

# Model Notification of Efforts to Obtain SDS/Supplier Label



## INTRODUCTION: HOW TO USE THIS TOOL

By December 1, 2018, employers must ensure that they have a proper SDS and supplier label for the hazardous products they use, store or handle in their workplace. While they can prepare it themselves, the vast majority of employers will get the SDS and supplier labels they need from the firms that supplied them the products. At least that's how it's supposed to work. The problem is that suppliers may not cooperate. If the SDS or supplier label is missing, out of date, inaccurate or otherwise problematic, employers can't just sit back and wait. They have to ask the supplier to send them the materials they need.

The rule: If the supplier still doesn't respond, you may still be able to use and/or store the product for a period (usually 3 to 6 months), provided that you have a documented record showing you made 'reasonable efforts' to get the SDS and/or supplier label from the supplier.

Ontario goes one step farther by requiring employers to advise an MOL director in writing if, after making reasonable efforts, they're unable to obtain an SDS and/or supplier label from their supplier (Ontario *OHS Act*, Sec. 37(4)). Providing such notification to a government OHS officer is also a smart move outside Ontario even if the WHMIS laws of your province don't expressly require it.

**Here's a Model Notification based on Ontario laws that you can easily adapt for your own province.**

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## MODEL NOTIFICATION TO MOL RE: FAILED ATTEMPTS TO OBTAIN SDS/SUPPLIER LABEL FROM SUPPLIER

*[ABC Company letterhead]*

November 15, 2018

Via Regular Mail

[MOL Director Name & Address]

**Re: Notification of ABC Company's failure to obtain WHMIS label and Safety Data Sheet from supplier despite reasonable efforts pursuant to OHS Act, Section 37(4)**

Dear MOL Director:

ABC Company is keenly aware of its obligation, as an employer, to ensure that all hazardous materials present in the workplace have a proper, up-to-date Safety Data Sheet (SDS) and supplier label in accordance with Ontario OHS Act, Section 37(1) and not allow anyone to handle, use or store said materials unless and until such requirements are met.

However, Section 5(a) of the WHMIS regulation allows for storage of hazardous products received from a supplier without having a label on or obtaining an SDS for those products while the employer actively seeks such supplier label and SDS.

Finally, we understand that pursuant to Section 37(4) of the Act, the employer is required to notify the Director in writing if, after making reasonable efforts, it is still unable to obtain the required label or safety data sheet.

The purpose of this communication is to provide said notification. The following represent the material details:

The Original Shipment: On October 1, 2018, ABC Company received a shipment from HazChemsSupply, Inc. (HCS), containing 36 barrels of Chloroform, Technical Alcohol Free, a chemical designated as a hazardous product under the *Hazardous Product Act* and associated regulations. With the shipment, HCS included a Material Safety Data Sheet (MSDS) listing safety information about the product, rather than a GHS-compliant SDS; the supplier label, too, was designed for compliance with previous WHMIS requirements rather than GHS label rules.

The First Request: On October 5, I called HCS customer service representative Jane Roe to point out the error and request that HCS send us a replacement GHS-compliant SDS and supplier label as soon as possible. Ms. Roe assured me that the company would comply with our request within no later than 10 days. (A copy of a written memorandum to files documenting this conversation is attached to this letter as Exhibit A.)

The Second Request: We waited two weeks for the promised materials but they did not arrive. So on October 20, I called Ms. Roe to inquire. She apologized and promised the materials would be sent immediately. (A copy of a written memorandum to files documenting this conversation is attached to this letter as Exhibit B.)

Subsequent Calls & Written Request: But again, the promise went unfulfilled. On October 27, I again called Ms. Roe but was unable to reach her and had to leave a voice mail message that was never returned. Subsequently, I have been calling Ms. Roe at least once a day but with similar results. Meanwhile, on October 28, I put ABC Company's request for an SDS and supplier label into the form of a written letter. (A copy of which is attached to this letter as Exhibit C.) Regrettably, that letter was never answered.

Current Situation: Despite our repeated attempts to contact them, ABC Company has had no contact with HCP since the October 27 telephone conversation between myself and Ms. Roe referenced above. Thus, while we continue and will continue seeking to reach the company and obtain the SDS and supplier label, we have reached the point of concluding that our efforts have failed and necessitate providing the Director the required notice under Section 37(4) of the Act.

Thank you for your attention to this matter and we would welcome any guidance from you or the Ministry of Labour on how to proceed with this matter.

Very truly yours,

John Doe

EHS Director

ABC Company

Signature: \_\_\_\_\_