Aerial Work Platform Equipment: New Standards and Best Practices

Sunday, February 26, 2017
8:00 a.m. – 9:45 a.m.

Presented by
Anthony Groat, IPAF, Schenectady, NY
Brent Hoover, JLG Industries, Hagerstown, MD
Teresa Kee, NES Rentals, Deerfield, IL
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Brent Hoover, JLG Industries, Hagerstown, Md.
Teresa Kee, NES Rentals, Deerfield, Ill.
Jeff Stachowiak, Sunbelt Rentals, Jacksonville, Fla.

How will changes impact your rental company?

WARNING
Responsibilities – Task vs. Entity

<table>
<thead>
<tr>
<th>ENTITY</th>
<th>TASK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturer</td>
<td>Safe-use planning</td>
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<td>Dealer</td>
<td>Manuals</td>
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<td>Owner</td>
<td>Record retention</td>
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<td>User</td>
<td>Maintenance</td>
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<td>Operator</td>
<td>Inspections</td>
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<td>Lessor</td>
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<td>Lessee</td>
<td>Risk assessment</td>
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<tr>
<td>Broker</td>
<td>Personnel qualification &amp; training</td>
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<td>Requirements of Operation</td>
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New Draft Standards

<table>
<thead>
<tr>
<th>Current Standards</th>
<th>Draft Standards</th>
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</thead>
<tbody>
<tr>
<td>A92.2-2015 Vehicle-Mounted Elevating and Rotating Aerial Devices</td>
<td>A92.20 – B354.7 Design, Calculations, Safety Requirements and Test Methods for Mobile Elevating Work Platforms (MEWPs)</td>
</tr>
<tr>
<td>A92.3-2006 (R2014), Manually Propelled Elevating Work Platforms</td>
<td>A92.22 – B354.8 Safe Use of Mobile Elevating Work Platforms (MEWPs)</td>
</tr>
<tr>
<td>A92.5-2006 (R2014), Boom-Supported Elevating Work Platforms</td>
<td>A92.24 – B354.9 Training Requirements for the Use, Operation, Inspection, Testing and Maintenance of Mobile Elevating Work Platforms (MEWPs)</td>
</tr>
<tr>
<td>A92.6-2006 (R2014), Self-Propelled Elevating Work Platforms.</td>
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</tr>
<tr>
<td>A92.7-2014, Airline Ground Support Vehicle-Mounted Vertical Lift Devices</td>
<td></td>
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</tbody>
</table>

Terminology

31 NEW definitions, 10 prior definitions that are not included, 15 changes to prior definitions

- AWP to MEWP
- Groups and Types (combined = MEWP classifications)
- Dealer: A person or an entity who buys, rents or leases from a manufacturer or distributor and who generally sells, rents and services MEWPs.
  NOTE: A manufacturer, owner, user, operator, lessor, lessee, or broker is considered to be and assumes the responsibilities of a dealer when that entity is acting in the capacity of this definition
- Operation manual vs operator’s manual
Groups

Group A All Others

Group B Booms

Types

TYPE 1 Static

TYPE 2 Mobile from ground controls only

TYPE 3 Mobile from platform

Most Common, Group/Type

GROUP B is Booms – Group A = All others
Type 1 = Static Type 3 = Mobile from platform Type 2 = Mobile from ground controls only

Group A Type 3 Self Propelled Scissors

Group B Type 3 Self Propelled Booms

Group A Type 1 Manually Propelled

Group B Type 1 Trailer Mounted Atrium Lifts
Risk Assessment

- On all work to be performed
- Identify potential hazards and provide control measures to mitigate risk
- Rescue plan for work at height

Training - Your Responsibilities

- A92.22 & 24
- Training shall be provided to MEWP Operators
  - Dealer’s employees
  - In each classification
- Unit-Specific Familiarization
  - Dealer shall offer familiarization to Users (Customers)
- Supervisor Training (Theory)
- Specific topics to be addressed
  - Classroom and Practical (Hands-on)
- Operator Knowledge (Instruction)
- Rescue Training for User and Operator
- Maintenance and Repair Personnel
- Record Retention

Supervisor (Customer) Theory

Familiarization: Providing the necessary information regarding the features, functions, devices, limitations and operating characteristics as defined by the manufacturer in the operation manual, in order to properly utilize a specific model MEWP, to include the location of the manufacturer’s operation manuals.

- when requested by the user the dealer or owner shall offer operator training or advise the user where training can be obtained.
- User to allow operator time after familiarization to achieve operational proficiency.
Design standard changes

- Load Sensing
- Protection against sustained involuntary operation
- Stability with a flat tire
- Stability calculations
  - Wind loading
  - Dynamic Loading

Design standard changes

- Indoor/Outdoor ratings
- Drive cutout while tilted
- Indicator for loose/broken chain/cable
- Descent alarm for scissors

Design standard changes

- Providing a means to identify the date the last annual inspection was performed
Maintenance & Repair

- Manuals
- Modification
- Maintenance
- Maintenance and repair safety precautions

Inspections

- Pre-delivery Inspections
- Frequent Inspections
- Annual Inspections
- Pre-start Inspection
- Maintenance and Repair Safety Precautions

Documentation

- Transfer of Ownership
- Frequent and Annual Inspection
- Pre-delivery Preparation, Service and Repairs
- Training
- Familiarization
Rental Contract Considerations

- **Selection**: Based on criteria established by the Customer;
- **Examination and Inspection**: Waives defects an ordinary examination should reveal;
- **Receipt** of equipment in good order, condition and repair;
- **Instructions and Warnings**: Received, reviewed, understood and agreed to.

