

# Who's Responsibility?

## Health & Safety at Marts

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Agriculture & Forestry Policy

# Legislation & Responsibilities?

2005 Act - Virtually Everybody...

All Employers  
Self-Employed  
**Location Managers  
Directors**  
**Safety Officers**  
Safety Reps.



Employees  
Designers  
Importers  
Suppliers

# Safety, Health & Welfare at Work Act, 2005

- Places Duties on everyone connected with the world of work,
- Detailed duties on persons in control of a place of work,
- Ensure Safety of all Staff & (Trainees),
- Instruction & Training in a form and manner..... ensure competence,
- Adequate Supervision of staff and management of all facilities,
- Ensure Safe Buildings, Safe Plant and Equipment,
- Hazards Identified, Risks Assessed and controls put in place,
- Ensure safety of persons not employed but affected by any work activity,



Number 10 of 2005

## SAFETY, HEALTH AND WELFARE AT WORK ACT 2005

### ARRANGEMENT OF SECTIONS

#### PART 1

##### PRELIMINARY AND GENERAL

##### Section

1. Short title and commencement.
2. Interpretation.
3. Service of notices, etc.
4. Repeals and savings.
5. Expenses.
6. Application of relevant statutory provisions to certain public service activities.
7. Application of relevant statutory provisions to self-employed persons.

