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WHAT'S NEXT FOR OSHA ENFORCEMENT IN VIRGINIA?

SUMMARY

Wondering what's next in OSHA enforcement in Virginia? Join McGuireWoods partner Courtney Malveaux for a chat with his successor as Virginia's Labor Commissioner, Jim Frederick, about the upcoming indoor and outdoor heat illness standard, enforcement priorities and local training opportunities for employers.

Jim Frederick is the Commissioner of the Virginia Department of Labor and Industry (DOLI), appointed by Governor Abigail Spanberger in January 2026. He brings more than 35 years of experience in workplace safety, health, and labor issues at the local, state, and national levels. Prior to joining DOLI, Jim served as Deputy Assistant Secretary of Labor for Occupational Safety and Health at the U.S. Department of Labor, where he led national OSHA operations and regulatory initiatives. He also previously served as a Principal at NEXUS HSE, LLC and held senior leadership roles with the United Steelworkers Union.

TRANSCRIPT

(0:00):

Courtney Malveaux: Hello, everyone. My name is Courtney Malveaux, and I am a partner with the labor and employment section at McGuireWoods, and my focus is on OSHA, Occupational Safety and Health Administration, so workplace safety law.



And I am extremely honored to have with me Jim Frederick, who is the now new Commissioner of Labor for the Virginia Department of Labor and Industry. So, Jim welcome, and thanks for taking this time to be with us.

Jim Frederick: Hey, Courtney. Thank you so much. And new, boy, yeah, it's been seven months. It's been an exciting seven months. Some days it seems like it's been seven minutes, and other days it seems like it's been seven years. So yeah, seven months has been great, so appreciate the opportunity.

Courtney Malveaux: Sure. Absolutely. So, just by quick way of background, so Jim, before you stepped into this role, you had the role of Deputy Assistant Secretary of Labor in the federal OSHA. So, you had oversight over the entire OSHA program nationally.

And, I know that you have a background in working with the United Steelworkers, with trying to partner with employers and workers and you have two degrees I'd never heard of, one of which was a Masters of Environmental Health and Safety Management from Rochester University, and the other is your bachelor's in Environmental Health from Purdue University. So that I didn't know. I'm very impressed.

Jim Frederick: Oh, thanks.

Courtney Malveaux: Yeah, absolutely. But you come from that background and so you've worked with workers, you've worked with employers, you've worked with the steelworkers, you've done health and safety consulting, and now we're blessed to have you here in Virginia. So, I have to ask you, what's your why? Why do you do this?

Jim Frederick: No, thank you for that, and that's an important one because I truly do. I start every morning with this. It's the number 14, and the number 14 is the current average number of workers that don't return home to work because of a workplace fatality, and that's 365 days a year, seven days a week.

And so, I start my day by reflecting on what that means to me. And what it means to me is that there are families, 14 chairs around kitchen tables across this country, where someone doesn't come home for dinner after a work shift. And there's lots that can happen on that. We can talk just about that for the next hour and a half, but the take-home message for me is it's really a motivational factor.

It's a motivation of why we're doing all of the hard work that we're doing to try to make improvements in workplace health and safety so that we can continue to see that number decline and hopefully, at some point in our working lifetime, we'll see a much lesser number than 14 in the workplace fatalities every day.

Courtney Malveaux: Right. Well, we're all on the same page on that, so I agree 100%. So, you have landed in Richmond.

Jim Frederick: Yeah.

Courtney Malveaux: Trial by fire. You got to drink from a fire hose, and I think the first thing you had to encounter after you moved in was the General Assembly.

Jim Frederick: Yeah.

Courtney Malveaux: And that had to be interesting. So, what came out of the General Assembly that's on your plate?

Jim Frederick: Sure. So, a couple of thoughts on that. First, trial by fire's a good one. But we also threw in that ice storm for us here at the beginning of the year.

Courtney Malveaux: Sorry about that.

Jim Frederick: So, it was a trial by fire while there was three or four inches of ice everywhere in Richmond as I was trying to get here back and forth from Northern Virginia.

But during the General Assembly, the Department of Labor and Industry and the entire labor secretariat for the state had a significant amount of activity, by the General Assembly. And just in reflection, for us, there are a significant number of new provisions that have moved through the General Assembly to the governor for signature and are new laws that impact the Department of Labor and Industry.

