖

\$119 Million in Bonds for School Construction

ARRA bonds to fund energy efficiency improvements and renewable energy installations at public schools

Earlier this month, Governor Timothy M. Kaine announced the availability of \$119 million in American Recovery and Reinvestment Act (ARRA) bond authorizations for local school divisions to finance energy efficiency improvements and renovations, as well as renewable energy projects for public school buildings. Projects will be financed through the Qualified School Construction Bond program (QSCB), and will be selected through a competitive evaluation process. Eligible projects can include, but are not limited to, improving heating, cooling and ventilation systems and controls, building improvements such as insulation and windows, more efficient lighting, as well as solar photovoltaic, solar hot water, biomass, or on-site wind power systems.

"When school divisions lower their energy consumption, they can lower their energy costs and direct more resources to the classroom, all while reducing their environmental impact," Governor Kaine said. "The projects made possible by these ARRA bonds will create jobs, improve our children's learning environment, and promote

green technology and construction here in the Commonwealth."

The \$119 million in bonds will provide both immediate and lasting impact through energy efficiency improvements and renewable energy retrofits to existing public school buildings. New construction projects will not be eligible.

Efficiency improvements are among the most cost effective ways to help resolve energy cost challenges. Funded projects will reduce public schools' energy demand and energy bills, reduce greenhouse gas emissions, and provide a safer and cleaner environment for Virginians. Renewable energy retrofits will also be eligible for funding - such as the installation of solar panels or small wind turbines. These improvements will also provide learning opportunities for students on energy efficiency and energy conservation.

Earlier this year, Governor Kaine announced the initial allocation of \$71.6 million in QSCB's for eight projects in seven Virginia localities. Those previously announced bond allocations will finance K-12 school construction and renovation. ❖

NRMCA Questions Obama's Nomination to NLRB

NRMCA has joined other trade associations in asking Senators to closely examine a President Obama nominee to the National Labor Relations Board (NLRB). As part of its effort, NRMCA and the other trade associations drafted and signed an October 15 letter to the Senate Health, Education, Pensions and Labor (HELP) Committee, requesting it to hold a formal hearing to thoroughly consider the President's nomination of Craig Becker, former legal counsel to the SEIU and AFL-CIO.

Arizona Sen. John McCain said he would place a hold on the confirmation of union lawyer Craig Becker to join the National Labor Relations Board, saying Becker might try to make labor laws more union friendly without congressional approval.

McCain made his comments just minutes before a Senate panel voted 15-8 to approve Becker's nomination. Under Senate rules, a single lawmaker can block a full vote on the Senate floor.

"This is probably the most controversial nominee that I have seen in a

long time," McCain said. His remarks echoed complaints by the U.S. Chamber of Commerce and dozens of business groups that claim Becker's views are "out of the mainstream."

Earlier this year, President Obama nominated Becker and two other individuals to serve as members of the NLRB, completing the five-member panel. The HELP Committee is currently discussing the nominations; it will then pass them to the full Senate for approval with a single, all encompassing vote. Becker has written prolifically about the National Labor Relations Act and NRMCA believes many of his views are quite extreme and outside the mainstream of how labor law should be interpreted and enforced. The Senate is likely to vote today approving the NLRB nominations, bypassing all committee action to conduct a hearing.

While the NLRB is one of the lesser-known federal agencies, its role as referee of conflicts between unions and management makes it a lightning rod for political fights between business interests and organized labor. Political

wrangling in the Senate has left the five-member board with three vacancies for nearly two years.

The fight over Becker is an early skirmish in the broader debate over efforts to pass legislation that would make it easier to form unions. The Employee Free Choice Act has stalled in the Senate, but business groups say some of Becker's writings indicate he would try to implement parts of the bill through board action.

The committee has cleared two other NLRB nominees — Democrat Mark Pearce and Republican Brian Hayes — by unanimous consent.

