TEXAS ATTORNEY GENERAL

Untitled Texas Attorney General Opinion: KP-0508

Opinion No. KP-0508 (Tex. Att'y Gen. Jan. 23, 2026) · No. KP-0508 · Decided January 24, 2026

SUMMARY

Texas Attorney General Opinion No. KP-0508 concludes that advanced recycling facilities using pyrolysis on post-use polymers engage in recycling under the Texas Solid Waste Disposal Act. The opinion distinguishes advanced recycling from incineration and limits its conclusion to pyrolysis involving post-use polymers.

OPINION

PER CURIAM.

January 23, 2026 The Honorable Ashley Cain Land Chambers County Attorney Post Office Box 1200 Anahuac, Texas 77514 Opinion No. KP-0508 Re: Whether “advanced recycling facilities” engage in “recycling” under Texas law (RQ-0602-KP) Dear Ms. Land: You ask “whether ‘advanced recycling facilities’ engage in ‘recycling’ under Texas law.” 1 As background, you tell us that Chambers County recently entered into an agreement with ExxonMobil “to reduce plastic waste in the County, create a cleaner environment, and support a more circular economy for plastics.” Request Letter at 2.

This agreement involves the performance of advanced recycling via a process called “pyrolysis.” Id. You indicate, however, that multiple lawsuits have been filed in the State of California alleging that advanced recycling practices are neither recycling nor environmentally friendly. Id. at 2–3. These lawsuits have prompted you to seek clarification regarding the status of advanced recycling under the laws of Texas.

Id. at 3. Advanced recycling facilities utilize processes that are expressly recognized as recycling under the Texas Health and Safety Code. The Solid Waste Disposal Act is one of the primary frameworks governing recycling across Texas. See generally TEX. HEALTH & SAFETY CODE §§ 361.001–.992.

In relevant part, the Act defines an “[a]dvanced recycling facility” as “a manufacturing facility that receives, stores, and converts post-use polymers and recoverable feedstocks using advanced recycling technologies and processes including pyrolysis,” 2 id. § 361.003(1); accord 30 TEX. ADMIN. CODE §§ 330.3(5), 335.1(8)—i.e., “a manufacturing process through which post-use polymers are heated in an 1 Letter from Hon. Ashley Cain Land, Chambers Cnty.

Att’y, to Hon. Ken Paxton, Tex. Att’y Gen. at 1 (June 5, 2025), https://www.texasattorneygeneral.gov/sites/default/files/request-files/request/2025/RQ0602KP.pdf (“Request Letter”). 2 The Act also identifies “gasification, solvolysis, and depolymerization” as advanced recycling technologies and processes that pertain to different types of materials. TEX. HEALTH & SAFETY CODE § 361.003(1); see also id. § 361.003(6-a) (defining “[d]epolymerization,” which is used on “post-use polymers”),.003(10-a) (defining “[g]asification,” which is used on “recoverable feedstocks”),.003(37-a) (defining “[s]olvolysis,” which is used on “post-use polymers”).

The Honorable Ashley Cain Land - Page 2 oxygen-deficient atmosphere and the pyrolysis product is converted into valuable raw materials or valuable intermediate or final products.” TEX. HEALTH & SAFETY CODE § 361.003(25-a) (adding that this “does not include incineration”). “Post-use polymers,” in turn, are “plastics” that: (A) are derived from any industrial, commercial, agricultural, or domestic activity, including preconsumer recovered materials and postconsumer materials; (B) are sorted from solid waste and other regulated waste and may contain residual amounts of organic material and incidental contaminants or impurities such as paper labels or metal rings; (C) are not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility; (D) are used or intended for use as a feedstock or for the production of feedstocks, raw materials, or other intermediate or final products using advanced recycling; and (E) are processed or held prior to processing at an advanced recycling facility.

Id. § 361.003(24-a); accord 30 TEX. ADMIN. CODE §§ 330.3(118), 335.1(137). An advanced recycling facility that uses pyrolysis on post-use polymers is engaged in recycling under the Solid Waste Disposal Act. With this background in mind, we turn to your question regarding “whether advanced recycling in Texas... constitutes legal recycling under Texas law.” Request Letter at 1. “Our ultimate purpose when construing a statute is to discover the Legislature’s intent.” City of Round Rock v. Rodriguez, 399 S.W.3d 130, 133 (Tex.

