

## CEQ Unified Agenda

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**From:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**To:** "Elizabeth Harris-Marshall - M1V1E (liz.harris-marshall@gsa.gov)" <liz.harris-marshall@gsa.gov>  
**Cc:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**Date:** Fri, 09 Mar 2018 13:35:33 -0500  
**Attachments**  
: CEQ Unified Agenda Entries--Spring 2018 Final.docx (26.14 kB)

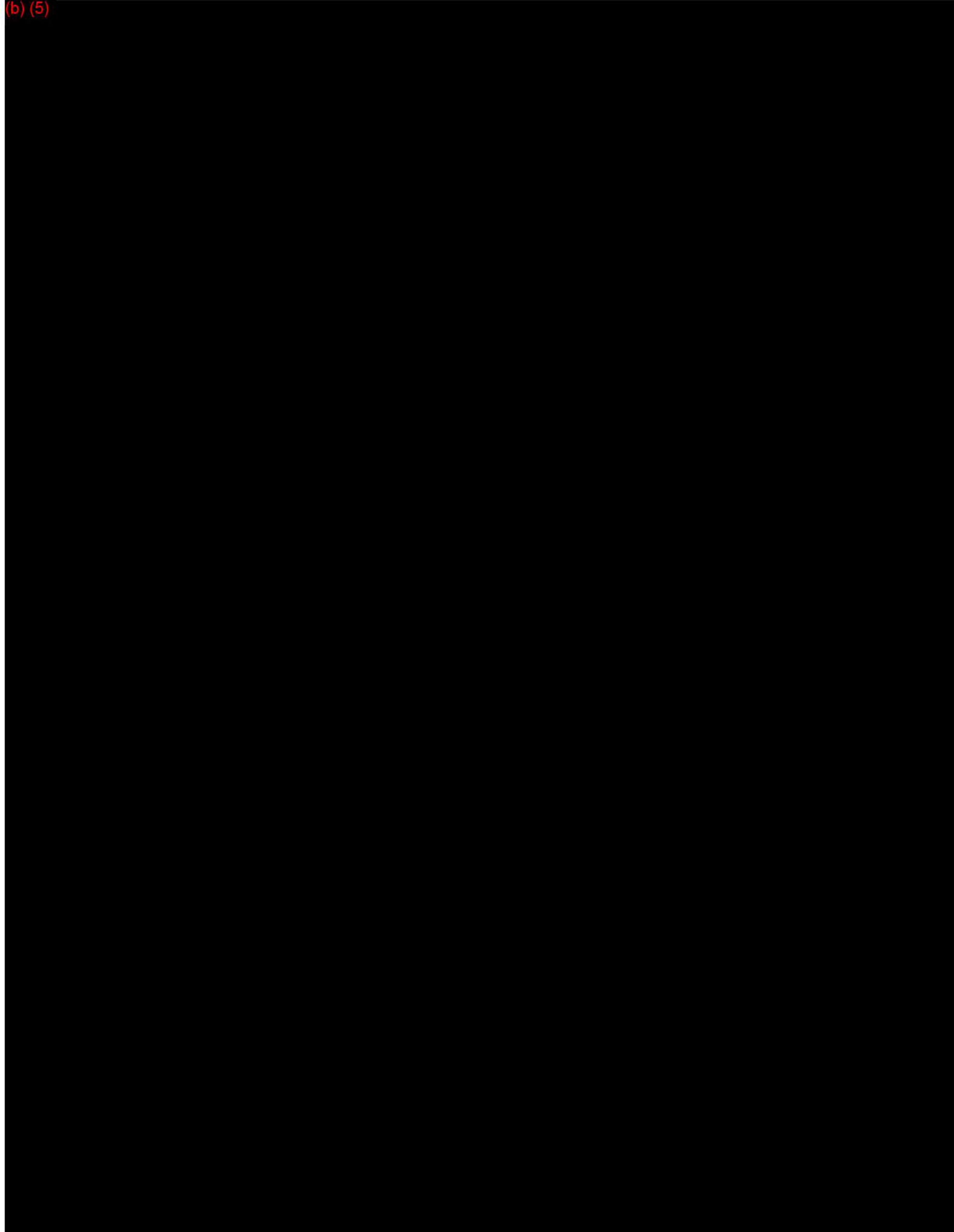
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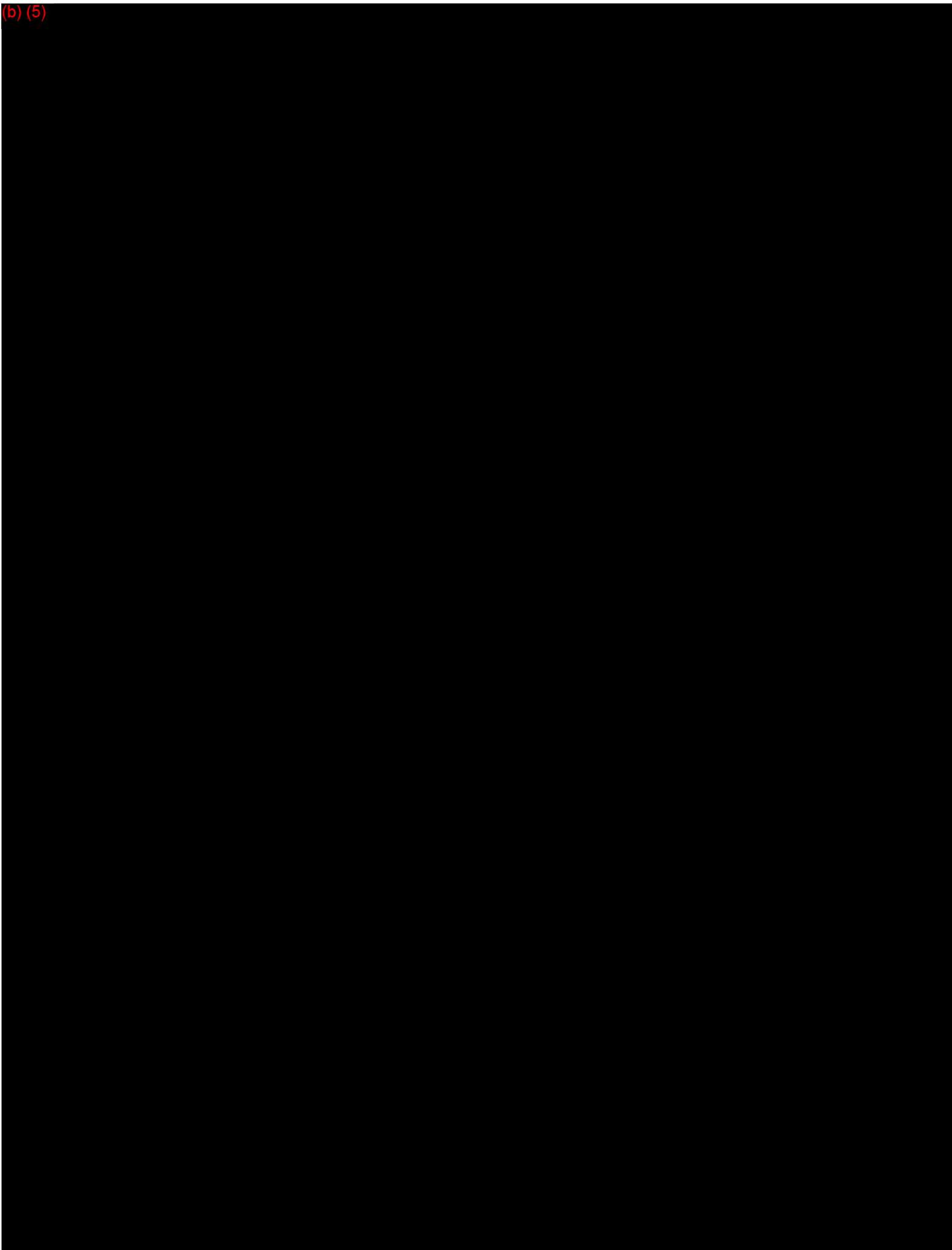
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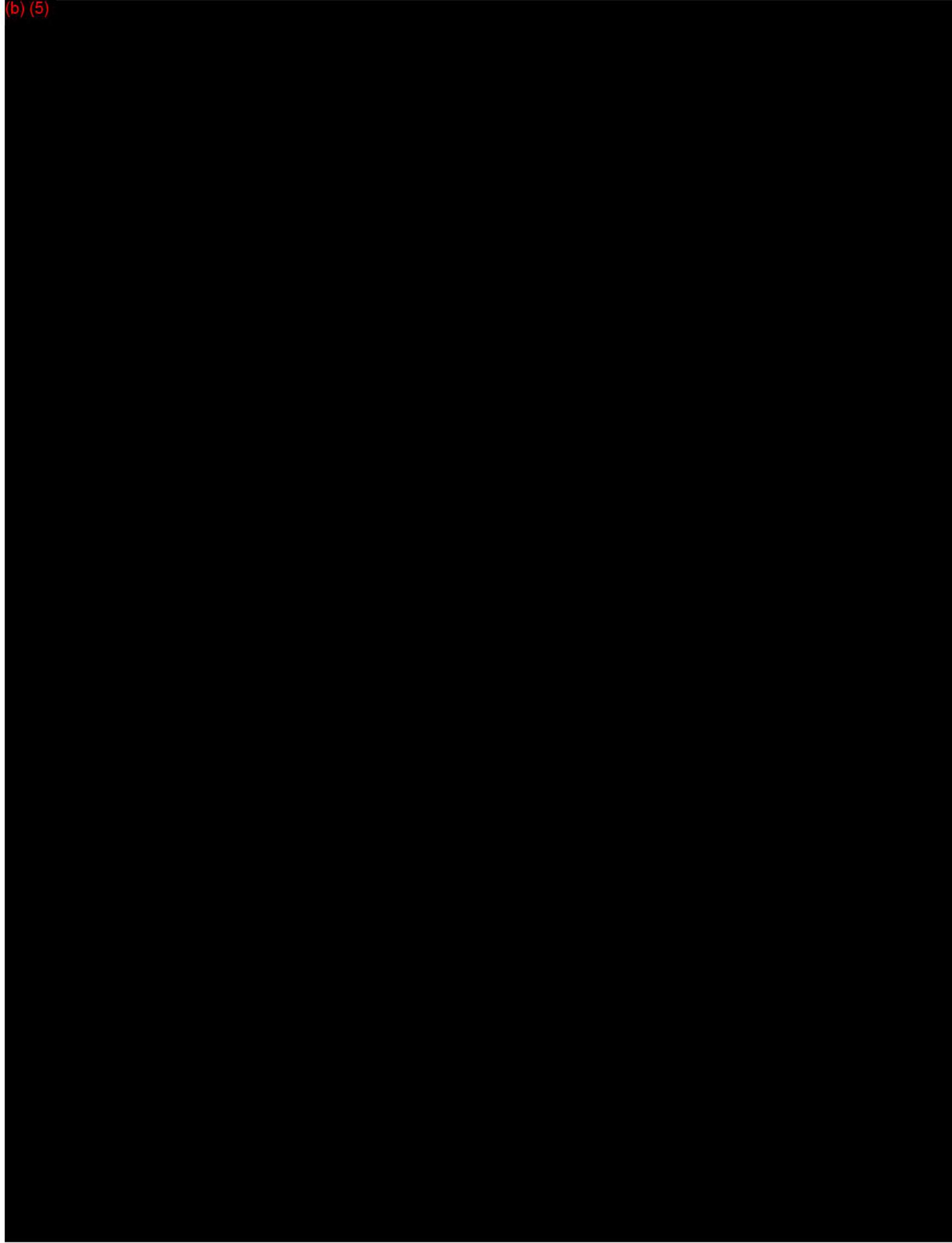
Based on our phone call, please see CEQ's unified agenda.

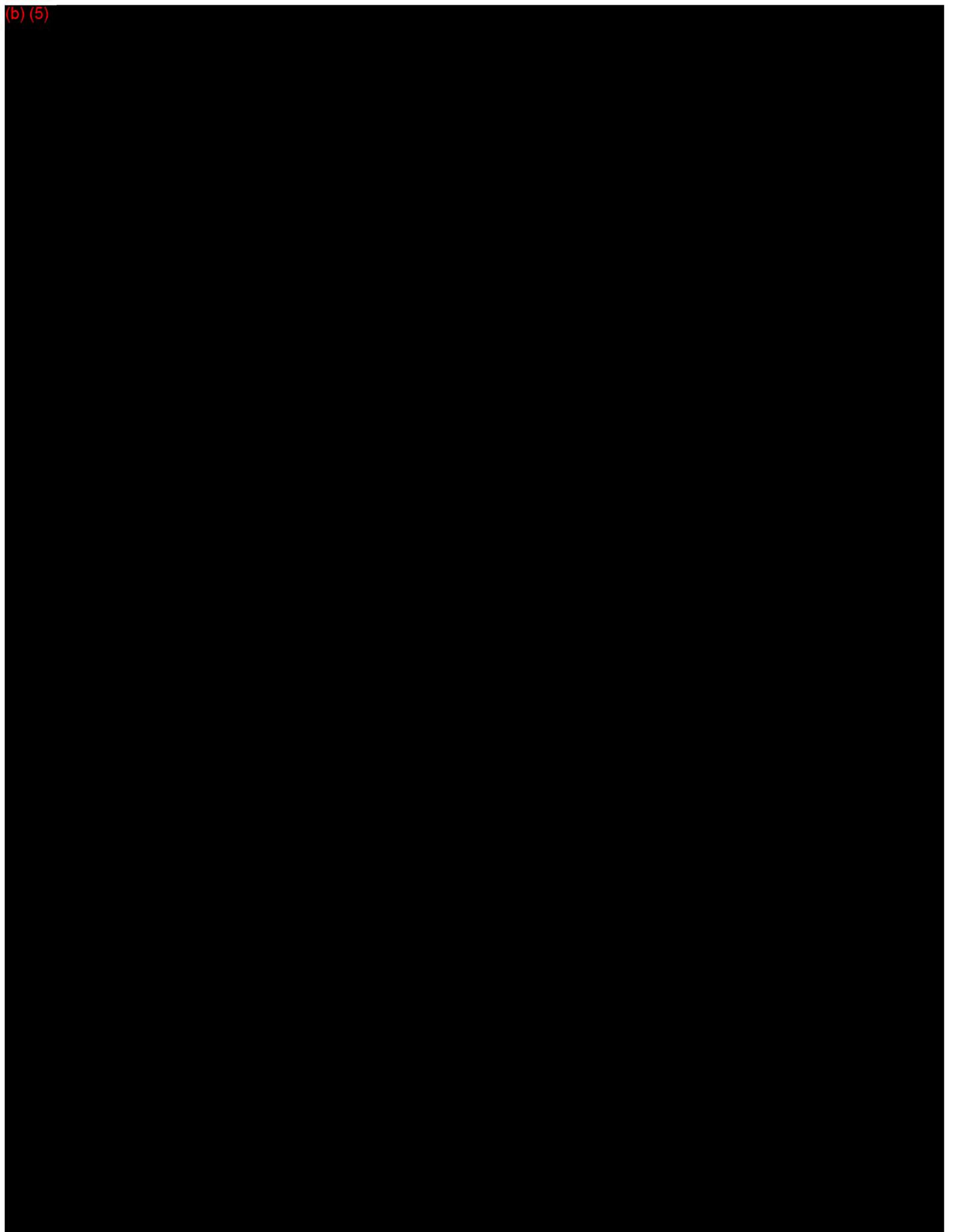
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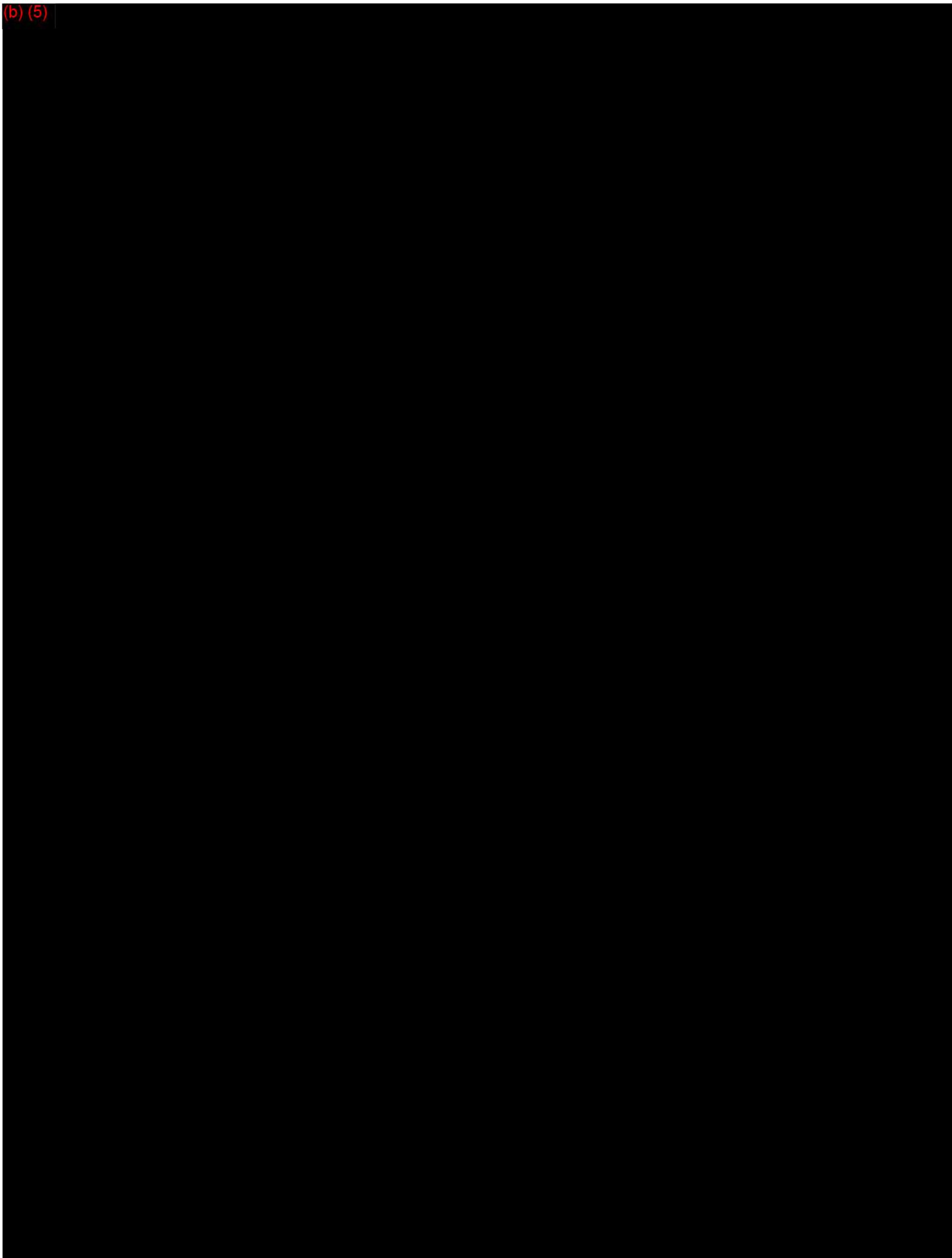
**Aaron L. Szabo**  
Senior Counsel  
Council on Environmental Quality  
(b) (6) (Desk)  
(b) (6) (Cell)  
(b) (6)











