
CANADIAN GUIDELINES WITH RESPECT
TO THE SALE AND MARKETING OF

**DIAMONDS,
COLOURED GEMSTONES
AND PEARLS**

Revised Edition 2003

Established by:
Jewellers Vigilance Canada Inc.



Canada

Endorsed by:



PREAMBLE

The Canadian Guidelines with Respect to the Sale and Marketing of Diamonds, Coloured Gemstones and Pearls were revised in 2003 by a Jewellers Vigilance Canada Inc. (www.jewellersvigilance.ca) special committee in consultation with industry members and the Competition Bureau (www.cb-bc.gc.ca) and with reference to other internationally recognized standards. These guidelines were originally developed in 1994 by a Jewellers Vigilance Canada committee in cooperation with the Canadian Jewellers Association, the Canadian Gemmological Association, the Quebec Professional Gemmologists Association, the Canadian Advertising Foundation and the federal government represented by Industry Canada to provide for voluntary compliance rather than a regulatory compliance program.

The Diamond Guidelines were adopted by Consumer & Corporate Affairs Canada in 1986 and were revised when they were incorporated with the Coloured Gemstones and Pearls Guidelines adopted by Industry Canada in 1994.

These revised guidelines, which are endorsed by the Competition Bureau, are presented in three sections: Diamonds, Coloured Gemstones and Pearls.

SCOPE

The definitions and misuses of terminology outlined in these guidelines were developed in consideration of the *Competition Act* (a portion of which can be found in *APPENDIX 1* of these guidelines) that contains prohibitions against false and misleading representations. Adherence to the nomenclature contained in this document will assist jewellery industry members in their obligation to ensure compliance with the legislation and to provide consistent and meaningful information to consumers. The guidelines are for assistance only and should not be considered as binding on the Commissioner of Competition.

All methods of making representations, including printed or broadcast advertisements, written or oral representations, audio-visual promotions, Internet and illustrations are within the general scope of these guidelines.

The examples contained in these guidelines are for the purpose of illustration only and are not intended to provide an exhaustive list of acceptable or prohibited practices. The Competition Bureau facilitates compliance with the law by providing legally binding written opinions subject to fees. Advertisers are encouraged to request an opinion on whether the implementation of a proposed business plan or practice would raise an issue under the *Competition Act*. A specific opinion will be based on information provided by the requestor and will take into account previous case law, prior opinions and the stated policies of the Bureau.

Finally, readers should note that the misleading representations and deceptive marketing practices provisions of the *Competition Act* comprise only a portion of the relevant law in Canada. Most provinces and other federal departments and agencies also administer legislation dealing with advertising and marketing practices. These guidelines do not provide information on this other legislation.

APPLICATION

In general, these guidelines apply to anyone promoting, directly or indirectly, the supply, use, description, identification, sale of or trading in any gem, carving, jewel, item of jewellery or work of art containing diamond, gemstone, pearl and related materials.

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DIAMOND GUIDELINES

Misuses of Terminology

It is contrary to the purpose of these guidelines:

- A. to make a representation that does not conform in all respects to these guidelines in the selling, advertising, or distribution of any substance defined in these guidelines;
- B. to make any misleading or deceptive statement, representation or illustration relating to origin, formation, production, condition or quality of any substance defined in these guidelines.

Representation includes illustrations, descriptions, expressions, words, figures, depictions or symbols shown in a manner that may reasonably be regarded as relating to the substance.

Selling includes offering for sale, exposing for sale, displaying in such a manner as to lead to a reasonable belief that the product so displayed is intended for sale.

Advertising includes directly or indirectly promoting the sale or use of a product.

Please note these guidelines do not address the sale and marketing of rough diamonds.

DIAMONDS

D1 GEM OR GEMSTONE

Definition:

A naturally occurring mineral or organic substance that has generally been cut and/or polished and possesses beauty, rarity, durability and value. Note: For the purpose of these guidelines, gem(s) will be used when referring to gem(s) or gemstone(s).

Misuses of Terminology:

It is contrary to the purpose of these guidelines to, without qualification (appropriate disclosure), identify, refer to or describe as a gem:

- A. any substance that has been synthesized either partly or wholly through human intervention no matter what basic material or methods are used, with the exception of cultured pearls;
- B. any substance composed of two or more parts that are assembled, cemented or joined by any other artificial methods;
- C. any substance that has undergone treatment or enhancement;
- D. a synthetic, composite/assembled or artificial/imitation/simulated diamond.
(Unacceptable examples: *gem cubic zirconia*, *gem quality synthetic diamond*)

D2 DIAMOND

Definition:

A naturally occurring crystalline carbon mineral in the isometric (cubic) crystal system with a hardness of 10, specific gravity of approximately 3.52 and a refractive index of approximately 2.42.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. identify, refer to or describe as a *diamond*, any substance that has been either partly or wholly created through human intervention no matter what basic material or methods are used, unless the word synthetic, composite, assembled, artificial, imitation, or simulated (as appropriate) immediately precedes the word *diamond*. Neither word shall be given greater prominence or emphasis than the other, nor may they be separated in any way, such as with an asterisk or other symbol that makes reference to a footnote explanation;
- B. use the word *diamond* together with any geographic, historic or adjectival qualifier to describe, identify or refer to any substance that is not a diamond. (Unacceptable examples: quartz as *Herkimer diamond*, hematite as *Black Alaskan diamond*);
- C. use any word or phrase that incorporates, is a variation of, sounds similar to, or could be mistaken for the word *diamond*, including the use of such a word or phrase as all or part of a registered trademark, unless the word(s) *synthetic diamond*, *composite*

diamond, assembled diamond, artificial diamond, imitation diamond or simulated diamond immediately precedes or follows the word or phrase. No word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated. (Unacceptable examples: *diamonite, diamonique*. Acceptable examples: *diamondine imitation diamond, [trademark name] simulated diamond*)

D3 NATURAL

Definition:

A substance that has been formed completely by nature without human intervention during the formation process.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the term *natural* if the substance has been created in whole or in part through human intervention during the formation process.

D4 TREATMENT OR ENHANCEMENT

Definition:

Any process other than cutting and polishing that alters the colour and/or clarity and/or durability of a diamond.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to refer to a diamond without the use of the term *treated* or *enhanced* if the diamond has been altered by any treatment whatsoever. (Examples of treatments or enhancement: laser drilling, colour alteration, tinting, coating, irradiating, heating, the use of any type of bombardment or by the introduction or the infusion of any foreign substance)

When a diamond is treated or enhanced the word *treated* or *enhanced* must immediately precede the word *diamond* and no word shall be given greater prominence or emphasis than the other, nor may they be separated. (Acceptable example: *clarity enhanced diamond*)

Alternately, terms naming the treatment method or process (with or without any trademark or patent name) shall immediately precede the word *diamond* instead of the word *treated* or *enhanced*. The name of the treatment process shall be given equal prominence and emphasis to the word *diamond*, and they may not be separated. (Acceptable examples: *fracture filled synthetic diamonds, [Company/Brand name] laser drilled diamond, high pressure, high temperature (HPHT) treated diamonds*)

Purchasers of diamonds (both consumers and trade) should be advised that some diamonds are treated by methods that duplicate natural processes, are often undetectable by standard gemmological techniques and are stable and permanent. The vendor must always provide to the purchaser information regarding any treatment that may have been applied to the substance offered for sale.

