

NEW YORK CITY
DEPARTMENT OF CONSUMER AND WORKER PROTECTION

DCWP RULES HEARING
SAFETY STANDARDS FOR POWERED BICYCLES, POWERED MOBILITY
DEVICES AND THEIR BATTERIES

VIRTUAL PUBLIC HEARING

REMOTE - VIA TELECONFERENCE

October 16, 2023

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1 MS. KARLINE JUNG: -- everyone. My name is
2 Karline Jung. I have been designated as the Hearing
3 Officer for the Public Hearing of Department of
4 Consumer and Worker Protection on the proposed rules
5 related to Local Law 39 of 2023. This hearing is
6 being held by teleconference. It is now 11:01 a.m. on
7 Monday, October 16, 2023, and I am hereby convening
8 the public hearing on this proposed rule.

9 The proposed rule was published in The City
10 Record on September 15, 2023. The published notice
11 and rules are available online on the NYC Rules
12 website and the Department's website. The Department
13 has proposed these rules pursuant to the authority
14 vested in the Commissioner of the Department of
15 Consumer and Worker Protection by sections 1043 and
16 22- 2203(f) of the New York City Charter, and section
17 20-104(b) and 20-610 of the New York City
18 Administrative Code.

19 The hearing affords the public the
20 opportunity to comment on all aspects of the rule the
21 Department has proposed. The Department will
22 carefully review all testimony and written comments
23 received at this hearing and will give due weight and
24 consideration to proposals and recommendations that
25 are submitted for the record at this hearing.

1 To ensure that everyone seeking to testify
2 will have an opportunity to do so, I ask that we all
3 follow these ground rules. During the hearing, all
4 participants should give due respect and consideration
5 to the folks offering their testimony and to please
6 mute their mics, if they are not speaking. Each
7 witness will have a maximum of three minutes to
8 provide oral testimony. If your comments take longer
9 than three minutes, please synthesize your oral
10 testimony and leave a written copy for the record.
11 Unlike the limit on time for oral testimony, there is
12 no limit on the number of pages you can submit as
13 written testimony or as documents for the record. The
14 written submission will make -- will be made part of
15 the public record.

16 If you are looking to testify today and you
17 have not yet let me know, please do so right now in
18 the chat. And before we begin, I'll remind folks to
19 please mute their mics until called to provide
20 testimony. Thank you.

21 I will now call the first witness. You will
22 have three minutes for testimony, and you may begin
23 whenever you're ready. First up, I have UL Solutions.

24 MR. IBRAHIM JILANI: Megan, if you're there.
25 Or, otherwise, I can cover it.

1 MEGAN: Sure, go ahead, Ibrahim.

2 MR. JILANI: We published -- thank you. So
3 my name is Ibrahim Jilani. I'm the Consumer
4 Technology Director at UL Solutions. We have provided
5 our comments in the submission. And just to summarize
6 what those comments are, is that (1) we do appreciate
7 that New York City is taking the consumer and worker
8 protection so seriously and making sure to give a
9 definition around accredited testing laboratories.
10 That is absolutely critical for the Local Law 2023-39.

11 With that, we've provided some insights into
12 the differences between an IEC -- ISO/IEC 17025
13 testing organization and ISO/IEC 17065 certification
14 organization and a OSHA Nationally Recognized Test
15 Laboratory. Each one has a different scope of
16 requirement. An ISO/IEC 17025 testing laboratory does
17 not require that particular facility to have qualified
18 engineers to participate in the evaluation of a UL
19 safety standard. This is absolutely critical when
20 you're looking at standards like UL 2849, UL 2272 and
21 UL 2271, that competent, qualified and accredited
22 engineers be part of the process.

23 ISO 17065 certification organizations, they,
24 they can and do have accredited engineers as well as
25 on the laboratory qualified testing. And that

1 combination does make it possible that a 17065
2 organization could evaluate to UL 2849, 2272 or 2271.
3 The challenge with 17065 organizations is that they do
4 not require ongoing market surveillance, and neither
5 does 17025 organizations. Neither one of those two
6 categories require an ongoing market surveillance
7 program that would ensure that production that's being
8 manufactured at the factories around the world
9 continue to make the product as, as it was when it was
10 first evaluated for certification.