# Draft ANPRM for NEPA Regulations

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**From:** "Szabo, Aaron L. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=f93a8d1dd2b4420ca81e53ff8199b780-sz">

**To:** "Pettigrew, Theresa L. EOP/CEQ" (b) (6) "Schneider, Daniel J. EOP/CEQ" <(b) (6)>

**Date:** Mon, 30 Apr 2018 10:49:19 -0400

**Attachments**  
: FR Notice for ANPRM - 4-20-2018.docx (52.74 kB)

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Theresa and Dan,

Per our conversation, please find attached the draft Advanced Notice of Proposed Rulemaking for the NEPA regulations. Unless something changes, this should be the version that will be sent over to OIRA for interagency review.

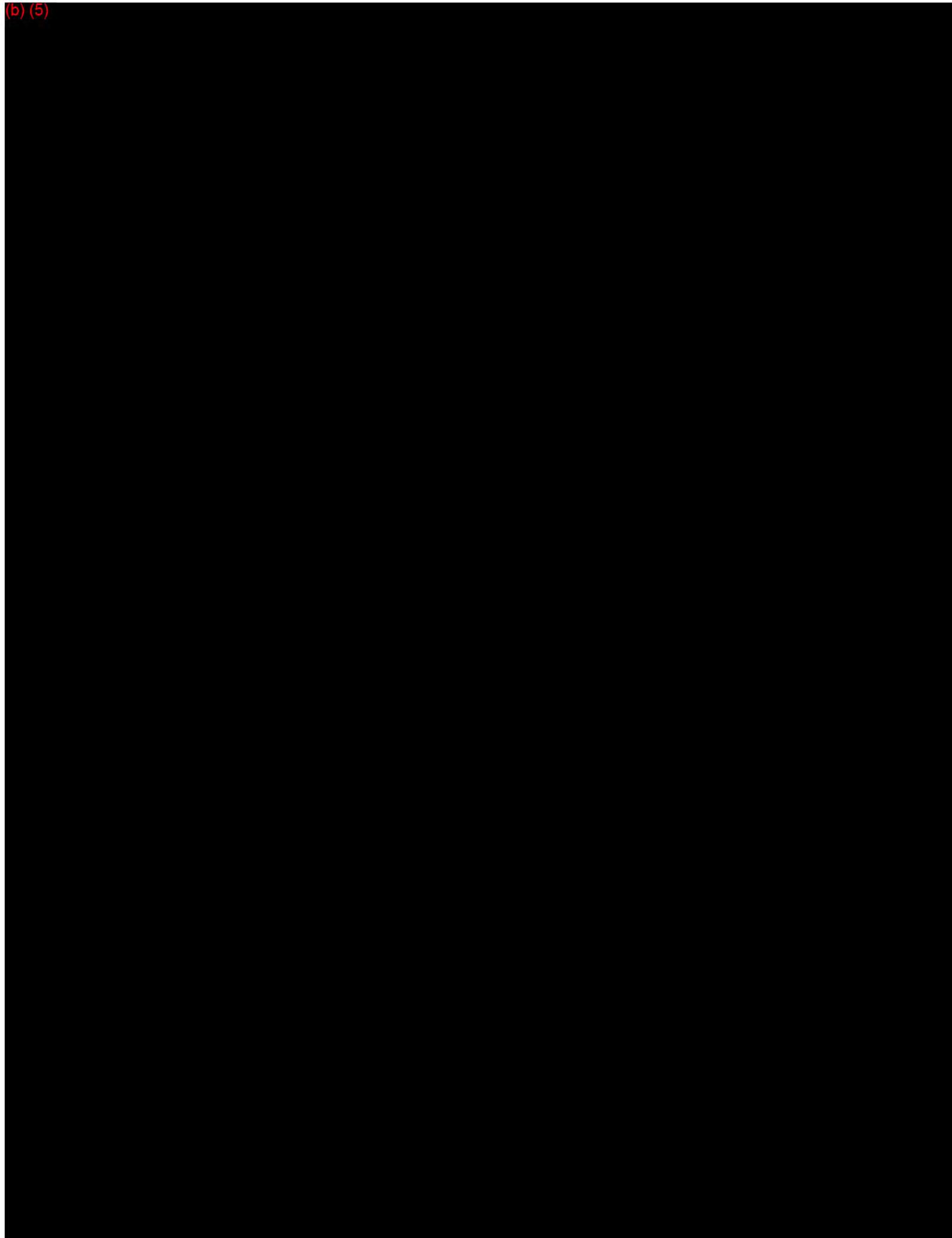
If you have any questions related to the content or process, please let me know.

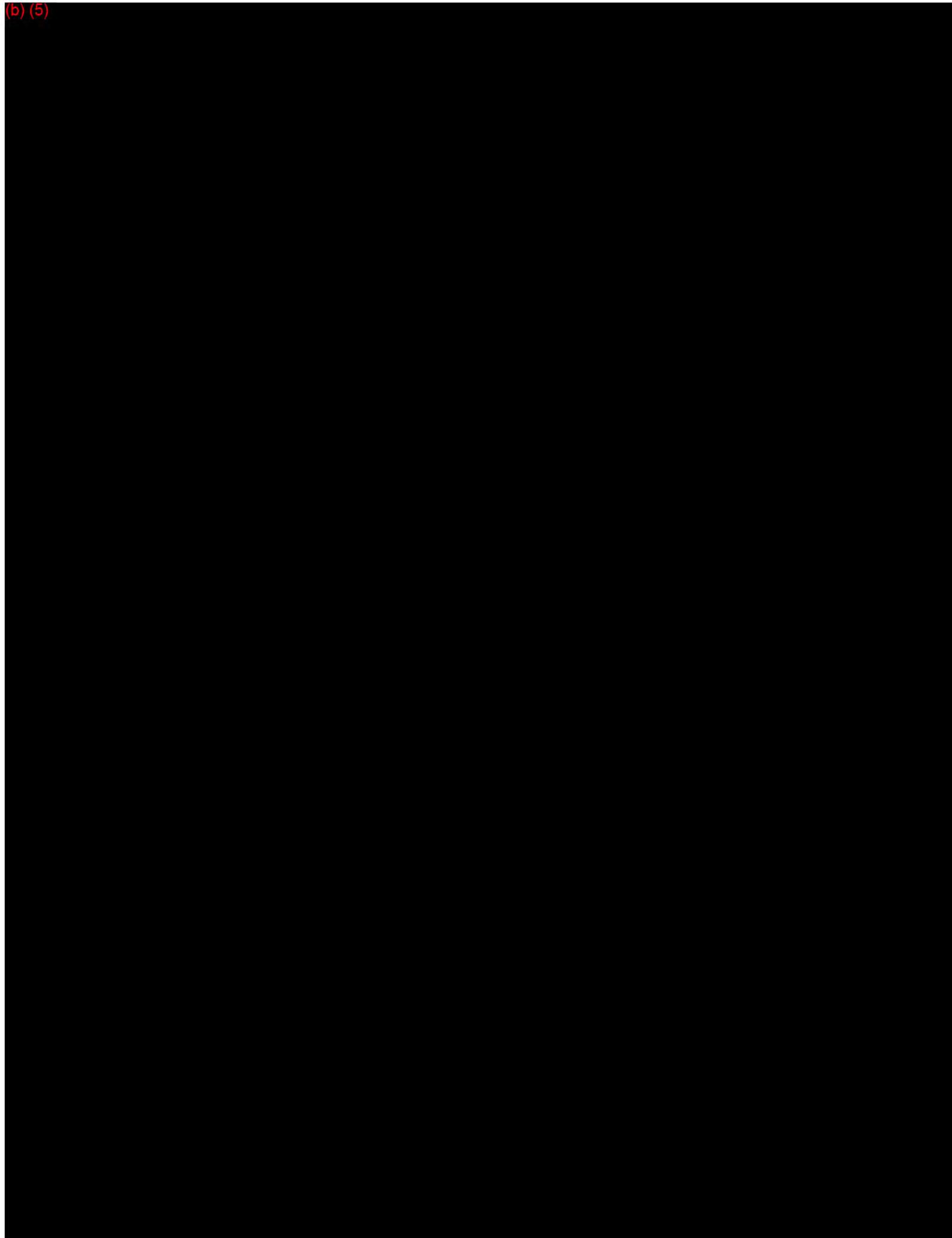
**Aaron L. Szabo**  
Senior Counsel  
Council on Environmental Quality

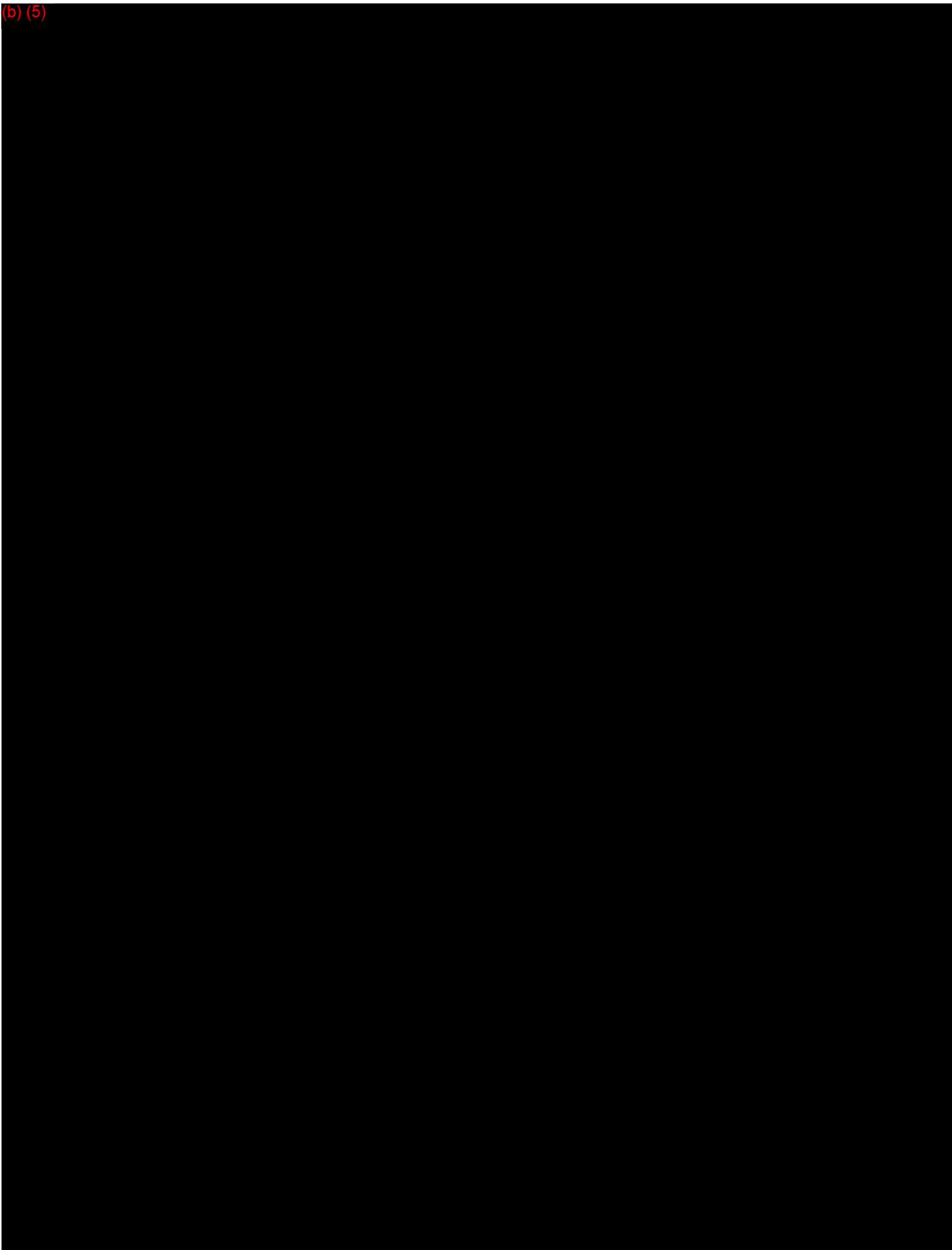
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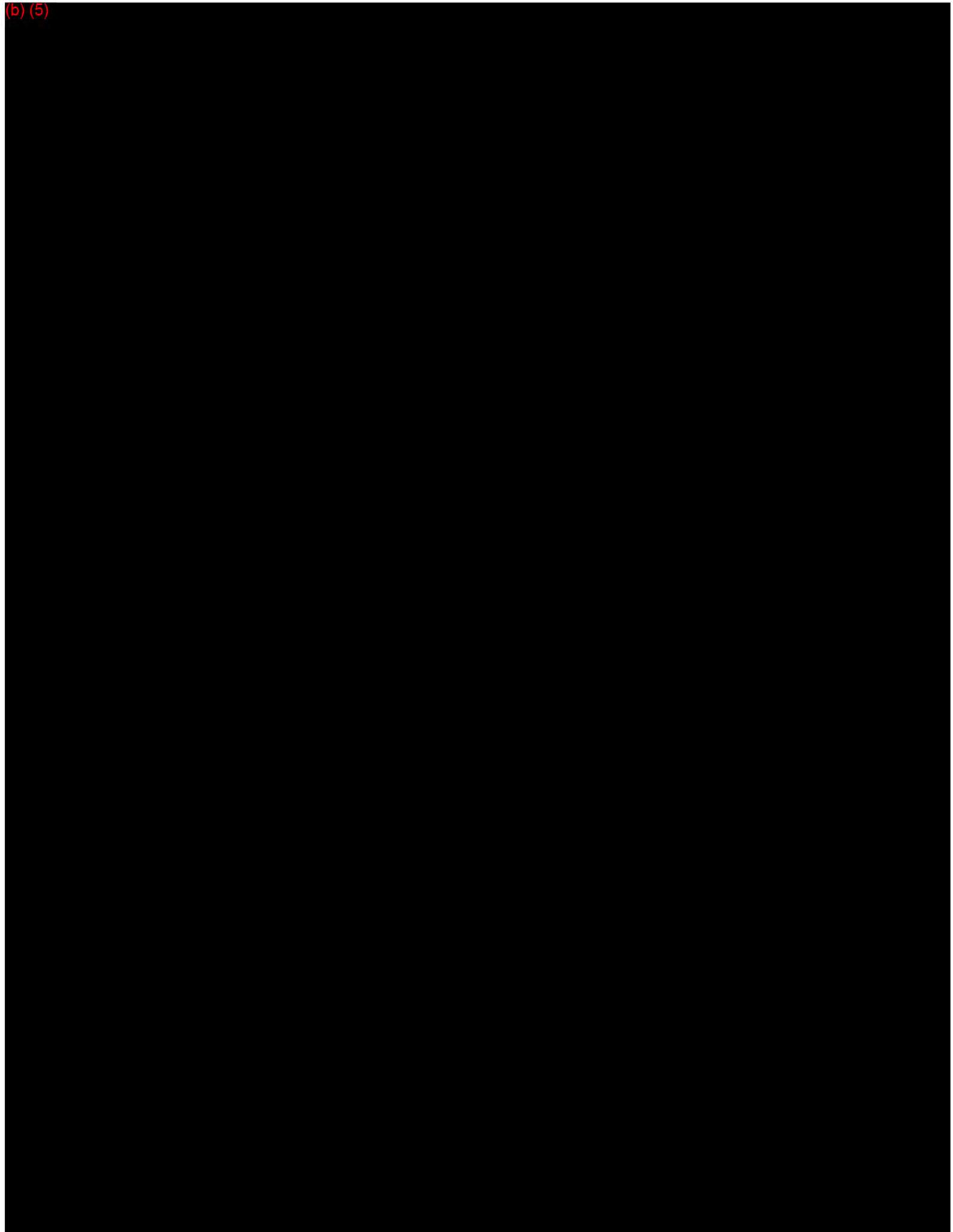
(b) (6)

