



South African Plastics Recycling Organisation

Position Paper:

Defining recyclability and the application of the
“Recycle” on-pack recycling label (OPRL) in
South Africa.

By the South African Plastics Recycling Organisation (SAPRO)

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Executive Summary

Reasons for labelling packaging as “Recyclable” only when it is actively recycled in practice and at scale with a 30% output recycling rate:

1. **Cost to Recycling Logistics Industry:** Shipping materials that are ultimately disposed of threatens the viability of the recycling logistics industry.
2. **Cost to Recycling/Reprocessing Industry:** Wastage and losses from contaminants in the recycling stream threaten the viability of the recycling/reprocessing industry.
3. **Credibility of OPRLs and Plastic Recycling:** Maintaining the credibility of On-Pack Recycling Labels (OPRLs) and plastic recycling is crucial, as consumers will lose trust if they learn that their sorted materials are not actually being recycled.
4. **Incentivizing Packaging Designers:** Encourages designers to create packaging that is genuinely recyclable, rather than making false green claims.
5. **Addressing Consumer Concerns:** Directly addresses consumer concerns about recycling, rather than obscuring the truth.
6. **Avoiding Future Litigation:** Reduces the risk of future litigation for misleading consumers about recyclability.
7. **Legal Clarity:** Provides clear legal guidelines for all stakeholders involved in the recycling process.
8. **Legal Standardization:** Reduces the number of false claims made by companies through standardized legal requirements.

Introduction

Recyclability is the ability of an item to be reprocessed into a new raw material for use in new products. There are different ways to define what “Recyclable” means, which is further expounded in the next section, however it is critical to have a nationally standardised definition for “Recyclable”.

Design for Recycling (D4R) is an important feature of the packaging development process and is crucial for brands to integrate if they intend for the recycling industry to accept their materials when it reaches the end of life (see Appendix 1).

On-Pack Recycling Labels (OPRLs) are markings used by brands to indicate the recyclable status of a packaging item. They fulfil three important functions:

1. Help consumers to properly sort waste into recyclable and non-recyclable streams.
2. Help consumers to make environmentally conscious purchasing decisions.
3. Influence brand owners to make better design choices

In order to do this, OPRLs need to be credible and consistent so that consumers trust the labels to inform their behaviour. It is clear that the credibility of recycling as a solution for plastic waste is under intense scrutiny from consumers around the world.

Source separation, bolstered by clear and accurate OPRLs, is vital in streamlining logistics and bolstering the efficiency of collection, sorting and recycling businesses by keeping worthless non-recyclables out of the system - improving yields and quality, thereby reducing recycling costs. Products with no value in the recycling stream, increase the costs of managing recycling businesses and burdens the truly recyclable products with unaffordable costs.

By educating and empowering consumers through astute OPRLs, one can significantly enhance the viability of the recycling industry, ensuring that valuable materials are given a second life and kept out of landfills and the environment.

Recyclability and South African legal framework

The South African National Environmental Management: Waste Act - Regulations regarding extended producer responsibility (EPR) of 2021 requires “environmental labels” on identified products (with packaging of relevance here) applied according to SANS/ISO 14021¹ (for self-declared environmental labels).

SANS/ISO 14021 focuses on how best to make a statement in a way that is meaningful and useful to a consumer. The objective of this standard² developed by experts, with the participation of consumer groups and environmental non-governmental organizations, is to harmonize the use of self-declared environmental claims, with the following expected benefits:

- “Accurate and verifiable environmental claims that are not misleading
- Increased potential for market forces to stimulate environmental improvements in production, processes, and products
- Prevention or minimization of unwarranted claims
- Reduction in marketplace confusion
- Facilitation of international trade
- Increased opportunities for purchasers, potential purchasers, and product users to make more informed choices”³

The SANS/ISO 14021 definition includes;

7.7.1 Usage of term “Recyclable”

“A characteristic of a product, packaging or associated component that can be diverted from the waste stream through available processes and programmes and can be collected, processed and returned to use in the form of raw materials or products.

7.7.2 Qualifications

If collection or drop-off facilities for the purpose of recycling the product or packaging are not conveniently available to a reasonable proportion of purchasers, potential

¹ ISO 14021 is the international standard which was adopted by the South African Bureau of Standards, therefore the two documents (ISO 14021 and SANS 14021) are identical.

² which was adopted based on an international standard published by the International Organisation for Standardisation.