D5 SYNTHETIC/LABORATORY GROWN/CREATED

Definition:

A substance that has been produced completely or partially through human intervention. Its physical, chemical and optical properties correspond to its naturally occurring counterpart.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the word *synthetic* or a similar term unless the substance's physical, chemical and optical properties correspond to those of a diamond. For such substances, the word *synthetic* must be placed immediately preceding the word diamond and neither word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated. (Acceptable examples: *laboratory grown diamond*, *[company name] synthetic diamond*, *[manufacturer's name] created diamond*)

D6 COMPOSITE OR ASSEMBLED

Definition:

A manufactured substance resulting from the assembling of two or more parts, one of which is diamond.

Misuses of Terminology:

For composite or assembled substances, the word *composite* or *assembled* must immediately precede the word diamond, and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. (Acceptable example: *composite diamond*)

D7 ARTIFICIAL OR IMITATION OR SIMULATED

Definition:

A substance that has a superficial similarity to and appearance of a diamond without possessing its chemical composition, physical (including optical) properties and/or crystal structure.

Misuses of Terminology:

For artificial or imitation or simulated substances, the word *artificial*, *imitation* or *simulated* must immediately precede the word *diamond* and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. (Acceptable example: *imitation diamond*)

D8 UNITS OF MEASUREMENT

Definition:

Note 1: The rules in this section "Units of Measurement" apply with equal import to diamonds, simulated diamonds and synthetic diamonds.

Note 2: See *APPENDIX 2* of these guidelines for a listing of the acceptable measurement tolerances, proposed and current.

- a. The weight of a diamond is expressed in carats (symbol ct) to at least two decimal places or by a fraction.
- b. The dimensions of a diamond are expressed in millimetres (mm) to at least two decimal places.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. misrepresent the weight or dimensions of any diamond or group of diamonds;
- B. represent the weight of a diamond or group of diamonds by a fraction unless the weight meets or exceeds the equivalent decimal carat weight. (Example: a diamond described as half carat must weigh at least 0.50 ct);
- C. represent a weight declaration of any diamond or group of diamonds in any unit other than the carat without also using the term carat or carats or the symbol ct as appropriate. Additional units of measurement as prescribed by the *Weights and Measures Act* and *Regulations* may be used providing they are not of greater prominence than the carat declaration;
- D. use the plural *carats* or *cts* in reference to any weight that is not greater than 1.00 ct. (Unacceptable example: *0.17 carats*);
- E. represent the weight of all diamonds contained in an article unless the representation is immediately followed by the words *total weight* in full so as to indicate clearly that the weight shown is that of all the diamonds in the article and not that of the centre, or the largest, or of a single diamond;
- F. represent the total weight of all diamonds and other gems contained in an article unless the representation is accompanied with equal emphasis and conspicuousness by the total separate weight(s) of each variety or species of gem. (Unacceptable example: *gem and diamond cluster ring, total gem weight 1.00 ct*);
- G. represent the weight of any diamond where such weight is less than 1.00 carat without preceding the decimal point with a zero of equal size and prominence to the other numerals. (Acceptable example: *0.25 ct*. Unacceptable example: *.25ct*);
- H. use the term *carat* or the symbol ct in a context where it could be presumed to refer to either karat weight or precious metal quality. (Unacceptable example: *10cts diamond bracelet*. Acceptable example: *diamonds of 5.00 cts total weight in 10K gold bracelet*);
- I. represent the dimensions of any diamond or group(s) of diamonds in terms of any unit other than metric (millimetres or centimetres);
- J. state the weight of any diamond(s) weighing less than 0.01ct total;
- K. reference grain or grainer as a unit of measurement at the retail level for consumers. (Note: grain or grainer is acceptable and regularly used in the diamond production industry)

D9 COLOUR

Definition:

An indication of the presence or absence or degree of hue of a diamond determined by visual comparison to diamonds of precisely known colour grade determined under normalized light (5500 Kelvin).

D9.1 FANCY COLOUR

Definition:

Coloured diamonds that have a unique and distinct colour.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to represent the colour of a diamond that is not a fancy colour in any terms other than those found in an internationally recognized diamond grading system. [Some examples: Gemological Institute of America (GIA), American Gem Society (AGS), Scandinavian Diamond Nomenclature (SCAN.DN), International Confederation of Jewellery, Silverware, Diamonds, Pearls, and Gemstones (CIBJO)]. Such terms can only be applied to diamonds in which the colour conforms to the standards of that system.

D10 CLARITY

Definition:

An indication of a qualitative grade of a diamond based on an analysis of the size, number, position and nature of internal characteristics and external characteristics visible at ten-power magnification (exclusive of colour and phenomena).

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. represent the clarity of a diamond in any terms other than those based on corrected ten-power magnification and found in an internationally recognized system. (Some examples: GIA, AGS, SCAN.DN). Such terms can only be applied to diamonds in which the clarity of the diamond conforms to the standards of that system;
- B. use the term flawless/loupe-clean as an indication of quality or desirability of clarity for any diamond unless it conforms to the standards of the above mentioned international systems;
- C. describe as a diamond any diamond, other than a fancy coloured diamond, that has a clarity grade lower than "I-3" unless the phrase "below recognized clarity grading standards" precedes or follows the word diamond and no word(s) or phrase(s) shall be given greater prominence and emphasis than the other(s), nor may they be separated.

D11 CUT

Definition:

Cut may refer to quality of cut or style of cut, as delineated below:

D11.1 QUALITY/MAKE

Definition:

The quality of work in the cutting and/or polishing of a diamond. It takes into account all three factors of proportion, symmetry and polish (facet surface condition) and their effect on light return in the form of fire/dispersion (rainbow colours), brilliance (brightness) and scintillation (sparkle).

PERFECT

It is contrary to the purpose of these guidelines to use the word *perfect* or any variation of the word to describe, identify or refer to any attribute of any diamond. (Unacceptable examples: *a perfect gem, perfectly polished, perfect make*)

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. use any symbols, words or other indications of quality or desirability of cut found in an internationally recognized diamond cut grading system unless the quality/make of the diamond conforms to the standards of that system;
- B. use the terms *properly cut, proper cut well-made, good make, well proportioned, well finished, well polished* or representation of similar meaning to describe any diamond that is asymmetrical and/or poorly proportioned and/or poorly polished, detracting from the brilliance of the diamond;
- C. make a representation that a diamond possesses any special or unusual characteristics of perceived brilliancy and/or dispersion resulting from any consideration or circumstance other than the quality/make as defined in section D11.1;
- D. make any representation regarding quality/make without due consideration of each and every one of: Proportions, polish and symmetry.

D11.2 STYLE/SHAPE

Definition:

The distinctive or characteristic design shape and/or arrangement and number of facets into which a diamond is cut and/or polished. (Some common examples include: *marquise shape brilliant, pear shape brilliant, baguette triangular brilliant* and *round brilliant*.)

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. specify a style of cut to which the diamond does not conform;
- B. indicate *style* of cut rather than *quality* of cut in reference to the four C's of colour, clarity, cut and carat weight;

- C. use the name of a style of cut alone to describe, identify or refer to a diamond. (Unacceptable examples: *brilliant*, *baguette*. Acceptable examples: *brilliant cut diamond*, *baguette cut diamond*);
- D. specify an outline shape to which the diamond does not conform;
- E. represent the name of the shape of a diamond as its style of cut. (Unacceptable examples: *square cut diamond*, *round cut diamond*. Acceptable examples: *square princess cut diamond* or *round brilliant cut diamond*)

D12 FLUORESCENCE

Definition:

An optical phenomenon that can affect the appearance of a diamond. It has a descriptive value and should be expressed as one of the following as seen under long wave UV (365nm) light:

None
Slight
Medium
Strong

Misuses of Terminology:

It is contrary to the purpose of these guidelines to make any representation regarding a phenomenon that the diamond referred to does not exhibit.