So, we started out on health and safety, so the one major thing in the workplace health and safety piece is for us to implement a heat rule, over the course of a little bit of time here that we have to do so, pursuant to the legislation.

But then also there's a significant amount of work that will be increasing our focus and attention, and our staffing in the worker wage protection space. And so essentially, I think of it like this, is one, the General Assembly gave us a number of new legal authorities on the whole spectrum of worker needs, and employer needs, rightly so, on wage protection space.

And then they also, through the budget process, gave us money to do some hiring to bring, for example, a significant number of wage investigators into the Department of Labor and Industry DOLI ranks, so that we'll have a significantly higher prevalence of enforcement activity to make certain that we're meeting the needs of that very much changing dynamic or evolving dynamic of wage protection space work for the agency and across the commonwealth.

From the southwest to northern Virginia, down to the Tidewater area and up to the western part of the state, there's a lot of work to be done on all parts of the Department of Labor and Industry work, particularly the workplace health and safety, as well as the worker wage protection space.

(05:53):

Courtney Malveaux: Right. And that's new. The level of investment in that area, as far as I know, that's unprecedented in Virginia.

Jim Frederick: I think that's very fair to say, and the work in that space has always been vital and important, but it has been done with only a handful of staff available to do it.

Courtney Malveaux: Right.

Jim Frederick: Just by what we have had available to the agency, while you were there, while others have been there, what was available in the budget space for staff in that area was pretty small in magnitude, and particularly in comparison with the worker health and safety space work. This will increase the staffing significantly for worker wage protection.

Courtney Malveaux: Right.

Jim Frederick: Again, we've actually just posted a job posting on the Virginia Jobs website, for wage investigators, and we'll be hiring some folks, getting them here up to speed. At the same time, we're putting in place some of the infrastructure around the new legal authorities. Some of that requires new regulatory activity, and some of that is just basically implementing the terms of the statute and putting it into place.

Courtney Malveaux: Right. And you're juggling quite a few balls.

Jim Frederick: Yeah, I like to think of it as the Vaudeville Act with the sticks and the plates spinning, and we've got a fair number of plates spinning. They're like grandma's good china; we can't let them fall. We haven't let any crack yet. We've got to make sure that we keep those plates spinning while we get those things in order so that we have that infrastructure in place to do that work.

And thank goodness. What we do have in place is a tremendous resource of the existing leadership and the staff at the Department of Labor and Industry. So that agency leadership and staff that has been in place for years know their work, they understand their work. They know the needs that both workers and worker organizations across the commonwealth, as well as employers and the employer community, individual employers, employer associations, and then just general groups of employers have.

And so, we want to make certain as we're doing all of this work, we've got to take into account all of those needs. And those needs don't always match up, as we know.

Courtney Malveaux: Sure.

Jim Frederick: There's sometimes that those needs are in conflict, and that's part of why we're here is to try to adjudicate that area where there's not agreement on something and help at the end of the day get to the right solution that everyone is livable with.

Courtney Malveaux: Right. Well, it's a hot seat. And as you mentioned, I did sit in that hot seat.

Jim Frederick: Yeah.

Courtney Malveaux: I served as labor commissioner for a little bit, and I used to think of it more as a juggling act, but I think the spinning plate analogy is a little bit more apt. Well, so there are a number of initiatives that you've put in place. And that you're emphasizing now. Can you tell us a little bit about what initiatives you're pushing?

Jim Frederick: Yeah. Let's start with in the worker health and safety space.

Courtney Malveaux: Sure.

Jim Frederick: And one of the things that was actually in place when I got here, and so I'm really happy to be able to talk about this and try to highlight this some more, is an initiative from the Virginia Occupational Safety and Health Program called What IF. And the IF in What IF is capital I, capital F, and it stands for injury free.

And so, the concept here is that we're trying to create is, a workplace health and safety management system that supports all of the control measures in place to make sure from the day a person hires to the day they retire or leave or whatever happens at the end of their time with that employer, that they are free from serious injury at that workplace.

And so, two things with that. One is, as I mentioned, it's a very important part of a health and safety management system and kind of bolts onto the existing structure of health and safety management system. But it looks at injury rates in a different light. Typically, we talk about OSHA injury rates, and we say our OSHA recordable rate is 4.62, and our goal at the end of the year is 4.59.