³ <https://www.iso.org/news/2016/03/Ref2066.html>

purchasers and users of the product in the area where the product is sold, then the following shall apply.

- a) A qualified claim of recyclability shall be used*
- b) The qualified claim shall adequately convey the limited availability of collection facilities*
- c) Generalised qualifications, such as "Recyclable where facilities exist", which do not convey the limited availability of collection facilities, are not adequate.*

7.7.4 Evaluation methodology

"Evaluation shall" ... "include evidence of the following".

- a) The collection, sorting and delivery systems to transfer the materials from the source to the recycling facility are conveniently available to a reasonable proportion of the purchasers, potential purchasers and users of the product.*
- b) The recycling facilities are available to accommodate the collected materials*
- c) The product for which the claim is made is being collected and recycled.*

This generic international definition for recyclability as represented in the ISO standards, and subsequently adopted in the SANS standard, is deliberately not specific in terms of defining a suitable threshold at which materials may be called recyclable. This is an acknowledgment of the different waste management systems and contexts globally. The onus is therefore on national bodies to define how the "convenient availability" of collection, sorting, and delivery systems feeding recycling plants can be feasibly described and measured in their context.

The SANS/ISO definition implies that in order to qualify as recyclable, an item should go beyond "technically recyclable" to a point where there is actual recycling of that item taking place. Therefore the item should be "practically recyclable", or "recycled in practice".

*"Technical recyclability considers the technical possibility to recycle a package, but does not take into account if the collection, sorting, and recycling of the package happens in practice, at scale, and with reasonable economics (e.g. it could work in a lab or in one (pilot) facility but not be economically viable to replicate at scale). Therefore, such a definition does not directly correlate to what is actually recycled in practice, and it would result in all packaging being considered 'recyclable'."*⁴

Some international associations of recyclers have developed their own approach to defining recyclability, which emphasises the need for market value in material being collected, as well as the practical steps required to recycle material into new products (ie can be sorted and aggregated, can be processed and recycled in commercial recycling plants, and that the material can be used to make a new product):

⁴The Ellen MacArthur Foundation, 2020. New Plastics Economy, Global Commitment - Commitments, Vision and Definitions.

Plastics Recyclers Europe (PRE) and Association of Plastic Recyclers (APR)

According to Plastics Recyclers Europe (PRE) and Association of Plastic Recyclers (APR) based in the USA, an item can be classified as “recyclable” when it meets 4 criteria:

- 1) “The product must be made of plastic that is collected for recycling, has market value, and/or is supported by a legislatively mandated program.
- 2) The product must be sorted and aggregated into defined streams for recycling processes.
- 3) The product can be processed and reclaimed/recycled with commercial recycling processes.
- 4) The recycled plastic becomes a raw material that is used in the production of new products.”⁵

World Packaging Organisation

The World Packaging Organisation (WPO) developed practically focused definitions across the recycling value chain of APR, PRE and EMF, and added the emphasis of the need for packaging design to be responsive to local and regional collection, sorting and recycling systems:

“Products must meet the following criteria to be recyclable: The material used is collected by country-specific and region-specific collection systems and can be sorted using the latest technological standards. Furthermore, it is recycled in a recycling process that uses state-of-the-art technology. The resulting secondary raw materials harbour significant market potential, which can be used as substitutes for material-identical new materials. Technical recyclability is, therefore, to be distinguished from the actual recycling rate.”⁶

Since according to the ISO/SANS, APR, PRE and WPO’s definitions there must be some level of recycling taking place in practice, it necessitates the use of a threshold indicating what is a satisfactory volume to be considered “in practice”.

How do other governments define “availability of collection sorting and delivery systems”?

Australia and New Zealand

In Australia and New Zealand, the definition of recyclability is evident in the Australasian Recycling Label (ARL). Australia’s National Waste Policy Action Plan and the National Plastics Plan both refer to ARL as key to increasing consumer awareness and recycling rates. In New

⁵ APR and PRE (2018) Definition of recyclability, as presented on the RecyClass website: <https://recyclclass.eu/recyclability/definition/>, accessed November 2024.

⁶ The World Packaging Organisation, 2020. Packaging Design for Recycling - a global recommendation for circular packaging design, https://www.worldpackaging.org/Uploads/2024-09/ResourcePDF37_1726643101.pdf, accessed November 2024.