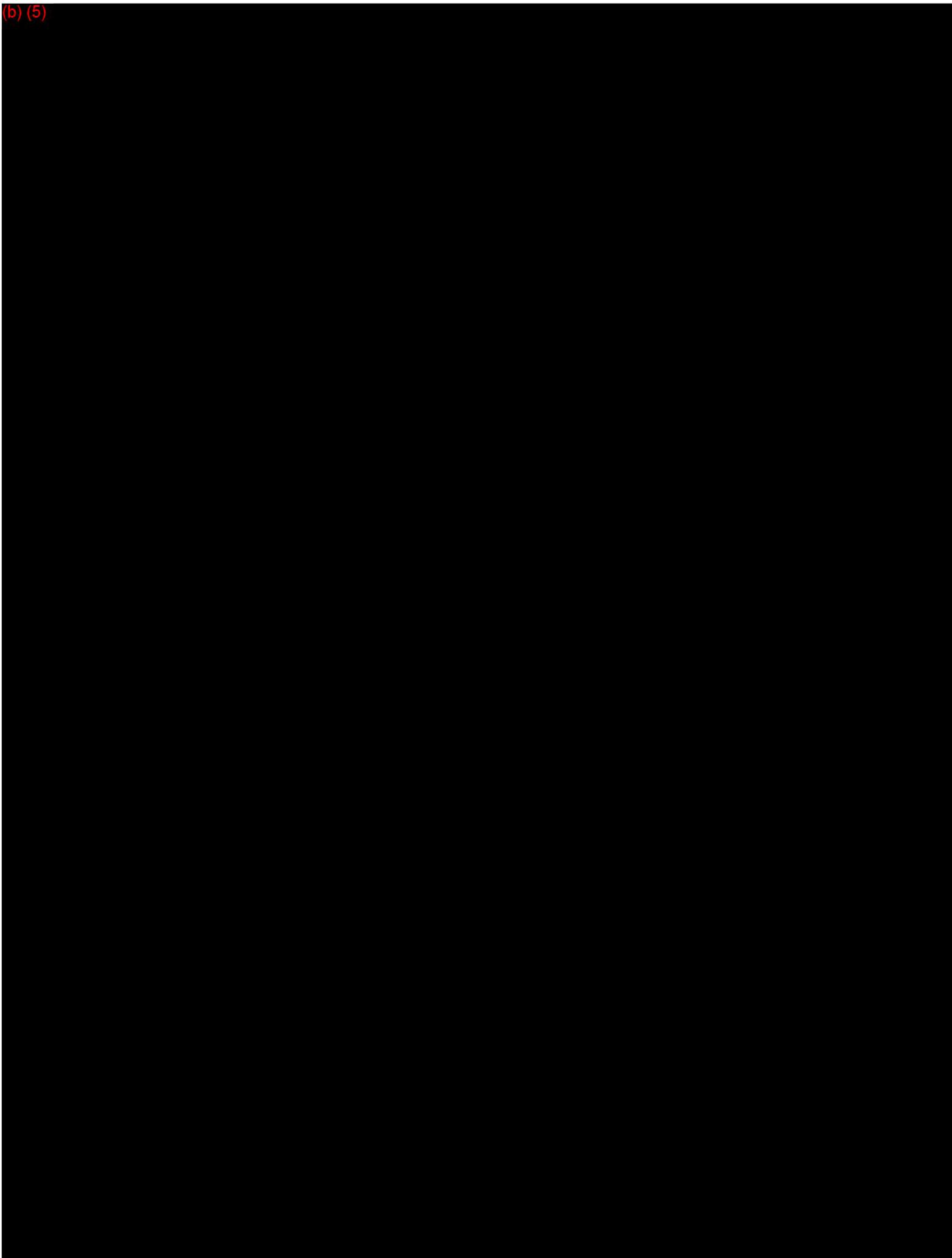


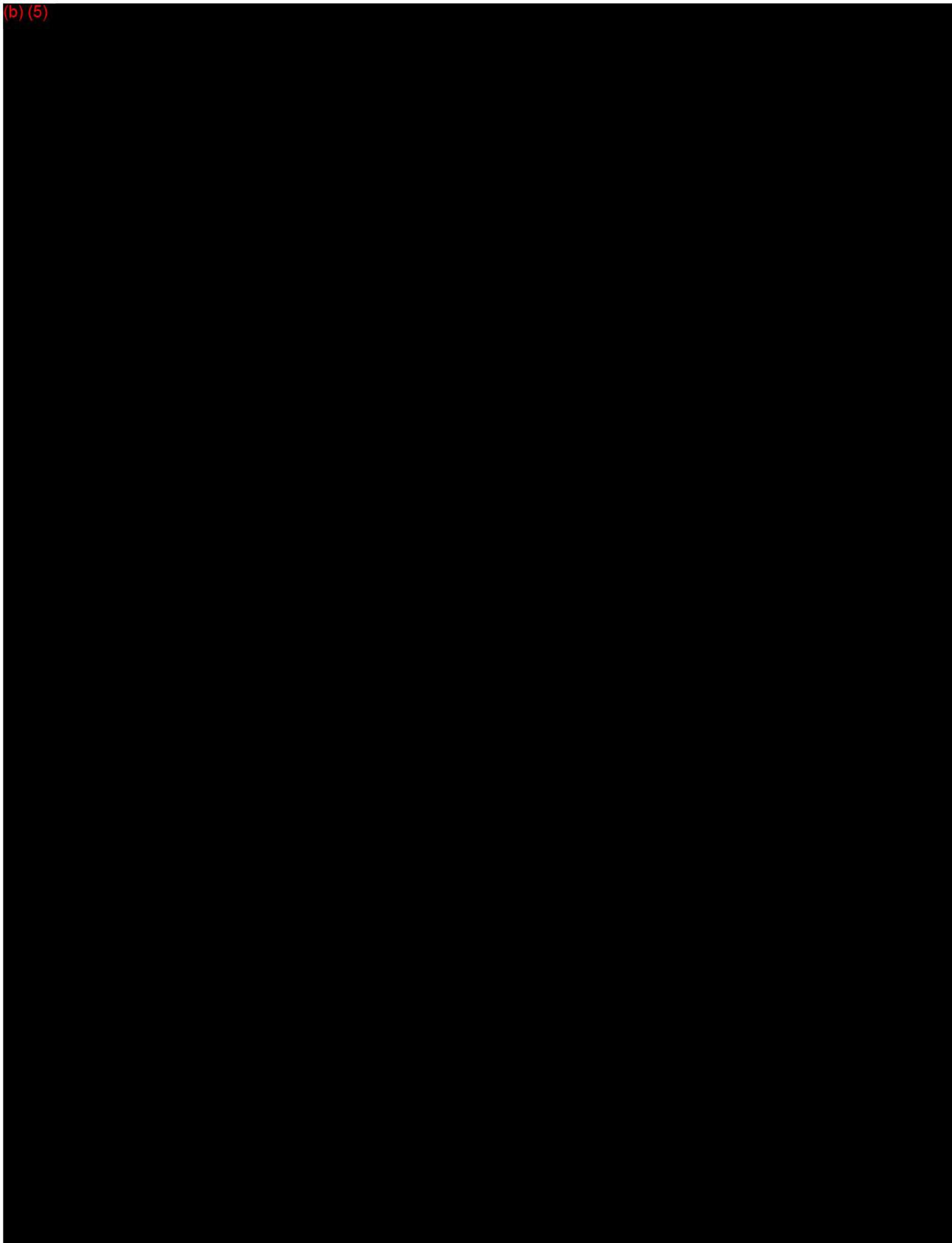


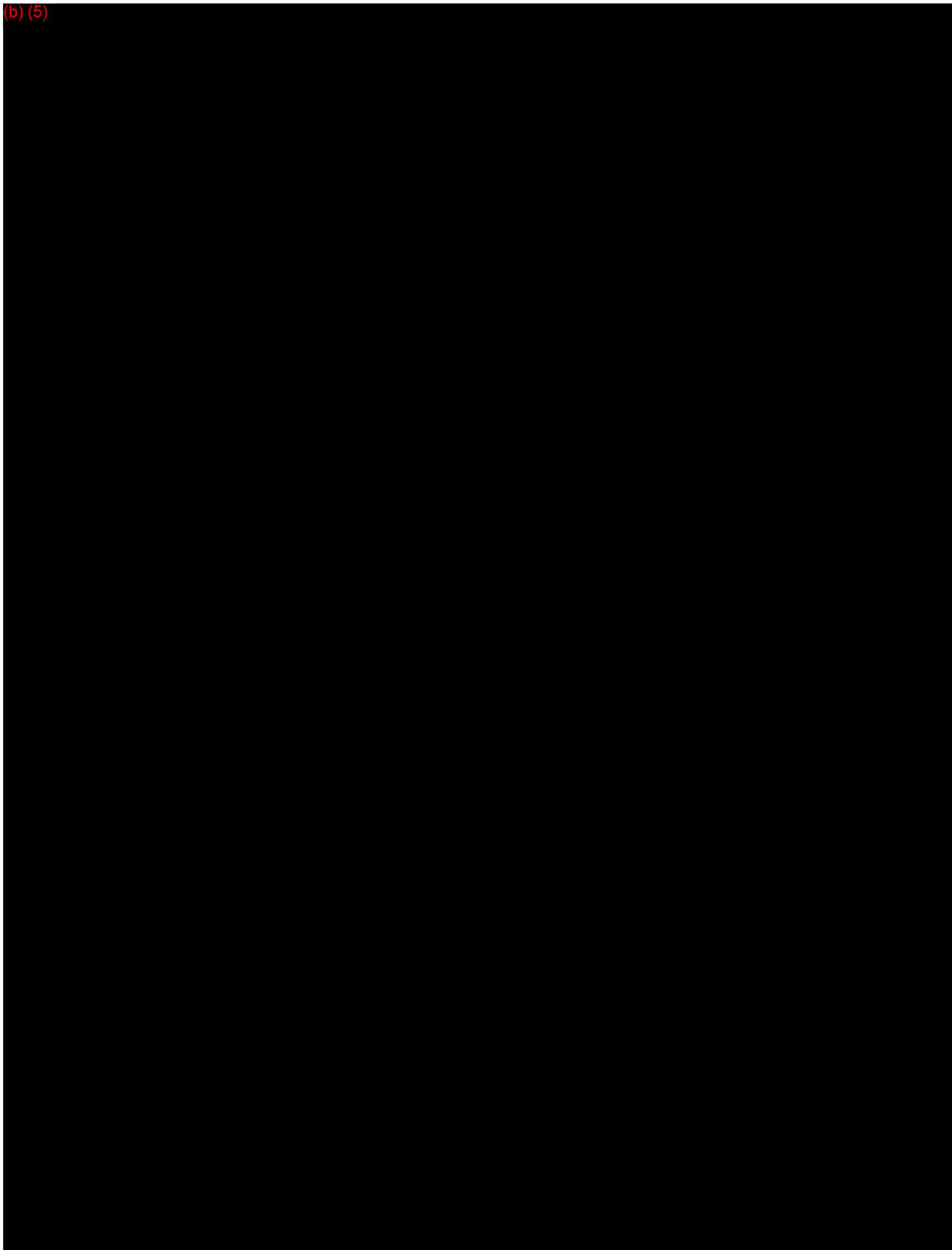


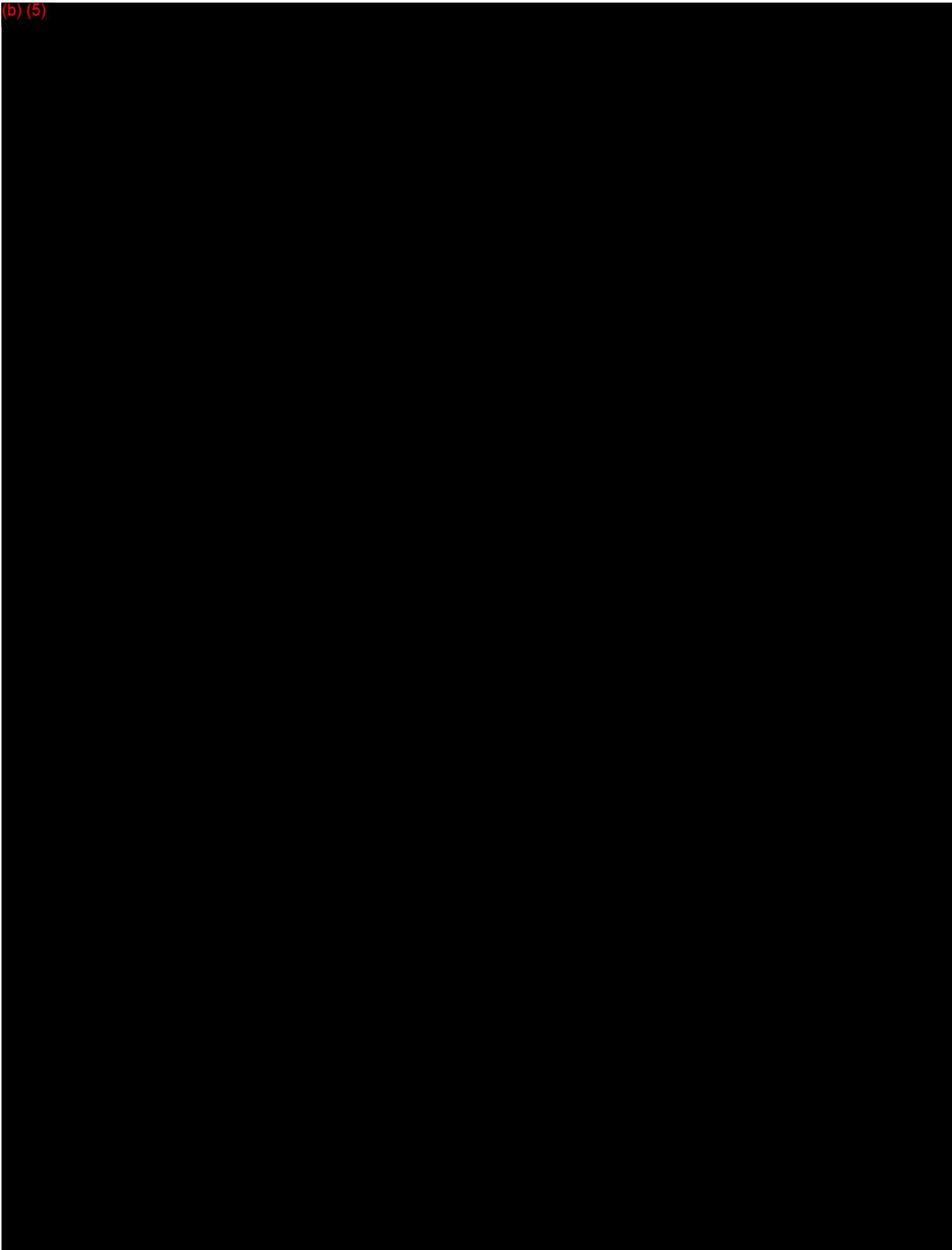












## File 6 of 8

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**From:** "Mansoor, Yardena M. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=2712a19fd57447088e0b9da580c16e15-ma">

**To:** "Adams, John (AU) (CONTR)" <john.adams@hq.doe.gov>

**Cc:** "Carter, Marian (CONTR)" <marian.carter@hq.doe.gov>

**Date:** Thu, 10 May 2018 15:51:45 -0400

**Attachments** FR-1985-08-09 (50 FR 32238) CEQ NEPA Regulations NOPR amending : 1502.22.pdf (1.16 MB)

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Yardena Mansoor  
Deputy Associate Director for NEPA  
Council on Environmental Quality

(b) (6) / (b) (6)

competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4302. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20416.