11 The OSHA Nationally Recognized Testing
12 Laboratory program has requirements for -- similar to
13 17065 certification organizations and, on top of that,
14 do require market surveillance so that a product that
15 has -- that bears a certification company's mark, that
16 in order to put that mark on there, OSHA does require
17 that there be ongoing market surveillance to check
18 that the factories that are producing the product
19 continue to make the product in the same way as it was
20 first evaluated and tested under the original
21 certification project.

22 So, with that in mind and understanding the
23 health and safety risk that micro-mobility products
24 can play, we have recommended that the language be
25 updated in the accredited testing laboratory

1 definition to be that accredited testing laboratory,
2 as used in the 20-610 of the Administrative Code,
3 shall mean an organization which has been recognized
4 by the United States Department of Labor, Occupational
5 Safety and Health Administration, as a Nationally-
6 Recognized Test Laboratory (NRTL) and for which the
7 Occupational Safety and Health Administration has
8 included UL 2849, UL 2272 and UL 2271 within the scope
9 of, of the Nationally Recognized Test Laboratory's
10 recognition.

11 So, with that, I will end my comment.

12 MS. JUNG: Alright, thank you so much. Next
13 up, we have Paul Moliski from Intertek.

14 MR. PAUL MOLISKI: Hello. Good morning.
15 Thank you for the opportunity to address the committee
16 here. I hadn't planned on present-, making a
17 presentation, but I do have some comments.

18 I am the Vice President of Accreditation for
19 Intertek ETL globally in our electric business line.
20 We are fully accredited to 17025, 17065, and we are
21 OSHA NRTL.

22 I think some of the comments presented by
23 the UL representative regarding 17025 was a little
24 inaccurate. If you have those standards in your
25 scope, you are required to have competency for the

1 evaluation, including the equipment to conduct the
2 testing. So, you know, prior to the deletion of that,
3 based of that in the requirement, I would, I would
4 review 17025.

5 The comments regarding 17065 and
6 surveillance, if you're operating in North America --
7 U.S., Canada -- it, it, for product certification,
8 it's a scheme requirement to have the factory follow-
9 up inspection. It's specifically called out in the
10 OSHA NRTL regulation, the directive, and it's also
11 required by certain cities, such as the City of Los
12 Angeles. So, ag- again, maybe a little clarification
13 on that.

14 The one thing I think the City needs to
15 recognize is that accreditation plays an important
16 role in this. The OSHA NRTL program, the standards
17 are specified. However, there are very significant
18 delays in making applications and getting those
19 standards published in a scope in the Federal
20 Register. And that's why many of the NRTLs have
21 mirror accreditations in 17025 and 17065, because of
22 certain delays within OSHA getting your scopes
23 published. Sometimes, it could take a year to two
24 years to have those standards published. So, prior to
25 making any significant change in the New York City

1 proposed Code, I, I would take that into, into
2 consideration pri- prior to doing that.

3 Okay. Thank you very much for this
4 opportunity.

5 MS. JUNG: Thank you very much. Next, we
6 have Matt Moore, PeopleForBikes.

7 MR. MATT MOORE: Good morning, and thank you
8 for the opportunity to testify regarding the
9 Department's proposed definition of accredited
10 laboratory.

11 PeopleForBikes supports the proposed rule
12 which would allow independent third-party laboratories
13 who are certified by the International Standards
14 Organization, or ISO, to conduct safety testing for e-
15 mobility products and batteries sold in New York City.

16 The PeopleForBikes Coalition is the sole
17 trade association representing U.S. manufacturers,
18 suppliers and distributors of bicycle products,
19 including electric bicycles. We have over 325 members
20 who produce goods in every segment of the bicycle
21 market, from high-end competition bicycles to
22 affordable kids' bikes. PeopleForBikes is also the
23 leader in safety education for consumers, including
24 our new e-bike Smart online training program, our e-
25 bike owner's manual.