#### PART 2

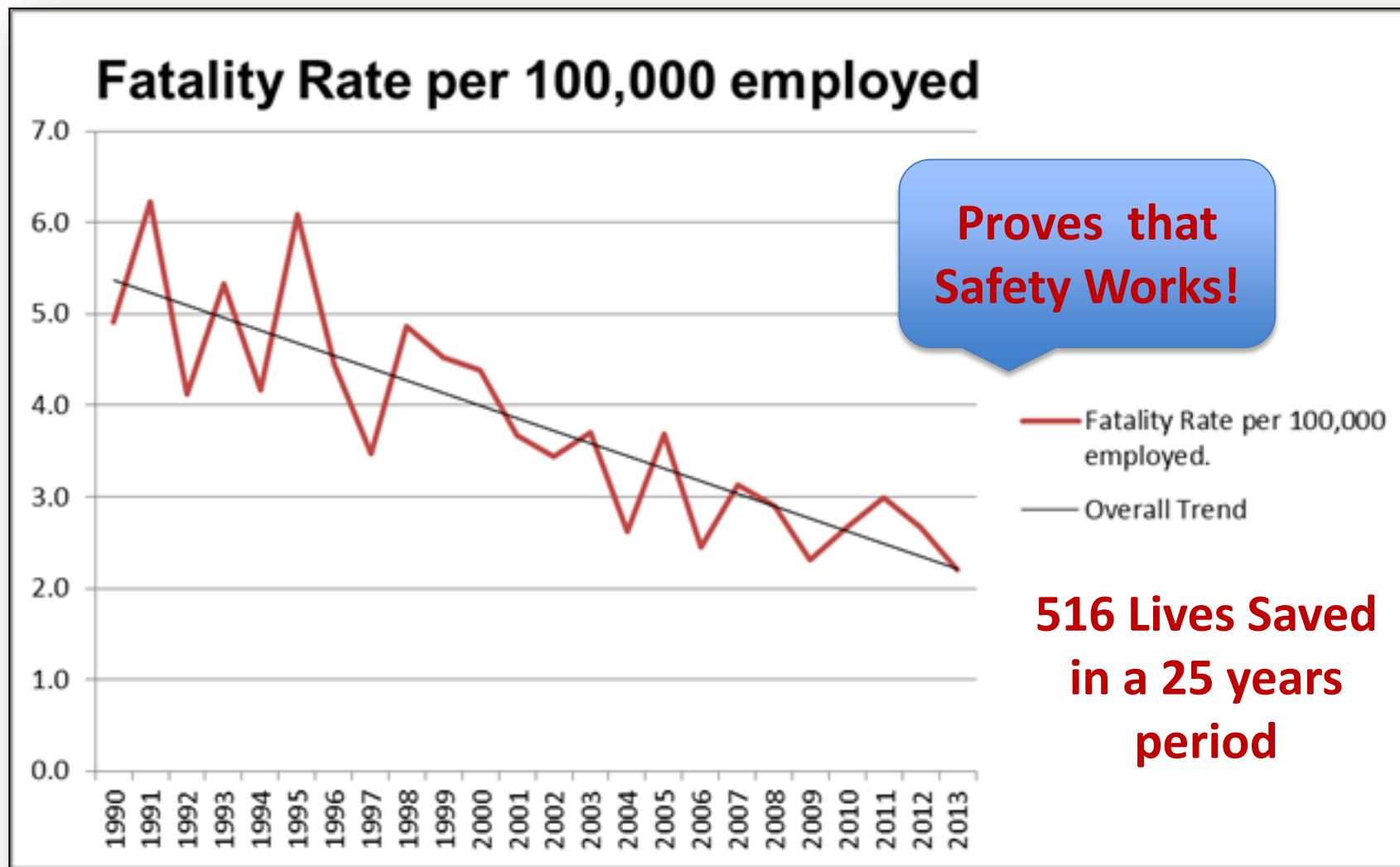
##### GENERAL DUTIES

##### CHAPTER 1

##### *General Duties of Employer*

8. General duties of employer.
9. Information for employees.
10. Instruction, training and supervision of employees.
11. Emergencies and serious and imminent dangers.

