



October 16, 2023

Filed electronically via
<http://rules.cityofnewyork.us>

New York City Department of Consumer and Worker Protection
42 Broadway
New York, NY 10004

Re: PRBA Comments Supporting DCWP's Proposed Rule to Implement Local Law 39

PRBA – The Rechargeable Battery Association (PRBA) is providing these comments in support of the Department of Consumer and Worker Protection's ("DCWP") September 15, 2023 Proposed Rule to implement Local Law 39 of 2023. PRBA strongly supports DCWP's efforts to improve on the safety of powered bicycles and powered mobility devices and clarify the types of laboratories that can certify these devices and storage batteries subject to testing in accordance with UL 2272, UL 2271, and UL 2849. We have also addressed a separate issue on page 2 related to testing of the storage batteries for your consideration.

BACKGROUND ON PRBA

PRBA is an internationally recognized non-profit trade association based in Washington, D.C. We represent manufacturers of lithium batteries and devices powered by them and various associated industries, including manufacturers of powered bicycles and powered mobility devices. Our members also include testing laboratories, cell manufacturers, battery assemblers, battery recyclers, battery collection programs, retailers, airlines, and leading manufacturers of mobile telephones, tablet and notebook computers, point-of-sale terminals, hand-held scanners, power tools, flashlights, outdoor power equipment, medical devices, electric vehicles, and defense products. We have existed for over 30 years—since 1991, when the portable consumer product revolution had just begun.

PRBA also recently testified before the Consumer Product Safety Commission and filed comments with the Agency in response to their June 6, 2023 Notice on Lithium ion Battery Safety, Meeting and Request for Comments. (*See* 88 Fed. Reg. 37042.)

ACCREDITED TESTING LABORATORIES

We support DCWP's proposal to provide manufacturers of powered bicycles and powered mobility devices the flexibility to use laboratories that meet the requirements of ISO/IEC 17025, ISO/IEC 17065, or Nationally Recognized Testing Laboratory by the United States Department of Labor Occupational Safety and Health Administration. However, we believe the text to define these laboratories could be improved and therefore have provided below our recommended edits to the definition:

“Accredited testing laboratory,” as used in § 20-610 of the Administrative Code, shall mean any laboratory that has within their scope of accreditation UL 2271, UL 2272, and UL 2849, as applicable, and:

~~(i) is an International Organization for Standardization and International Electrotechnical Commission (ISO/IEC) 17025 Accredited Independent Testing Laboratory~~ meets the accreditation requirements found in the ISO/IEC 17025 standard; or

~~(ii) is an International Organization for Standardization and International Electrotechnical Commission (ISO/IEC) 17065 Accredited Certifying Body~~ is an Accredited Certifying Body in accordance with the ISO/IEC 17065 standard; or

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

LOCAL LAW 39 STORAGE BATTERY TESTING REQUIREMENTS

PRBA fully supports the testing requirements in Local Law 39 for powered bicycles and powered mobility devices and related storage batteries. We nonetheless have found an inconsistency in the law related to testing of the storage batteries that we believe requires immediate attention by DCWP and should be corrected.

If the electrical system of a powered bicycle is required to be certified to UL 2849, it automatically means that the storage battery complies to one of the four methods stated in UL 2849 has been verified. That is, an electrical system of a powered bicycle cannot be certified to UL 2849 without meeting all requirements for the storage battery. Under this scenario, it would be redundant to require testing of such storage batteries in accordance with Section 20-610.c.1. of Local Law 39.

To address this inconsistency, we request the following amendment to New York City Administrative Code, Chapter 4: Regulation of Commodities and Services, Subchapter 2: Powered Mobility Devices, Section 20-610.c.1:

Such storage battery has been certified by an accredited testing laboratory for compliance with Underwriters Laboratories (UL) standard 2271, or such storage battery is part of an electrical system for powered bicycle that has been certified by an accredited testing laboratory for compliance with the Underwriters Laboratories (UL) standard 2849, or such other safety standard as the department has established by rule in consultation with the fire department; and

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Thank you for the opportunity to provide these comments. I can be reached at 202.719.4109 or gkerchner@wiley.law if you have any questions regarding our comments.

Respectfully,

George Kerchner

George Kerchner
Executive Director