



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

February 26, 2026

Jack Miltz
Top Patch
5196 Le Tourneau Circle
Tampa, FL 33610

Reference No. 25-0093

Dear Mr. Miltz:

This letter is in response to your June 10, 2025 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to United Nations (UN) specification packaging. Specifically, you ask whether a 23 lb. mixture that contains 8 lbs. of “UN1866 Resin solution, combustible liquid, PG III” is required to be packaged in a UN specification 5-gallon pail?

No, provided your material has been properly reclassified as a combustible liquid and does not meet the definition of a hazardous substance, hazardous waste, or marine pollutant. As specified in § 173.150(f)(1), a flammable liquid with a flash point at or above 38 °C (100 °F) that does not meet the definition of any other hazard class may be reclassified as a combustible liquid when transported by ground. Furthermore, § 173.150(f)(2) states that a combustible liquid in a non-bulk packaging is not subject to the HMR unless it is a hazardous substance, hazardous waste, or marine pollutant.

You also mention in your request that you ship one plastic bottle containing 180 g of “UN3104 Organic Peroxide, Type C, Solid, 5.2 (Benzoyl Peroxide)” per 5-gallon pail. Please note that this is a fully regulated material and, therefore, the bottles must comply with all applicable requirements of the HMR

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Alexander Wolcott
Acting Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

25-0093
Jacobson, N.

Mr. Shane Kelley
Director, Standards and Rulemaking Division
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

6/10/2025

RE: Letter of Interpretation

Mr Kelley-

We are a small manufacturer located in Tampa, FL. We make a pavement repair product called "Top Patch" (www.Top-Patch.com)

We ship the material mostly LTL, in 5-gallon UN pails, on pallets, stretch wrapped. There is 1.92 gallons (23 LBS) of Top Patch material in the pail.
Out of the 23 LBS of Top Patch in the 5-gallon pail:
8 LBS are UN 1866 Resin solution, combustibile liquid, PGIII (MMA)
8.85 LBS Calcium Carbonate
6.65 LBS sand
Less than ½ LB of suspension agent, pigment.

We ship separately, in small plastic bottles, 180 grams UN 3104, Organic Peroxide, Type C, Solid, NOS Benzoyl Peroxide – one each for the same number of 5-gallon pails.

A number of truck drivers have commented that they do not think we need to ship in UN pails, due to small quantities. However, I know we need a more solid answer.

Could I get a letter of interpretation?

Thank you for your help,



Jack Miltz
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239-778-6191 cell
www.Top-Patch.com