# Improvements across all Sectors?





# National Annual Fatality Rates

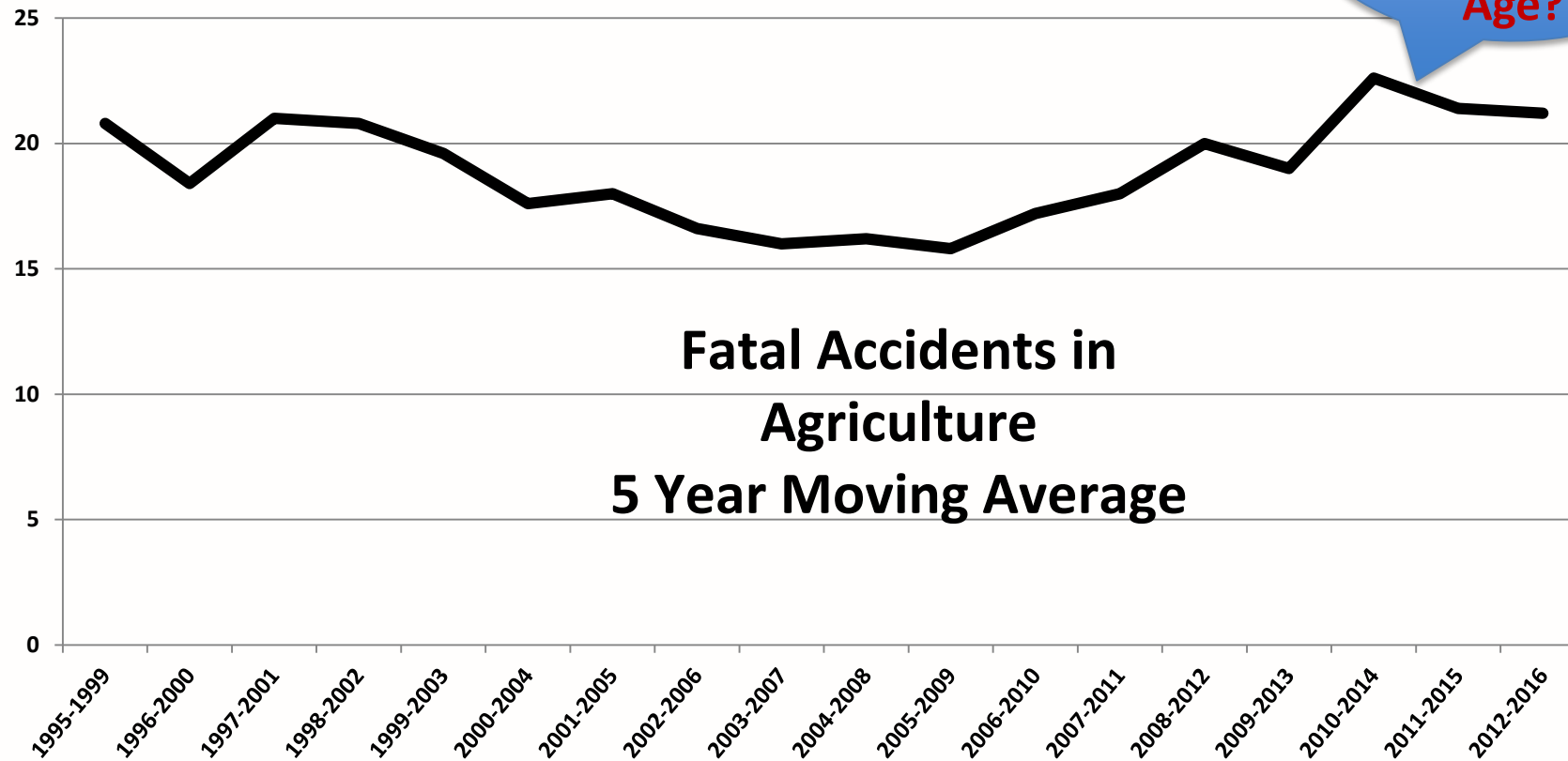
- All workers approx, 1.9 deaths for every 100,000 workers/yr
- Construction approx, 3 deaths for every 100,000 workers/yr
- Agriculture, **over 20** deaths for every 100,000 persons working!