Courtney Malveaux: Right.

Jim Frederick: And particularly the C-suites of organizations, that kind of just falls off the edge of the table and hits the floor. It doesn't resonate; it doesn't take hold. But when we talk about it in terms of trying to increase the capacity to make certain that people can complete their work career injury-free, free of serious injuries, what we're able to do is to put it on its head and say, "What we're trying to do is get to 100."

And just like all of the other indicators, most of the other indicators that the C-suite people are dealing with, we're trying to get to 100%, and when we look at employers that we've talked to thus far about it, and we say, "What's your current state?" If you take everyone that has 10 or more years at your workplace, we're typically seeing that they're at 90% or well above 90% already without even focusing on this.

So, this gives them the opportunity to take the injury model and really put it towards a positive of how do we get to that serious injury of no injuries, no serious injuries for people from the time they're hired to the time they leave the workplace. And we've seen some really good examples of that.

One quick example of that is a Virginia-based company but does work across the country, in many, many states. And they're out doing utility work for utilities across the state, doing infrastructure, putting up new power lines and things. So, this is folks working at heights, working in bucket trucks, dealing with high voltage electrical hazards.

(11:41):

Courtney Malveaux: Right.

Jim Frederick: It's not making cotton candy.

Courtney Malveaux: No.

Jim Frederick: And so, there are some hazards in place there. And this resulted from a situation where there was an OSHA involvement due to an injury. And during the course of the informal conference, the OSHA staff that were in the room saw that that employer had all of the elements of good safety and health management system in place. They just didn't quite have them in the right order and see their management system.

Courtney Malveaux: Right.

Jim Frederick: So, they sat back and the parties talked, and they introduced this What If concept, and they said, "If you take your management system, put it in the right construct, and then add this to it, we really think you could see some good results." In the last few years since doing that, they have seen some remarkable results of improvements and the maturation of their health and safety management system on an incredibly fast pace.

And the one other thing about that particular employer as a great example of this is that they're an employee-owned, an ESOP, employer. And they're represented by the electrical workers, the IBEW. And so, this is a union shop, an ESOP that's employee-owned, and has done this work in health and safety to really take the maturation of their safety management system from here to just well above anything that I've seen across the commonwealth.

And we're excited about working with them closer as we move forward. And there's some other examples of that.

Courtney Malveaux: Right.

Jim Frederick: So, the What IF program is one, in particular. Another one that I'd love to make sure we talk about is the fact that the annual VOSH Health and Safety Conference, so the Virginia Occupational Safety and Health Program Conference, is held every year in September. I think you've both been to a number of those and maybe actually showing up on agendas here or there a few times.

Courtney Malveaux: I'll be there.

Jim Frederick: So, it gets very good participation. But I think it's something we can continue to build upon, and we really want to make certain that we're not only fostering a good agenda, good plenary speakers to come speak from a microphone in front of a big room, but also very good content in workshops where it's a smaller group where conversations can take place.

And the most important thing, I believe, is the conversations that take place during the break in the hallway where people are getting to know each other. "Hey, we have this problem. You talked about your success story. How did you do that?"

Courtney Malveaux: Right.

Jim Frederick: "How did you get from here to here?" And those are the conversations that you can't find just anywhere walking down the street or stopping in at your local coffee shop.

Courtney Malveaux: Yeah.

Jim Frederick: So excited about that. And so those are a couple of things to start with. Seems like there were more in my mind of things we were going to touch on that, but that's all good.

Courtney Malveaux: We'll hit on those. So, I'll tell you one thing that is really, well, no pun intended, but a hot topic is the heat. And so, the mercury's rising, and it's not just outdoors but it's indoor as well. And Federal OSHA has issued a proposed rule to address heat for workers both indoors and outdoors. We've seen about nine, 10 states that have come out with their own standards. Virginia's coming up with a standard, I think, next year by next fall. So, can you tell me what's happening with heat exposure in Virginia?

Jim Frederick: Yeah. Well, one, I certainly will agree that moving from northern Virginia down here to Richmond, it can be warm and we've had some very warm days. I think about the temperatures that we had here in the Richmond community over the Fourth of July, the long weekend, and it was just very, very hot, very humid.