NRMCA believes the Becker appointment to the NLRB could disrupt years of established and balanced precedence in interpreting current labor law. A formal HELP Committee hearing would provide a proper forum for Becker to explain if his opinions have changed over the years and if he will objectively interpret labor law while representing the NLRB. ♦

Construction Costs Begin to Climb

Construction costs, which had been relatively low for much of the past year, are beginning to climb at an increasing rate, signaling the end to the "limited-time" sale for construction, according to a new analysis of the latest producer price index released by the U.S. Bureau of Labor Statistics.

The analysis by Ken Simonson, chief economist for the Associated General Contractors of America, found significant upward movements between August and September 2009 in the prices of copper (10 percent increase), aluminum (2 percent increase), and steel (3 percent increase). All three products are essential components for the vast majority of construction projects. The construction economist added that since the prices were collected a month ago, copper, aluminum and diesel fuel have moved to multi-month highs.

"The days of construction estimates coming in 20 percent under estimate may soon be coming to an end," Simonson said. "These figures serve as an important reminder that governments and developers looking for a good deal on construction should act quickly before having to pay significantly more for their projects."

Simonson added that prices for other significant construction materials also rose in September as compared to the previous month. He said the producer price data serves as a reminder that "private owners and public agencies should accelerate any plans they have for construction to take advantage of materials costs that remain generally below year-ago levels but which are rapidly reversing their slide." ♦

(Source: AGC Of America)

Ready Mixed Concrete Production Statistics

The preliminary estimate of U.S. ready mixed concrete production in August is 25.3 million cubic yards, 23% lower than August 2008.

The estimated production through August is 175 million cubic yards, 27.7% lower than for the same period in 2008.

U.S. ready mixed concrete production is estimated from cement shipments reported by the U.S. Geological Survey.

Details are available to NRMCA members at <http://www.nrmca.org/concrete/data.asp>.

New LEED Guide

The RMC Research & Education Foundation recently released the Third Edition of its Ready Mixed Concrete Industry LEED Reference Guide (LEED Guide). The revised edition, which details how designers, builders and architects can gain additional points as part of the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) program, includes new information on LEED 2009 for New Construction and Major Renovations.

The LEED Guide is available for download from the Foundation's Web site at www.rmc-foundation.org. Hard copies are available for a nominal fee from NRMCA at www.nrmca.org. The LEED Guide is also available as part of the Foundation's Research Supporting Sustainable Development CD. To review the press release issued on this project, please click [here](#).

For more information on this and other Foundation resources, please contact Foundation Program Director Jennifer LeFevre at 240-485-1151 or at jlefevre@rmc-foundation.org. ❖

2009 NRMCA Excellence in Quality Award Winners

The National Ready Mixed Concrete Association has recognized 10 of its producer members as winners in the 2009 Excellence in Quality Award competition. The awards will be presented at this year's NRMCA's ConcreteWorks awards luncheon later this month in Indianapolis.

Category A (annual production exceeding 1 million cubic yards):

Lafarge North America, Western US Business Unit

Cemex West Region South Area (AZ, NM, TX)

ARGOS USA - SE Zone

Lafarge North America, East US Ready Mix

Cemex East Region, Florida Division

GCC America US Readymix

Transit Mix Concrete and Materials

Category B (annual production from 250,000 to 1 million cubic yards):

Chandler Concrete Company, Inc.

Concrete Supply Co.

Category C (annual production below 250,000 cubic yards):

Tarmac America LLC, North Central

The award criterion was established by NRMCA's Research Engineering and Standards (RES) Committee to recognize the commitment to quality of its member companies. Companies apply as a company or a division. Applicants are asked to respond to a multiple-choice type application form that generates their score; a minimum score of 75% with supporting validation qualifies a company to receive an award. ❖

Hometown Driver Takes Top Honors at National Mixer Driver Championship

A local ready mix truck driver earned top honors at the National Ready Mixed Concrete Association's Fourth Annual National Mixer Driver Championship, held earlier this week on the grounds of the Indianapolis Motor Speedway. Joe Zygas from the nearby community of Lafayette, IN, a driver for NRMCA producer member Irving Materials Inc., won the top prize, outperforming an accomplished group of fellow mixer drivers. The driver championship was conducted as part of NRMCA's annual ConcreteWorks event held this year in Indianapolis. Along with the title and trophy, Zygas also earned the champion's check of \$2,500.