**Frequently, 40% of Workplace Fatalities come from Agriculture which has 5% of our working population.**

**7 Times more likely to suffer a fatal injury!**

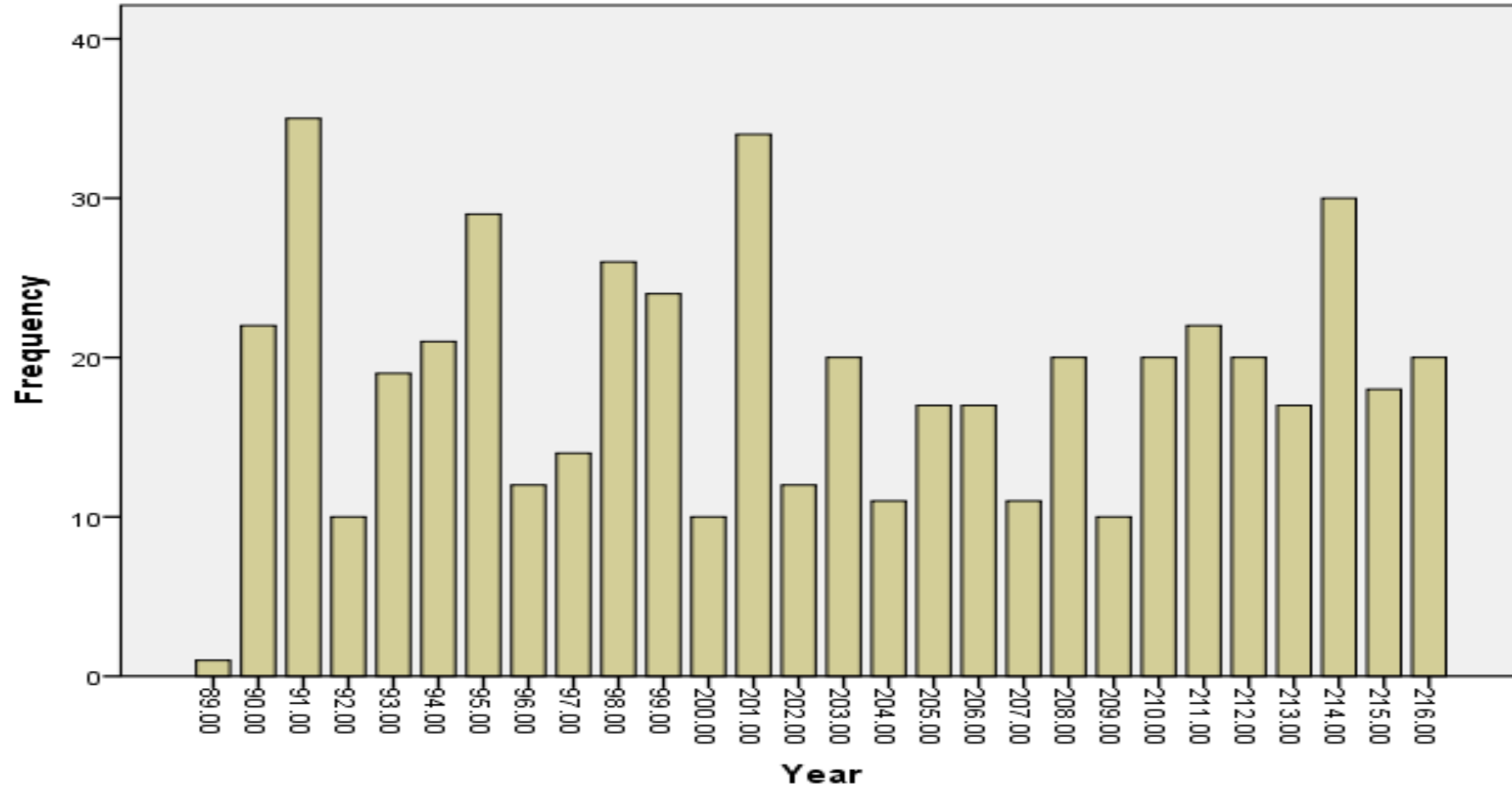
# Agriculture Deaths Are Rising (5 Year Rolling Average)