D13 AUTHENTIC OR REAL OR GENUINE

It is contrary to the purpose of these guidelines to use the word *authentic*, *real*, *genuine* or a similar term, to describe, identify or refer to any substance made entirely or partially through human intervention. (Unacceptable example: *genuine synthetic diamond*)

D14 REPRODUCTION OR REPLICA

It is contrary to the purpose of these guidelines to use *reproduction*, *replica* or a similar term to describe, identify or refer to a synthetic or artificial/imitation/simulated substance unless it is a replica of a famous-named diamond that is reproduced in size, shape and appearance. The component material(s) should be specified.

No word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated. (Acceptable example: *glass replica of the Hope Diamond*)

D15 GENERAL

It is contrary to the purpose of these guidelines to:

- A. declare the identity of differing gemstones in an article in any order except in descending order by weight;
- B. identify, refer to or describe an article containing more than one substance by referring to only one substance.

D16 GEOGRAPHIC ORIGIN

It is contrary to the purpose of these guidelines to make a statement as to the geographic origin of a diamond unless its origin can be substantiated. For Canadian diamond claims please reference www.canadiandiamondcodeofconduct.com.

D17 CARE & MAINTENANCE

It is contrary to the purpose of these guidelines not to advise all consumers purchasing diamonds as to their care, cleaning and maintenance.

D18 WARRANTIES & GUARANTEES

Specific legislation regarding warranties/guarantees is laid out in the *Competition Act*, section 74.01 (1) (b) and (c) (see *APPENDIX 1* of these guidelines) as well as provincial legislation. Industry should be aware that in the selling, advertising, offering for sale or distribution of any substance, that every statement or reference as to identity or quality or value of a substance constitutes a warranty/guarantee by the vendor. This principle applies in every instance and includes circumstances where the vendor quotes, makes reference to, or provides access to copies of the independent opinion of a third party, even if the vendor claims to be in dispute with the quoted opinion.

D19 SEALED PACKAGING AND WARRANTIES

It is contrary to the purpose of these guidelines to limit a consumer opportunity to make or obtain an independent examination of any substance by delivering it in a sealed container under a warranty that becomes void if the seal is broken.

D20 APPRAISAL

Definition:

An expert opinion as to identity, composition, qualities and values embodied in a document that is the official record of the appraisal. The value stated on an appraisal should be the amount that might realistically be paid for an identical or comparable item sold in an appropriate marketplace for the personal use of the final user. All appraisals should be prepared in accordance with the *Jewellery Appraisal Guidelines – Minimum Acceptable Standards*, copyright 1998.

It is contrary to the purpose of these guidelines to use an appraisal value as a selling tool.

COLOURED GEMSTONE GUIDELINES

Misuses of Terminology

It is contrary to the purpose of these guidelines:

- A. to make a representation that does not conform in all respects to these guidelines in the selling, advertising, or distribution of any substance defined in these guidelines;
- B. to make any misleading or deceptive statement, representation or illustration relating to origin, formation, production, condition or quality.

Representation includes illustrations, descriptions, expressions, words, figures, depictions or symbols shown in a manner that may reasonably be regarded as relating to the substance.

Selling includes offering for sale, exposing for sale, displaying in such a manner as to lead to a reasonable belief that the product so displayed is intended for sale.

Advertising includes directly or indirectly promoting the sale or use of a product.

COLOURED GEMSTONES

CG1 GEM OR GEMSTONE

Definition:

A naturally occurring mineral or organic substance that has generally been cut and/or polished and possesses beauty, rarity, durability and value. (Note: For the purpose of these guidelines, gem(s) will be used when referring to gem(s) or gemstone(s))

Misuses of Terminology:

NOTE: The term *semi-precious* should not be used in any context.

It is contrary to the purpose of these guidelines to, without qualification (appropriate disclosure), identify, refer to or describe as a gem species or variety:

- A. any substance that has been synthesized, either partly or wholly through human intervention, no matter which basic material or methods are used, with the exception of cultured pearls;
- B. any substance composed of two or more parts that are assembled, cemented or otherwise joined by any artificial method with the exception of Mabe Pearls;
- C. substances that have been altered by coating, filling, dyeing, coloured oiling, surface diffusion or any other treatment;
- D. any substance that has undergone treatment or enhancement that is unstable or impermanent in normal wear and maintenance;
- E. any substance that, as a result of treatment, takes on the appearance of a more valuable untreated gem. (Unacceptable examples: diffusion-treated corundum referred to as *ruby*, opal triplet referred to as *opal*. Acceptable examples: heat-treated ruby referred to as *ruby*);
- F. any substance that is not of the species or variety described. (Unacceptable examples: citrine as *topaz* or serpentine as *jade*);
- G. any geographic, historic or adjectival qualifier that is not a gem of the species and variety described. (Unacceptable example: hematite as *Black Alaskan Diamond*);
- H. any gem in association with an asterisk or other device that makes reference to a separate explanation of the fact that the article is a treated, synthetic, composite/assembled or artificial/imitation/simulated stone;
- I. the names of minerals or gems as descriptive attributes of colour. (Unacceptable examples: *topaz quartz* or *ruby spinel*)

CG2 TREATMENT OR ENHANCEMENT

Definition:

Any process other than cutting and polishing that alters the colour, clarity, phenomena and/or durability of a gem.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to refer to a gem without the use of the term *treated* or *enhanced* if the gem has been altered by irradiation, diffusion, coating, filling, dyeing, stabilizing, coloured oiling or by any treatment that is detectable, unstable or impermanent in normal wear and maintenance or in recutting or repolishing. For such gems the word *treated* or *enhanced* must immediately precede the correct gem name and no word shall be given greater prominence or emphasis than the other, nor may they be separated.

Alternatively, the type of treatment method or process (with or without any trademark or patent name) shall immediately precede the correct gemstone name instead of the word *treated* or *enhanced*. For such a gem the name of the treatment process shall be given equal prominence and emphasis to the correct gem name, and they may not be separated. (Acceptable examples: *dyed lapis lazuli*, *irradiated chrysoberyl*, *surface diffused topaz*)

Purchasers of gems (both consumers and trade) should be advised that many gems are treated by methods that duplicate natural processes, are often undetectable by standard gemmological techniques and are stable and permanent. The vendor must be prepared to provide to the purchaser, information regarding any treatment that may have been applied to the substance offered for sale.

CG3 NATURAL

Definition:

A substance that has been formed completely by nature without human intervention during the formation process.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the term *natural* if the substance has been created through human intervention during the formation process.