And so, I always think of workers that are working, particularly outdoor workers, in that incredibly burst of a hot week or so that come along, but also those workers that are indoors around hot operations.

Courtney Malveaux: Right.

Jim Frederick: And so if we think about some of the operations in the state, we've got some foundry operations, we've got some paper manufacturing, and a handful of others where we've got truly hot operations that are in an enclosed space and keeping that heat basically locked into the area. And so, those workers are dealing with those hot and humid sometimes temperatures, not only in July and August, but they're dealing with them in February and March as well, which is crazy.

(16:09):

Courtney Malveaux: Which is surprising.

Jim Frederick: And so, yeah, there's a lot to be done here. And so, I was engaged and involved with this while I was at Federal OSHA, and we put together the proposed rule.

Courtney Malveaux: Right.

Jim Frederick: And so, coming here, we had a piece of legislation that passed and was signed by the governor and are already working toward. The next step for us is to publish the Notice of Intent to Regulate (NOIRA). Always hard for me to get NOIRA out, but the NOIRA, and that will be published very soon. In fact, it might even be published before this podcast is released.

And then there'll be a comment period thereafter. And the public comment period in this process is vital and important for public participation. We truly, truly do want to engage with the community that is impacted by this rulemaking to hear from you, to hear about what works for you in your system to manage heat in your work and what has not worked for you. We need to understand both sides of that equation.

Courtney Malveaux: Right.

Jim Frederick: Well, I think one thing that's important in that is I've talked with employers about hot work processes for decades, and I kind of step back to 10 or 15 years ago. When I would go to sit down and talk with an employer about hazards in their workplace, and particularly heat hazards, their response was a little bit like, "Oh, we've got some things in place, but it's complex and complicated. We're really not going to be able to go into much of the detail."

Fast-forward to the last six, seven, eight years. It's hard to find an employer that doesn't want to tell you about their heat program. And they're out there. There are employers out there who do not have good controls in place for heat. But when you're at a conference, you're talking with employers that are working with a mature safety and health management system, they want to tell you about it, and it's much more of a, "Hey, let's sit down, let me roll up my sleeves and tell you about our heat program."

As I've mentioned, I lived in northern Virginia before coming down to Richmond, and I certainly saw, I always think of these three specific construction projects that were going on near where I lived in Northern Virginia. It was either on the area where I go for a run in the morning or go for a walk in the evenings.

Courtney Malveaux: Right.

Jim Frederick: One was a renovation of an office space into some condo space that was in this lovely building right along the Potomac River. And what they actually did, they put in place a controlled environment, a tent with walls that was air-conditioned. And so, they had a space for workers to cool down during hot work days and make certain that they had that space for workers to go cool.

Courtney Malveaux: That's unique.

Jim Frederick: Another one that was just kind of between where I lived and King Street, so it was a route I took very often, was this large board at the entrance to the job site that they would update daily, and it had temperature information. It had the whole basic outline of the heat control program so folks knew where to find water, when and how often to take a break when needed, and where to get some shade and some cool space to go sit down and take a little bit of break so that that heat load that they had been building up while they were doing that hard work of that construction was able to dissipate.

Courtney Malveaux: Right.

Jim Frederick: And so those are a couple examples of workplaces where we saw this, I saw this over the last few years in action. And one thing, kind of talking to folks as I would walk past there and chat with people was, it certainly did not seem to be impacting the schedule of those construction sites.

Courtney Malveaux: Good.

Jim Frederick: And so, I think it's important as we focus on those base elements of water, rest, shade, making certain that workers are acclimated to the heat so that the first day at work you're not into that 110-degree heat index that we may be having today here in Richmond, and having that opportunity to work up to the full shift of that work, and training and education.

And the training and education I think is particularly important because if there's two things we can make certain that workers better understand at the end of the training is to recognize the symptoms that they're experiencing.

Courtney Malveaux: Yes.

Jim Frederick: So that, as we were talking before we turned on the record here, I was mentioning I went out for a run this weekend and actually had to stop and walk kind of in the middle of my run because I realized I was out a little bit later than normal because you sleep in a little bit on Saturday.

Courtney Malveaux: Right.