The National Mixer Driver Championship, now in its fourth year, "was the closest competition to date," according to NRMCA Senior Vice President of Op-

eration and Compliance Gary Mullings. Some 34 drivers, including state rodeo champions as well as NRMCA member company champions from around the nation, competed for the title "Best of the Best". The champion was selected based on a cumulative score derived from competitions that included a Driving Challenge Course, a Visual Vehicle Inspection and a 90-minute written examination. Awards were presented for the top three finishers, with all other drivers tied for fourth.

Zygas, known as Ziggy at Irving Materials, is a 17-year veteran at the company. He holds a Class "A" license along with a commercial pilot's license with a mechanics endorsement. He finished second in the 2009 Inaugural Indiana Ready Mixed Concrete Association's Skills Competition and is the

reigning 2009 Irving Materials' corporate champion.

Second place went to Jeffrey Clark from Aggregate Industries in Greenbelt, MD, who earned a \$1,000 check. Clark is a certified NRMCA Concrete Delivery Professional (CDP) and holds the company record for high score on the CDP written exam. He was the champion in the 2008 Maryland Motor Truck Association Ready Mix Concrete Class and is the reigning third place finisher in 2009.

The third place finisher was Trent Slavens, also of Irving Materials and Frankfort, IN. He has been driving a mixer truck for 10 years for Irving Materials. Slavens holds a Class "B" license. Trent is the reigning 2009 Indiana Ready Mixed Concrete Association Skills Competition champion. ❖

MIT Launches Concrete Sustainability Research Center

Concrete is the most widely used building material on the planet; however, the production of some of its component materials accounts for up to 5 percent of global carbon dioxide emissions annually. To address the sustainability and environmental implications of the use of concrete as the backbone of our housing, schools, hospitals and other built infrastructure, including highways, tunnels, airports and rail systems, MIT today announced the creation of the Concrete Sustainability Hub, a research center established at MIT in collaboration with the Portland Cement Association (PCA) and Ready Mixed Concrete (RMC) Research & Education Foundation.

The Concrete Sustainability Hub (CSH), established with the goal of accelerating emerging breakthroughs in concrete science and engineering and transferring that science into practice, will provide \$10 million of sponsored research funding during the next five years. Researchers from MIT's School of Engineering, School of Architecture and Planning and Sloan School of Management are expected to participate in the CSH's research activities.

The launch of CSH incidentally coincides with the announcement that the EPA is moving to enact rules that would curtail greenhouse gas emissions from power plants and large industrial manufacturers. If enacted, these rules would likely impose regulations on all 118 cement plants in the United States. The RMC and PCA leaders are hopeful that research results emerging from CSH projects will help ease the way for the industry to meet any changes that would be required by those new regulations.

"The concrete industry has the honor of producing the world's most favored building material, but this honor comes with a responsibility for the industry to minimize its ecological footprint," said Julie Garbini, executive director of the RMC Research & Education Foundation.

Brian McCarthy, CEO and president of PCA, added "The MIT research team is an exceptional group of dedicated interdisciplinary faculty and the CSH will take a holistic approach to research that allows science to feed seamlessly

into today's concrete applications like paving and wall systems. For ultimately, the greatest opportunity for the building industry to reduce greenhouse gas emissions may lay in the development of more durable and energy-efficient roads, houses, and buildings."

"This collaboration is an excellent example of how MIT is addressing complex, interconnected issues of sustainability - and working to provide solutions," said Subra Suresh, Dean of Engineering and Vannevar Bush Professor of Engineering at MIT. "Putting engineers together with economists, urban planners, architects and industry experts and practitioners on issues related to our built infrastructure will create truly novel opportunities for intervention."