CG4 SYNTHETIC/LABORATORY GROWN/CREATED/ CULTURED

Definition:

A substance that has been created completely or partially through human intervention. Its physical, chemical and optical properties essentially correspond to its naturally occurring counterpart.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the word *synthetic* or a similar term unless the substance's physical, chemical and optical properties correspond to its naturally occurring counterpart. For such substances, the word *synthetic* must be placed immediately preceding the gem name and neither word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated. (Acceptable example: *[company name] synthetic emerald*)

CG5 ORGANIC

Definition:

A product of animal or plant origin. (Examples: *coral, amber, pearl*)

CG6 COMPOSITE OR ASSEMBLED

Definition:

A manufactured substance resulting from the assembly of two or more parts, at least one of which is a gem.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to refer to composite or assembled substances unless the word *composite* or *assembled* immediately precedes the word *gem*, and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. (Acceptable example: *assembled opal triplet*)

CG7 ARTIFICIAL OR IMITATION OR SIMULATED

Definition:

A substance that has a superficial similarity to the the effect and appearance of a gem without possessing its chemical composition, physical (including optical) properties and/or crystal structure.

Misuses of Terminology:

It is contrary to the purpose of these guidelines:

- A. to use the word *gem* to describe any substance that is artificial, imitation or simulated;
- B. to use a gem name to describe any substance that is artificial, imitation or simulated unless the words *artificial, imitation* or *simulated* precede the gem name, and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. (Acceptable example: *simulated ruby*)

CG8 RECONSTRUCTED OR RECONSTITUTED

Definition:

An artificial substance manufactured by melting, bonding or fusing particles or fragments of the named material to form a coherent whole. The term *reconstituted* is synonymous with the terms *reconstructed* and *bonded*.

Misuses of Terminology:

The word *reconstructed* or *reconstituted* must immediately precede the correct name of the gem that has been reconstructed, and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. (Acceptable example: *reconstituted turquoise*)

CG9 UNITS OF MEASUREMENT

Note 1: The rules in this section "Units of Measurement" apply with equal import to all gems, simulated gems and synthetic gems.

Note 2: See *APPENDIX 2* of these guidelines for a listing of the acceptable measurement tolerances.

- a) the weight of a gem is expressed in carats (symbol ct) to at least two decimal places or by a fraction;
- b) the dimensions of a gem are expressed in millimetres (mm) to at least two decimal places.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. misrepresent the weight or dimensions of any gem or group of gems;
- B. represent the weight of any gem or group of gems by a fraction unless the weight meets or exceeds the equivalent decimal weight. (Example: a ruby described as a half carat must weigh at least 0.50 carat);
- C. represent the weight of any gem or group of gems in any unit other than the carat without using the term carat or carats or the symbol ct as appropriate. Additional units of measurement as prescribed by the *Weights and Measures Act* and *Regulations* may be used, providing they are not of greater prominence than the carat declaration;
- D. use the plural *carats* or *cts* in reference to any weight that is not equal to or greater than 1.01 ct. (Unacceptable example: *0.17 carats*);
- E. represent the weight of gems contained in an article unless the representation is immediately followed by the words total weight in full so as to indicate clearly that the weight shown is that of all gems of the same variety in the article and not that of the centre, the largest or a single gem;
- F. represent the total weight of all gems contained in an article unless the representation is accompanied with equal emphasis and conspicuousness by the total separate weight(s) of each variety or species of gem. (Unacceptable example: *ruby and diamond cluster ring, total gem weight 1.00 ct*);
- G. represent the weight of any gem where such weight is less than 1.00 carat, without a zero preceding the decimal point in equal size and prominence to the other numerals in such a weight statement. (Acceptable example: *0.25ct*. Unacceptable example: *.25ct*);
- H. use the term carat or the symbol ct in a context where it could be presumed to refer to precious metal quality. (Unacceptable example: *10 ct emerald bracelet*. Acceptable examples: *emeralds of 5.00 cts total weight in 10K gold bracelet*);
- I. represent the dimensions of any gem or group(s) of gems in terms of any unit other than metric (millimetres or centimetres);
- J. state the weight of any gem(s) weighing less than 0.01 ct total.

CG10 COLOUR

Definition:

The combination of hue, intensity (or saturation) and tone (or brightness) without reference to other optical phenomena.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. make any false or misleading representations regarding quality or desirability of colour;
- B. use any symbols, words or other indications of quality or desirability of body colour found in an internationally recognized gem grading system unless the colour of the gem conforms to the standards of that system;
- C. use a geographical location when referring to the colour of a gem if the gem described does not originate from the locality specified. (Unacceptable example: *Kashmir [colour] sapphire* in reference to a stone that does not originate from Kashmir)

CG11 CLARITY

Definition:

An indication of a gem's qualitative grade based on analysis of the size, number, position and nature of internal characteristics and external characteristics (exclusive of colour and phenomena).

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. use any symbols, words or other indications of quality or desirability of clarity found in an internationally recognized gem grading system unless the clarity of the gem conforms to the standards of that system;
- B. use the term flawless/loupe-clean as an indication of quality or desirability of clarity for any gem that discloses blemishes, inclusions or clarity faults of any kind when examined using corrected ten power magnification;
- C. use the word flawless/loupe-clean or any similar term as an indication of quality or desirability of clarity for any composite/assembled or artificial/imitation/simulated substance.

CG12 CUT

Definition:

Cut may refer to quality of cut or to style of cut, as delineated below:

CG12.1 QUALITY/MAKE

Definition:

The quality of work in the cutting and/or polishing of a gem. It takes into account orientation, polish, proportions and finish.

CG12.2 STYLE

Definition:

The arrangement and configuration of surfaces on a cut and/or polished gem. (Examples: *square step cut, square princess cut, oval cabochon*)

CG12.3 SHAPE

Definition:

The shape is the outline profile of the gem as viewed from the top. (Examples: *round, oval, pear, square*)

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. use any word or phrase in reference to the quality/make, orientation, brilliancy, shape/style, proportions or finish characteristics of a gem in such a manner that a consumer not fully conversant with the customs and usages of the gem trade could reasonably believe that the gem referred to possesses characteristics, qualities or values that it does not possess;
- B. use the name of a style of cut to indicate the shape of a gem. The name of a style of cut alone does not describe style/shape. (Unacceptable example: *step cut*. Acceptable example: *square step cut peridot*);
- C. use the name of a shape of cut alone, in the absence of a correct gem name, to describe, identify or refer to a gem. (Unacceptable example: using *pear shape* alone to describe a pear shaped garnet)

CG13 PROPORTION

Definition:

The comparative relationship between various dimensions of a gem. In transparent faceted gems, proportion has a greater influence on quality/make than any other factor, but is not a complete indication of quality/make without consideration of orientation, style of cut, shape and finish.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to make any false or misleading representations regarding proportion. (Unacceptable example: *perfectly proportioned*)

CG14 FINISH

Definition:

The quality of a gem's polish, symmetry and cut.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use phrases such as *well-polished* or *well-finished* to describe a gem whose finish does not warrant such description.

CG15 PHENOMENON

Definition:

An optical characteristic other than simple body colour in a gem. (Examples: *chatoyancy*, *asterism*, *play-of-colour*, *colour change*, *adularescence*)

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. make any representation regarding a phenomenon that the gem referred to does not exhibit;
- B. use the phenomenon name alone without the species of the gem as a prefix or suffix. (Unacceptable example: *cat's eye*. Acceptable example: *chrysoberyl cat's eye*)

CG16 PERFECT

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the word *perfect* or any variation of the word to describe, identify or refer to any attribute of any gem. (Unacceptable examples: *perfect gem*, *perfectly polished*, *perfect make*)

CG17 AUTHENTIC OR REAL OR GENUINE

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the word *authentic*, *real*, *genuine* or a similar term, to describe, identify or refer to any substance made entirely or partially through human intervention. (Unacceptable example: *genuine synthetic emerald*)

CG18 REPRODUCTION OR REPLICA

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use *reproduction*, *replica* or a similar term to describe, identify or refer to a synthetic or artificial/imitation/simulated substance unless it is a replica of a famous named gem that is reproduced in size, shape and appearance. The component material(s) must be specified. No word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated.