(20:50):

Jim Frederick: And so, the sun was already up over the trees. There was no shade, and I was heating up pretty quick. I recognized it in myself that I needed to stop and walk for a mile or so just to cool down a bit before I finished. Well, I said run, but it's really more of a fast walk.

Courtney Malveaux: I'm with you on that.

Jim Frederick: And so, recognizing the symptoms in themselves, so they know when to raise the hand, raise the flag, ask for help, take a break, get to that cool area, get some water. Make sure that water's cool so it helps cool them down.

And the second important part of that training is to recognize the signs in others. So, we want to make sure that a worker can recognize in a coworker when they're starting to experience some of those heat-related illnesses before they are so bad that you got to call the ambulance.

Courtney Malveaux: Sure.

Jim Frederick: And so, if those are the two things that can come out of the training, and then couple that with the water, rest, shade, acclimation, I think that's a very good basis for the conversation around heat. And it really is reflective of what the elements that were in the legislation that was passed and given to us to put in place here, as you said, in a pretty fast timeline.

Courtney Malveaux: It is. And you have barely a year to put it together with working with the Safety and Health Codes Board.

Jim Frederick: Right. Yeah.

Courtney Malveaux: And thanks for bringing up that they're taking input from people, stakeholders, employer side, employee side. Whoever has a stake in this, you want to hear from them.

Jim Frederick: Yeah. Researchers, academia folks, interest groups that are somewhere across the commonwealth that have been dealing with workplace heat issues. We want to hear from folks.

And thank you for also raising the Safety and Health Codes Board. Virginia is not unique but does have a rather unique system of having this board in place, that has been in place for decades, that is actually the body that promulgates a health and safety or boiler and pressure vessel safety rule.

Courtney Malveaux: So, it's not you?

Jim Frederick: So, it is the board that is the actual entity that promulgates the rule.

Courtney Malveaux: Right.

Jim Frederick: We, the agency, the Department of Labor and Industry, will help, will assist, will develop text, we'll provide information. We do a lot of the work in the background, but it is the board and the board members. And big thanks to those, if any of those board members are watching, big thanks to the members of the board.

Courtney Malveaux: Thank you for that.

Jim Frederick: They do this out of the good of worker health and safety and boiler and pressure vessel safety across the commonwealth, and truly, across the country and around the world, because the impact of this board has long, long legs beyond just what happens inside the borders of the state of Virginia. So, big thanks to them.

And the board will be meeting periodically. That's another space and time for public involvement, is at the beginning of each board meeting, there's an opportunity for the public to participate. And so, the board meets both in person and then periodically meets virtually through a Zoom or Teams set up. And, at the beginning of each agenda, it's time for public comment, so folks can participate in that, as well as through the process when the notice of intent to regulate is issued, and then when the proposed rule is issued. There's also public comment through the web portal at the state. That's a lot.

Courtney Malveaux: Yeah. Back to the NOIRA.

Jim Frederick: Yeah.

Courtney Malveaux: But I remember when I was with the agency, the mantra was water, rest, shade. As you said, water, rest, shade. And the takeaway that I'm hearing is that we're no longer in that little space of water, rest, shade, that now you have to have a written program. You have to have the training of supervisors and coworkers to recognize symptoms, how to react. There's a lot more to it than there was just 10 years ago.

Jim Frederick: Yeah, and I think one of the important things around the written program is that there may be some parameters of what exactly a written program looks like because a large multinational corporation has a little bit different capacity than a small landscaping company to put written programs together.

But one of the things that I certainly have experienced in my work career, as well as most recently, particularly with both the federal OSHA and now at the State Department of Labor and Industry, is that in the workplace health and safety space and that management system philosophy and concept, if the

items aren't included in writing, there can be a wide range of variation in how things are implemented on the shop floor or at the site level.

Courtney Malveaux: Right.

Jim Frederick: And what putting it in writing does is help to put a little bit of parameters and some guardrails around what needs to be there.

Again, one other example was in Northern Virginia, I certainly saw this construction site of one of the universities was building a large building just in earshot and eyeshot of the national airport runway. And they had pallets of water that were maintained at the work site during the course of that construction. I think that was part and parcel of their program, their safety management system.

Courtney Malveaux: Right.