CSH research will initially be organized around three focus areas: concrete materials science, building technology and the econometrics of sustainable development. The first two projects, "Green Concrete Science," and "The Edge of Concrete: A Life-Cycle Investigation of Concrete and Concrete Structures" are already underway. Franz-Josef Ulm, the Macomber Professor in the Department of Civil and Environmental Engineering, will serve as the CSH's inaugural director and is the lead investigator on the Green

Concrete Science project. The CSH will be co-directed by John Ochsendorf, Class of 1942 Career Development Associate Professor of Building Technology in the Department of Architecture and the Department of Civil and Environmental Engineering.

"It is rare that one has an opportunity to have a positive environmental impact on the most prevalent building material in the world," said Ulm. "This means working closely with industry partners over time to ensure that our ideas and research are sustainable economically, as well as environmentally, and are a source of job creation."

The Portland Cement Association, based in Skokie, Ill., represents cement companies in the United States and Canada. It conducts market development, engineering, research, education, and public affairs programs.

The mission of the RMC Research and Education Foundation, based in Silver Spring, Md., is to support research and educational programs that will increase quality, professionalism and environmental stewardship in the ready mixed concrete industry for the benefit of the citizens of the United States. ♦

(source: MIT News Office)



Strategic Development Council Holds Annual Fall Meeting

The concrete industry's Strategic Development Council (SDC) held its regular fall meeting earlier this month with focus on Building Information Modeling (BIM), performance concrete, self-consolidating concrete, and Technology Showcases.

Session #26 was held at the Inverness Hotel & Conference Center near Denver, Colo., Oct. 1-2, with over 70 SDC members and attendees participating. The session offered 14 presentations on various topics of emerging concrete technologies.

During the meeting, Building Information Modeling (BIM) was discussed at length, and SDC secured a total of \$75,000 from the Charles Pankow Foundation and the RMC Research Education Foundation. SDC will use these funds for strategic planning and development of roadmaps, with an immediate goal to provide interoperability standards, whose absence is an obstacle to wider use of BIM in the concrete industry. This initiative to drive a more widespread use of BIM in the concrete industry will be coordinated with the American Concrete Institute's (ACI) newly formed technical Committee 131, Building Information Modeling of Concrete Structures. Peter Carrato was a featured speaker on BIM during the SDC session, and will chair the ACI Committee 131's first meeting at next month's ACI Fall 2009 Convention in New Orleans.

A final report on the research of formwork pressures for self-consolidating concrete was presented by the principal investigator, Dr. Kamal Khayat of the



photo: American Concrete Institute

University of Sherbrooke located near Montreal, Canada. Results of this two-year, \$385,000 research program – with 40 percent funding coming directly from SDC members – will be used to provide technical data for ACI committee 347, Formwork for Concrete. It is anticipated that research results, which include suggested formulae for computing formwork pressures and suggested field testing equipment, will provide guidance and technical information to the industry when using self-consolidating concrete.

In addition, meeting attendees viewed four Technology Showcases, which have become a staple of SDC meetings. These allow industry innovators to provide information on emerging con-

crete technologies that have the potential to improve and possibly transform the concrete industry. At Session #26, the Technology Showcases included "Techniques of Recycling Demolished Concrete & Asphalt into Specification Aggregates for Reuse," "Verifi: Process Control for the Ready Mixed Concrete Industry," "Vitro Minerals: VCAS White Pozzolans, High Performance SCMs for Use in Sustainable Concrete," and "Carbon-Neutral Rice Hull Ash: A Green Supplementary Cementitious Material."

SDC has announced its next regular meeting will be held May 6-7, 2010 in Kansas City, Mo. For more information on SDC and its meetings, please visit www.ConcreteSDC.org. ❖

NRMCA Reaches FedEx Via Innovative Concrete Webinar

FedEx, one of world's leading trucking and air freight companies, recently received four hours of continuing concrete education from NRMCA, reports South Central Senior National Resource Director Vance Pool. While this is nothing new for the National Account program, the method of delivery was unique, he said.