CG19 LANGUAGE

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use any word, existing or created from any language, to misrepresent the authenticity of a gem. (Unacceptable examples: *faux emerald*, *mont blanc ruby* for a rose quartz)

CG20 GENERAL

It is contrary to the purpose of these guidelines to:

- A. declare the identity of differing gems in an article in any order except in descending order by weight;
- B. identify, refer to or describe an article containing differing gems by referring to only one gem.

CG21 GEOGRAPHIC ORIGIN

It is contrary to the purpose of these guidelines to make a statement as to the geographic origin of a gem unless its origin can be substantiated.

CG22 CARE & MAINTENANCE

It is contrary to the purpose of these guidelines not to advise all consumers purchasing gems as to their care, cleaning and maintenance.

CG23 WARRANTIES & GUARANTEES

Specific legislation regarding warranties/guarantees is laid out in the *Competition Act*, section 74.01 (1) (b) and (c) (see *APPENDIX 1* of these guidelines) as well as provincial legislation. Industry should be aware that in the selling, advertising, offering for sale or distribution of any substance, every statement or reference as to identity or quality or value of a substance constitutes a warranty/guarantee by the vendor. This principle applies in every instance and includes circumstances where the vendor quotes, makes reference to, or provides access to copies of the independent opinion of a third party, even if the vendor claims to be in dispute with the quoted opinion.

CG24 SEALED PACKAGING AND WARRANTIES

It is contrary to the purpose of these guidelines to limit a consumer opportunity to make or obtain an independent examination of any substance by delivering it in a sealed container under a warranty that becomes void if the seal is broken.

CG25 APPRAISAL

Definition:

An expert opinion as to identity, composition, qualities and values embodied in a document that is the official record of the appraisal. The value stated on an appraisal should be the amount that might realistically be paid for an identical or comparable item sold in an appropriate marketplace for the personal use of the final user. All appraisals should be prepared in accordance with the *Jewellery Appraisal Guidelines – Minimum Acceptable Standards*, copyright 1998.

It is contrary to the purpose of these guidelines to use an appraisal value as a selling tool.

PEARL GUIDELINES

Misuses of Terminology

It is contrary to the purpose of these guidelines:

- A. to make a representation that does not conform in all respects to these guidelines in the selling, advertising, or distribution of any substance defined in these guidelines;
- B. to make any misleading or deceptive statement, representation or illustration relating to origin, formation, production, condition or quality.

Representation includes illustrations, descriptions, expressions, words, figures, depictions or symbols shown in a manner that may reasonably be regarded as relating to the substance.

Selling includes offering for sale, exposing for sale, displaying in such a manner as to lead to a reasonable belief that the product so displayed is intended for sale.

Advertising includes directly or indirectly promoting the sale or use of a product.

PEARLS

P1 GEM OR GEMSTONE**Definition:**

A naturally occurring mineral or organic substance that has generally been cut and/or polished and possesses beauty, rarity, durability and value.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to, without qualification (appropriate disclosure), identify, refer to or describe as a gem or gemstone:

- A. any substance that does not conform in all respects to the definition of gem or gemstones as stated above;
- B. any substance that has been either partly or wholly created through human intervention no matter which basic material or methods are used, with the exception of cultured pearls;
- C. any substance composed of two or more parts that are assembled, cemented or joined by any other artificial methods with the exception of mabe pearls;
- D. any substance that has undergone treatment or enhancement that is unstable or impermanent in normal wear and maintenance;
- E. any substance that, as a result of treatment, takes on the appearance of a significantly more valuable untreated gem.

P2 PEARL**Definition:**

An organic formation of layers of the same material as that lining the interior surface of a mollusc's shell, secreted naturally by the mollusc when provoked by the intrusion of a foreign element into the interior of the mollusc. It may be drilled and/or cut and/or polished and possesses beauty, rarity and value.

Misuses of Terminology:

It is contrary to the purpose of these guidelines without qualification (appropriate disclosure), to refer to or describe as a pearl:

- A. any substance that does not conform to the definition of pearl as stated above;
- B. any substance that has been either partly or wholly cultured, produced, initiated or created through human intervention no matter which basic material or methods are used;
- C. any substance composed of two or more parts that are assembled, cemented or joined by any other artificial methods with the exception of mabe pearls;
- D. any substance that was part of the normal anatomy of any mollusc. (Unacceptable example: using the word *pearl* for *mother-of-pearl*);

- E. any substance that has undergone treatment or enhancement that is unstable or impermanent in normal wear and maintenance;
- F. any substance that, as a result of treatment, takes on the appearance of a significantly more valuable untreated pearl.

P3 NATURAL PEARL

Definition:

A pearl that has been formed completely by nature without human intervention before or during the formation process, and is unaltered by man except for cutting and/or drilling and/or polishing.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the term *natural*:

- A. if the pearl has undergone any treatment or enhancement whatsoever other than cutting and/or drilling and/or polishing;
- B. if the substance has been manufactured or produced through human intervention other than drilling and/or cutting, and/or polishing. (Unacceptable example: *natural cultured pearl*)

P4 CULTURED PEARL

Definition:

A nacreous gem created when a section of mantle tissue and often a nucleus, usually a sphere of mother-of-pearl, is introduced within or adjacent to living tissues of a mollusc through human intervention and is coated with nacreous layers by the mollusc.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the term *cultured* unless the pearl conforms in all respects to the definition specified above. For such pearls, the word *cultured* must be placed immediately preceding the name of the pearl variety (if appropriate) and immediately followed by the word *pearl*. Neither word shall be given greater prominence or emphasis than the other, nor may they be separated. (Acceptable example: *cultured South Sea pearl*)

P5 PEARL VARIETIES

P5.1 CYST PEARL

Definition:

A pearl that has been formed within the living tissue of a mollusc and was not in contact with the mollusc's shell.

P5.2 BLACK PEARL

Definition:

A nacreous cyst pearl having a natural body colour of black to grey.

P5.3 BLISTER PEARL

Definition:

A naturally occurring convex nacreous growth formed on the interior surface of the shell of a mollusc.

P5.4 CONCH PEARL

Definition:

A non-nacreous cyst pearl formed by the giant or queen conch (*Strombus gigas*).

P5.5 FRESHWATER PEARL OR SWEET WATER PEARL

Definition:

A nacreous cyst pearl formed in freshwater molluscs.

P5.6 KESHI

Definition:

A cyst pearl, usually baroque, that forms accidentally as a by-product of the culturing process.

P5.7 ORIENTAL PEARL

Definition:

A nacreous natural cyst pearl formed exclusively in saltwater molluscs.

P5.8 SALTWATER PEARL

Definition:

A cyst pearl formed by a saltwater mollusc.