Jim Frederick: That was making certain, not when the water was all the way out, but when they were down to one pallet left, they needed to make sure they got another set of cases of water delivered and they're available for folks.

(26:22):

Courtney Malveaux: I'm sure they had to do that. Well, switching gears just a little bit. So, you and I both know emphasis programs and how OSHA or VOSH, Virginia Occupational Safety and Health, targets employers when it comes to enforcement. But could you just talk a little bit about what the priorities are as you see it, or what the enforcement priorities are and how emphasis programs come into play?

Jim Frederick: Yeah. So, there's a couple different layers of when we talk about emphasis programs. There are the emphasis programs that are issued by federal OSHA. And again, I kind of think both having been at federal OSHA and having had some of the responsibility of the oversight of the state plan OSHA programs that are in roughly half the states across the US. Some are just public sector workforce, and some are the full OSHA program as we have here in the state of Virginia. That's essentially all of the OSHA jurisdiction plus the public sector.

So, I had that responsibility there, and now in seven months of being here, I recognize that the relationship between federal OSHA and the state plans, I think of it as kind of analogous to being like cousins.

Courtney Malveaux: Right.

Jim Frederick: That we're related. We want to make sure that we're getting together periodically and working toward the same end, but we might not agree on who we're cheering for on a Saturday during football season for a football game. So, there can be some differences between the federal and the state program.

But at the same time, in an area like emphasis programs, we want to make certain that we are looking at the national emphasis programs and incorporating those that are appropriate here in the states. We

also then can have both our own state emphasis programs and then our offices. OSHA has basically four quadrants of the Commonwealth that we've got four main offices in, and we can have an emphasis program that's specific to that area.

And part of why you only have it in one area is when you put an emphasis program in place, you're essentially saying we're going to dedicate X amount of resources to checking on workplaces to see if those hazards engaged with that emphasis program are actually properly controlled. And so, if we were doing something that is very specific to the southwest region of the Commonwealth, but not necessarily to any of the other three, we would just have it in that area.

Courtney Malveaux: Sure.

Jim Frederick: But there are other things that we want to have across the entire Commonwealth.

Courtney Malveaux: Sure. And to give people a little bit of color as to what an emphasis program might look like. So, for example, OSHA federally implemented an emphasis program focused on manufacturing and warehousing type workplaces. And the interesting part of that is that it has endured and has extended from one administration to the next, and that's in place in Virginia as well.

Jim Frederick: Yes.

Courtney Malveaux: And so, there's that. There's another emphasis program focused on fall protection.

Jim Frederick: Yep.

Courtney Malveaux: And so, these are the topics that you take, and we take those directions from federal OSHA, but also, we follow our own directions as guided by you and the Safety and Health Codes Board on what we need to focus on here in Virginia.

Jim Frederick: Yeah. And one other way, I think, to look at it when we're talking about emphasis programs is, is you think about the resources that we have available to us. And so, for our safety and health program, we receive a significant amount of resources from the federal government, about half of the enforcement bucket of resources, and then a significantly higher, closer to 90% of the cooperative programs from the federal budget. And so, then we at the state put in the rest of that to raise this up.

Courtney Malveaux: Right.

(30:32):

Jim Frederick: And we're fortunate because the state actually gives us a little bit more than they have to match to make sure we've got some of the resources we need to do our work. So, if we think about all that's coming into us, the first and foremost, the thing that we want to make sure is that we're being responsive to fatalities, serious hospitalizations, multiple hospitalizations, and imminent danger. We want to make sure that we're getting to those workplaces. We don't have hundreds and hundreds of

compliance officers across the state. I wish we had more than we do, but we've got folks in each of those four areas of the state. So, we first make sure we can cover those.

Then we'll deal with the complaints that come in. And complaints come to the agency, that's written into the Occupational Safety and Health Act. It tells anybody that they've got some connection to this workplace, if they want to file a complaint, there's a process to go about in doing that. When we receive a complaint, we look at it. If it meets the bar of being a formal complaint, we'll get out there and we'll take a look at that. If it doesn't quite meet that bar, we can either go back to the individual and see if they've got some more information, or we can also treat it as an informal complaint, which I guess means you have to take off your tie and jacket and deal with.

Courtney Malveaux: Right.