1 Last, PeopleForBikes and our members support
2 responsible disposal of e-bike batteries at the end of
3 life through our partnership with Call2Recycle.

4 As a trade association for U.S. bike
5 industry, PeopleForBikes has been greatly concerned
6 about the rapid rise in battery fires in New York
7 City. Our membership includes virtually all major and
8 reputable manufacturers of e-bikes, which are
9 typically sold through local bike shops in the U.S.
10 and around the world. E-bikes made by our members and
11 tested to recognize safety standards have not been the
12 source of fires. But these fires, the loss of life,
13 property damage and injuries to consumers and first
14 responders affects us all.

15 During the recent pandemic, many new
16 companies rushed to enter the mobility market, often
17 with substandard and untested vehicles and replacement
18 batteries and chargers sold online or through outside
19 -- outside traditional bicycle shops. In response,
20 PeopleForBikes worked with the New York City Council,
21 the New York State legislature, the CPSC and Congress
22 to advance new testing requirements for all e-mobility
23 devices and their batteries to address these
24 devastating fires. We will continue to do so until
25 appropriate safety standards are broadly adopted.

1 PeopleForBikes therefore fully supports the
2 DCWP proposal to accept laboratories accredited by ISO
3 under their published certification standards, ISO
4 17025 and ISO 10765 [sic], in addition to Nationally
5 Recognized Testing Laboratories. These standards are
6 used worldwide to evaluate the ability of laboratories
7 to competently conduct safety and compliance testing.
8 Mandating use of these ISO-accredited third-party
9 laboratories by e-mobility manufacturers
10 [unintelligible] [00:11:51] [11:12:51] that these
11 devices and lithium ion batteries they make and sell
12 are safe for consumers in New York City and elsewhere.
13 Thank you.

14 MS. JUNG: Okay, thank you. Again, for
15 people that have just come in, please let me know in
16 the chat if you plan to testify today. Thank you.

17 Next up, we have Warren Merkel.

18 MR. WARREN MERKEL: Good morning. Thank you
19 for the opportunity to speak. I'm Warren Merkel. I'm
20 Vice President of Policy for the ANSI National
21 Accreditation Board. We accredit laboratories to
22 ISO/IEC 17025 and certification bodies to ISO/IEC
23 17065, as well as a range of other areas of
24 accreditation.

25 Kind of like Paul, I wasn't sure that there

1 would be a need to intervene today, but I appreciate
2 the opportunity because the definitions here matter,
3 and there's international terminology related to these
4 standards that the City and Department should be
5 considering.

6 We certainly support the efforts to improve
7 Local Law 39 and understand that a clear definition of
8 accredited testing laboratory will enhance assurance
9 of the safety of workers and consumers. We note that
10 the local law requires an accredited testing
11 laboratory to certify electrical systems and storage
12 batteries. The OSHA Nationally Recognized Testing and
13 Laboratory program uses similar terminology, where
14 they -- term, the term is a laboratory recognized by
15 OSHA. However, they are actually performing product
16 certification. Outside of OSHA, an accred- accredited
17 body that certifies products is usually referred to as
18 an accredited product certification body. Regardless
19 of the name, the appropriate standard for a body
20 certifying products, as previous commenters have said,
21 is 17065.

22 The standard 17025 sets highly-effective
23 requirements for a body performing testing in terms of
24 their competence, impartiality and consistent
25 operation. However, that's only one of the many

1 activities needed to certify a product. Some of the
2 other areas we're, we're talking about included
3 surveillance and so on. In fact, 17025 specifically
4 prohibits a laboratory from making any claims
5 regarding products beyond the actual samples tested or
6 from placing marks on products, which is required by
7 the Local law. So 17025 alone is important, but not
8 sufficient.

9 17065 requires laboratories performing the
10 testing portion of product certification to meet
11 17025. And both the OSHA NRTL recognition and
12 accreditation of product certification bodies, under
13 whatever terminology, involve assessing product
14 certification bodies to 17065. So, as a result, the
15 City of New York should consider accreditation to
16 17065 as part of that definition process.

