# Questionnaire for trade unions

Risk & Policy Analysts (RPA), Verisk 3E, Mayer Brown, and FoBiG have been contracted by the European Commission (DG Employment, Social Affairs and Inclusion) to support a possible revision of the EU legal framework regulating occupational exposure to reprotoxic substances. This framework comprises (amongst others) Directive 2004/37/EC (Carcinogens and Mutagens Directive, CMD) and Directive 98/24/EC (Chemical Agents Directive, CAD).

The stakeholder consultation exercise for this study is divided into two stages. The aim of the first phase was to analyse current exposure to reprotoxic substances. The purpose of the second phase (this questionnaire) is to assess the impacts of policy options for changing the CAD and CMD.

This questionnaire is intended for trade unions that represent workers that could be exposed to **reprotoxic substances[[1]](#footnote-1) of Categories 1A or 1B[[2]](#footnote-2) (hereinafter R 1A/1B substances) which are not also Carcinogens and/or Mutagens of Categories 1A or 1B (C/M 1A/AB), i.e. substances currently within the scope of the CAD but not the CMD.**  Please note that some Member States (Austria, Belgium, Czech Republic, Finland, France, Germany, the Netherlands, Sweden and the United Kingdom) have (fully or partially) extended the scope of the national legislation transposing the CMD to cover R1A/1B substances.

The policy options are summarised below. A more detailed description is provided <http://rpaltd.co.uk/uploads/page_files/policy-options-final-9-oct-18.pdf>.

| Option | Description |
| --- | --- |
| **O1: Baseline (no changes to EU OSH legislation)** | No change to EU OSH legislation (CAD and CMD)  Provision of guidance on best available techniques and interpretation of the CMD/CAD |
| **O2: Rs in CMD (no derogations)** | Inclusion of R1A and 1B chemicals into the scope of CMD with full application of the requirements in the CMD |
| **O3: Rs in CMD but derogations** | Inclusion of reprotoxic 1A and 1B chemicals in the scope of the CMD but with derogations from the substitution, closed systems, minimisation and record keeping requirements, unless an EU scientific committee confirms that a substance has no threshold. |
| **O4: Merge CAD & CMD into CSD but no modernisation** | Merging the CMD and CAD into a single directive, applying CMD-equivalent requirements to R 1A/1B substances |
| **O5: Merge CAD & CMD into CSD and modernise** | Merging the CMD and CAD into a single directive, applying CMD-equivalent requirements to R 1A/1B substances and updating/modernising the terminology |

The deadline for completion of the questionnaire is **23 November 2018**.

If you have any questions, please contact reprotox@rpaltd.co.uk or +44 (0)1508 528 465.

## A) About you/your organisation

A1) Please provide the following details

|  |  |
| --- | --- |
| **Question** | **Answer** |
| Name of contact person |  |
| Organisation |  |
| Email address of contact person |  |
| Telephone number of contact person |  |
| Country |  |

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| --- | --- | --- |
| A2) Did you/your organisation complete the questionnaire for the first phase of consultation for this study? | | |
| *Please indicate with an “X”* | |
| **YES** |  |
| **NO** |  |
| **Do not know** |  |

**If YES, you can skip question A3.**

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| A3) Please define the sector(s) in which your members are working (if possible using NACE code[[3]](#footnote-3)): |

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| A4) Please specify the substance(s) for which you are completing this questionnaire. | |
| **>** |  |

## O1) Option 1: Baseline (no changes to EU OSH legislation)

*Under O1, no changes would be made to the CMD or CAD. It is, however, expected that worker exposure to R1A/1B substances could change in the future due to authorisation and/or restriction under REACH (and any potential changes to national legislation) and market developments.*

*O1 could include the provision of additional guidance, for example, to aid the interpretation of the OSH legal framework and/or set out the ‘Best Available Techniques’[[4]](#footnote-4) for preventing/reducing exposure to the relevant substances in different industry sectors.*

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| O1-1) Do you believe that there is a need for additional guidance with regards to the CAD and CMD (or the national legislation that has transposed them in your/other Member State(s))? |

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| *Please indicate with an “X”* | |
| **YES** |  |
| **NO** |  |
| **Do not know** |  |

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| --- | --- |
| If YES, please provide details: |  |

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| --- | --- | --- |
| O1-2) How effective do you think additional guidance on the CAD and CMD would be in improving the protection of workers from exposure to R 1A and 1B and CM substances? | | |
| *Please indicate with an “X”* | |
| **Significantly effective** |  |
| **Moderately effective** |  |
| **Not effective** |  |
| **Do not know** |  |

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| Please explain your answer: |  |