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, because the scope of revised reporting requirements contained in the rule is extremely limited.

The information collection requirement contained in this rule was submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) and has been assigned OMB Control Number 2502-0041.

This Rule is listed as item number 66 (11-4-84) in the Department's Semiannual Agenda of Regulations published on April 29, 1985 (50 FR 17296), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.103, 14.112, 14.115, 14.118, 14.123, 14.124, 14.125, 14.128, 14.127, 14.128, 14.129, 14.134, 14.135, 14.137, 14.138, 14.139, 14.151, 14.154 and 14.155.

#### List of Subjects in 24 CFR Part 207

Mortgage insurance.

#### PART 207—(AMENDED)

Accordingly, 24 CFR Part 207 is proposed to be amended as follows:

1. The Authority Citation for 24 CFR Part 207 would continue to read as follows:

Authority: Secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); Sec. 7(a), Department of Housing and Urban Development Act (42 U.S.C. 3885(d)).

2. Section 207.256(a) would be revised to read as follows:

#### § 207.256 Notice.

(4) If the default, as defined in § 207.255, is not cured by close of business of the 10th day after such

default occurs, the mortgagee shall immediately notify the Commission in writing of such default. At the end of the 30-day grace period, the mortgagee shall file with the Commissioner, on a form approved by the Commissioner, its formal notice of default. Unless waived by the Commissioner, the mortgagee must continue to submit this notice monthly until (1) the default has been cured; (2) the mortgagee has acquired title to the property; or (3) the insurance contract has been terminated.

[Approved by the Office of Management and Budget under OMB control number 2502-0041]

Dated: July 16, 1985.

Janet Hale,

Acting Assistant Secretary for Housing—  
Deputy Federal Housing Commissioner.

[FR Doc. 85-18027 Filed 8-9-85; 8:45 am]

BILLING CODE 4210-01-W

## COUNCIL ON ENVIRONMENTAL QUALITY

### 40 CFR Part 1502

#### National Environmental Policy Act Regulations

**AGENCY:** Executive Office of the President, CEQ.

**ACTION:** Proposed amendment to 40 CFR 1502.22.

**SUMMARY:** In 1978, the Council on Environmental Quality (CEQ) issued binding regulations to implement the procedural provisions of the National Environmental Policy Act (NEPA). The regulations address the administration of the environmental assessment process for actions undertaken by all federal agencies. Since 1978, CEQ has continued its oversight of the regulations by, among other things, maintaining active monitoring of the implementation of the regulations in the federal agencies, reviewing the interpretations of the regulations by the federal courts, seeking for public comment on methods of improving the effectiveness of the regulations, holding public meetings, and issuing guidance documents interpreting various aspects of the regulations. During the past two years, CEQ has paid particular attention to one of the regulations (40 CFR 1502.22) which, among other things, requires federal agencies to include a "worst case analysis" in an environmental impact statement if there is incomplete or unavailable information relevant to significant adverse impacts. CEQ is concerned that the requirement to prepare a "worst case analysis" in

certain circumstances has been the impetus for judicial decisions which require federal agencies to go beyond the "rule of reason" in their analysis of potentially severe impacts. After an intensive review of the "worst case analysis" issue, including publication of an Advance Notice of Proposed Rulemaking asking for comment on the entire regulation which addresses "incomplete or unavailable information" in an environmental impact statement, CEQ has voted to amend the regulation. The proposed amendment requires the agencies (1) to affirmatively disclose the fact that information important to evaluating significant adverse effects on the human environment is missing; (2) to explain the relevance of the missing information; (3) to summarize the existing credible scientific evidence which is relevant to the agency's evaluation of the significant adverse impacts on the human environment; and (4) to evaluate that evidence. The proposed amendment also specifies that the impacts to be evaluated include low probability/catastrophic consequences when the analysis is based on credible scientific support and not on pure conjecture, and is within the rule of reason. These requirements are proposed as a substitute for "worst case analysis". The proposed amendment also rewords and clarifies the other portions of the regulation.

Upon promulgation of this proposed amendment, conforming guidance will be provided in place of the Council's existing guidance on this regulation. Question 20 of *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, 40 FR 18032 (1981).

**DATE:** Comments must be received by September 23, 1985. All comments received will be available for public inspection at CEQ.

**ADDRESS:** Comments should be sent to Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW, Washington, D.C. 20006.

**FOR FURTHER INFORMATION CONTACT:** Dinah Bear, General Counsel, Council on Environmental Quality (address same as above), 202-395-5754.

**SUPPLEMENTARY INFORMATION:**  
Executive Order 12291

Under Executive Order 12291, CEQ must judge whether a regulation is major and, therefore, whether a Regulatory Impact Analysis must be prepared. This regulation does not satisfy any of the criteria specified in section 1(f) of the Executive Order and, as such, does not constitute a major rulemaking. A-

required by Executive Order 12291, this regulation was submitted to the Office of Management and Budget for review. Any written comments from OMB to CEQ are available from Julia Alessio, Council on Environmental Quality, 723 Jackson Place NW., Washington, D.C. 20503.

#### Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to Mr. Richard Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 2228), 20 Jackson Place, NW., Washington, D.C. 20503. The final rule responds to OMB and public comments on the information collecting requirements.

#### Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* CEQ is required to prepare a Regulatory Flexibility Analysis for proposed regulations which would have a significant impact on a substantial number of small entities. No analysis is required, however, when the Chairman of the Council certifies that the rule will not have a significant economic impact on a substantial number of small entities. Today's proposed rule would have no effect upon small entities. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(f), that this final proposed rule would not have a significant impact on a substantial number of small entities.

#### 1. Background

The National Environmental Policy Act, signed into law by President Nixon on January 1, 1970, articulated national policy and goals for the nation, established the Council on Environmental Quality, and, among other things, required all federal agencies to assess the environmental impacts of and alternatives to proposals for major federal actions significantly affecting the quality of the human environment. The Council on Environmental Quality (CEQ), charged with the duty of overseeing the implementation of NEPA, developed guidelines to aid federal agencies in assessing the environmental impacts of their proposals. A combination of CEQ guidance resulted in the development of an environmental impact assessment process, which

includes the preparation of environmental impact statements (EIS's) for certain types of federal actions.

In 1977, CEQ was directed by Executive Order 11991 to promulgate binding regulations implementing the procedural provisions of NEPA. The Council was specifically directed to:

... make the environmental impact statement more useful to decisionmakers and the public, and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives.

Accordingly, after receiving and responding to the suggestions and comments of federal, state and local governmental officials, private citizens, business and industry representatives, and public interest organizations, the Council issued the NEPA regulations on November 29, 1978, 40 CFR 1500-1508 (1984). The regulations became effective for, and binding upon, most federal agencies on July 30, 1979, and for all remaining federal agencies on November 30, 1979.

Since promulgation of the NEPA regulations, the Council has continually reviewed the regulations to identify areas where further interpretation or guidance is required. This review has resulted in several guidance documents.<sup>1</sup> Although continual attention is required to ensure that the mandate of the regulations is being fulfilled, the Council believes that the regulations are generally working well.

During the past two years, however, the Council has received numerous requests from both government agencies and private parties to review the regulation which addresses "incomplete or unavailable information" in the EIS process. That regulation currently reads as follows:

§ 1502.22 Incomplete or unavailable information.

When an agency is evaluating significant adverse effects on the human environment in an environmental impact statement and there are gaps in relevant information or scientific uncertainty, the agency shall always make clear that such information is lacking or that uncertainty exists.

(b) If the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

<sup>1</sup> Fifty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 40 FR 18022 (1981); Memorandum for General Counsel, NEPA Litigation and Participation in Siteing, April 22, 1980 (Available upon request to the General Counsel's Office, CEQ, Guidance Proceedings 8278, Regulations, 40 FR 14792 (1981)).

(b) If (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are exorbitant or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst case analysis and an indication of the probability or improbability of its occurrence. 40 CFR 1502.22

On August 11, 1983, the Council proposed guidance regarding the "worst case analysis" requirement and asked for comments on the proposed guidance, 48 FR 36488 (1983). The draft guidance suggested an initial threshold of probability should be crossed before the requirements in 40 CFR 1502.22 became applicable. Although some commentators agreed with the guidance, others believed that the proposed threshold would unjustly undercut analysis of low probability/severe consequences. Other writers suggested different approaches to the issue, or advocated an amendment to the regulation rather than guidance. After reviewing the comments received in response to that proposal, the Council withdrew the proposed guidance, stating its intent to give the matter additional examination before publishing a new proposal, 48 FR 5521 (1984). On December 31, 1984, the Council issued an Advance Notice of Proposed Rulemaking for 40 CFR 1502.22, and stated that it was considering the need to amend the regulation, 49 FR 50744 (1984). The Advance Notice of Proposed Rulemaking posed five questions and asked for thoughtful written comments in response to them. The questions were:

1. Under what circumstances and to what extent must a federal agency engage in forecasting or speculation when confronted with scientific uncertainty or gaps in information concerning the environmental effects of a proposed action?
2. How can an analysis be structured to present reasonable forecasting in the face of scientific uncertainty or information gaps about the effects of proposed action to provide more useful and understandable information for decisionmakers and other interested parties?
3. Does the type of analysis called for in 40 CFR 1502.22 require federal agencies to go beyond the "rule of reason", as traditionally expressed in judicial decisions interpreting NEPA?

3. Does the type of analysis called for in 40 CFR 1502.22 require federal agencies to go beyond the "rule of reason", as traditionally expressed in judicial decisions interpreting NEPA?

4. Should a threshold standard be established which would trigger the preparation of the type of analysis identified in response to question one, such as a threshold of severe consequences, a threshold of probability, or a threshold of scientific credibility?

5. Is the term "worst case" appropriate for this type of analysis? If so, how should it be defined? If not, what is the most appropriate term for this type of analysis, and how should it be defined?

The Council received a total of 181 responses: 98 comments from business and industry; 33 from public interest groups; 23 from federal agencies; 19 from individual commentators; 16 from state governments; and 2 from Congressional or legislative interests. A majority of commentators cited problems with the requirement to perform a "worst case analysis", although they recognized the need to address potential impacts in the face of missing information. Many commentators thought that either the regulation itself or recent judicial decisions from the U.S. Court of Appeals for the Ninth Circuit required agencies to go beyond the "rule of reason". These commentators suggested that the "rule of reason" should be made specifically applicable to the requirements of § 1902.22. A minority of commentators felt strongly that the current regulation is adequate and should not be amended.

Some commentators stressed the disclosure part of the regulation, and said that the truly important feature of the regulation was to force the agencies to acknowledge scientific uncertainty or information gaps. Other commentators offered specific suggestions for defining the type of analysis which would be appropriate in particular instances where missing information is an important factor in the decisionmaking process. A summary of all comments received is available from the Office of General Counsel.

On March 16, 1985, the Council held a meeting, open to the public, to discuss the comments received in response to the Advance Notice of Proposed Rulemaking, 50 FR 9528 (1985). Shortly after that meeting, the Council voted to amend the regulation.

#### PURPOSE AND ANALYSIS OF PROPOSED AMENDMENT

##### Discussion of Existing Regulation and Problems

The NEPA process requires federal agencies to disclose the environmental impacts of proposed major federal actions which significantly affect the quality of the human environment in an

environmental impact statement (EIS). The EIS must include a rigorous evaluation of the direct and indirect environmental impacts of the proposed action and of all reasonable alternatives to the proposed action. In the context of preparing an EIS, agencies are sometimes faced with a situation in which there is information missing which relates to significant adverse impacts. Early in the history of interpreting NEPA, it was decided that an agency cannot avoid drafting an EIS because some information regarding the potential environmental impacts is unknown; indeed, "one of the functions of a NEPA statement is to indicate the extent to which environmental effects are essentially unknown." *Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission*, 481 F.2d 1009, 1002 (D.C. Cir. 1973).

Section 1902.22 attempts to address the difficulty of analyzing in an environmental impact statement (EIS) the consequences of a proposed action in the face of incomplete or unavailable information. The regulation requires an agency to disclose the fact that information is lacking or that scientific uncertainty exists, and to obtain that information if it is essential to a reasoned choice among alternatives and the overall costs of doing so are not exorbitant. If the agency is unable to obtain the information because of overall costs or because the means to obtain it are not known, and the agency proceeds in the face of uncertainty, it must include a "worst case analysis" in the EIS. Although nothing in the official regulatory record reveals the reasons that the Council chose the "worst case analysis" construct, which was not required by previous judicial opinions constraining NEPA or by CEQ guidelines, it was apparently created as a device to require agencies to complete the analysis in the EIS, rather than allowing agencies to disregard uncertainties as having no weight in the balancing process.

After an intensive review of the regulation, the Council has concluded that the "worst case analysis" requirement is an unsatisfactory approach to the analysis of potential consequences in the face of missing information. The requirement challenges the agencies to speculate on the "worst" possible consequences of a proposed action. Many respondents to the Council's Advance Notice of Proposed Rulemaking pointed to the limitless nature of the inquiry established by this requirement: that is, one can always conjure up a worse "worst case" by adding an additional variable to a hypothetical scenario. Experts in the

field of risk analysis and perception stated that the "worst case analysis" lacks defensible rationale or procedures, and that the current regulatory language stands "without any discernible link to the disciplines that have devoted as much thought and effort toward developing rational ways to cope with problems of uncertainty. It is, therefore, not surprising that no one knows how to do a worst case analysis...." Slovic, P., February 1, 1985, Response to ANPRM.

Moreover, in the institutional context of litigation over EIS(s) the "worst case" rule has proved counterproductive, because it has led to agencies being required to devote substantial time and resources to preparation of analyses which are not considered useful to decisionmakers and divert the EIS process from its intended purpose.

