



**United States
CONSUMER PRODUCT SAFETY COMMISSION
4330 East West Highway
Bethesda, MD 20814**

This document has been electronically
approved and signed.

BALLOT VOTE SHEET

DATE: February 18, 2014

TO: The Commission
Todd A. Stevenson, Secretary

THROUGH: Stephanie Tsacoumis, General Counsel
Elliot F. Kaye, Executive Director

FROM: Patricia M. Pollitzer, Assistant General Counsel
Hyun S. Kim, Attorney

SUBJECT: Petition Requesting Exception from Lead Content Limits: BIC USA Inc.;
Reopening of the Comment Period

BALLOT VOTE DUE: February 25, 2014

On April 30, 2013 (78 FR 25256), the Commission published notice of a petition requesting an exception from the 100 ppm lead content limit under section 101(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), as amended by Public Law 112-28, for a children's pen from BIC USA Inc. (BIC). BIC's petition noted that the nickel silver alloy point assembly that BIC proposed to use in the pen contained total lead of approximately 8720 ppm. BIC asserted that removing or making excess lead inaccessible was neither practicable nor technologically feasible. We invited written comments concerning the petition.

On January 21, 2014, BIC submitted a letter to the Commission to provide additional information about the possible availability of a low lead stainless steel alternative to the nickel silver alloy point for which a lead limit exception would be required. BIC states that production of the low lead points on a consistent basis in industrial quantities still is not technically feasible and suggests that BIC's earlier request for a lead limit exception be limited to five years to allow additional time to develop a compliant pen. Attached for Commission consideration is a *Federal Register* notice reopening the comment period for 30 days to allow interested parties to comment on the additional information.

Please indicate your vote on the following options:

- I. Approve publication of the draft notice in the *Federal Register*.

(Signature)

(Date)

- II. Approve publication of the draft notice in the *Federal Register*, with changes.
(Please specify.)

(Signature)

(Date)

- III. Do not approve publication of the draft notice in the *Federal Register*.

(Signature)

(Date)

- IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice; Petition Requesting Exception from Lead Content Limits: BIC USA Inc.; Reopening of the Comment Period

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2013-0016]

Petition Requesting Exception from Lead Content Limits: BIC USA Inc.;

Reopening of the Comment Period

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Comment request.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) has received a petition requesting an exception from the 100 ppm lead content limit under section 101(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), as amended by Public Law 112-28, for a children's pen from BIC USA Inc. (BIC). On April 30, 2013 (78 FR 25256), the CPSC published notice of the petition inviting written comments concerning the petition. On January 21, 2014, BIC submitted a letter to the Commission to provide additional information about the possible availability of a low lead stainless steel alternative to the nickel silver alloy point for which a lead limit exception would be required. A copy of the letter may be viewed on:

<http://www.regulations.gov>, under docket number CPSC-2013-0016, Supporting and Related Materials. To allow interested parties to comment on the additional information, the Commission is reopening the comment period for 30 days.

DATES: Submit comments by [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2013-0016, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>, and insert the docket number CPSC-2013-0016, into the "Search" box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Kristina Hatlelid, Ph.D., M.P.H., Directorate for Health Sciences, Consumer Product Safety Commission, 5 Research Pl, Rockville, MD 20850; e-mail: khatilelid@cpsc.gov; telephone: 301-987-2558.

SUPPLEMENTARY INFORMATION:

On March 25, 2013, BIC submitted a petition requesting an exception from the lead content limit of 100 ppm under section 101(b) of the CPSIA for a new line of writing instrument products intended for children age five and up (BIC Children's Pen) to address the needs of young children who are in the early stages of learning to write. BIC specifically requested an exception for the accessible portion of the nickel silver point assembly (which includes the point and point support subassembly) that BIC proposed to use in the BIC Children's Pen. The petition noted that the point and point support subassembly in the BIC Children's Pen contained total lead of approximately 8720 ppm. According to BIC, all of the other accessible components of the BIC Children's Pen contained total lead below 100 ppm. BIC asserted that removing or making excess lead inaccessible in manufacturing the BIC Children's Pen is neither practicable nor technologically feasible.

In the *Federal Register* of April 30, 2013 (78 FR 25256), the CPSC invited comments on the issues raised by the petition. The Commission received five comments in response to the notice.

On January 21, 2014, BIC submitted a letter to the CPSC to inform the Commission about the possible availability of a low lead stainless steel alternative to the nickel silver alloy point currently used in BIC's solvent based ink pens and for which a lead limit exception would be required. BIC states that a trial batch of the stainless steel points passed BIC's technical qualification when tested with BIC's solvent based inks. BIC further states that production of the low lead stainless steel points on a consistent

basis in industrial quantities to meet the volume and timing demands of customers is not technically feasible. Accordingly, BIC suggests that BIC's earlier request for an exception for the continued use of the nickel silver alloy point be limited to five years to allow BIC additional time to develop a compliant Children's Pen.

Through this notice, we are reopening the comment period to give all interested parties an opportunity to comment on the additional information provided by BIC. A copy of the letter may be viewed on <http://www.regulations.gov>, under docket number CPSC-2013-0016, Supporting and Related Materials.

Dated: _____.

Todd A. Stevenson,
Secretary, U.S. Consumer Product Safety
Commission.