"Memphis is one of the most expensive markets to travel to in my region and

with only a small number of national accounts it is hard to justify the costs with the economy as it is," Pool said. "By utilizing NRMCA's Webinar platform, we were able to not only deliver the content, but FedEx also was able to bring in folks from multiple locations around the country. While not as good as face to face, we are able to maintain contact and move our relationship forward in a win-win scenario."

Topics covered over two sessions in two different weeks included concrete basics, pervious, LEED, and concrete and overlays (or whitetopping if you like the old school name). Whitetopping has strong relevance in the trucking industry since it has many asphalt truck distribution centers that require yearly maintenance. More information on this topic has been requested by this National Account, Pool said. ❖



Employees With Flu Symptoms: Unfit For Duty?

By John G. Kruchko
and Paul M. Lusky*

There has been a lot of publicity related to the impending influenza season and its impact on employers. Of primary concern is the announced pandemic related to the H1N1 influenza virus, better known as the swine flu. The Centers for Disease Control ("CDC") and the Occupational Safety and Health Administration ("OSHA") have both published comprehensive guidance for employers to assist businesses in preparing for the swine flu pandemic. The Equal Employment Opportunity Commission ("EEOC") has also issued a technical assistance memorandum to help employers make certain that their pandemic flu plans are compliant with the Americans with Disabilities Act ("ADA").

Of course, reading all this material can be time-consuming and may ultimately result in confusion, information overload and a headache. Still, some measure of preparedness is necessary if only to reduce the potential infection threat for your workplace. OSHA suggests that a pandemic could result in absenteeism as high as 40% of the workforce during periods of peak influenza

illness. Obviously, such an absenteeism level could seriously impact production and delivery schedules. Thus, it may be both prudent and a good business practice to prepare now for the impact of the swine flu.

The OSHA Guidance on Preparing Workplaces for an Influenza Pandemic (the "Guidance") is quite lengthy and much of it may relate to industries that have greater potential for exposure to the H1N1 virus than your business. For example, businesses that have employees who will have contact with the general public (e.g., retail stores) or persons already suspected of being infected with the virus (health care facilities) will have to take more precautions than a firm doing construction work. The CDC website has a "Communications Toolkit for Businesses and Employers" which is more user-friendly than the OSHA Guidance and it allows you to download "Action Steps" to protect your business and employees from the flu. CDC has also published a "Preparedness Guide for Small Business" which is helpful.

Employers should not ignore the OSHA Guidance, however, because the General Duty Clause in the OSH Act (29 U.S.C. § 654(a)(1)) requires that employers provide a workplace which is "free from recognized hazards that are . . .

likely to cause death or serious physical harm to employees." OSHA has said that it will rely on the General Duty Clause to protect workers from pandemic flu and will adjust its inspection priorities to ensure that employers are following its guidelines should a workplace pandemic become a reality. OSHA's recommendations for employers include:

- Develop a pandemic flu plan;
- Provide employees with access to the latest flu information and educate them as to the symptoms of influenza, including swine flu;
- Review sick leave policies to ensure that they are designed to encourage employees to stay home, without penalty, when they have influenza-related symptoms;
- Allow employees to stay home to care for sick family members;
- Purchase infection control supplies (i.e., touchless garbage cans, alcohol-based soap/hand sanitizer, tissues, and cleaning supplies) and allow easy access by employees;
- Educate and train employees in proper hand hygiene, cough etiquette and social distancing techniques (reducing the frequency, proximity, and duration of contact between people);

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- Consider the use of respirators or surgical masks to curtail the spread of infection;
- Frequently clean surfaces and items that are likely to have frequent hand contact.

If flu conditions become severe, the CDC recommends that employers conduct active screening of employees when they arrive at work and require them to go home if they have flu-like symptoms (fever, cough, runny or stuffy nose, headaches, muscle aches, sore throat, chills and fatigue). Developing a leave policy that encourages employees to stay home when they have flu symptoms (especially if it involves paid leave) or actually requiring an employee with symptoms to leave work has been the most controversial of the recommendations. The most frequently asked questions on this issue are as follows:

Do I have to pay employees who don't report to work because of the flu or if they are sent home because they have flu symptoms?