The "worst case analysis" requirement has been interpreted to require agencies to present a discussion of a particular disastrous impact even when the agency believes that no credible scientific data has indicated that the particular impact could be caused by the proposed action. For example, in *Save Our Ecosystems v. Clark*, 747 F.2d 1240 (9th Cir. 1984), the Bureau of Land Management was ordered to prepare a "worst case analysis" assuming a causal effect between the use of certain herbicides on federal forest land and the development of cancer in human beings, despite the agency's contention that such an analysis would be pure guesswork because no credible scientific data supported the contention that cancer could occur at any dose. The Council believes that pure conjecture, that is, a conjectural analysis, lacking a credible scientific basis is not useful to either the decisionmaker or the public; rather, it could appear to be an indulgence in speculation for its own sake without a firm connection between credible science and the hypothetical consequences of an agency's proposed action.

Further, the Council views such an interpretation of the "worst case analysis" requirement as inconsistent with the "rule of reason", which courts have traditionally used to interpret an agency's duty under NEPA when faced with the problem of uncertainty.<sup>4</sup> In

<sup>4</sup> Because NEPA is silent on the problem of uncertainty resulting from missing information, the courts have been forced to grapple with the issue case by case and have established a "rule of reason" approach. *Sierra Club v. Blythe*, 50 F.2d 87 (9th Cir. 1981).

interpreting the requirements of NEPA, courts have recognized, "on the one hand that the Act mandates that no agency limit its environmental activity by the use of an artificial framework and on the other that the Act does not intend to impose an impossible standard on the agency." *Environmental Defense Fund, Inc. v. Corps of Engineers*, 492 F.2d 1123 (5th Cir. 1974). Similarly, in the first NEPA case to deal specifically with the "rule of reason" standard as applied to the problem of scientific uncertainty or missing information, the Court of Appeals for the District of Columbia Circuit stated that, "[NEPA's] requirement that the agency describe the anticipated environmental effects of a proposed action is subject to a rule of reason. The agency need not foresee the unforeseeable, but by the same token, neither can it avoid drafting an impact statement simply because describing the environmental effects of alternatives to particular agency action involves some degree of forecasting. . . . The statute must be construed in the light of reason if it is not to demand what is, fairly speaking, not meaningfully possible. . . ." (*City of Calvert Cliffs' Coordinating Committee v. Atomic Energy Commission*, 403 F.2d 1109, 1114 [D.C. Cir. 1973]). But implicit in this rule of reason is the overriding statutory duty of compliance with impact statement procedures "to the fullest extent possible." *Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission*, 403 F.2d 1070, 1082 [D.C. Cir. 1973]. The Council believes that the current "worst case analysis" requirement, as interpreted by recent judicial decisions, imposes a requirement on the agencies which goes beyond this "rule of reason". That of defining and analyzing a particular set of hypothetical consequences which can be imagined as the "worst" possible result of a proposed action, without regard to support from scientific opinion, evidence, and experience.

#### The Proposed Amendment

It is well established that, in complying with NEPA, agencies must fairly analyze and comment upon the consequences of their actions in the face of missing information in an EIS. The Council strongly believes such analyses must be based upon credible evidence, so that the information will be of value to the decisionmaker and the public. The proposed amendment simply but precisely sets forth an agency's duties when, in preparing an EIS, the agency determines that there is missing information which is important to evaluating significant adverse impacts on the human environment. First, the

agency must make reasonable efforts, in light of overall costs and the state of the art, to obtain the missing information. If that effort is not possible or successful, the agency must then disclose the fact that the information is missing; explain the relevance of the missing information to the agency's evaluation of significant adverse impacts on the human environment; summarize the existing credible scientific evidence which is relevant to analysis of significant adverse impacts; and present the agency's own evaluation of that scientific evidence in the EIS. Thus, the proposed regulation retains the duty to describe the consequences of a remote, but potentially severe impact, but grounds the duty in evaluation of scientific opinion rather than in the framework of a conjunctural "worst case analysis". Section 1502.32 must, of course, be read in the context of the more general requirements for preparation of an EIS (40 CFR 1502, *et seq.*). These include the rigorous evaluation of the direct, indirect and cumulative impacts of a proposed action, alternatives to the proposed action, and appropriate mitigation measures. (40 CFR 1502 *et seq.*)

The proposed regulation would apply in the circumstances which frame the current requirement, that is, when there is missing information important to the evaluation of significant adverse impacts on the human environment. After consideration of the comments received in response to the Advance Notice of Proposed Rulemaking, the Council has chosen to impose scientific credibility as the "threshold" to trigger the requirements of the proposed regulation. In identifying potentially significant adverse impacts, an agency must forecast those consequences which have a low probability of occurrence but have potentially catastrophic consequences when there is credible scientific support to suggest that the impact could occur as a result of the proposed action. The agency is not required to include opinions about or an evaluation of impacts which are based on pure conjecture, without a sound rationale or valid data.

The Council intends for the phrase "overall costs" to be interpreted as including financial and other costs, such as cost in terms of time. This is consistent with the interpretation of the phrase in the current regulation. 43 FR 59970, 59984 (1978).

Finally, in light of the attention paid in recent months to "Bhopal"-type disasters, the Council wishes to emphasize that, in our judgment, the proposed regulation is better designed to

lead to more informed decisionmaking and, thus, will be more helpful in preventing such low probability/high consequence disasters than the current "worst case" rule. By requiring agencies to focus their analysis on reasonably foreseeable impacts, the proposal will generate information and discussion on those consequences of greatest concern to the public and of greatest relevance to the agency's decision. This will, we believe, constitute a substantial step forward over the current "worst case analysis" approach.

The proposed regulation requires agencies to take affirmative action, not otherwise required in the EIS process, when there is missing information about a significant adverse impact. The requirement to disclose all credible scientific evidence extends to those views which are generally viewed as "minority views" within the scientific community or to those views which are opposite those of the views subscribed to by the agency. The proposed amendment is thus consistent with the "rule of reason" as applied to the requirement that an agency make a good faith effort to describe the reasonably foreseeable environmental impacts of a program, even in the face of missing information. *Scientists' Institute for Public Information v. Atomic Energy Commission*, 403 F.2d 1070 at 1082 [D.C. Cir. 1973]. It is also consistent with the holding in *Sierra Club v. Slight*, 605 F.2d 957 (5th Cir. 1979), that the probable remoteness of an impact does not excuse an agency from an evaluation of those impacts when there is a body of data with which an evaluation can be made which is not unreasonably speculative. *Id.* at 974. The Council intends that the evaluation of adverse impacts under this section will be founded on science which is competent and worthy of belief, and which is based upon theoretical approaches or research results generally accepted in the scientific community. The Council believes that this requirement will greatly enhance the utility of analyses under this section for both the decisionmaker and the public.

#### List of Subjects in 40 CFR Part 1502

Environmental impact statements.

#### PART 1502—(Amended)

40 CFR Part 1502 is proposed to be amended as follows:

1. The authority citation for Part 1502 continues to read:

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), sec. 303 of

the Clean Air Act, as amended (42 U.S.C. 7601), and E.O. 11514 (Mar. 5, 1973, as amended) by E.O. 11801, May 24, 1977).

2. Section 1502.22 is revised to read as follows:

**§ 1502.22. Incomplete or unavailable information.**

In preparing an environmental impact statement, the agency shall make reasonable efforts, in light of overall costs and state of the art, to obtain missing information which, in its judgment, is important to evaluating significant adverse impacts on the human environment that are reasonably foreseeable. If, for the reasons stated above, the agency is unable to obtain this missing information, the agency shall include within the environmental impact statement (a) a statement that such information is missing; (b) a statement of the relevance of the missing information to evaluating significant adverse impacts on the human environment; (c) a summary of existing credible scientific evidence which is relevant to evaluating the significant adverse impacts on the human environment; and (d) the agency's evaluation of such evidence. "Reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that they have credible scientific support, are not based on pure conjecture, and are within the role of reason.

A. Add HHS.

Changes:

[FR Doc. 85-22897 Filed 8-6-85; 8:43 am]

851140 2000 2703-25-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Care Financing Administration**

**42 CFR Part 405**

(OMB-905-N)

**Medicare Program; Office of Management and Budget Request for Review of Collection of Information Requirements**

**AGENCY:** Health Care Financing Administration (HCFA), HHS  
**ACTION:** Notice of OMB action on collection of information requirements.

**SUMMARY:** As a result of reviews performed under the authority of the Paperwork Reduction Act of 1980, the Office of Management and Budget has directed that HCFA revise selected collection of information requirements in HCFA regulations. This notice

informs the public of OMB's decision and states our intention to develop notices of proposed rulemaking: (1) To change the regulations, as appropriate; and (2) to solicit comments on the collection of information requirements. Consistent with the provisions of 5 CFR 1320.14, OMB has granted continued approval of the current collection of information requirements for a limited time.

**DATE:** To assure consideration, comments must be received by September 9, 1985.

**ADDRESS:** Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: OMB-905-N, P.O. Box 26678, Baltimore, Maryland 21297.

Address a copy of comments on collection of information requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3233, New Executive Office Building, Washington, D.C. 20503, Attention: Fay Indicello.

**FOR FURTHER INFORMATION CONTACT:** Frank Burns, (301) 594-6051—Information Collection Requirements; Stefan Miller, (301) 597-4394—Conditions of Participation and Coverage.

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1980 (44 U.S.C. 3507) establishes policies and procedures for controlling paperwork burdens imposed by Federal agencies on the public. In regulations at 5 CFR 1320.14, effective May 3, 1982, the Office of Management and Budget (OMB) set forth procedures for its review of collection of information requirements contained in existing regulations that had not been previously reviewed by OMB or the General Accounting Office.

In accordance with an agreed-upon schedule, HCFA identified and submitted for review a number of items for approval. [Approval results in assignment of a control number, listed at 42 CFR 405.310.] OMB has directed that we initiate proposals to change certain collection of information requirements. In such instances, OMB's procedures require Federal agencies to publish a notice in the *Federal Register* informing the public of these proposed changes in the collection of information requirements and that OMB has approved the information requirements for a limited period of time. (This process is described in OMB regulations, 5 CFR 1320.14(f).)

The collection of information requirements most recently identified as those that may be overly prescriptive

appear in 42 CFR Part 405, Subparts L, M, and O. Therefore, we are publishing this notice to solicit public comments on the feasibility of revising the collection of information requirements that are not specifically required by statute and to inform the public that OMB has granted limited continued approval of those questioned requirements. Under an interagency agreement, HCF A will work with the Centers for Disease Control on the requirements in Subpart M (Conditions of Coverage of Services of Independent Laboratories).

We will accept comments on the collection of information requirements contained in the following rules that OMB has identified for change:

1. 42 CFR Part 405, Subpart L (Conditions of Participation: Home Health Agencies).

(a) Section 405.1221, which specifies that written requirements be developed for home health agencies' organizational structure, qualifying services, administrative controls, personnel policies and contracts, coordination of patient services, services under arrangements, and institutional planning.

(b) Section 405.1223(a), which specifies the development of a written plan of treatment established and periodically reviewed by a physician and details the requirements of the plan of treatment.

(c) Section 405.1223(b), which requires a review of the total plan of treatment by home health agency personnel and the attending physician as often as the severity of the patient's condition requires, but at least once every 90 days. The agency professional staff is also required to alert the physician promptly of any changes that suggest a need to alter the plan of treatment.

(d) Sections 405.1224 (a) and (b), which describe the duties of registered nurses and licensed practical nurses as those duties which relate to the preparation of clinical and progress notes set forth in the plan of treatment.

(e) Section 405.1223(a), which describes the duties of physical therapist and occupational therapist assistants under the supervision of a qualified physical or occupational therapist as those which include the preparation of clinical and progress notes in accordance with the plan of treatment.

(f) Section 405.1226, which describes the duties of qualified social workers offering medical social services as those which include preparing clinical and

## CEQ Federal NEPA Contacts Webinar

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Where: Webinar: (b) (6)

When: Wed Jun 20 15:00:00 2018 (America/New\_York)

Until: Wed Jun 20 16:30:00 2018 (America/New\_York)

Organiser: FN-CEQ-NEPA </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=3dfc5ad8035346949f6dddfa1953a47-fn">  
FN-CEQ-NEPA <(b) (6)>  
"Boling, Ted A. EOP/CEQ" <(b) (6)>  
"Drummond, Michael R. EOP/CEQ" <(b) (6)>  
Required Attendees: "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
"Upchurch, Sara H. EOP/CEQ" <(b) (6)>  
: "Hanley, Karen A. EOP/CEQ" <(b) (6)>  
denise.freeman@hq.doe.gov  
"Osterhues, Marlys A. EOP/CEQ" <(b) (6)>  
Robert Noecker - AY-C <robert.noecker@fpisc.gov>  
"Kaisershot, Wesley (Federal)" <wkaisershot@eda.gov>  
Optional Attendees: "Zepeda, Elizabeth G" <elizabeth.g.zepeda@hud.gov>  
"Foley, Paige A CIV" <paige.a.foley@uscg.mil>  
: "Yi, David Y. EOP/OMB" <(b) (6)>  
"Elaine P. Baum" <elaine.baum@ferc.gov>  
"Seale, Viktoria Z. EOP/CEQ" <(b) (6)>

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Good afternoon Federal NEPA Contacts,

In advance of tomorrow's webinar, we have updated the tele-conference participant code (correct code is (b) (6)). Please find attached 1) a meeting agenda for tomorrow's webinar, 2) a slide deck for those unable to join the webinar, 3) instructions for joining the webinar, 4) the pre-publication version of the Advance Notice of Proposed Rulemaking for the CEQ NEPA Regulations, and 5) a Report from the Federal Forum on Environmental Collaboration and Conflict Resolution.

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Lastly, please take a moment to review your agency's NEPA Contact listed here: <https://ceq.doe.gov/docs/nepa-practice/2018-Federal-NEPA-contacts-and-websites-2018-06-15.pdf> and provide any necessary updates via email to (b) (6)

Sincerely,

The CEQ NEPA Team

\*\*\*\*\*

CEQ will host the Summer Meeting of the Federal NEPA Contacts via webinar on Wednesday, June 20 from 3:00pm – 4:30pm EDT.

Conference number and webinar URL are provided below. An agenda will be provided in advance of the meeting along with a PDF of the webinar slides for those unable to join the webinar.

Audio Conference Details:

Conference Number (Toll Free): (b) (6)

Participant Code: (b) (6)

To join the meeting:

(b) (6)

-----

If you have never attended an Adobe Connect meeting before:

Test your connection: [https://meet.gsa.gov/common/help/en/support/meeting\\_test.htm](https://meet.gsa.gov/common/help/en/support/meeting_test.htm)

Get a quick overview: <http://www.adobe.com/products/adobeconnect.html>

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# Federal NEPA Contacts Webinar

Wednesday, June 20, 2018

3:00 PM - 4:30 PM

(b) (6) Participant Code (b) (6)

(b) (6)

## Agenda

- 3:00pm Introduction**
- 3:05pm Update from EJ Interagency Working Group NEPA Sub-Committee**
- 3:15pm Update from EPA's Office of Federal Activities**
- 3:20pm CEQ's Review of Regulations Implementing NEPA**
- 3:55pm Updates on CEQ Initiatives**
- o *ECCR Ten Year Report*
  - o *One Federal Decision*
  - o *EIS Timeline Data*
  - o *CE Guidance and CE List*
- 4:05pm OMB Accountability System**
- o *Accountability System –Permitting Dashboard, agency CERPO roles*
- 4:15pm Open Discussion**



[3225-F8]

**COUNCIL ON ENVIRONMENTAL QUALITY**

**40 CFR Parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508**

**[Docket No. CEQ-2018-0001]**

**RIN: 0331-AA03**

**Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act**

**AGENCY:** Council on Environmental Quality (CEQ).

**ACTION:** Advance Notice of Proposed Rulemaking.

**SUMMARY:** The Council on Environmental Quality (CEQ) is considering updating its implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA). Over the past four decades, CEQ has issued numerous guidance documents but has amended its regulations substantively only once. Given the length of time since its NEPA implementing regulations were issued, CEQ solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process consistent with the national environmental policy stated in NEPA.

**DATES:** Comments should be submitted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number CEQ-2018-0001 through the Federal eRulemaking portal at <https://www.regulations.gov>.

Follow the online instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Boling, Associate  
Director for the National Environmental Policy Act, Council on Environmental Quality,  
730 Jackson Place, N.W., Washington, DC 20503. Telephone: (202) 395-5750.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq., was enacted in 1970. NEPA states that “it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. § 4331(a). NEPA also established CEQ as an agency within the Executive Office of the President. 42 U.S.C. § 4342.