P5.9 SEED PEARL

Definition:

A nacreous cyst pearl that is under two millimeters in diameter.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use:

- A. unqualified word *pearl* or the name of any variety of pearl to describe, identify or refer to any substance that is not a pearl of the variety described;
- B. the unqualified word *pearl* or the name of any composite/assembled or artificial/imitation/simulated pearl to describe, identify or refer to any substance that does not conform to the definitions in these guidelines;
- C. the word *pearl*, or the name of any pearl or cultured pearl variety to describe, identify or refer to any substance created through human intervention unless the word *cultured*, *composite/assembled* or *artificial/imitation/simulated* (as appropriate)

immediately precedes the pearl name. Neither word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated;

- D. the word *pearl* or the name of any pearl or cultured pearl variety, in association with an asterisk or other device which makes reference to a footnote explanation of the fact that the substance is a treated, cultured, composite/assembled or artificial/imitation/simulated pearl;
- E. the word *Oriental* or *oriental* to describe the quality or appearance of any substance. (Unacceptable example: *Oriental quality pearl*);
- F. the word *pearl* together with any geographic, historic or adjectival qualifier to describe, identify or refer to any substance that is not a pearl of the variety described and/or from the location described. (Unacceptable example: *Tahitian pearl* to describe black pearls not produced in Tahiti)

P6 GEOGRAPHIC ORIGIN

It is contrary to the purpose of these guidelines to:

- A. make a statement as to the geographic origin of a pearl or a cultured pearl product unless its origin can be substantiated;
- B. make a statement as to the geographic origin of an artificial/imitation/simulated pearl. (Unacceptable example: *South Sea simulated pearl*. Acceptable example: *simulated pearl*)

P7 COMPOSITE OR ASSEMBLED

Definition:

A product resulting from the assembling of a portion of pearl or cultured pearl, and one or more other substances. (Example: *mabe pearl*)

P7.1 MABE

Definition:

An assembly incorporating a cultured blister pearl that has been cut from its shell. The original nucleus upon which it grew is removed, filled with a man-made material, and backed by a layer of mother-of-pearl. The assembly is held together by an adhesive.

P8 ARTIFICIAL OR IMITATION OR SIMULATED

Definition:

Any substance that has a superficial similarity to the effect, colour and appearance of a pearl or cultured pearl and may or may not possess its physical or chemical properties.

Misuses of Terminology:

The word *artificial*, *imitation*, or *simulated* must be placed immediately preceding the pearl variety (if appropriate) and immediately followed by the word *pearl*. Neither word(s) shall be given greater prominence or emphasis than the other(s), nor may the words be separated. (Acceptable examples: *imitation pearl*, *simulated black pearl*)

P9 NACRE

Definition:

The organic layered material that comprises the bulk of most natural pearls, the surface of a cultured pearl and the lining of the shell of most pearl-bearing molluscs. Nacre yields the characteristic appearance of pearl and mother-of-pearl. It is composed of microscopic platelets of aragonite (a calcium carbonate) deposited parallel to the surface and bound together in a fine network of material called conchiolin.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the word *nacre* or *nacreous* or any similar word to describe, identify or refer to any article that does not have a surface covered by nacre.

P10 LUSTRE

Definition:

The degree of reflection of light from the surface layers or near surface layers of a pearl or cultured pearl.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use any word or phrase in reference to the luster of a pearl or cultured pearl that indicates a level of quality it does not possess.

P11 ORIENT

Definition:

An optical phenomenon caused by the interference of light that yields iridescent rainbow colours seen in some pearls and cultured pearls.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use any word or phrase in reference to orient or that a pearl or cultured pearl does not possess.

P12 OVERTONE

Definition:

Secondary colouration related to orient and is distinct from the body colour. It may be localized.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use any word or phrase in reference to an overtone that a pearl or cultured pearl does not possess.

P13 COLOUR

Definition:

The general body colour of a pearl or cultured pearl. (Examples: pink, white, cream, yellow, grey, black)

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use any word or phrase in reference to a colour that a pearl or cultured pearl does not possess.

P14 SPOTTING/BLEMISHING/SURFACE TEXTURE

Definition:

Surface or localized subsurface irregularities.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use any word or phrase in reference to the spotting/blemishing/surface texture of a pearl or cultured pearl to indicate a level of quality it does not possess.

P15 UNIT OF MEASUREMENT

Note 1: The rules in this section "Units of Measurement" apply with equal import to all pearls or cultured pearls

Note 2: See *APPENDIX 2* of the guidelines for a listing of the acceptable measurement tolerances.

The dimensions of pearls are expressed as follows:

- a) Millimetres (mm) are the units of measurement for individual pearls;
- b) Centimetres (cm) or inches (in.) are the units of measurement for lengths of pearl strands.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to:

- A. misrepresent any measurement of any pearl or group of pearls;
- B. represent the diameter of pearls using any term other than millimetres (mm);
- C. represent the measurement of irregularly shaped pearls unless their minimum dimensions are included;
- D. misrepresent the thickness of the nacre on a pearl.

P16 SHAPE

Definition:

The overall shape of a cyst pearl or the outline shape of a blister pearl as viewed from the top. [Examples: round, off-round, oval, pear, baroque (irregular)].

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use any word or phrase in reference to the shape of pearls or cultured pearls to which they do not conform.

P17 DRILLED

Definition:

Having a manufactured perforation (hole) suitable for the purposes of stringing or setting into an article of jewellery. If the hole does not extend completely through and out the other side it is called *half-drilled* regardless of the depth of penetration of the hole.

P18 CUT

Definition:

Having an exterior surface that has been sawn, ground flat or faceted.

Misuses of Terminology:

The words *sawn*, *ground* or *faceted* must immediately precede the word pearl or cultured pearl. Neither word(s) shall be given greater prominence or emphasis than the other(s) nor may they be separated.

P19 TREATMENT OR ENHANCEMENT

Definition:

Any process other than drilling, bleaching, polishing and/or faceting that alters the colour, lustre and/or durability of a *pearl* or *cultured pearl*.

Misuses of Terminology:

It is contrary to the purpose of these guidelines to refer to a pearl or cultured pearl without the use of the term *treated* or *enhanced* if the pearl or cultured pearl has been altered by coating, dyeing, or irradiating or by any other treatment that is unstable or impermanent in normal wear and maintenance. The word *treated* or *enhanced* must immediately precede the name of the pearl variety (if appropriate) and be immediately followed by the word *pearl* and no word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated;

Alternatively, the treatment method or process (with or without any trademark or patent name) shall immediately precede the correct pearl name instead of the word *treated* or *enhanced*. The name of the treatment process shall be given equal prominence and emphasis to the correct pearl name, and they may not be separated. (Acceptable examples: *dyed cultured pearl*, *irradiated black cultured pearl*)

Purchasers of pearls and cultured pearls (both consumers and trade) should be advised that most pearls have been bleached by exposure to sunlight or bleaching agents, that many pearls have been tinted with dye, and that such treatments are usually permanent, stable and are undetectable by standard gemological techniques. The vendor should be prepared to provide to the purchaser information regarding any treatment that may have been applied to the pearls or cultured pearls.

P20 FLAWLESS

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the word *flawless* or any word or quality grade of similar meaning as a description of any pearl or cultured pearl that is not entirely free of blemishes or surface irregularities.

P21 PERFECT

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the word *perfect* or any variation of the word to describe, identify or refer to any attribute of any pearl or cultured pearl. (Unacceptable examples: *perfect pearl, perfectly drilled, perfectly round*)

P22 AUTHENTIC OR REAL OR GENUINE

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use *authentic, real, genuine* or a similar term, to describe, identify or refer to any pearl or cultured pearl or substance made entirely or partially through human intervention. (Unacceptable examples: *genuine cultured pearl, real mabe*)

P23 REPRODUCTION OR REPLICA

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use the words *pearl* or *cultured pearl* to describe, identify or refer to a reproduction or replica. The component material(s) of the reproduction or replica should be specified. No word(s) shall be given greater prominence or emphasis than the other(s) nor may they be separated. (Acceptable example: *plastic reproduction of La Peregrina*)

P24 LANGUAGE

Misuses of Terminology:

It is contrary to the purpose of these guidelines to use any word from another language, or to create a new word, to disclaim the authenticity of a pearl or cultured pearl. (Unacceptable example: *faux pearl*)

P25 GENERAL

Misuses of Terminology:

It is contrary to the purpose of these guidelines to identify, refer to or describe an article containing differing gems by referring to only one gem.