Jim Frederick: But it's a process where we remotely work with the employer to make sure that the alleged violation is addressed. And then we also want to make sure that things like these emphasis programs are into that mix, that we're hitting, again, we've committed that we're going to do a number of inspections based around things like a fall protection hazard, and so we'll make certain that we're hitting on the right numbers of those.

And it's a way to help us target our resources and make certain that we're targeting our resources towards the highest hazard workplaces and the hazards that are causing serious injuries and fatalities to workers across the state. If we just left it to kind of the where we hear about something bad happening or where a complaint goes, we would not see quite the right mix of focusing our attention on those high hazard industries. And so, we want to make sure that we're getting to the high hazard industries.

Courtney Malveaux: Sure. And that helps because I don't know if it's surprising to you, but there are some folks who feel like, "Oh, my gosh, I'm being targeted," and this is something that is just targeted at me. But there's a real process. There's a real thought in terms of how you do your targeting and focus your resources.

Jim Frederick: Yeah. There's some infrastructure around this to make sure that we are doing this within these guardrails to get to those places that we want to.

And I think employer, worker, worker organization, employer association, we can all agree that we want to make sure that we take the limited amount of resources that we have to protect all of the workers across the state and their safety and health and focus them to the right hazards and the right industries.

Courtney Malveaux: Right.

Jim Frederick: Make sure that we can try to take that number 14 that we talked about earlier, and that number 14 is nationwide, not Virginia, but try to take that number 14 and make that fewer and fewer.

Courtney Malveaux: We're with you on that. Absolutely. Well, do you have any parting thoughts or takeaways?

Jim Frederick: I have one.

Courtney Malveaux: Okay.

Jim Frederick: I forgot to really mention one of the important initiatives that we have going on at the agency, and I'm remiss to doing this, but it's the VOSH Institute of Learning and Outreach, and so the acronym is lovely. It's VILO. So, the VILO is a facility that we have initiated. We've started up, and we have an actual physical location that we've got classroom facilities as well as some hands-on capacity to perform health and safety training.

We are expanding the footprint of this. We've just recently opened a new office in Harrisonburg, Virginia, and so that facility of a regional office has some space for a satellite VILO learning center. And then we're hoping to be able to also do this at our other three regions of the state.

The purpose and the intent of VILO is to have a facility where we're doing two things. One is kind of inward-facing training and education, and second is outward training and education. So on the inward side, as folks may recognize, in order to work for the state Occupational Safety and Health Program, we hire somebody and then we train them on a kind of a stairstep approach of training so that they can have the skills they need to go out and do their job as a compliance officer. To do that, typically, we pick that person up and we send them to the OSHA Training Institute that's outside of Chicago, Illinois.

Courtney Malveaux: Right.

Jim Frederick: And so, we've got some travel costs and things.

Courtney Malveaux: Absolutely.

Jim Frederick: And so, we're doing more of this within the confines of the Commonwealth here, and able to bring folks together at a lesser expense and really amplify the impact of that by having them sitting at the table with their colleagues from across the state and getting to know each other better, realizing who the resources are, who really knows about fall protection that I can pick up my phone and call and talk to when I've got a challenging fall protection compliance issue. So that's kind of the inward-facing model.

The outward-facing model is we are looking for areas and have already done a handful of public-private partnerships where we reach out to industry associations, to worker organizations, and we say, "What is something you are doing that we could do together here in Virginia?" It's kind of just basically kind of a co-branded agenda for the day, and we can bring people together from across the Commonwealth or from outside folks can come in for this. And really share a message together of something that we're trying to convey.

So, the example that we've done now a handful of times is in trenching, and making certain, trenching a high hazard industry that while at federal OSHA, we saw a sharp increase of the number of fatalities.

So, we can't do enough to make certain that folks, both employers that are performing trenching operations and workers that are doing the work to create the trench and do the work they've got to do once the trench is dug, to make sure we've got the controls in place. The controls are pretty darn well known and understood.

Courtney Malveaux: Sure.

Jim Frederick: It's just a matter of making sure that we've both got that infrastructure and then the time and space to use them. And so, this training that has been done has been a partnership, and we look forward to other opportunities where we can build on things like that.

And Virginia Department of Labor and Industry VILO program can partner with interested parties to make certain that we're together getting the message out across the Commonwealth and beyond.