2013). “Where text is clear,” of course, “text is determinative of that intent.” Entergy Gulf States, Inc. v. Summers, 282 S.W.3d 433, 437 (Tex. 2009). Furthermore, we “must adhere to legislative definitions of terms when they are supplied.” Youngkin v. Hines, 546 S.W.3d 675, 680 (Tex. 2018).

Here, of course, there can be no doubt that pyrolysis of post-use polymers constitutes recycling under Texas law. The Act defines “[r]ecycling” as “a process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or processed and returned to use in the form of raw materials or feedstocks used in the manufacture of new products.” TEX. HEALTH & SAFETY CODE § 361.421(8)(C); see also id. § 361.003(27) (incorporating this definition).

Moreover, the Act makes clear that an "[a]dvanced recycling facility" uses "advanced recycling technologies and processes" that include "pyrolysis" of "post-use polymers." Id. § 361.003(1); accord 30 TEX. ADMIN. CODE §§ 330.3(5), 335.1(8). This plain-text reality is further confirmed by the fact that "conversion of post-use polymers... through pyrolysis" is expressly identified as an enumerated form of "recycling." TEX. HEALTH & SAFETY CODE § 361.421(8)(C).

As such, the arrangement you describe—where "communities' plastic waste" will be collected, sorted, and ultimately pyrolyzed by ExxonMobil's advanced The Honorable Ashley Cain Land - Page 3 recycling facilities, 3 Request Letter at 2—constitutes recycling under Texas law so long as the plastics being converted are post-use polymers. 4 See generally TEX. HEALTH & SAFETY CODE § 361.003(24-a).

Neither does the out-of-state litigation you reference alter this conclusion. Those cases turn on California law and, above all else, the allegation that advanced recycling is merely a form of incineration. Request Letter at 1–3. But the Texas Legislature has made clear that "an advanced recycling facility is not... [an] incinerator." TEX. HEALTH & SAFETY CODE § 361.003(1); accord id. § 361.421(8) (providing that "'[r]ecycling'... does not include incineration of plastics"), 30 TEX. ADMIN.

CODE §§ 335.1(89), (146). Indeed, the statutory definition of pyrolysis—an enumerated example of advanced recycling, TEX. HEALTH & SAFETY CODE §§ 361.003(1),.421(8)(C)—echoes as much by providing that the process "does not include incineration." Id. § 361.003(25-a).

The same is true of other heat-based forms of advanced recycling. See, e.g., id. § 361.003(10-a) (defining "[g]asification" as "a process through which recoverable feedstocks are heated and converted," which "does not include incineration"). Realizing that "[t]he Legislature determines public policy through the statutes it passes," Fairfield Ins. Co. v. Stephens Martin Paving, LP, 246 S.W.3d 653, 665 (Tex.

2008), these out-of-state cases provide no basis on which to question what is otherwise clear under Texas law. 3 We also received briefing from ExxonMobil that confirms its facilities "exclusively process[] post-use polymers and recoverable feedstock" by first applying "heat[] in the absence of oxygen" and then "convert[ing] [that material] into intermediate raw materials," "remov[ing] contaminants," and converting "the raw materials... to monomers" that are ultimately "converted to polymers" as well as "other products." Brief from Eloissa D. Wells, Dir. of Circular Prods., ExxonMobil, to Joshua Fiveson, Chair, Op.

Comm., Off. of Tex. Att'y Gen. at 5–6 (July 23, 2025) (on file with the Op. Comm.). 4 Pyrolysis cannot be conducted on recoverable feedstocks that do not constitute post-use polymers, for example, because that process is defined as one "through which post-use polymers are heated... and... converted." TEX. HEALTH & SAFETY CODE § 361.003(25-a) (emphasis added); see also

id. § 361.003(26-a)(A)–(B) (providing that "[r]ecoverable feedstock" includes "post-use polymers" in addition to other materials).

Recoverable feedstocks beyond post-use polymers are instead processed through "[g]asification," which also uses heat-based conversion "in an oxygen-deficient atmosphere." Id. § 361.003(10-a). But we were only asked about pyrolysis and therefore limit our answer accordingly.

The Honorable Ashley Cain Land - Page 4 S U M M A R Y Advanced recycling facilities that use pyrolysis on post-use polymers are engaged in recycling under the Solid Waste Disposal Act. Very truly yours, KEN PAXTON Attorney General of Texas BRENT WEBSTER First Assistant Attorney General LESLEY FRENCH Chief of Staff D. FORREST BRUMBAUGH Deputy Attorney General for Legal Counsel JOSHUA C. FIVESON Chair, Opinion Committee ALLISON FREED Assistant Attorney General, Opinion Committee