Zealand, the Ministry for Environment has endorsed the ARL as the best option for environmental labelling of packaging.

Packaging is classified according to the availability of kerbside collection services:

- Recyclable - “Widely Accepted: If over 80% of the population with kerbside recycling can recycle the item.”
- Recyclable in some areas - “Less Widely Accepted: If 60-80% of the population has access, consumers are encouraged to make informed disposal decisions based on local collection availability.
- Not-Recyclable: If less than 60% of the population with kerbside recycling can recycle the item.”

Canada

Competition Bureau Canada’s Environmental Claims: A Guide for Industry and Advertisers, aka ‘Enforcement Guidelines’ include the following definition of recyclable:and the Consumer Packaging and Labeling Act. The Enforcement Guidelines similarly state:

“[Recyclable is a term that is] “characteristic of a product, packaging or associated component that can be diverted from the waste stream through available processes and programmes and can be collected, processed and returned to use in the form of raw materials or products. It is not enough to confirm that there are municipal or industry collection systems where the product is sold in order to make a claim of “recyclable” — there must also be facilities to process the collected materials and reuse them as an input to another product that can be marketed and used.”

3 criteria are used to assess recyclability:

- *Is the item accepted in the collection system accessible to at least 80% of the population in a province or territory?*
- *Can the item be sorted into a bale with a sorting yield of at least 80% going to North American re-processors?*
- *Does the bale have a re-processing rate for North American re-processors of at least 80%?”⁷*

The European Union

In the EU, the Paper and Packaging Waste Regulations (PPWR) stipulate that all paper and packaging must be “recyclable at scale” by 2035. In the regulations, “at scale” means that most materials (including plastics) must be recycled at a 55% output recycling rate or more.

⁷ Government of Canada, 2023. Recycled content and labelling rules for plastics: Regulatory Framework Paper, <https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/recycled-content-labelling-rules-plastics.html#toc22>, accessed November 2024.

The PPWR has been adopted by the EU Parliament, and is now in the process of being adopted in member states.

United Kingdom

The organisation OPRL in the UK allows the “Recycle” OPRL to be “*applied to packaging collected by 75% or more of UK local authorities and then sorted, processed and recycled into new packaging or products.*”

Although OPRL is not a government agency and the OPRL labelling system is not mandatory in the UK, more the 95% of retailers apply the OPRL labels, and more than 93% of grocery brands (Ricardo, 2024 - auditing 12/2013-12/2023)⁸.

The draft Recyclability Assessment Methodology published by the UK’s Department for Environment, Food, and Rural Affairs (DEFRA) includes OPRL’s recyclability threshold of packaging collection available in 75% or more local authorities in the UK (DEFRA, 2024⁹). The commenting period on this first draft closed on 31 October 2024.

United States of America

In the US, the Federal Trade Commission has issued rules in the Code of Federal Regulations (CFR) that provide that marketers can make an unqualified “recyclable” claim when recycling facilities are available¹⁰ to a substantial majority of consumers or communities where the item is sold. “Substantial majority is defined as 60%”.

CFR: 260.12 Recyclable claims.

(a) “It is deceptive to misrepresent, directly or by implication, that a product or package is recyclable. A product or package should not be marketed as recyclable unless it can be collected, separated, or otherwise recovered from the waste stream through an established recycling program for reuse or use in manufacturing or assembling another item.

(b) Marketers should clearly and prominently qualify recyclable claims to the extent necessary to avoid deception about the availability of recycling programs and collection sites to consumers.

⁸ Ricardo - global consultants, contracted to audit the OPRL scheme, <https://www.ricardo.com/en/projects/oprl>, accessed December 2024.

⁹ DEFRA, 2024. Draft Recyclability Assessment Methodology [/https://assets.ctfassets.net/ckmipsq66g37/4qtg7YL190JzABMN4ly86m/a71e8f77e6dbbe7aa0f3ea943f6e067e/DRAFT_RAM_Guidance_16.10.2024.pdf](https://assets.ctfassets.net/ckmipsq66g37/4qtg7YL190JzABMN4ly86m/a71e8f77e6dbbe7aa0f3ea943f6e067e/DRAFT_RAM_Guidance_16.10.2024.pdf), accessed December 2024.

¹⁰ Available recycling facilities include kerbside collection available as a public service, opt-in kerbside collections where the service is paid for by the citizen, and drop-off facilities where citizens may take their recyclables.