**O2) Policy Option 2: R1A/1B in the CMD**

*Under Option 2, all R1A and R1B chemicals (not just those that are also Carcinogens and/or Mutagens 1A/1B) would be included into the scope of the CMD and would be subject to all the requirements in the CMD. Please note that some Member States (Austria, Belgium, Czech Republic, Finland, France, Germany, the Netherlands, Sweden and the United Kingdom) have already extended (either fully or partially) the scope of the national legislation transposing the CMD to cover R1A/1B substances.*

*The CMD includes stricter requirements than the CAD as follows:*

* *The CMD requires substitution of the relevant substance(s) (if technically feasible) whenever workers ‘are or are likely to be exposed’ with no exemption for ‘slight risk’.*
* *A closed system is the second Risk Management Measure (RMM) in the RMM hierarchy (if technically feasible) but there is no explicit reference to closed systems in the CAD (except for intermediates).*
* *Requires reduction of exposure to a level that is as low as technically feasible. This reflects the assumption that any exposure signifies risk.*
* *Requires that some records are kept for at least 40 years following the end of exposure.*

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| O2-1) Do you believe this option, requiring companies to substitute relevant R1A and 1B substances (if technically feasible), would result in beneficial outcomes in terms of worker exposure? |

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| *Please indicate with an “X”* | |
| **Significant positive impact** |  |
| **Moderate positive impact** |  |
| **No change** |  |
| **Moderate negative impact** |  |
| **Significant negative impact** |  |
| **Do not know** |  |

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| Please explain your answer: |  |

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| O2-2) Do you believe this option, requiring companies to put in place closed systems (if technically feasible) for the relevant R1A and 1B substances, would result in beneficial outcomes in terms of worker exposure? |

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| --- | --- |
| *Please indicate with an “X”* | |
| **Significant positive impact** |  |
| **Moderate positive impact** |  |
| **No change** |  |
| **Moderate negative impact** |  |
| **Significant negative impact** |  |
| **Do not know** |  |

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| Please explain your answer: |  |

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| O2-3) Do you believe this option, requiring companies to reduce exposure to a level that is as low as technically feasible for the relevant R1A and 1B substances, would result in beneficial outcomes in terms of reducing worker exposure? |

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| *Please indicate with an “X”* | |
| **Significant positive impact** |  |
| **Moderate positive impact** |  |
| **No change** |  |
| **Moderate negative impact** |  |
| **Significant negative impact** |  |
| **Do not know** |  |

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| Please explain your answer: |  |

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| O2-4) Do you expect a reduction in worker exposure if the Indicative Occupational Exposure Limits (IOELVs) for R1A/1B substances under the CAD became Binding Occupational Exposure Limits (BOELVs) under the CMD? |

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| *Please indicate with an “X”* | |
| **Significant reduction** |  |
| **Moderate reduction** |  |
| **No reduction** |  |
| **Do not know** |  |

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| Please explain your answer: |  |

**O3) Option 3: R1A/1B in the CMD with derogations**

*Under Option 3, R1A and 1B chemicals would be included into the scope of the CMD but a derogation from the substitution, closed system, minimisation and record keeping requirements would be provided for all R1A/1B substances, unless an EU scientific committee can confirm, for specific substance(s), that there is no threshold for reprotoxic effects.*

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| O3-1) Do you expect any impacts on workers’ exposure to R1A and 1B chemicals under this option? |

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| --- | --- |
| *Please indicate with an “X”* | |
| **Significant positive impact** |  |
| **Moderate positive impact** |  |
| **No change** |  |
| **Moderate negative impact** |  |
| **Significant negative impact** |  |
| **Do not know** |  |

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| Please explain your answer: |  |

## O4) Option 4: Merger of CAD & CMD into a single directive

*Under Option 4, the CAD and CMD would be merged into a single directive and CMD-equivalent requirements would be extended to R1A/1B substances (similar to Option 2). However, the new directive would rely on the same language used in the CAD and CMD, i.e. the terminology would not be updated or modernised.*

O4-1) What, if any, impacts would there be if the opportunity to update/change any of the key terminology or definitions in the CAD or CMD were not used? Please provide details below.