By Executive Order (E.O.) 11514, “Protection and Enhancement of Environmental Quality” (March 5, 1970), President Nixon directed CEQ in Section 3(h) to issue “guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2)(C) of the Act.” CEQ published these guidelines in April of 1970 and revised them in 1973.

President Carter issued E.O. 11991 (May 24, 1977), “Relating to Protection and Enhancement of Environmental Quality,” which amended Section 3(h) of E.O. 11514 to direct CEQ to issue regulations providing uniform standards for the implementation of

NEPA, and amended Section 2 of E.O. 11514 to require agency compliance with the CEQ regulations. CEQ promulgated its “Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act” (CEQ’s NEPA regulations) at 40 CFR parts 1500-1508. 43 FR 55978 (November 29, 1978). Since that time, CEQ has amended its NEPA regulations substantively only once, to eliminate the “worst case” analysis requirement of 40 CFR 1502.22. 51 FR 15618 (April 25, 1986).

On August 15, 2017, President Trump issued E.O. 13807, “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.” 82 FR 40463 (August 24, 2017). Section 5(e) of E.O. 13807 directed CEQ to develop an initial list of actions to enhance and modernize the Federal environmental review and authorization process. In response, CEQ published its initial list of actions pursuant to E.O. 13807 and stated that it intends to review its existing NEPA regulations in order to identify changes needed to update and clarify these regulations. 82 FR 43226 (September 14, 2017).

## **II. Request for Comment**

CEQ requests comments on potential revisions to update and clarify CEQ NEPA regulations. In particular, CEQ requests comments on the following specific aspects of these regulations, and requests that commenters include question numbers when providing responses. Where possible, please provide specific recommendations on additions, deletions, and modifications to the text of CEQ’s NEPA regulations and their justifications.

### ***NEPA Process:***

1. Should CEQ's NEPA regulations be revised to ensure that environmental reviews and authorization decisions involving multiple agencies are conducted in a manner that is concurrent, synchronized, timely, and efficient, and if so, how?
2. Should CEQ's NEPA regulations be revised to make the NEPA process more efficient by better facilitating agency use of environmental studies, analysis, and decisions conducted in earlier Federal, State, tribal or local environmental reviews or authorization decisions, and if so, how?
3. Should CEQ's NEPA regulations be revised to ensure optimal interagency coordination of environmental reviews and authorization decisions, and if so, how?

***Scope of NEPA Review:***

4. Should the provisions in CEQ's NEPA regulations that relate to the format and page length of NEPA documents and time limits for completion be revised, and if so, how?
5. Should CEQ's NEPA regulations be revised to provide greater clarity to ensure NEPA documents better focus on significant issues that are relevant and useful to decisionmakers and the public, and if so, how?
6. Should the provisions in CEQ's NEPA regulations relating to public involvement be revised to be more inclusive and efficient, and if so, how?
7. Should definitions of any key NEPA terms in CEQ's NEPA regulations, such as those listed below, be revised, and if so, how?
  - a. Major Federal Action;
  - b. Effects;

- c. Cumulative Impact;
  - d. Significantly;
  - e. Scope; and
  - f. Other NEPA terms.
8. Should any new definitions of key NEPA terms, such as those noted below, be added, and if so, which terms?
- a. Alternatives;
  - b. Purpose and Need;
  - c. Reasonably Foreseeable;
  - d. Trivial Violation; and
  - e. Other NEPA terms.
9. Should the provisions in CEQ's NEPA regulations relating to any of the types of documents listed below be revised, and if so, how?
- a. Notice of Intent;
  - b. Categorical Exclusions Documentation;
  - c. Environmental Assessments;
  - d. Findings of No Significant Impact;
  - e. Environmental Impact Statements;
  - f. Records of Decision; and
  - g. Supplements.
10. Should the provisions in CEQ's NEPA regulations relating to the timing of agency action be revised, and if so, how?

11. Should the provisions in CEQ's NEPA regulations relating to agency responsibility and the preparation of NEPA documents by contractors and project applicants be revised, and if so, how?
12. Should the provisions in CEQ's NEPA regulations relating to programmatic NEPA documents and tiering be revised, and if so, how?
13. Should the provisions in CEQ's NEPA regulations relating to the appropriate range of alternatives in NEPA reviews and which alternatives may be eliminated from detailed analysis be revised, and if so, how?

***General:***

14. Are any provisions of the CEQ's NEPA regulations currently obsolete? If so, please provide specific recommendations on whether they should be modified, rescinded, or replaced.
15. Which provisions of the CEQ's NEPA regulations can be updated to reflect new technologies that can be used to make the process more efficient?
16. Are there additional ways CEQ's NEPA regulations should be revised to promote coordination of environmental review and authorization decisions, such as combining NEPA analysis and other decision documents, and if so, how?
17. Are there additional ways CEQ's NEPA regulations should be revised to improve the efficiency and effectiveness of the implementation of NEPA, and if so, how?
18. Are there ways in which the role of tribal governments in the NEPA process should be clarified in CEQ's NEPA regulations, and if so, how?

19. Are there additional ways CEQ's NEPA regulations should be revised to ensure that agencies apply NEPA in a manner that reduces unnecessary burdens and delays as much as possible, and if so, how?

20. Are there additional ways CEQ's NEPA regulations related to mitigation should be revised, and if so, how?

(Authority: 42 U.S.C. 4332, 4342, 4344 and 40 CFR Parts 1500, 1501, 1502, 1503, 1505, 1506, 1507, and 1508)

### **III. Statutory and Executive Order Reviews**

Under E.O. 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993), this is a "significant regulatory action." Accordingly, CEQ submitted this action to the Office of Management and Budget (OMB) for review under E.O. 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action. Because this action does not propose or impose any requirements, and instead seeks comments and suggestions for CEQ to consider in possibly developing a subsequent proposed rule, the various statutes and executive orders that normally apply to rulemaking do not apply in this case. If CEQ decides in the future to pursue a rulemaking, CEQ will address the statutes and executive orders applicable to that rulemaking at that time.

Mary B. Neumayr,

*Chief of Staff, Council on Environmental Quality.*

[FR Doc. 2018-13246 Filed: 6/19/2018 8:45 am; Publication Date: 6/20/2018]



# Council on Environmental Quality

Council on Environmental Quality

## *Federal NEPA Contacts Webinar*



*Wednesday, June 20, 2018  
3:00-4:30pm*

*Council on Environmental Quality*



# Agenda

Council on Environmental Quality

- 3:00pm Introduction**
- 3:05pm Update from EJ Interagency Working Group NEPA Sub-Committee**
- 3:15pm Update from EPA's Office of Federal Activities**
- 3:20pm CEQ's Review of Regulations Implementing NEPA**
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  - *One Federal Decision*
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- *Accountability System –Permitting Dashboard, agency CERPO roles*
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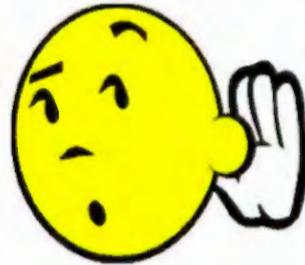
2

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Council on Environmental Quality

# “Have you heard about the Promising Practices Report?”

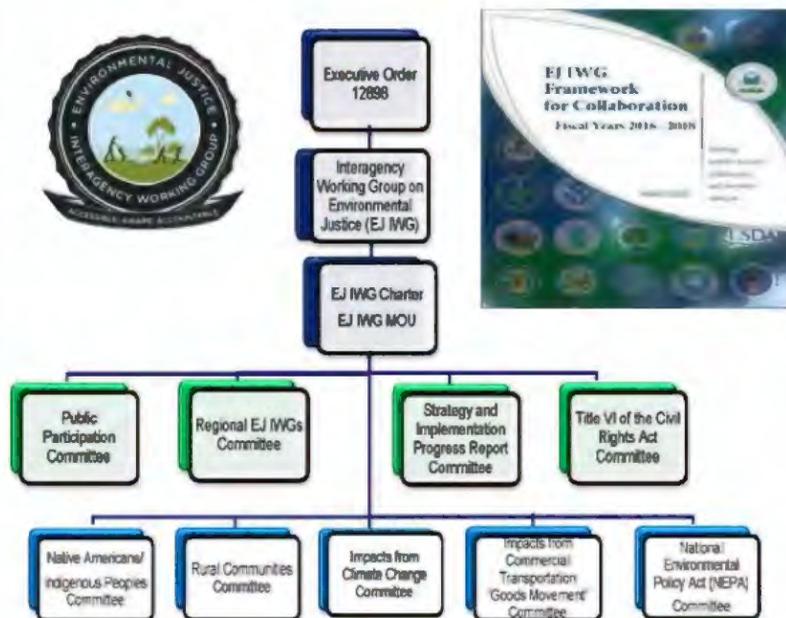


**Denise C. Freeman**  
**Co-chair, NEPA Committee**  
**Federal Interagency Working Group on Environmental Justice**  
**CEQ Federal NEPA Contacts Webinar**

# EJ and NEPA Through the Federal Interagency Working Group on Environmental Justice



## EJ IWG Governance Structure 2016 - 2018



December 2015

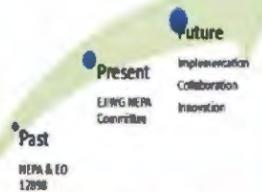
## Charter & MOU (2011)

## NEPA Committee Purpose:

Improve effective, efficient and consistent consideration of EJ in the NEPA process

- Share promising practices/lessons learned developed by federal government NEPA practitioners

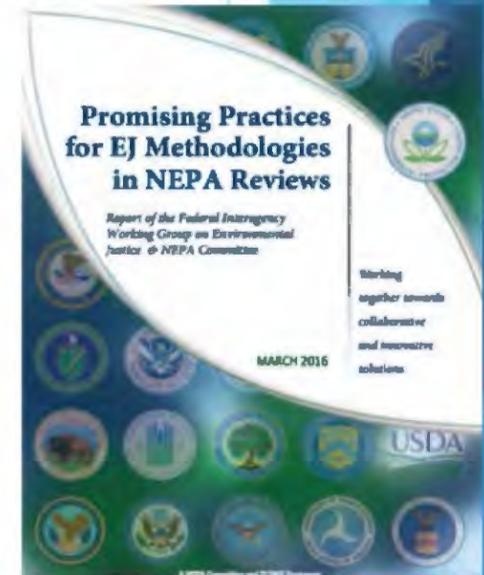
- Provide cross agency training on EJ and NEPA



## Promising Practices for EJ Methodologies in NEPA Reviews Report of the Federal Interagency Working Group on Environmental Justice & NEPA Committee (March 2016)



- The report provides an in-depth collection of principles and practices for considering and addressing EJ issues at every step of the NEPA process and should be used in conjunction with established CEQ and NEPA Guidance.
- The NEPA Committee, comprised of Federal NEPA practitioners across the federal family, believes that all federal agencies can benefit from developing effective, efficient, and consistent approaches to addressing environmental justice in their NEPA process.
- The report is available on the EJ IWG's website:  
<https://www.epa.gov/environmentaljustice/ej-iwg-promising-practices-ej-methodologies-nepa-reviews>.



## Substance: Report on Promising Practices for EJ Methodologies in NEPA Reviews

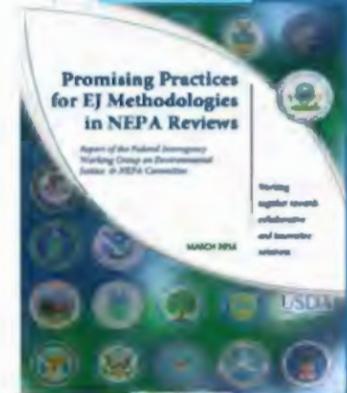
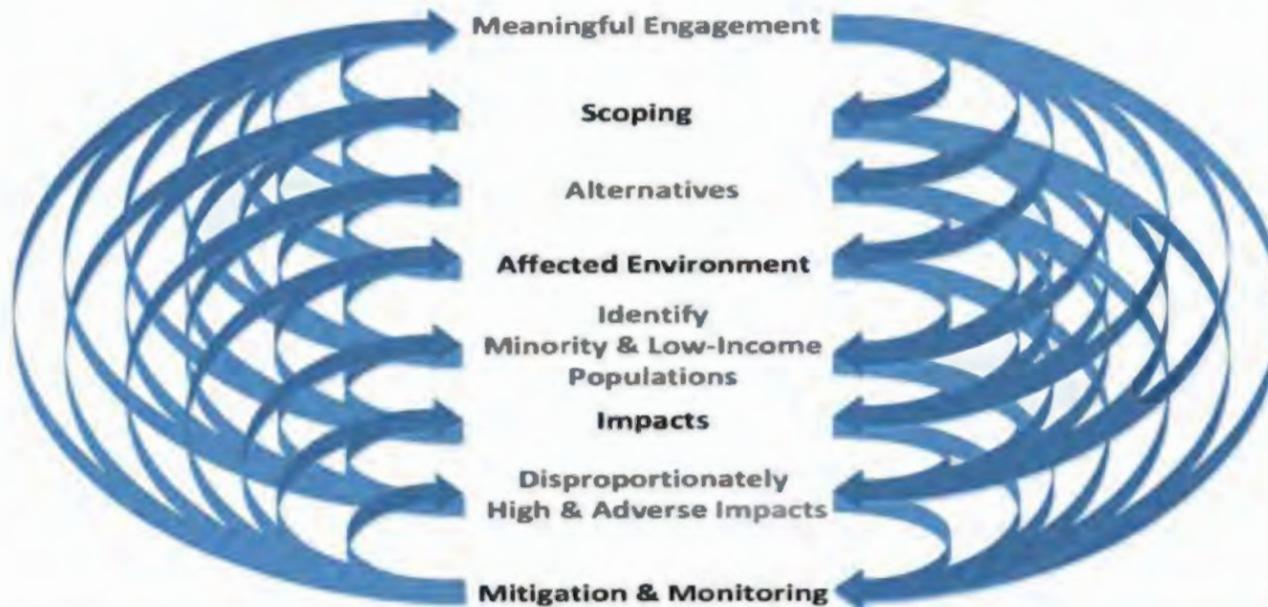


- Compilation of “promising practices” organized in coordinated, functional framework concerning interface of environmental justice considerations through NEPA processes
- Builds upon existing EJ and NEPA Guidance developed by CEQ and federal agencies
- Represents professional experience, knowledge and expertise of individuals participating in the NEPA Committee who are NEPA practitioners in federal agencies
- Captures collective thinking and thoughtful deliberation of shared information and results of research, analysis and discussions
- Joint efforts of the Committee reflect community of NEPA practitioners who seek to enable consideration of EJ within the context of NEPA
- Allows agencies to compare and improve their methodologies for considering EJ now and in the future
- **Does not establish new requirements for NEPA analysis**
- **Is not formal agency guidance**
- **Is not intended to be legally binding or create rights and benefits for any person**

# Elements of the Promising Practices Report



## Environmental Justice Within National Environmental Policy Act Reviews





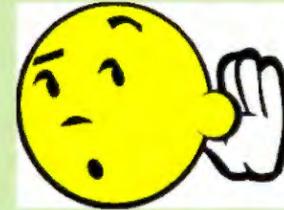
# Future & Next Steps: Implementation Collaboration, and Innovation



- Continue to promote and encourage agency-wide use of the Promising Practices Report
- Publish and promote the use of the Community Guide to Environmental Justice and NEPA Methods
- Support CEQ's efforts in implementing EO 13087



## “Now that you’ve heard about the Promising Practices Report...”



- Spread the word about the Promising Practices Report and the Community Guide, i.e., training or a briefing at your agency
- Volunteer and get involved with our efforts to promote more awareness
- Continue Implementation and Collaboration at your agencies on EJ and NEPA issues
- Give feedback on the Promising Practices Report



Thank You

Denise C. Freeman

[Denise.Freeman@hq.doe.gov](mailto:Denise.Freeman@hq.doe.gov)

# EPA NEPA/309 Update





## Subsequent EPA Actions

- ▶ Letter Writing Guidance to regions (August 2017)
- ▶ Increased emphasis on early engagement
- ▶ Evaluation of alternatives to current 309 Rating System





# Agenda

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Council on Environmental Quality



# Questions?

Council on Environmental Quality

The screenshot shows the NEPA.GOV website. At the top, there is a search bar and a navigation menu with links for HOME, LAWS & REGULATIONS, GUIDANCE, GET INVOLVED, NEPA PRACTICE, CEO PUBLICATIONS, and CEO REPORTS. The main banner features the text "INFRASTRUCTURE PERMITTING IMPROVEMENTS" with a "READ MORE" button. Below the banner is a "Welcome" section with the following text:

The National Environmental Policy Act (NEPA) was enacted to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation, and to establish a Council on Environmental Quality. (Sec. 2 (42 U.S. Code § 4321)

NEPA is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102 (2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act.