17 Accreditation, as has been said before by
18 others, accreditation of product certification bodies
19 to 17065 has proven to be highly effective worldwide
20 over the last 10 years, and the previous standards
21 have been around for 30 years-plus. There are
22 important details about the OSHA NRTL recognition
23 versus accreditation that have come up. One, the most
24 important is that the program is established to
25 implement federal requirements. And if that program

1 does not include some of the additional standards the
2 City might be con- considering, their program may not
3 include or be responsive to requests for that -- those
4 additional standards to be in their scope or
5 responsible to requirements at the local or state
6 level. So understanding those, those nuances of the
7 O-, of the NRTL program are also important.

8 Again, ANAB is prov-, is provid-, is
9 prepared to provide more details and written comments,
10 if that would be helpful to the Department, and we're
11 certainly ready to support the City of New York
12 Department of Worker and Consumer Protection in
13 support of worker and consumer safety. Thank you.

14 MS. JUNG: Alright, thank you. Next up, we
15 have Jonathan Cohen.

16 MR. JONATHAN COHEN: Thank you. So I'm, I'm
17 Jonathan Cohen from JOCO. And on behalf of myself, my
18 co-founder and my team, I just wanted to, to add a
19 comment.

20 So, firstly, you know, thank you to, to
21 everything that you do, you -- you know, DCWP does for
22 us and for the City. We provide premium e-bike
23 rentals for delivery workers and for companies. Our
24 stated mission is to remove cars and trucks off the
25 streets for last mile delivery. While, you know,

1 we've been operating for over two years, we've had
2 over 5,000 delivery riders benefit from, from JOCO.
3 We've had zero battery-related incidents. Actually,
4 correct, zero. We think in 2022 alone, riders did
5 over two and a half million deliveries.

6 We're asking to adopt additional standards
7 for bikes and batteries that will keep New Yorkers
8 safe. UL is a great standard, and many of our
9 vehicles are UL, but it's an American standard. My
10 co-founder is actually British. And it's not the on-,
11 it's the only and not necessarily the best standard.

12 We recommend that all bikes and batteries
13 have internationally recognized certifications, which,
14 obviously, UL would be one of those. We have always
15 prioritized safety and have never had a safety issue
16 since inception. While we don't think it's a
17 coincidence, we also do all our battery charging only
18 from FDNY-approved battery charging cabinets, and all
19 ourselves. We're the only company in New York City
20 that has FDNY approval for, for our battery cabinets.
21 We're the only company that does charging ourselves,
22 as well, for, for our rental fleets. And our, you
23 know, our, our EN and IEC standards are the primary
24 standard in Europe. They're recognized across the
25 globe and are as strong or stronger than UL. We

1 believe that these standards should be adopted --
2 adopted.

3 And the alternative to JOCO is exactly what
4 nobody wants -- couriers and delivery workers charging
5 uncertified bikes in their homes, as well as dangerous
6 illegal gas mopeds. The other night, I was at a
7 station and I asked them, someone how they found out
8 about JOCO. They mentioned, actually, my moped blew
9 up three days ago and this has been a life saver for
10 me.

11 And so, you know, we worked on having our
12 own fireproof cabinets for over two years. We're the
13 only company in New York City with these approval. We
14 launched JOCO around two years ago and we took it upon
15 ourselves to purchase vehicles from a reputable U.S.-
16 based manufacturer with an iss- internationally
17 recognized certification. And we also had a third-
18 party engineering firm assess -- assess our
19 certifications. And they stated this requirement of
20 the primary EU e-bike standards, EN 15194 and IEC
21 621332, significantly overlap with their corresponding
22 UL standards and provide a very similar standard of
23 care for these products. That's a New York-licensed
24 professional engineering firm.

25 And, once again, our EN and IEC standards

1 are the primary standard in Europe, recognized across
2 the globe. And we encourage DCWP to update
3 regulations to include these European standards.
4 Taking a narrower view will, will result in, in less
5 safe vehicles on our streets.