P26 CARE & MAINTENANCE

Misuses of Terminology:

It is contrary to the purpose of these guidelines not to advise all consumers purchasing pearls or cultured pearls as to their care, cleaning and maintenance.

P27 WARRANTIES & GUARANTEES

Specific legislation regarding warranties/guarantees is laid out in the *Competition Act*, section 74.01 (1) (b) and (c) (see *APPENDIX 1* of these guidelines) as well as provincial legislation. Industry should be aware that in the selling, advertising, offering for sale or distribution of any substance, every statement or reference as to the identity or quality or value of a substance constitutes a warranty/guarantee by the vendor. This principle applies in every instance and includes circumstances where the vendor quotes, makes reference to, or provides access to copies of the independent opinion of a third party, even if the vendor claims to be in dispute with the quoted opinion.

P28 SEALED PACKAGING AND WARRANTIES

It is contrary to the purpose of these guidelines to limit a consumer the opportunity to make or obtain an independent examination of any substance by delivering it in a sealed container under a warranty that becomes void if the seal is broken.

P29 APPRAISAL

Definition:

An expert opinion as to identity, composition, qualities and values embodied in a document that is the official record of the appraisal. The value stated on an appraisal should be the amount that might realistically be paid for an identical or comparable item sold in an appropriate marketplace for the personal use of the final user. All appraisals should be prepared in accordance with the *Jewellery Appraisal Guidelines – Minimum Acceptable Standards*, copyright 1998.

It is contrary to the purpose of these guidelines to use an appraisal value as a selling tool.

EXTRACTS FROM THE *COMPETITION ACT*

PART VI

OFFENCES IN RELATION TO COMPETITION

52. (1) No person shall, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect.
- (1.1) For greater certainty, in establishing that subsection (1) was contravened, it is not necessary to prove that any person was deceived or misled.
- (1.2) For greater certainty, a reference to the making of a representation, in this section or in section 52.1, 74.01 or 74.02, includes permitting a representation to be made.
- (2) For the purposes of this section, a representation that is
- (a) expressed on an article offered or displayed for sale or its wrapper or container
 - (b) expressed on anything attached to, inserted in or accompanying an article offered or displayed for sale, its wrapper or container, or anything on which the article is mounted for display or sale,
 - (c) expressed on an in-store or other point-of-purchase display,
 - (d) made in the course of in-store, door-to-door or telephone selling to a person as ultimate user, or
 - (e) contained in or on anything that is sold, sent, delivered, transmitted or made available in any other manner to a member of the public, is deemed to be made to the public by and only by the person who causes the representation to be so expressed, made or contained, subject to subsection (2.1).
- (2.1) Where a person referred to in subsection (2) is outside Canada, a representation described in paragraph (2)(a), (b), (c) or (e) is, for the purposes of subsection (1), deemed to be made to the public by the person who imports into Canada the article, thing or display referred to in that paragraph.
- (3) Subject to subsection (2), a person who, for the purpose of promoting, directly or indirectly, the supply or use of a product or any business interest, supplies to a wholesaler, retailer or other distributor of a product any material or thing that contains a representation of a nature referred to in subsection (1) is deemed to have made that representation to the public.
- (4) In a prosecution for a contravention of this section, the general impression conveyed by a representation as well as its literal meaning shall be taken into account in determining whether or not the representation is false or misleading in a material respect.
- (5) Any person who contravenes subsection (1) is guilty of an offence and liable
- (a) on conviction on indictment, to a fine in the discretion of the court or to imprisonment for a term not exceeding five years or to both; or
 - (b) on summary conviction, to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding one year, or to both.

- (6) Nothing in Part VII.1 shall be read as excluding the application of this section to a representation that constitutes reviewable conduct within the meaning of that Part.
- (7) No proceedings may be commenced under this section against a person against whom an order is sought under Part VII.1 on the basis of the same or substantially the same facts as would be alleged in proceedings under this section.

PART VII.1

DECEPTIVE MARKETING PRACTICES

- 74.01(1) A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever,
- (a) makes a representation to the public that is false or misleading in a material respect;
 - (b) makes a representation to the public in the form of a statement, warranty or guarantee of the performance, efficacy or length of life of a product that is not based on an adequate and proper test thereof, the proof of which lies on the person making the representation; or
 - (c) makes a representation to the public in a form that purports to be
 - (i) a warranty or guarantee of a product, or
 - (ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result, if the form of purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that it will be carried out.
- (2) Subject to subsection (3), a person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, makes a representation to the public concerning the price at which a product or like products have been, are or will be ordinarily supplied where suppliers generally in the relevant geographic market, having regard to the nature of the product,
- (a) have not sold a substantial volume of the product at that price or a higher price within a reasonable period of time before or after the making of the representation, as the case may be; and
 - (b) have not offered the product at that price or a higher price in good faith for a substantial period of time recently before or immediately after the making of the representation, as the case may be.
- (3) A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, makes a representation to the public as to price that is clearly specified to be the price at which a product or like products have been, are or will be ordinarily supplied by the person making the representation where that person, having regard to the nature of the product and the relevant geographic market,
- (a) has not sold a substantial volume of the product at that price or a higher price within a reasonable period of time before or after the making of the representation, as the case may be; and
 - (b) has not offered the product at that price or a higher price in good faith for a substantial period of time recently before or immediately after the making of the representation, as the case may be.

- (4) For greater certainty, whether the period of time to be considered in paragraphs (2)(a) and (b) and (3)(a) and (b) is before or after the making of the representation depends on whether the representation relates to
 - (a) the price at which products have been or are supplied; or
 - (b) the price at which products will be supplied.
 - (5) Subsections (2) and (3) do not apply to a person who establishes that, in the circumstances, a misrepresentation to price is not false or misleading in a material respect.
 - (6) In proceedings under this section, the general impression conveyed by a representation as well as its literal meaning shall be taken into account in determining whether or not the representation is false or misleading in a material respect.
- 74.1 (1) Where, on application by the Commissioner, a court determines that a person is engaging in or has engaged in reviewable conduct under this Part, the court may order the person
- (a) not to engage in the conduct or substantially similar reviewable conduct;
 - (b) to publish or otherwise disseminate a notice, in such manner and at such times as the court may specify, to bring to the attention of the class of persons likely to have been reached or affected by the conduct, the name under which the person carries on business and the determination made under this section, including
 - (i) a description of the reviewable conduct,
 - (ii) the time period and geographical area to which the conduct relates, and
 - (iii) a description of the manner in which any representation or advertisement was disseminated, including, where applicable, the name of the publication or other medium employed; and
 - (c) to pay an administrative monetary penalty, in such manner as the court may specify, in an amount not exceeding
 - (i) in the case of an individual, \$50,000 and for each subsequent order, \$100,000, or
 - (ii) in the case of a corporation, \$100,000 and for each subsequent order, \$200,000.