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| O4-2) Are there any advantages or disadvantages with this option which puts the requirements applicable to CMD and R 1A/1B into a single document?   |  |  | | --- | --- | | *Please indicate with an “X”* | | | **Are there advantages?** | | | YES |  | | NO |  | | Do not know |  | | **Are there disadvantages?** | | | YES |  | | NO |  | | Do not know |  | |

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| Please explain your answer: |  |

## O5) Option 5: Merger of CAD & CMD into a single directive and update of the legal requirements

*Under Option 5, the CAD and CMD would be merged into a single directive. CMD-equivalent requirements would apply to CMR 1A/1B substances (similar to Option 2) and CAD-equivalent requirements would apply to other types of hazardous substances. In addition:*

* *Skin and respiratory sensitisers would also be subject to CMD-equivalent requirements (incl. substitution, closed systems, minimisation and record keeping requirements);*
* *Common terminology would be used for substances subject to both CMD-equivalent and CAD-equivalent requirements;*
* *Terminology to be brought into line with REACH; and*
* *Use of BLVs as part of health surveillance would not be mandatory.*

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| O5-1) Do you expect any impacts in terms of worker exposure and health from including skin and respiratory sensitisers into the scope of CMD-equivalent requirements? |

*This would include, for example, substitution, closed systems, minimisation and record keeping requirements.*

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| *Please indicate with an “X”* | |
| **Significant positive impact** |  |
| **Moderate positive impact** |  |
| **No change** |  |
| **Moderate negative impact** |  |
| **Significant negative impact** |  |
| **Do not know** |  |

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| Please provide details: |  |

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| O5-2) Do you expect any impacts in terms of worker exposure and health from unifying the terminology in the CMD and CAD and bringing it into line with the terms used in the REACH Regulation? |

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| --- | --- |
| *Please indicate with an “X”* | |
| **Significant positive impact** |  |
| **Moderate positive impact** |  |
| **No change** |  |
| **Moderate negative impact** |  |
| **Significant negative impact** |  |
| **Do not know** |  |

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| Please provide details: |  |

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| O5-3) Would you expect any impacts in terms of worker exposure and health from breaking the link between binding Biological Limit Values (BLVs)s and their mandatory use as part of health surveillance? |

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| *Please indicate with an “X”* | |
| **Significant positive impact** |  |
| **Moderate positive impact** |  |
| **No change** |  |
| **Moderate negative impact** |  |
| **Significant negative impact** |  |
| **Do not know** |  |

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| O5-4) Do you think that MS authorities should be able to determine their own approach to monitoring compliance with Biological Limit Values? | | |
| *Please indicate with an “X”* | |
| **YES** |  |
| **NO** |  |
| **Do not know** |  |

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| O5-5) Do you expect any other impacts in terms of worker exposure and health from this option (other than those already dealt with under Questions O2-1 to O2-2 and O4-1 to O4-3)? |

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| *Please indicate with an “X”* | |
| **Significant positive impact** |  |
| **Moderate positive impact** |  |
| **No change** |  |
| **Moderate negative impact** |  |
| **Significant negative impact** |  |
| **Do not know** |  |

Please provide any further comments to the above questions for this option.

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| **O5-1:** |  |
| **O5-2:** |  |
| **O5-3:** |  |
| **O5-4:** |  |
| **O5-5:** |  |

**B) Preferred Option**

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| B1) Please rank the proposed policy options on a scale of 1-5 (1= most favourable option, 5= least favourable option) |

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| *Please indicate with an “X”* | **1**  (most favourable | **2** | **3** | **4** | **5**  (least Favourable |
| Option 1: Baseline (no changes to EU OSH legislation) |  |  |  |  |  |
| Option 2: Reprotoxins in CMD (no derogations) |  |  |  |  |  |
| Option 3: Reprotoxins in CMD but with derogations |  |  |  |  |  |
| Option 4: Merge CAD and CMD into CSD but no modernisation |  |  |  |  |  |
| Option 5: Merge CAD and CMD into CSD and modernise |  |  |  |  |  |

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| Please explain your answer: |  |

B2) If you would prefer an option not set out in this questionnaire, please elaborate.

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## C) Further communication

C1) **Clarifications:** Please provide an email address or telephone number in case the study team needs clarification of any of your responses to this questionnaire.

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| C2) **More detailed telephone discussion:** Would you be willing to take part in a follow up interview to discuss the issues raised in this questionnaire in more detail? | | | |
| *Please indicate with an “X”* | | |
| **YES** | |  |
| **NO** | |  |

1. Reprotoxic substance: any substance that is classified as reprotoxic or potentially reprotoxic under any classification system. This relates to both reproductive and developmental effects. [↑](#footnote-ref-1)
2. R 1A/1B: Substances known to be toxic for human reproduction (R 1A) or presumed to be toxic for human reproduction (R 1B) [↑](#footnote-ref-2)
3. Statistical Classification of Economic Activities in the European Community, Rev. 2; see <http://ec.europa.eu/eurostat/ramon/nomenclatures/index.cfm?TargetUrl=LST_NOM_DTL&StrNom=NACE_REV2&StrLanguageCode=EN&IntPcKey=&StrLayoutCode=HIERARCHIC> [↑](#footnote-ref-3)
4. Similar to the Best Available Techniques (BAT) reference documents, the so-called BREFs, under the Industrial Emissions Directive (IED, 2010/75/EU). [↑](#footnote-ref-4)