Rental Contract Considerations

- **Safety Equipment**: (e.g., FALL PROTECTION EQUIPMENT) made available on reasonable terms;
- **Use for Intended Purpose**: Requirement arguably waives notice of foreseeable misuses;
- **Other Use Requirements**: Within rated capacity, in compliance with instructions, laws, rules, regulations, warranties, and policies of insurance;
- **Qualifications**: Properly trained and familiarized, qualified, certified, licensed – (e.g., MA hoisting license);
- **Use by Others**: Requirement to enforce contract qualifications, restrictions and use requirements.

Rental Contract Considerations

- **No Modifications**: Particularly to safety equipment;
- **No Loans or Assignments**: Recipient(s) of loaned or assigned equipment may be unqualified and/or uninformed;
- **Conspicuous Danger Warning**: Supports customer’s “knowing and intelligent” assumption of risk;
- **Assumption of Risk**: Customer’s express assumption of the risks associated with the equipment;
- **Indemnity, Defense and Hold Harmless**: Customer’s agreement to indemnify (pay), defend (hire an attorney), and hold harmless (not sue) the rental operator/lessor.
Rental Contract Considerations

- **Insurance Requirements**: At least liability and property damage / "inland marine" (not excluding overturning);
- **Malfunctions**: Repair, replacement or termination exclusive remedies;
- **Waive Incidental and Consequential Damages**: Damages that naturally flow from the malfunction/breach;
- **Waive Warranties**: "As-Is" and waive all express and implied warranties conspicuously (should include Merchantability and Fitness);
- **Default Remedies**: Include right to repossess in the event the customer misuses, abuses or modifies the equipment or disconnects/overrides any safety device(s).

WHY?

**Liability / Lawsuits**

- Potential Lawsuits
  - Direct Claims
  - Indirect Claims

- Equipment Operator
- Property Owner
- General Contractor
- Service Providers
- Injured Visitors
- Other Contractors
- Bystanders

O: (866) 582-2586
M: (303) 921-0478
www.equipmentrentalcontracts.com
 Liability / Lawsuits

Potential Lawsuits
- Direct Claims
- Indirect Claims
- Foreseeable Claims

Rental Company/Lessor
Customer/Lessee
Equipment Operator
Property Owner
General Contractor
Service Providers
Injured Visitors
Other Contractors
Bystanders

Products Liability Expansion

Original Application:
The Seller or Lessor was Liable ONLY to the Direct Consumer.

Subsequent Expansion:
NOW: ANYONE CLAIMING TO HAVE BEEN AFFECTED by an Allegedly Defective Product or Warning can sue.

Since 1965, Products Liability Law has been expanded to include everyone in the "Chain of Distribution".
Rental Contract Considerations

**Extract and Emphasize via an Addendum**

- Evidence of provision of manuals and instructions;
- Specific risk assessment, hazard identification, rescue plan, and records retention requirements;
- Provides enhanced warnings;
- Express acknowledgement that PFP was made available;
- Unequivocal acceptance or declination of PFP;
- Specific familiarization and training notices;
- Expanded Safety Rules;
- More robust indemnity, defense and hold harmless provision.

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**Why?**

5,276,103

Reasons to use Proper Contract Documents

1 Lawsuit: Net Savings: approx. $5,276,103
Time for Questions

Panelists

Tony Groat, IPAF
Brent Hoover, JLG Industries
Teresa Kee, NES Rentals
Jeff Stachowiak, Sunbelt Rentals
James Waite, Esq., EquipmentRentalContracts.com/
    James R. Waite, LLC.
Find out rental’s best practices

Aerial Work Platform (AWP) Equipment Best Practices Documents

Understanding the regulations that accompany AWP equipment can be challenging. That is why ARA partnered with the Association of Equipment Manufacturers (AEM), the International Powered Access Federation (IPAF) and the Scaffold & Access Industry Association (SAIA) to create these best practices documents:

- Statement of Best Practices of General Training and Familiarization for Aerial Work Platform Equipment
- Statement of Best Practices of Personal Fall Protection Systems for Aerial Work Platform Equipment
- Statement of Best Practices for Workplace Risk Assessment and Aerial Work Platform Equipment Selection

ARA members can download these documents for FREE or purchase hard-copy versions.

Go to ARArental.org/go/AWP.
Get Answers to Your Legal Questions

Prevent legal questions from becoming legal problems with the Legal Assistance Program from the American Rental Association. ARA members can access up to two hours of free legal consultation each year from Attorney James R. Waite or an attorney on his staff with expertise in the rental industry – a $950 value.

Receive legal advice on:
- Rental contracts
- Tax issues
- Buying and selling equipment
- Dealer agreements
- Real estate leasing
- And more

Waite is the author of ARA’s Business Management: Contracts and Legal Guidelines book and is a regular contributor to Rental Management.

Find complete details at ARArental.org/BusinessResources or call Member Services at 800-334-2177, option 1

James Waite, Esq.