EXTRACTS FROM THE *WEIGHTS AND MEASURES REGULATIONS*

These tables are used by government inspectors to verify compliance with the *Weights and Measures Regulations*.

Changes have been proposed and are highlighted in *italics*. All other values are already law and are not part of the amendment proposal.

Adherence to these tables does not necessarily ensure complete compliance with the Weights and Measures Legislation.

Please verify applicable "Limits of Error" at the Measurement Canada website www.mc.ic.gc.ca.

1. Part X of Schedule II of the Regulations is revoked and the following substituted therefor:

PART X LIMITS OF ERROR FOR QUANTITIES STATED IN METRIC UNITS OF LENGTH

ITEM	COLUMN I - STATED QUANTITY	COLUMN II - LIMITS OF ERROR
1	For thread, yarns or agricultural twine: any length	4 % of stated quantity
2	For rolls of fabric: individual rolls	2 % of stated quantity
3	entire lots based on a minimum sample of 10 %	1 % of stated quantity
4	<i>For diamonds and gemstones:</i> <i>any length</i>	<i>0.02 millimetre</i>
5*	<i>For Pearls:</i> <i>0 millimetres up to and including</i> <i>50 millimetres</i>	<i>0.1 millimetre</i>
6**	<i>greater than 50 millimetres</i>	<i>0.9 times the length, measured on the drilled axis, of the smallest pearl in the article of jewellery</i>
7	<i>For Precious Metals:</i> <i>0 millimetres up to and including</i> <i>50 millimetres</i>	<i>0.1 millimetre</i>
8	<i>greater than 50 millimetres up to</i> <i>500 millimetres</i>	<i>1 % of stated quantity</i>
9	<i>500 millimetres up to and including</i> <i>5 metres</i>	<i>5 millimetres</i>
10	<i>more than 5 metres</i>	<i>0.1 % of stated quantity</i>
11	For other commodities: less than 3 metres	2 % of stated quantity
12	from 3 metres to 6 metres	60 millimetres
13	more than 6 metres	1 % of stated quantity

*5 Per single pearl

**6 Per strand of pearls

2. Part XI of Schedule II is revoked and the following substituted therefor:

PART XI LIMITS OF ERROR FOR QUANTITIES STATED IN CANADIAN UNITS OF LENGTH

ITEM	COLUMN I - STATED QUANTITY	COLUMN II - LIMITS OF ERROR
1	For thread, yarns or agricultural twine: any length	4 % of stated quantity
2 3	For rolls of fabric: individual rolls entire lots based on a minimum sample of 10 %	2 % of stated quantity 1 % of stated quantity
4 5 6	<i>For diamonds and gemstones: any length</i> <i>For Pearls: 0 inches up to and including 2 inches greater than 2 inches</i>	<i>0.0008 inches</i> <i>0.004 inches</i> <i>0.9 times the length, measured on the drilled axis, of the smallest pearl in the article of jewellery</i>
7 8 9 10	<i>For Precious Metals: 0 inches up to and including 2 inches greater than 2 inches up to 20 inches 20 inches up to and including 197 inches more than 197 inches</i>	<i>0.004 inches</i> <i>1 % of stated quantity</i> <i>0.197 inches</i> <i>0.1 % of stated quantity</i>
11 12 13	For other commodities: less than 10 feet from 10 feet to 20 feet more than 20 feet	2 % of stated quantity 2.4 inches 1 % of stated quantity

3. Part XIV of Schedule II of the Regulations is revoked and the following substituted therefor:

PART XIV LIMITS OF ERROR FOR QUANTITIES STATED BY NUMBER

ITEM	COLUMN I - STATED QUANTITY	COLUMN II - LIMITS OF ERROR
	number of articles	
1 2	<i>For diamonds and gemstones: 0 to 1000 more than 1000</i>	<i>0 articles 1 article for each 1000 articles</i>
3 4	<i>For pearls and precious metals articles: 0 to 500 more than 500</i>	<i>0 articles 1 article for each 500 articles</i>
5 6 7 8	<i>For other commodities: less than 50 from 50 to 100 more than 100 with an individual weight of 14 grams or less, or $\frac{1}{2}$ ounce or less more than 100 with an individual weight of more than 14 grams, or more than $\frac{1}{2}$ ounce</i>	<i>0 articles 1 article 0.75 % of the stated quantity, rounded up to the next whole number 0.5 % of the stated quantity, rounded up to the next whole number</i>

4. The title of Part XV of Schedule II of the Regulations is revoked and the following substituted therefor:

PART XV LIMITS OF ERROR FOR PEARLS, PRECIOUS METALS AND OTHER COMMODITIES OF COMPARABLE VALUE THE QUANTITY OF WHICH IS STATED IN METRIC UNITS OF MASS

ITEM	COLUMN I - STATED QUANTITY	COLUMN II - LIMITS OF ERROR
	grams	milligrams
1	up to and including 30	12.5
2	50	17
3	100	30
4	200	56
5	300	81
6	500	131
7	1000	240
8	1500	350
9	2000	425
10	3000	575
11	5000	900
12	6000	1050
13	more than 6000	0.0175 % of the stated quantity

Where a quantity is not listed in Column I of this Part, the limits of error for that quantity shall be determined by linear interpolation.

5. Part XVI of the Regulations is revoked and the following substituted therefor:

PART XVI LIMITS OF ERROR FOR PEARLS, PRECIOUS METALS AND OTHER COMMODITIES OF COMPARABLE VALUE THE QUANTITY OF WHICH IS STATED IN CANADIAN UNITS OF MASS

ITEM	COLUMN I - STATED QUANTITY	COLUMN II - LIMITS OF ERROR
	<i>For pearls: Ounces</i>	<i>ounces</i>
1	<i>up to and including 1</i>	<i>0.00044</i>
2	<i>2</i>	<i>0.00066</i>
3	<i>4</i>	<i>0.0012</i>
4	<i>8</i>	<i>0.0022</i>
5	<i>16</i>	<i>0.0042</i>
6	<i>32</i>	<i>0.0078</i>
7	<i>80</i>	<i>0.0164</i>
8	<i>160</i>	<i>0.0291</i>
9	<i>212</i>	<i>0.0371</i>
10	<i>more than 212</i>	<i>0.0175 % of the stated quantity</i>
	<i>For precious metals and other commodities of comparable value: troy ounces</i>	<i>grains</i>
11	<i>up to and including 1</i>	<i>0.2</i>
12	<i>2</i>	<i>0.3</i>
13	<i>5</i>	<i>0.7</i>
14	<i>10</i>	<i>1.3</i>
15	<i>20</i>	<i>2.5</i>
16	<i>50</i>	<i>5.6</i>
17	<i>100</i>	<i>9.4</i>
18	<i>200</i>	<i>16.8</i>
19	<i>more than 200</i>	<i>0.0175 % of the stated quantity</i>

Where a quantity is not listed in Column I of this Part, the limits of error for that quantity shall be determined by linear interpolation.

6. Schedule II of the Regulations is amended by adding thereto, immediately after Part XVI, the following:

PART XVII *LIMITS OF ERROR FOR DIAMONDS AND GEMSTONES THE QUANTITY OF WHICH IS STATED IN METRIC OR CANADIAN UNITS OF MASS*

ITEM	COLUMN I - STATED QUANTITY	COLUMN II - LIMITS OF ERROR
1	<i>all declarations</i>	<i>0.4 milligram (0.002 carats)</i>