6 Thank you again, and thanks to everyone
7 here. And let us know if there's anything else we can
8 provide. Thank you.

9 MS. JUNG: Alright, thank you. Next up, we
10 have Dorival Silva.

11 MR. DORIVAL SILVA: Hello. Good morning.
12 My name is Dorival Silva, and I wanted to share my
13 experience with JOCO and as a delivery driver.

14 Like, I couldn't, I could not imagine, like,
15 how, you know, how my life would be without JOCO or
16 like without another alternative, because I had my, I
17 had my own e-bike and it was a struggle to keep it or
18 to maintain it long-term. Like, we're talking about
19 infinite repairs, costly maintenance and theft. You
20 know, after my bike got stolen, like JOCO offered me
21 like an immediate lifeline. It was super convenient,
22 it was affordable, and it was safe for me to make my
23 deliveries.

24 Like, like sometimes I think about, like
25 when I wake up in the morning and I'm, you know, I go

1 to JOCO to use their service, I cannot imagine, like,
2 my life without it, because even if I wanted to have
3 my -- even if I had, and even if I had to have my own
4 -- even if I had to have my own, my own, my own bike
5 today, it would, it would kind of be out of the
6 question, because like my, my building doesn't even
7 permit, like, to have a bike in the premises, or even
8 charge it at all.

9 And I thought about like a, a, like a gas-
10 powered moped, but that's also very costly, it's a
11 little bit unsafe, and it's very unaffordable. And
12 like, for someone that has -- like, I lost three e-
13 bikes. They were stolen. Or, or maybe more. If my
14 moped got stolen, that would be terrible.

15 Now, I can make my deliveries, like, with no
16 -- with like, without any problems. I don't think
17 about repairs, where do I keep a bike, if I'm going to
18 have a bike tomorrow. I know this for sure. I always
19 have a, like something to take me from point A to
20 point B doing my deliveries.

21 And I also care about this, like the
22 sustainability issue. I know me and my friends, we do
23 care about, you know, the future of the environment.
24 And I think, and I think that that's very important
25 that when, like while I'm riding my bike, you know,

1 this company is -- I'm also, in a way, making sure
2 that, you know, I am promoting sustainability and a
3 sustainable environment, a sustainable future. Not
4 just for me, for whoever is coming after. You know,
5 we plant trees and stuff like that. So I think that,
6 you know, it's, it's very, it's very cool that I can
7 make my deliveries. And I think that that's like a,
8 the company is great. It has a, an awesome mission.
9 I don't have a lot of responsibility. I am not losing
10 bikes, I'm not losing like a ton of money anymore as a
11 delivery driver, and I don't know what would it be if
12 I didn't have this service available.

13 Thank you for your time. And I hope to
14 have, you know, this company around and companies a-
15 like around to help us delivery drivers, you know, to
16 help to have some income, to help to be safe, to help
17 us to promote sustainability. And, you know, I hope
18 that, you know, this service kind of stays around,
19 because it's going to change like many lives, not just
20 mine.

21 Thank you for your time and [unintelligible]
22 [00:22:42] [11:23:42].

23 MS. JUNG: Alright. Thank you so much.
24 That's all I had on my list for people to testify
25 today. If you're looking to testify and you've not

1 already let me know, please do so in the chat.

2 Okay. Seeing no one present to offer
3 testimony, I will go off-camera and adjourn the hear-
4 hearing until an individual appears to offer testimony
5 or until 12:00 p.m., whichever comes first.

6 [OFF THE RECORD] [00:23:24] [11:24:24]

7 [ON THE RECORD] [00:58:28] [11:59:28]

8 MS. JUNG: Hi, everyone. Seeing that it is
9 now 12:00 p.m., I will adjourn the hearing. Thank
10 you, everyone, for participating.

11 MR. MICHAEL BAKER: Thank you.

12 MR. MOLISKI: Thank you.

13 [END OF PUBLIC HEARING]

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CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Rules Hearing - Safety Standards for Powered Bicycles, Powered Mobility Devices and Their Batteries on October 16, 2023, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

A handwritten signature in cursive script that reads "Claudia Marques".

Date: November 8, 2023

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