Expansion  
Increased  
Workload &  
Fodder Crisis,  
Age?



Source; H.S.A. & Teagasc

## Fatalities By Year 1989-2017 (546 Deaths)



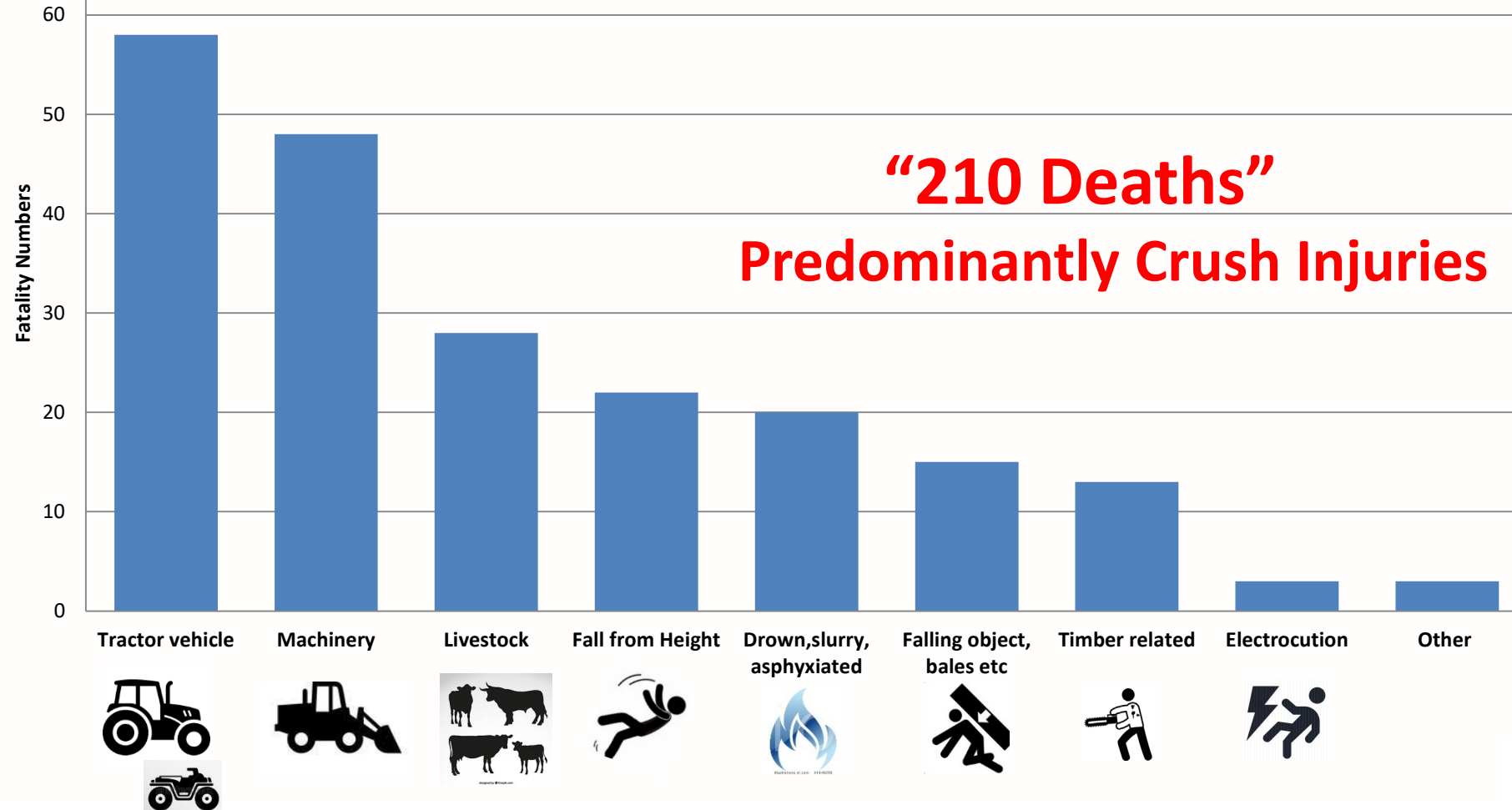
Source; J.Phelan HSA

# Fatal Accident Trigger

## 10 Year Agriculture Fatalities 2008-2017 (by trigger code)

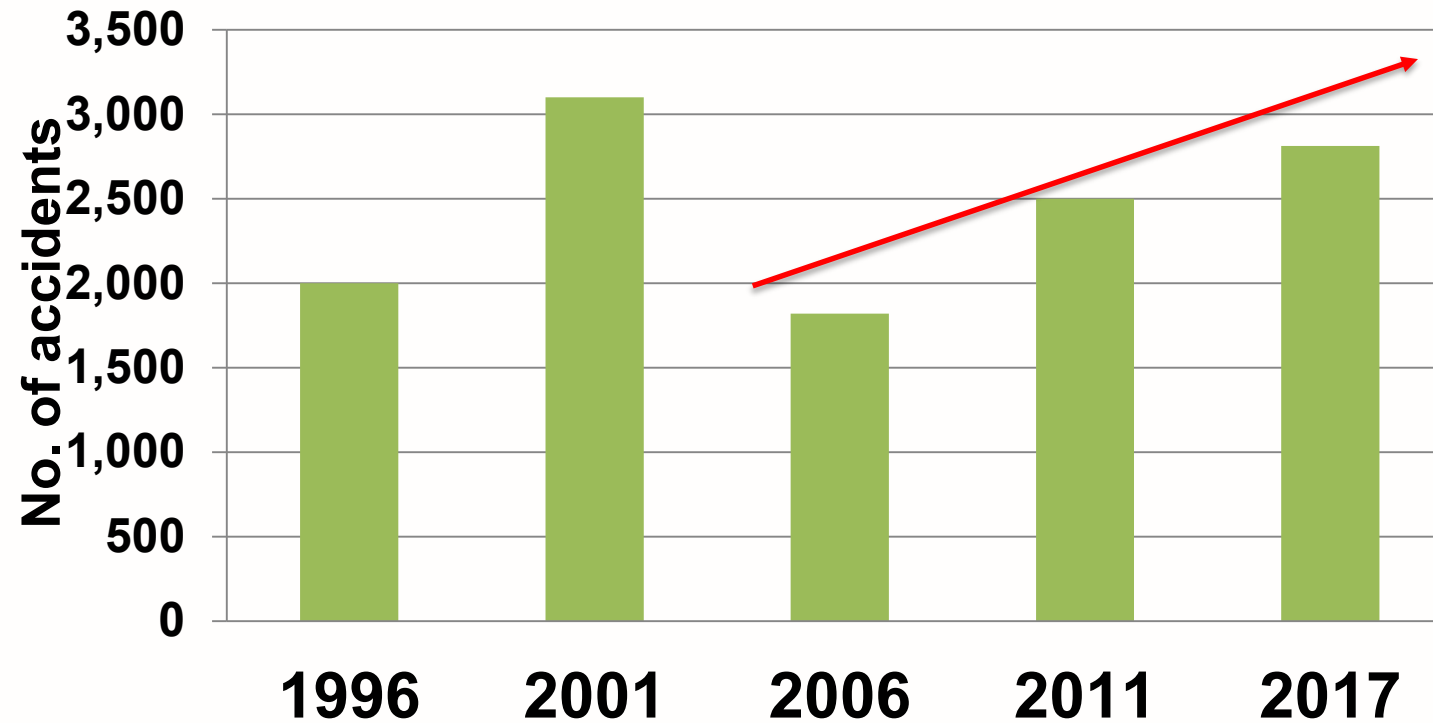
11 % of  
deaths were  
to Children

35%  
Deaths to  
OVER 65's





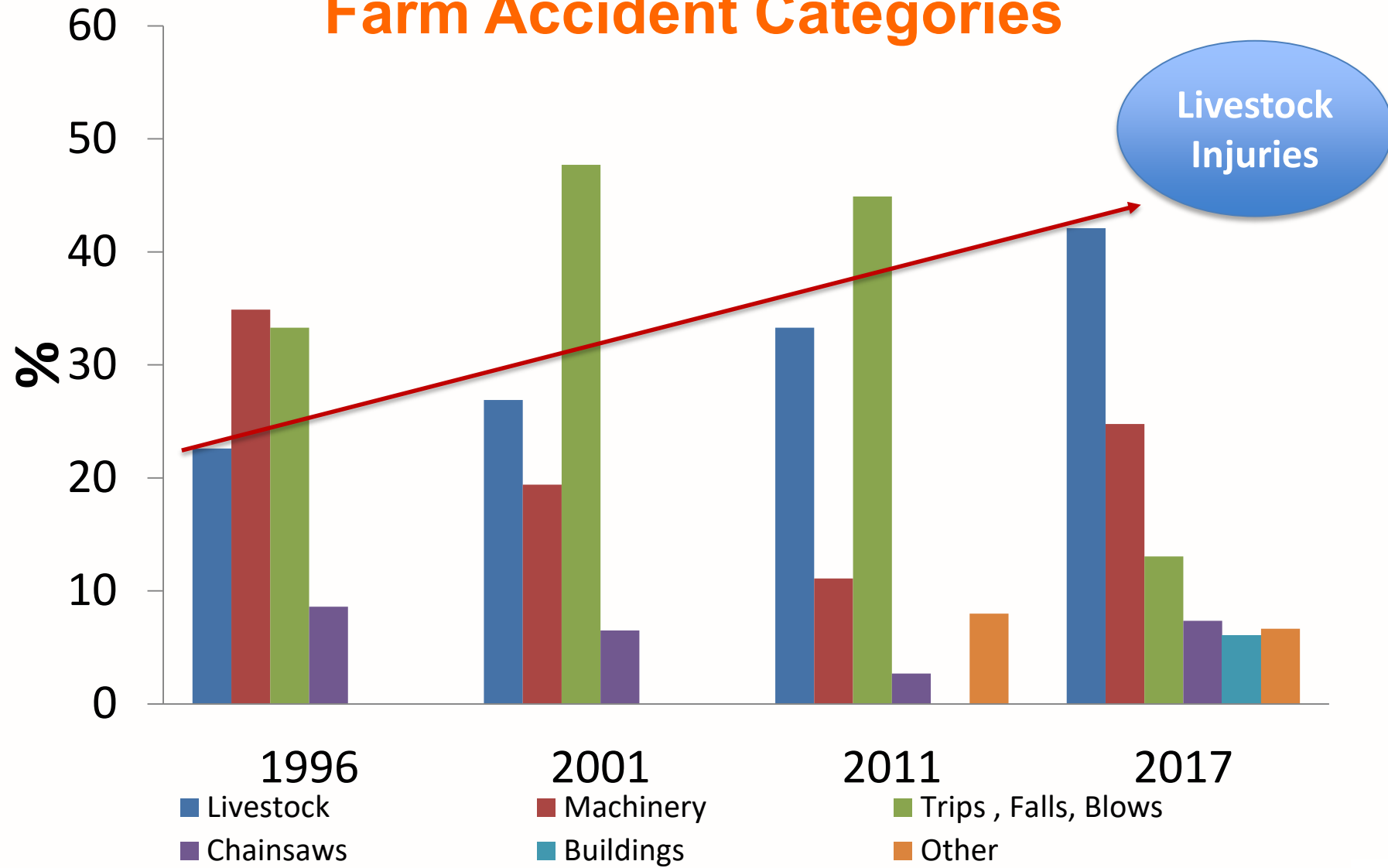
## Farm Accidents ( NFS) 2017 (Previous 5 years)



Source: NFS Teagasc

\*1991 – 5,000

# Farm Accident Categories



Source: NFS Teagasc

# Events Leading to Concern

- **General level of Livestock fatal & non-fatal injury on farms**
- **Fatal Accident and several serious injuries to farmers at Marts & Lairages**
- **Livestock escapes from Marts & Lairages**

# Irish Indo Headline - Three people injured after 'animal attack' at cattle mart

Three people were injured when they were reportedly attacked by an animal at a mart in Co Clare yesterday.