(1) When recycling facilities are available to a substantial majority of consumers or communities where the item is sold, marketers can make unqualified recyclable claims. The term “substantial majority,” as used in this context, means at least 60 percent.¹¹

What about countries or regions without widespread collection of recyclables?

However, not all countries and regions have widespread separate collection of recyclables from kerbside for citizens. Therefore, a threshold independent of a requirement for coverage of collection services is needed.

Ellen MacArthur Foundation

The Ellen MacArthur Foundation’s (EMF) work in a circular plastics economy, initiated through their New Plastics Economy workstream, included extensive global consultation on the definition of recyclability that could at the global level include all contexts in which plastics become waste. The definition that was arrived at mirrors the APR and PRE’s definition above:

A packaging or packaging component is recyclable if its successful post-consumer collection, sorting, and recycling is proven to work in practice and at scale.¹²⁾

“A package can be considered recyclable if its main packaging components, together representing >95% of the entire packaging weight, are recyclable according to the above definition, and if the remaining minor components are compatible with the recycling process and do not hinder the recyclability of the main components. ‘At scale’ is considered a 30% (output¹³⁾ recycling rate.

Importance of a defined Threshold

Although the current legal definition of “recyclable” (ISO 14021) does not provide a definitive threshold past “*collection facilities... conveniently available to a reasonable proportion of purchasers*”, it does imply a quantified amount of activity to achieve the definition.

We have seen that other countries use very well-defined parameters for the availability of collection services. In South Africa however, there is poor availability of “collection facilities” for recyclable materials. Instead, most recyclable materials are collected by informal waste collectors. Therefore, it would be better to use a threshold for recycling which can be measured,

¹¹ National archives: Code of Federal Regulations, 2024 <https://www.ecfr.gov/current/title-16/chapter-1/subchapter-B/part-260/section-260.12>, accessed November 2024.

¹² The Ellen MacArthur Foundation, 2020. New Plastics Economy, Global Commitment - Commitments, Vision and Definitions.

¹³ Output recycling rate, refers to the point at which recycled material is measured. Measuring the recycling rate at the output of recycling factories eliminates non-recyclable scrap which finds its way into a recycling factory but has to be disposed of later.

such as the amount of material that is being processed. That is why SAPRO proposes that “Recyclable” should be defined by how much material is being recycled in practice and at scale.

Having a clear distinction between “technically recyclable” vs “practically recyclable” would have a significant impact on the part of the value chain which is tasked with handling (collecting, sorting, transporting) and processing the “recyclable” material. SAPRO believes that “practical recyclability” should be the benchmark for labelling products as recyclable. This is elaborated upon in the “Wishcycling” section below.

The opposite scenario, where items are all labelled as recyclable, even though there is little or no actual recycling taking place, risks the credibility of plastics overall as a sustainable packaging material.

Furthermore giving all plastics a recyclable status undermines the work of companies that are working hard to use packaging materials which are actually recyclable, working against the progress being made towards true recyclability.

As the organisation representing plastic recyclers in South Africa, the SAPRO Board undertook an examination of this subject in 2021. From an industry standpoint, the Board considered global best practices and agreed that products achieving a minimum 30% output recycling rate in practice should be classified as recyclable.

A 30% threshold, for “in practice and at scale” tells the consumer that if they put this item of packaging into a recycling bin, it has at least a 30% chance of being recycled.

Wishcycling

Materials that enter the recycling stream undergo additional logistics steps from the general waste stream, which goes directly to landfill. Recycling streams are transported to material recovery facilities (MRFs) and buy-back centres, where they are typically hand sorted into more refined material categories. By sending materials that are not sought after by recycling (material reprocessing) companies, the MRFs incur the cost of transporting and sorting the material, only to then additionally pay for the disposal of that material. This causes financial losses to recycling companies and jeopardises the viability of the entire industry.

When consumers place non-recyclable materials into the recycling stream, this is often referred to as “wishcycling”. When brands cause non-recyclable materials to enter the recycling stream by applying the wrong OPRL, they are putting the whole recycling industry at risk.

The danger of “Greenwashing”

Consumers are growing in awareness and concern about the dangers of plastic as a single-use packaging material. This negative sentiment is fuelled by bad publicity and imagery from the

impacts of badly managed plastic waste. This is even though in many cases, plastics are the most sustainable packaging choice.

