



peopleforbikes

P.O. BOX 2359 BOULDER, CO 80306
PeopleForBikes.org | 303.449.4893

October 15, 2023

To: Department of Consumer and Worker Protection
Submitted via NYC Rules and by email to: Rulecomments@dcwp.nyc.gov

Re: Safety Standards for Powered Bicycles, PMDs and Batteries
Reference # 2023 RG 063

PeopleForBikes submits this comment in response to the Department's proposed rule that would more clearly define the term "accredited laboratory" as used in New York City's ordinance requiring certain testing of e-mobility devices and batteries.

More specifically, the DCWP proposes the following regulation:

"Accredited testing laboratory," as used in § 20-610 of the Administrative Code, shall mean any laboratory that:

(i) is an International Organization for Standardization and International Electrotechnical Commission (ISO/IEC) 17025 Accredited Independent Testing Laboratory;

(ii) is an International Organization for Standardization and International Electrotechnical Commission (ISO/IEC) 17065 Accredited Certifying Body; or

(iii) is identified as a Nationally Recognized Testing Laboratory by the United States Department of Labor Occupational Safety and Health Administration

For the reasons discussed below, PeopleForBikes fully supports the proposed regulation and interpretation of "accredited laboratory."

1. About PeopleForBikes

The PeopleForBikes Coalition is the sole trade association representing U.S. manufacturers, suppliers and distributors of bicycle products, including electric bicycles. In 2019 PeopleForBikes merged with the Bicycle Product Suppliers Association (BPSA) to form a single trade association to represent the interests of the U.S. bicycle industry. We have over 325 members that produce goods in every segment of the bicycle market, from high-end competition bicycles to affordable kid's bikes. Our members produce the full range of components, parts, and accessories used for bicycling, as well as electric bicycles. Our membership is a true cross section of the U.S. bicycle industry.

PeopleForBikes has been the leader in working state-by-state to create modern, harmonized standards for regulation of electric bicycles throughout the United States. PeopleForBikes developed the Three-Class Model Law¹ to better define and regulate the various types of electric bicycles, and which has now been adopted in whole or part by 39 states (including New York) and recognized by the federal government.² PeopleForBikes has recently launched our E-bike safety training program <https://www.ebikesmart.org/> in cooperation with the League of American Bicyclists. We also publish a comprehensive E-Bike Owner's Manual for use by the industry and inclusion with new electric bicycles at the point of sale.

2. The Proposed Regulation

Importantly, it should first be noted that Introduction 0663-2022 (now NYC Administrative Code Section 20-610) as first introduced included a requirement that powered mobility devices and batteries be "listed and labeled by a nationally recognized testing laboratory" or NRTL. This requirement was later amended to the current language of "certified by an accredited testing laboratory." Thus, the City Council expressly declined to limit the available testing laboratories under the ordinance to the relatively few laboratories that are recognized by OSHA as NRTLs. **Only a handful of these NRTLs (including UL Solutions) are able to test to UL 2849, UL 2272 and UL 2271.** The DCWP should therefore resist suggestions to amend its proposed regulation to limit acceptable accredited laboratories to NRTLs.

¹ <https://www.peopleforbikes.org/electric-bikes/policies-and-laws>

² The National Park Service adopted the three class system in 2021, 36 C.F.R. 1.4(a). In authorizing funding for bicycle transportation facilities in 2021, Congress adopted the three class system in defining "electric bicycle" in 23 U.S.C. § 217(j)(2). The three class system was also used in two bills that would have provided a federal income tax credit for the purchase of an electric bicycle. H.R.1019 - E-BIKE Act, S. 2420 Electric Bicycle Incentive Kickstart for the Environment Act, 117th Congress (2021-22).

The NRTL program, administered by the U.S. Occupational Health and Safety Administration (OSHA) is by law limited to products used in commercial settings, and does not cover consumer e-mobility products that are under the jurisdiction of the Consumer Product Safety Commission (CPSC). The CPSC has never required use of an OSHA-regulated NRTL for e-mobility products, and similar to the approach in Section 20-610, has instead urged manufacturers to have their products and batteries tested and certified by an accredited laboratory to applicable safety standards.³ While an NRTL is certainly competent to test e-mobility devices and batteries, its use should not be required to show compliance with Section 20-610.⁴

PeopleForBikes therefore fully supports the DCWP proposal to accept laboratories accredited by the International Standards Organization (ISO) under their published certification standards, ISO 17025 and ISO 17065. These standards are used world-wide to evaluate the ability of laboratories to competently conduct safety and compliance testing. Use of these ISO-accredited third party laboratories by e-mobility manufacturers will ensure that the devices and lithium-ion batteries they make and sell are safe for consumers in New York City and elsewhere.

Last, DCWP should take into consideration the successful regulatory approach to battery and e-mobility safety in the European Union, which requires manufacturers and importers to test and self-certify the compliance of electric bicycles to electrical safety standards that are essentially equivalent to those specified in Section 20-610. Manufacturers use third party laboratories certified to ISO 17025 or ISO 17065 to meet this requirement, as well as the various mechanical requirements for electric bicycles. **In 2022 over 26 million safe, tested electric bicycles were sold in the European market, which has not experienced significant fires related to those products.**

The regulatory approach proposed by DCWP can work in New York City as well, and can help to focus the DCWP's efforts on eliminating those unsafe devices and batteries that have not been tested by any laboratory to any safety standard.

Respectfully submitted,

Matt Moore, Policy Counsel
PeopleForBikes

³ Important Safety Information Concerning Micromobility Devices, December 19, 2022, <https://www.cpsc.gov/s3fs-public/Important%20Safety%20Information%20Concerning%20Micromobility%20Devices.pdf>

⁴ The DCWP should be aware of the commercial interests of parties urging a strict definition of 'accredited laboratory' who are either NRTLs or manufacturers who have chosen to use an NRTL to conduct testing and now seek to limit the options available to competitors.