The incident, which is being investigated by the Health and Safety Authority (HSA), happened in the cattle loading and off-loading area at Ennis Mart at around 10am.

The incident is understood to have happened at around 10am in a loading and off-loading area at the rear of the mart complex.

The HSA confirmed it had been notified of an incident in which three people were injured.



# Incident Investigation

- Incident under control
- Scene is preserved
- Photos & survey pick up
- Layouts/sections/plans/drawings, all info .....must be provided
- Instructions /Supervision given & .....timings
- Facilities & Staff Competence
- Records & Reports
- Statements under caution
- Provision of any documents/information material to the investigation
- Responsibilities .....**Prevention /Negligence??????**



# Functions of the HSA

- **Promote good standards of safety and health at work.**
- **Keep legislative base up to date and appropriate.**
- **Provide advice and information on safety and health at work.**
- **Publish Codes of Practice.**
- **Provide Guidance on compliance with laws & standards.**

# Enforcement Procedures

- **Advice Note / Letter** (Confident Manager will take Action.)
- **Improvement Notice** - *Breach of Legislation – Time to comply is specified, e.g. No Safety Statement/COP.*
- **Prohibition Notice** – *Identifies Risk of Serious Injury – Work Activity Stopped until rectified, e.g. Poor unloading area.*
- **Prosecution** – Fine up to €3,000 &/or 6 months jail on summary conviction or Unlimited Fine or 2 years imprisonment on Indictment.

# Tools to Manage Mart Safety

- Guidance & Information Sheet on safe Handling of Livestock at Marts & Lairages
- DVD on Safe Handling of Livestock – Temple Grandin Principles
- DVD on Safe Handling of Livestock at Marts
- BeSmart Risk Assessment Tool tailored for Marts
- Voluntary COP for Marts - 8 Golden Rules for Mart Safety
- Planned Dedicated Inspection campaign planned for 2019 to assist Marts to move to comply with the above.

# Marts & Lairages Guidance



# Liability of Directors and Officers

- **Section 80.**—(1) an offence committed by an undertaking that has been authorised, or consented to by, or is attributable to connivance or neglect on the part of, a person, being a director, manager or other similar officer of the undertaking, or a person who purports to act in any such capacity,
- that person (manager /director) as well as the undertaking (company) shall be guilty of an offence and shall be liable to be proceeded against,.....



# Onus of proof.

- **Section 81.**—In any proceedings for an offence consisting of a failure to comply with a duty or requirement to do something, so far as is reasonably practicable, or to use the best practicable means to do something,
- it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable
- to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.

# Am I in the Frame???



## JAIL TERM AND FINE FOLLOWING WORKER'S DEATH

**A Liverpool-based waste and recycling company has been fined and its director has been jailed after the death of a 39-year-old worker. Gaskell's (North West) Limited and Jonathan Gaskell were sentenced both for their part in the death of Polish national Zbigniew Galka in 2010, and for continuing to operate the same baling machine in a dangerous manner. [More...](#)**

**05/11/2018**

# Penalties

- **2005 Act** Brought in the possibility of imprisonment for up to 2 years (or 6 months even for a District Court Case)



# *Aggravating Features*

- (a) Death or serious injury resulting from a breach of the Act or Regulations;
- (b) failure to heed guidance, warnings or reports; and
- (c) risks run specifically to save money.



# Safety Culture - How do we grow it?

- ✓ Show clear commitment from top management.
- ✓ Reject the status quo / have an open mind to change.
- ✓ Communication – two way.
- ✓ Accountability / feedback.
- ✓ Identify the problems & develop a solution.
- ✓ Empower people particularly drivers.
- ✓ Use the H.S.A. mart BeSmart Risk Assessment Tool.
- ✓ See improvement as a journey – long term.

# CONCLUSION

- The 2005 Act has introduced several important changes in relation to the circumstances in which criminal liability may be imposed on “directors, managers, & officials”
- DPP makes the ultimate decision to proceed or not
- **There have been a number of prosecutions of individuals in positions of responsibility and this is likely to continue.**

***“Prosecution would be a Failure on both our Parts”***