This negative sentiment is amplified when companies are exposed for having misled the public or claimed environmental credentials which later become discredited. It is worth having positive news stories about plastic packaging that are credible and set a high standard for performance, thereby demonstrating the commitment of brands to act responsibly and in the interest of current and future generations. Taking sufficient steps to raise the profile of plastic packaging now, may be pivotal in the future of plastic as an acceptable packaging material.

Local legal considerations

It is important to note that while the legal landscape is still developing, there are legal barriers to misleading information and advertising and there is significant risk to companies that try to skirt the law in order to gain a competitive edge.

The Consumer Protection Act, No 68 of 2008 (CPA) “prohibits the marketing of goods through ‘false, misleading or deceptive representations of fact’ regarding goods or services.” Furthermore, when interpreting the CPA, the SA National Consumer Commission may consider appropriate international laws. Therefore, “while the National Consumer Commission has to date not published specific rules or regulations relating to when a ‘green’ claim may be considered to be ‘misleading’, reference may be made to international precedent.” (*Bowmans Law; 2024*¹⁴)

The Competition Act, No 89 of 1998 could be used to file a complaint against a company for conduct that involves misleading claims regarding sustainability. Although there is no precedent for such a case in South Africa yet, even an unsuccessful case could have significant reputational consequences for a large producer.

The Advertising Standards Authority (ASA) is a legal entity that regulates advertising in South Africa. The ASA can take measures against entities with misleading claims or false advertising on packaging.

International legal cases against companies misleading the public

Recent news from the USA regarding backlash on plastic users and producers for overstating their sustainability (aka greenwashing) raises questions about future consequences for producers around the world, including South Africa. Two such cases include:

- The state of California is suing ExxonMobil, alleging they misled the public about plastics recycling for decades” (*Plastics News*). Allegedly ExxonMobil promoted recycling as a “cure-all for plastic waste,” even though the company knew that only a small portion of the waste plastic could feasibly be recycled (*NBC News*).

¹⁴ Bowmans, <https://bowmanslaw.com/insights/south-africa-developments-in-the-regulation-of-green-claims-and-greenwashing/>, accessed November 2024.

- “Los Angeles County sued consumer product giants Coca-Cola Co. and PepsiCo Inc., accusing them of misleading the public about plastics recycling and the environmental impacts of their packaging” (Plastics News).

Two salient points from these court cases are that producers used “misleading” marketing and that the infringements are backdated. It stands to reason that any actions taken by brands now, may receive backlash any time in the future.

In order to maintain the credibility of OPRLs it is important for brands to remain above reproach when it comes to ethical communication of their environmental credentials. For this reason, Design for Recycling and Environmental Labelling like OPRLs should err on the side of caution about the true likelihood of recycling.

The challenge however is that companies that do follow a conservative approach risk being undercut and out-competed by less scrupulous competitors which would exaggerate environmental credentials to gain an edge. Therefore, it is necessary to have nationally harmonised rules for environmental labelling (OPRLs) and governance of its implementation. There has never been a more urgent need to straighten this issue out.

Appendix 1: Design for Recycling

There are a few organisations in South Africa which have developed Design for Recycling (D4R) guidelines for packaging designers. The problem is that there is much variability between these guidelines which often represents the interests of the organisation providing them. SAPRO, being the industry association of plastic recyclers, is well placed to provide guidance from the perspective of plastic recyclers, who are the ultimate decision-makers on whether a certain packaging type will get recycled or not.

To this end, SAPRO and their partners Designed For Earth (D4E), with funding from the Nedbank Green Trust and Polyco, developed an online Design for Recycling Tool (<https://designedforearth.com/>). This online tool provides easy-to-use, design guidance FREE of charge for the assessment of packaging design decisions against the ability of the South African recycling industry to recycle that item “in practice and at scale”. The D4E tool uses the “in practice and at scale” logic to determine recyclability, which is seen to be “stricter” than the theoretical recyclability threshold of many other D4R guidelines.

Companies wanting to appear that they are providing their customers with recyclable packaging choices, without actually making the changes and investment needed, are thus incentivised to use the less strict guidelines which gives their desired outcomes. Thus, companies can gain a competitive advantage by using the lowest standard to determine the recyclability of their packaging.

There is a need to align all D4R guideline rules in the country and to regulate them so that all brands and products use the same criteria for determining what they label as recyclable.