Courtney Malveaux: Right.

Jim Frederick: And truly hope that this becomes a regional, folks from states nearby can drive to a regional training education opportunity, not just within the confines of the state.

(37:46):

Courtney Malveaux: That's a great use of resources for the agency, if you don't mind my saying. And so what I'm hearing from an employer standpoint is that the training that you normally would get out in Chicago, Illinois or from other or from private resources around the country at higher cost are made available by the agency, tailored to that employer beyond just the OSHA 10 or the OSHA 30, but rather to the hazards they are encountering there, and that you're making it available locally, at far less cost to the safety professionals in your organization, to the production managers, to those who have to make safety work in your workplace. You're making it available right down the street.

Jim Frederick: Yeah. And kind of last thought on this, Courtney, is one of the things I did for years while I was at the Steelworkers Union was a key I would tell local union safety committee when we were doing trainings with safety committee members, was, in my opinion, one of the key things was to get to know OSHA before it was your worst day.

Courtney Malveaux: Absolutely.

Jim Frederick: And the way I would tell folks was if they were in a federal state to find their area office, call and same with the state, find the regional office here in Virginia that you're sitting in and call the regional office and just ask if you can meet with the leadership there. Then show up at that meeting and while you're at that meeting, it's just very natural to get a little bit of a tour around and meet the other folks, the compliance officers that are there, and hopefully some of the compliance officers are available to come sit at the conference room table while you're talking.

From an employer perspective, I think it's important to convey where you are, what you do, and what the systems and control measures that you have in place. And then, if there is something that's a true emergency response sort of scenario, what are your hazards that you may have chemicals that are going to be released or something, and who's the fire department? Where's the response? Where's the command and control center going to be located? That sort of thing.

And if you do that before it's the bad day that something has happened that OSHA's coming out for, there's a level of knowledge and understanding. And hopefully, that doesn't happen, that you have to have that bad day. But if it does, then the folks that were around that table are going to say, "Oh yeah, I

remember talking with Courtney, and he told us about X, Y, and Z. And so, when we go out to the site, we need to be prepared for this, and this, and this."

Courtney Malveaux: Right. And I think that's a nice reminder to folks. I remember when I was at the agency, people would almost walk on the other side of the street just to avoid you.

Jim Frederick: Yeah.

Courtney Malveaux: And that's on a good day. And I think that I felt like, those of us in enforcement when I was there, our faces adorned many a dartboard.

Jim Frederick: Yeah.

Courtney Malveaux: It wasn't the most popular agency. But, relationships and your reputation matter, and that outreach to the agency before you have that bad day really does help build that trust and understanding.

Jim Frederick: Yeah. And it doesn't mean that the enforcement side of the equation is going to be any less impactful of what we're trying to accomplish through the enforcement process. But it does mean that there's going to be a common understanding and knowledge base that you're going to start from a better perspective and not just be scrambling to understand what goes on at this facility when you knock on the door after something bad has happened.

Courtney Malveaux: And trust.

Jim Frederick: And building that trust, the relationship that many across the Commonwealth already have in my seven months, so what do I really know yet? But what I have seen is that many employers already have built some relationship with their regional OSHA office, as have workers and worker organizations. So much of this already exists.

It's just a matter if you're in a workplace that you haven't done this; it's an opportunity here to get it started. It also takes a phone call and say, "Hey, can we come by to sit down and talk, tell you a little bit about what we do at XYZ facility?"

Courtney Malveaux: I appreciate that. Well, we'll keep you on my on automatic dial in case I need to reach out.

Jim Frederick: Yeah.

Courtney Malveaux: Well, listen, I have to tell you, when I learned that you were appointed to serve as our labor commissioner, I thought it was a home run. I mean that. And someone with your depth of experience, the breadth of your experience and your approach, I thought that was a real home run for Virginia. And just want to say thank you for that. Thank you for your service and thank you for sharing this time with me.

Jim Frederick: Well, thank you, Courtney. Really appreciate it. Thanks for the opportunity to do this, and we look forward to doing this again down the road and talk about some of the things we've put in place.

Courtney Malveaux: And I'll see you at the VOSH conference.

Jim Frederick: And we'll see you in just a few weeks then.

Courtney Malveaux: Okay.

Jim Frederick: All right.



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