President Nixon signed NEPA into law on January 1, 1970. NEPA set forth a bold new vision for America. Acknowledging the decades of environmental neglect that had significantly degraded the nation's landscape and damaged the human environment, the law was established to foster and promote the general welfare; to create and maintain conditions under which

<https://ceq.doe.gov/index.html>



Council on Environmental Quality

## [EXTERNAL] RE: Comment from CEQ?

---

**From:** Nick Sobczyk <nsobczyk@eenews.net>

**To:** "Schneider, Daniel J. EOP/CEQ" <(b) (6)>

**Date:** Mon, 18 Jun 2018 17:10:11 -0400

Hi Dan, thanks for sending.

Best,  
Nick

---

**From:** Schneider, Daniel J. EOP/CEQ <(b) (6)>

**Sent:** Monday, June 18, 2018 3:54 PM

**To:** Nick Sobczyk

**Subject:** RE: Comment from CEQ?

Hey Nick,

Just wanted to flag this for you given your interest in the subject matter. CEQ submitted an ANPRM to the Federal Register for publication on Friday, June 15, 2018 requesting public comment on potential revisions to update and clarify CEQ's NEPA regulations. Through a series of 20 questions, CEQ is requesting comments on provisions of the regulations to the NEPA process and the scope of NEPA review. It should be published in the Federal Register in the next couple of days.

Fact Sheet: <https://www.whitehouse.gov/wp-content/uploads/2017/11/FINAL-ANPRM-Fact-Sheet-20180615.pdf>

Prepublication Text: [https://www.whitehouse.gov/wp-content/uploads/2017/11/CEQ-NEPA-ANPRM\\_WebVersion-20180615.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/CEQ-NEPA-ANPRM_WebVersion-20180615.pdf)

Webpage: <https://www.whitehouse.gov/ceq/initiatives/>

Dan

**From:** Nick Sobczyk <nsobczyk@eenews.net>

**Sent:** Monday, May 21, 2018 10:46 AM

**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>

**Subject:** [EXTERNAL] RE: Comment from CEQ?

Sure: 202-446-0437

**From:** Schneider, Daniel J. EOP/CEQ [mailto:(b) (6)]

**Sent:** Monday, May 21, 2018 10:46 AM

**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

What's the best number to reach you at? Would like to discuss. Thanks.

---

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Monday, May 21, 2018 10:39 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Hey Dan – any update on this? If you'd like to provide a statement from CEQ, I could work with that, too. I'm wondering:

How long will the process take?  
Are there any specific areas of the NEPA regulations that are ripe for reform?  
Do you think the FAST Act and MAP-21 provide a model for streamlining/change?  
How will the current lack of Senate-confirmed political leadership affect how CEQ handles the potential regulatory changes?  
How many public comments is CEQ expecting to get?

Best,  
Nick

---

**From:** Schneider, Daniel J. EOP/CEQ [[\(b\) \(6\)](mailto:(b) (6))]  
**Sent:** Friday, May 18, 2018 12:49 PM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

Hey Nick, still checking in on this.

Dan

---

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Friday, May 18, 2018 10:06 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Hey Dan – any word yet on whether you'll be able to connect me with Mr. Boling?

Nick

---

**From:** Schneider, Daniel J. EOP/CEQ [[\(b\) \(6\)](mailto:(b) (6))]  
**Sent:** Thursday, May 17, 2018 11:58 AM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

Hey Nick,

What's your timing on this?

Dan

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Thursday, May 17, 2018 11:43 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Hey Dan,

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**Subject:** RE: Comment from CEQ?

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What specific changes will CEQ make to its NEPA regs? How will they affect permitting processes at other agencies?

Thanks!

Nick Sobczyk

E&E News reporter

[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)

Office: 202-446-0437

Cell: (b) (6)

[@nick\\_sobczyk](#)

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Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM

## RE: CEQ Federal NEPA Contacts Webinar

---

**From:** "Drummond, Michael R. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=a0bc62c0a5454e6fb7a1be504b7d284a-dr">

**To:** Lamb CIV Ronald E <ronald.e.lamb@usmc.mil>, FN-CEQ-NEPA <(b) (6)>

**Date:** Tue, 19 Jun 2018 15:47:27 -0400

**Attachments**  
: Webinar Instructions 062018.pdf (185.21 kB)

Sure thing Ron, here you go. I'll try and kick my Office97 habit before the next go around.

**From:** Lamb CIV Ronald E <ronald.e.lamb@usmc.mil>  
**Sent:** Tuesday, June 19, 2018 3:19 PM  
**To:** FN-CEQ-NEPA <(b) (6)>  
**Cc:** Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** RE: CEQ Federal NEPA Contacts Webinar

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v/r

Ron Lamb

NEPA Specialist

HQMC LF/MCICOM GF-7

(571) 256-2784

-----Original Appointment-----

**From:** FN-CEQ-NEPA [mailto:(b) (6)]  
**Sent:** Tuesday, June 19, 2018 3:05 PM  
**To:** Boling, Ted A. EOP/CEQ; Drummond, Michael R. EOP/CEQ; Mansoor, Yardena M. EOP/CEQ; Upchurch, Sara H. EOP/CEQ; Hanley, Karen A. EOP/CEQ; denise.freeman@hq.doe.gov; Osterhues, Marlys A. EOP/CEQ  
**Subject:** CEQ Federal NEPA Contacts Webinar

**When:** Wednesday, June 20, 2018 3:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** Webinar: (b) (6) (b) (6) (b) (6)

Per MARFORCYBER network hardening efforts, one or more unapproved attachments were detected and automatically removed from this email as it constituted a security risk. In order to receive the blocked file, please contact the sender and have them save the file as an approved file type with an authorized file extension and resend the email.

Common unauthorized file types include Microsoft Office documents that are formatted with versions prior to Microsoft Office 2007.

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Good afternoon Federal NEPA Contacts,

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Lastly, please take a moment to review your agency's NEPA Contact listed here: <https://ceq.doe.gov/docs/nepa-practice/2018-Federal-NEPA-contacts-and-websites-2018-06-15.pdf> and provide any necessary updates via email to (b) (6).

Sincerely,

The CEQ NEPA Team

\*\*\*\*\*

CEQ will host the Summer Meeting of the Federal NEPA Contacts via webinar on Wednesday, June 20 from 3:00pm – 4:30pm EDT.

Conference number and webinar URL are provided below. An agenda will be provided in advance of the meeting along with a PDF of the webinar slides for those unable to join the webinar.

Audio Conference Details:

Conference Number (Toll Free): (b) (6)

Participant Code: (b) (6)

To join the meeting:

(b) (6)

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Get a quick overview: <http://www.adobe.com/products/adobeconnect.html>

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<< File: NEPA Contacts Mtg 6.20 - Agenda.docx >> << File: CEQNEPAContactsWebinar\_06\_20\_18\_final.pdf >> << File: ATT00001.txt >> << File: CEQ NEPA Regulations ANPRM (pre-publication).pdf >> << File: ECCR\_Benefits\_Recommendations\_Report\_5-02-018.pdf >>

## RE: Comment from CEQ?

---

**From:** "Schneider, Daniel J. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=70576341fcb44ab780c5f4d1ca218647-sc">

**To:** Nick Sobczyk <nsobczyk@eenews.net>

**Date:** Tue, 19 Jun 2018 10:32:08 -0400

Hey Nick, what's your deadline?

Dan

**From:** Nick Sobczyk <nsobczyk@eenews.net>

**Sent:** Tuesday, June 19, 2018 9:52 AM

**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>

**Subject:** [EXTERNAL] RE: Comment from CEQ?

Good Morning Dan,

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Was CEQ waiting to advance this document until it got a nominee for director?

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**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Monday, May 21, 2018 10:46 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Sure: 202-446-0437

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How many public comments is CEQ expecting to get?

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Office: 202-446-0437  
Cell: (b) (6)  
[@nick\\_sobczyk](#)

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Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM

## [EXTERNAL] RE: CEQ ANPRM

---

**From:** Chris Knight <chris.knight@argusmedia.com>

**To:** "Schneider, Daniel J. EOP/CEQ" <(b) (6)>

**Date:** Tue, 19 Jun 2018 10:05:46 -0400

Hey, thanks for the heads up, and congrats on the move. The final pre-summer push is super busy right now but we should grab coffee when things slow down.

One question: Is there any timeline right now for a proposed rulemaking on the NEPA revisions, and then a final one?

**From:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Sent:** Tuesday, June 19, 2018 10:00 AM  
**To:** Chris Knight <chris.knight@argusmedia.com>  
**Subject:** CEQ ANPRM

**Notice: external email – please use caution.**

---

Hey Chris,

Saw your tweet regarding the ANPRM we put out. Just wanted to send over this fact sheet for you as well so you had it.

<https://www.whitehouse.gov/wp-content/uploads/2017/11/FINAL-ANPRM-Fact-Sheet-20180615.pdf>

Also, I used to be at Energy and Commerce but moved over here to CEQ in April. My new contact information is below.

Best,

Dan

Dan Schneider  
Associate Director for Communications  
Council on Environmental Quality  
Executive Office of the President

(b) (6) (desk)

(b) (6)

[www.whitehouse.gov/ceq](http://www.whitehouse.gov/ceq)

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Argus Media Limited has moved offices. Please note our new address below.

Argus Media Limited, Lacon House, 84 Theobald's Road, London WC1X 8NL Registered in England and Wales, Company Registration No: 1642534 VAT Registration No: GB 229 7149 41

## [EXTERNAL] RE: Comment from CEQ?

---

**From:** Nick Sobczyk <nsobczyk@eenews.net>

**To:** "Schneider, Daniel J. EOP/CEQ" <(b) (6)>

**Date:** Tue, 19 Jun 2018 09:52:25 -0400

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Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM

## RE: CEQ Federal NEPA Contacts Webinar

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**From:** Lamb CIV Ronald E <ronald.e.lamb@usmc.mil>  
**To:** FN-CEQ-NEPA <(b) (6)>  
**Cc:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**Date:** Tue, 19 Jun 2018 15:19:16 -0400  
**Attachments:** smime.p7m (28.07 kB)

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v/r

Ron Lamb

NEPA Specialist

HQMC LF/MCICOM GF-7

(571) 256-2784

-----Original Appointment-----

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**Sent:** Tuesday, June 19, 2018 3:05 PM  
**To:** Boling, Ted A. EOP/CEQ; Drummond, Michael R. EOP/CEQ; Mansoor, Yardena M. EOP/CEQ; Upchurch, Sara H. EOP/CEQ; Hanley, Karen A. EOP/CEQ; denise.freeman@hq.doe.gov; Osterhues, Marlys A. EOP/CEQ  
**Subject:** CEQ Federal NEPA Contacts Webinar  
**When:** Wednesday, June 20, 2018 3:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Webinar: (b) (6) (b) (6) (b) (6)

Per MARFORCYBER network hardening efforts, one or more unapproved attachments were detected and automatically removed from this email as it constituted a security risk. In order to receive the blocked file, please contact the sender and have them save the file as an approved file type with an authorized file extension and resend the email.

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The full list of unauthorized file extensions can be found in AMHS, Operational Advisory 0460-17. For assistance in reviewing this list, or if you feel your message was stripped in error, please contact your local G-6, regional MITSC or the Enterprise Service Desk.

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Sincerely,

The CEQ NEPA Team

\*\*\*\*\*

CEQ will host the Summer Meeting of the Federal NEPA Contacts via webinar on Wednesday, June 20 from 3:00pm – 4:30pm EDT.

Conference number and webinar URL are provided below. An agenda will be provided in advance of the meeting along with a PDF of the webinar slides for those unable to join the webinar.

Audio Conference Details:

Conference Number (Toll Free): (b) (6)

Participant Code: (b) (6)

To join the meeting:

(b) (6)

-----

If you have never attended an Adobe Connect meeting before:

Test your connection: [https://meet.gsa.gov/common/help/en/support/meeting\\_test.htm](https://meet.gsa.gov/common/help/en/support/meeting_test.htm)

Get a quick overview: <http://www.adobe.com/products/adobeconnect.html>

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<< File: NEPA Contacts Mtg 6.20 - Agenda.docx >> << File: CEQNEPAContactsWebinar\_06\_20\_18\_final.pdf >> <<  
File: ATT00001.txt >> << File: CEQ NEPA Regulations ANPRM (pre-publication).pdf >> << File:  
ECCR\_Benefits\_Recommendations\_Report\_5-02-018.pdf >>

## Canceled: CEQ Federal NEPA Contacts Webinar

---

Where: Webinar: (b) (6) (b) (6) (b) (6)

When: Wed Jun 20 15:00:00 2018 (America/New\_York)

Until: Wed Jun 20 16:30:00 2018 (America/New\_York)

Organiser: FN-CEQ-NEPA </o=exchange organization/ou=exchange administrative group (fydibohf23spdlf)/cn=recipients/cn=3dfc5ad8035346949f6ddfdfa1953a47-fn">

Optional Attendee: "Yi, David Y. EOP/OMB" <(b) (6)>

---

Good afternoon Federal NEPA Contacts,

In advance of tomorrow's webinar, we have updated the tele-conference participant code (correct code is (b) (6)). Please find attached 1) a meeting agenda for tomorrow's webinar, 2) a slide deck for those unable to join the webinar, 3) instructions for joining the webinar, 4) the pre-publication version of the Advance Notice of Proposed Rulemaking for the CEQ NEPA Regulations, and 5) a Report from the Federal Forum on Environmental Collaboration and Conflict Resolution.

Lastly, please take a moment to review your agency's NEPA Contact listed here: <https://ceq.doe.gov/docs/nepa-practice/2018-Federal-NEPA-contacts-and-websites-2018-06-15.pdf> and provide any necessary updates via email to (b) (6).

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Audio Conference Details:

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Conference Number (Toll Free): (b) (6) [REDACTED]

Participant Code: (b) (6) [REDACTED]

To join the meeting:

(b) (6) [REDACTED]

-----

If you have never attended an Adobe Connect meeting before:

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Get a quick overview: <http://www.adobe.com/products/adobeconnect.html>

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[3225-F8]

**COUNCIL ON ENVIRONMENTAL QUALITY**

**40 CFR Parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508**

**[Docket No. CEQ-2018-0001]**

**RIN: 0331-AA03**

**Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act**

**AGENCY:** Council on Environmental Quality (CEQ).

**ACTION:** Advance Notice of Proposed Rulemaking.

**SUMMARY:** The Council on Environmental Quality (CEQ) is considering updating its implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA). Over the past four decades, CEQ has issued numerous guidance documents but has amended its regulations substantively only once. Given the length of time since its NEPA implementing regulations were issued, CEQ solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process consistent with the national environmental policy stated in NEPA.

**DATES:** Comments should be submitted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number CEQ-2018-0001 through the Federal eRulemaking portal at <https://www.regulations.gov>.

Follow the online instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Boling, Associate  
Director for the National Environmental Policy Act, Council on Environmental Quality,  
730 Jackson Place, N.W., Washington, DC 20503. Telephone: (202) 395-5750.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq., was enacted in 1970. NEPA states that “it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. § 4331(a). NEPA also established CEQ as an agency within the Executive Office of the President. 42 U.S.C. § 4342.

By Executive Order (E.O.) 11514, “Protection and Enhancement of Environmental Quality” (March 5, 1970), President Nixon directed CEQ in Section 3(h) to issue “guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2)(C) of the Act.” CEQ published these guidelines in April of 1970 and revised them in 1973.