OSHA wants employers to implement leave policies that encourage employees to stay home, without being penalized, when they have flu symptoms. That does not mean, however, that an employer needs to provide paid sick leave to employees out with flu. Non-exempt employees need only be compensated for time actually worked. Federal and state wage and hour laws do not require employers to provide paid sick leave. Exempt salaried employees may be entitled to compensation, however, if they work any part of the day before leaving work because of illness. One final thought on this issue - although paid leave is not required, employees are not likely to self-report flu symptoms if they think they will be sent home without pay.

Can I ask an employee to work even if he has flu symptoms?

Employers who discourage employees from using sick leave are acting contrary to OSHA recommendations and could be found to be violating the General Duty Clause because they are not protecting their employees from serious illness. Employers should not take

actions that increase the risk of infection to other employees. Also, depending on the severity of the illness, an employee with the swine flu may have a serious health condition that qualifies for leave under the Family and Medical Leave Act ("FMLA"). An employer covered by the FMLA risks violating the Act if it refuses to let an employee exercise his/her leave rights under the Act. Therefore, it is best to let the employee with flu symptoms go home. If an employee with flu symptoms misses work because of his illness but does not see a doctor, can we count his absence as an occurrence under our absenteeism policy?

Penalizing an employee for an absence because of flu symptoms is again contrary to OSHA's Guidance. Nevertheless, if an employer has to excuse the absence of every employee out with a sore throat and a stuffy nose, the attendance policy will be pretty useless, not to mention ripe for abuse from employees who may want to take advantage of the relaxed standard. One way to solve this dilemma is to notify employees that absences because of flu or flu symptoms will not be counted as an occurrence under the absenteeism policy if the symptoms are verified by a doctor's note. This procedure will prevent misuse of the sick leave policy and underscore

the employer's efforts to maintain a safe workplace by encouraging employees to self-identify any potential case of the flu by going to the doctor.

One of my employees claimed he contracted the swine flu at work. He says he will file a workers' compensation claim. How should we respond?

Many state workers' compensation statutes provide compensation for absences caused by occupational diseases; i.e., illnesses contracted in the course of employment. The employer should file a First Report of Injury form for an employee determined to file a workers' compensation claim for a flu-related absence. The challenge for the employee will be proving he contracted the flu virus at work rather than from contact from persons outside employment.

There are numerous legal issues that can arise from an employer's response to the predicted flu pandemic. Because of OSHA's increased attention to this issue and the value prevention can have for the efficiency of business operations, employers are advised to be proactive rather than passive in responding to the H1N1 virus. ❖

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Statewide Campaign Promotes Vaccination

The Virginia Department of Health has kicked off a statewide media campaign and vaccination program for the H1N1 flu virus, vaccinating several members of the designated priority groups and unveiling a broad public awareness program designed to encourage Virginians to get vaccinated against the potentially lethal strain of flu.

"The first doses of the vaccine are now available in Virginia," said Dr. Karen Remley, Virginia's health commissioner. "However, while we are confident that we will have a sufficient amount for every Virginian who wants a vaccine to get one, we are asking those in the priority groups to be first in line to get protected against this highly contagious flu strain."

Dr. Remley and the Virginia Department of Health are strongly encouraging all Virginians to get vaccinated

against the H1N1 flu. She noted that the vaccine is extremely safe, with the risks associated with the flu itself far outweighing any potential risks related to the vaccine. She said that broader availability of the vaccine is expected in November.

As part of its campaign to urge citizens to get the vaccination, VDH has prepared an extensive media campaign, which will include public service television and radio spots, transit, Internet-based and cinema advertising. The campaign carries the theme "H1N1Get1. It's up to you to fight the flu."

A special Website, www.H1N1Get1.com also has been set up to provide up-to-date information about the virus and the places where vaccinations are available throughout the Commonwealth. Information also is available by calling 1.877.ASK.VDH3. ❖



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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.

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