President Carter issued E.O. 11991 (May 24, 1977), “Relating to Protection and Enhancement of Environmental Quality,” which amended Section 3(h) of E.O. 11514 to direct CEQ to issue regulations providing uniform standards for the implementation of

NEPA, and amended Section 2 of E.O. 11514 to require agency compliance with the CEQ regulations. CEQ promulgated its “Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act” (CEQ’s NEPA regulations) at 40 CFR parts 1500-1508. 43 FR 55978 (November 29, 1978). Since that time, CEQ has amended its NEPA regulations substantively only once, to eliminate the “worst case” analysis requirement of 40 CFR 1502.22. 51 FR 15618 (April 25, 1986).

On August 15, 2017, President Trump issued E.O. 13807, “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.” 82 FR 40463 (August 24, 2017). Section 5(e) of E.O. 13807 directed CEQ to develop an initial list of actions to enhance and modernize the Federal environmental review and authorization process. In response, CEQ published its initial list of actions pursuant to E.O. 13807 and stated that it intends to review its existing NEPA regulations in order to identify changes needed to update and clarify these regulations. 82 FR 43226 (September 14, 2017).

## **II. Request for Comment**

CEQ requests comments on potential revisions to update and clarify CEQ NEPA regulations. In particular, CEQ requests comments on the following specific aspects of these regulations, and requests that commenters include question numbers when providing responses. Where possible, please provide specific recommendations on additions, deletions, and modifications to the text of CEQ’s NEPA regulations and their justifications.

### ***NEPA Process:***

1. Should CEQ's NEPA regulations be revised to ensure that environmental reviews and authorization decisions involving multiple agencies are conducted in a manner that is concurrent, synchronized, timely, and efficient, and if so, how?
2. Should CEQ's NEPA regulations be revised to make the NEPA process more efficient by better facilitating agency use of environmental studies, analysis, and decisions conducted in earlier Federal, State, tribal or local environmental reviews or authorization decisions, and if so, how?
3. Should CEQ's NEPA regulations be revised to ensure optimal interagency coordination of environmental reviews and authorization decisions, and if so, how?

***Scope of NEPA Review:***

4. Should the provisions in CEQ's NEPA regulations that relate to the format and page length of NEPA documents and time limits for completion be revised, and if so, how?
5. Should CEQ's NEPA regulations be revised to provide greater clarity to ensure NEPA documents better focus on significant issues that are relevant and useful to decisionmakers and the public, and if so, how?
6. Should the provisions in CEQ's NEPA regulations relating to public involvement be revised to be more inclusive and efficient, and if so, how?
7. Should definitions of any key NEPA terms in CEQ's NEPA regulations, such as those listed below, be revised, and if so, how?
  - a. Major Federal Action;
  - b. Effects;

- c. Cumulative Impact;
  - d. Significantly;
  - e. Scope; and
  - f. Other NEPA terms.
8. Should any new definitions of key NEPA terms, such as those noted below, be added, and if so, which terms?
- a. Alternatives;
  - b. Purpose and Need;
  - c. Reasonably Foreseeable;
  - d. Trivial Violation; and
  - e. Other NEPA terms.
9. Should the provisions in CEQ's NEPA regulations relating to any of the types of documents listed below be revised, and if so, how?
- a. Notice of Intent;
  - b. Categorical Exclusions Documentation;
  - c. Environmental Assessments;
  - d. Findings of No Significant Impact;
  - e. Environmental Impact Statements;
  - f. Records of Decision; and
  - g. Supplements.
10. Should the provisions in CEQ's NEPA regulations relating to the timing of agency action be revised, and if so, how?

11. Should the provisions in CEQ's NEPA regulations relating to agency responsibility and the preparation of NEPA documents by contractors and project applicants be revised, and if so, how?
12. Should the provisions in CEQ's NEPA regulations relating to programmatic NEPA documents and tiering be revised, and if so, how?
13. Should the provisions in CEQ's NEPA regulations relating to the appropriate range of alternatives in NEPA reviews and which alternatives may be eliminated from detailed analysis be revised, and if so, how?

***General:***

14. Are any provisions of the CEQ's NEPA regulations currently obsolete? If so, please provide specific recommendations on whether they should be modified, rescinded, or replaced.
15. Which provisions of the CEQ's NEPA regulations can be updated to reflect new technologies that can be used to make the process more efficient?
16. Are there additional ways CEQ's NEPA regulations should be revised to promote coordination of environmental review and authorization decisions, such as combining NEPA analysis and other decision documents, and if so, how?
17. Are there additional ways CEQ's NEPA regulations should be revised to improve the efficiency and effectiveness of the implementation of NEPA, and if so, how?
18. Are there ways in which the role of tribal governments in the NEPA process should be clarified in CEQ's NEPA regulations, and if so, how?

19. Are there additional ways CEQ's NEPA regulations should be revised to ensure that agencies apply NEPA in a manner that reduces unnecessary burdens and delays as much as possible, and if so, how?

20. Are there additional ways CEQ's NEPA regulations related to mitigation should be revised, and if so, how?

(Authority: 42 U.S.C. 4332, 4342, 4344 and 40 CFR Parts 1500, 1501, 1502, 1503, 1505, 1506, 1507, and 1508)

### **III. Statutory and Executive Order Reviews**

Under E.O. 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993), this is a "significant regulatory action." Accordingly, CEQ submitted this action to the Office of Management and Budget (OMB) for review under E.O. 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action. Because this action does not propose or impose any requirements, and instead seeks comments and suggestions for CEQ to consider in possibly developing a subsequent proposed rule, the various statutes and executive orders that normally apply to rulemaking do not apply in this case. If CEQ decides in the future to pursue a rulemaking, CEQ will address the statutes and executive orders applicable to that rulemaking at that time.

Mary B. Neumayr,

*Chief of Staff, Council on Environmental Quality.*

[FR Doc. 2018-13246 Filed: 6/19/2018 8:45 am; Publication Date: 6/20/2018]

# Federal NEPA Contacts Webinar

Wednesday, June 20, 2018

3:00 PM - 4:30 PM

(b) (6) Participant Code (b) (6)

(b) (6)

## Agenda

- 3:00pm Introduction**
- 3:05pm Update from EJ Interagency Working Group NEPA Sub-Committee**
- 3:15pm Update from EPA's Office of Federal Activities**
- 3:20pm CEQ's Review of Regulations Implementing NEPA**
- 3:55pm Updates on CEQ Initiatives**
- o *ECCR Ten Year Report*
  - o *One Federal Decision*
  - o *EIS Timeline Data*
  - o *CE Guidance and CE List*
- 4:05pm OMB Accountability System**
- o *Accountability System –Permitting Dashboard, agency CERPO roles*
- 4:15pm Open Discussion**



# Council on Environmental Quality

Council on Environmental Quality

## *Federal NEPA Contacts Webinar*



*Wednesday, June 20, 2018  
3:00-4:30pm*

*Council on Environmental Quality*



# Agenda

Council on Environmental Quality

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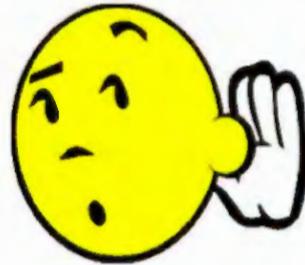
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Council on Environmental Quality

# “Have you heard about the Promising Practices Report?”

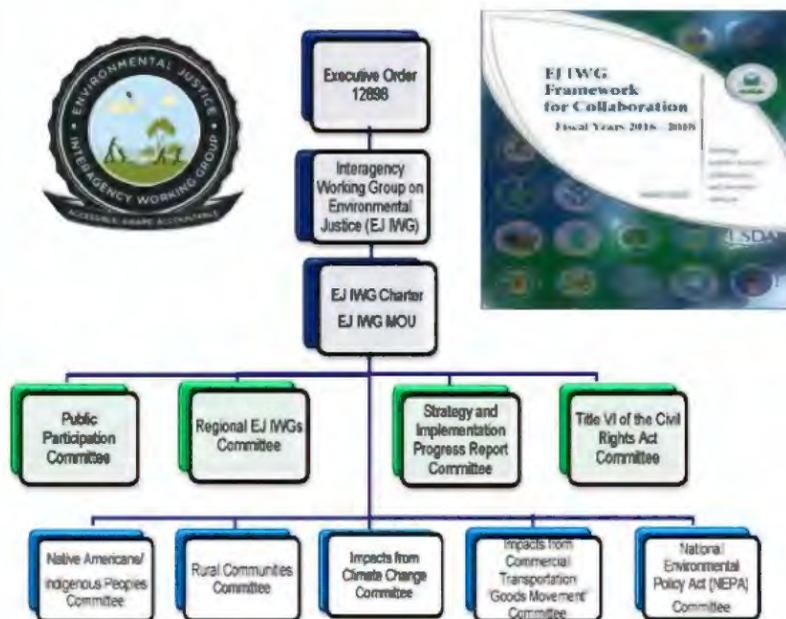


**Denise C. Freeman**  
**Co-chair, NEPA Committee**  
**Federal Interagency Working Group on Environmental Justice**  
**CEQ Federal NEPA Contacts Webinar**

# EJ and NEPA Through the Federal Interagency Working Group on Environmental Justice



## EJ IWG Governance Structure 2016 - 2018



December 2015

## Charter & MOU (2011)

## NEPA Committee Purpose:

Improve effective, efficient and consistent consideration of EJ in the NEPA process

- Share promising practices/lessons learned developed by federal government NEPA practitioners

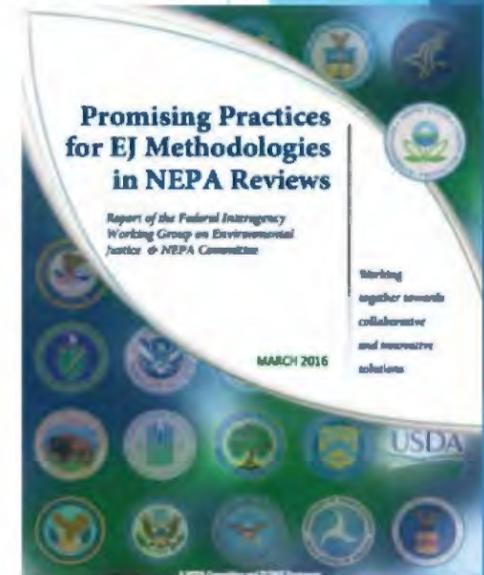
- Provide cross agency training on EJ and NEPA



## Promising Practices for EJ Methodologies in NEPA Reviews Report of the Federal Interagency Working Group on Environmental Justice & NEPA Committee (March 2016)



- The report provides an in-depth collection of principles and practices for considering and addressing EJ issues at every step of the NEPA process and should be used in conjunction with established CEQ and NEPA Guidance.
- The NEPA Committee, comprised of Federal NEPA practitioners across the federal family, believes that all federal agencies can benefit from developing effective, efficient, and consistent approaches to addressing environmental justice in their NEPA process.
- The report is available on the EJ IWG's website:  
<https://www.epa.gov/environmentaljustice/ej-iwg-promising-practices-ej-methodologies-nepa-reviews>.



## Substance: Report on Promising Practices for EJ Methodologies in NEPA Reviews

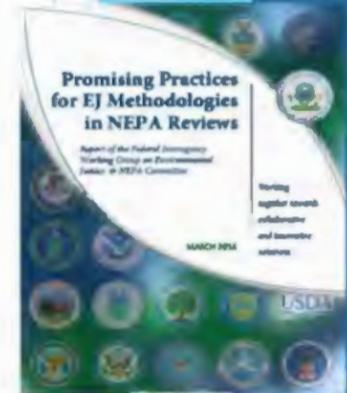
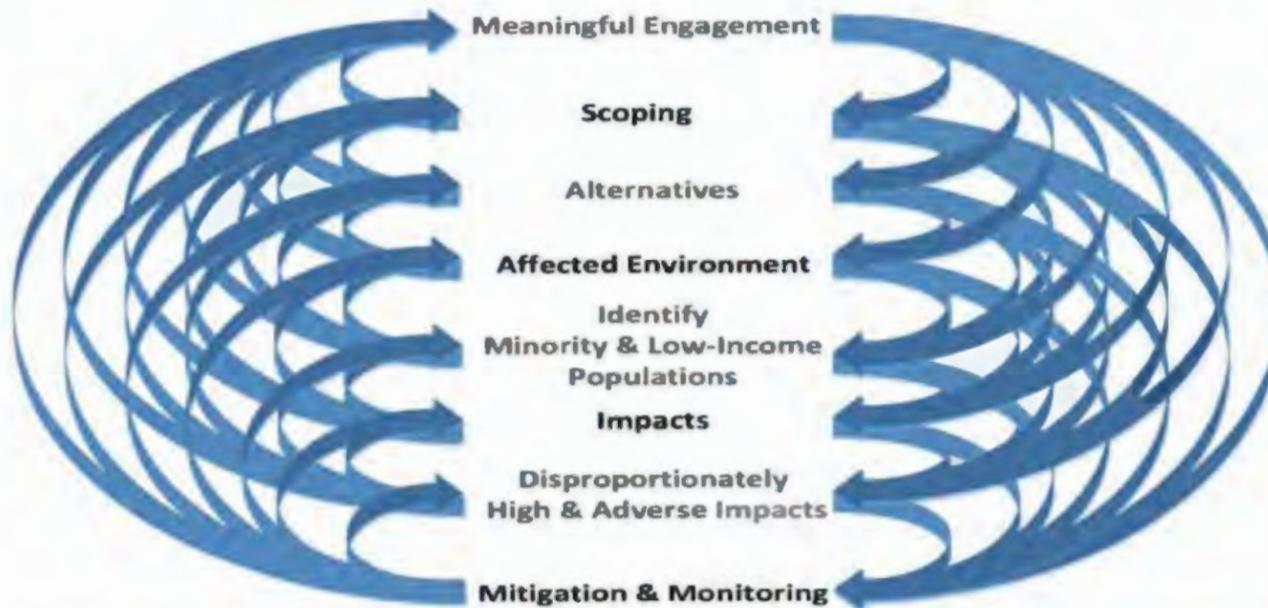


- Compilation of “promising practices” organized in coordinated, functional framework concerning interface of environmental justice considerations through NEPA processes
- Builds upon existing EJ and NEPA Guidance developed by CEQ and federal agencies
- Represents professional experience, knowledge and expertise of individuals participating in the NEPA Committee who are NEPA practitioners in federal agencies
- Captures collective thinking and thoughtful deliberation of shared information and results of research, analysis and discussions
- Joint efforts of the Committee reflect community of NEPA practitioners who seek to enable consideration of EJ within the context of NEPA
- Allows agencies to compare and improve their methodologies for considering EJ now and in the future
- **Does not establish new requirements for NEPA analysis**
- **Is not formal agency guidance**
- **Is not intended to be legally binding or create rights and benefits for any person**

# Elements of the Promising Practices Report



## Environmental Justice Within National Environmental Policy Act Reviews

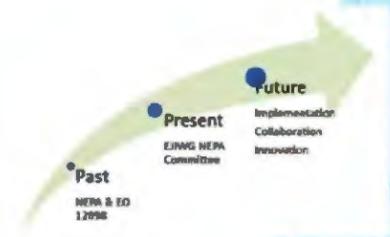




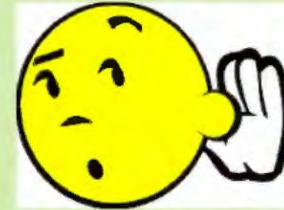
# Future & Next Steps: Implementation Collaboration, and Innovation



- Continue to promote and encourage agency-wide use of the Promising Practices Report
- Publish and promote the use of the Community Guide to Environmental Justice and NEPA Methods
- Support CEQ's efforts in implementing EO 13087



## “Now that you’ve heard about the Promising Practices Report...”



- Spread the word about the Promising Practices Report and the Community Guide, i.e., training or a briefing at your agency
- Volunteer and get involved with our efforts to promote more awareness
- Continue Implementation and Collaboration at your agencies on EJ and NEPA issues
- Give feedback on the Promising Practices Report



Thank You

Denise C. Freeman

[Denise.Freeman@hq.doe.gov](mailto:Denise.Freeman@hq.doe.gov)

# EPA NEPA/309 Update



# NEPA/309 Survey Results

- ▶ Over 160 respondents across 43 agencies
- ▶ Feedback centered around 3 primary subject areas:
  - ▶ Quality and consistency of 309 letters
  - ▶ Value of early engagement
  - ▶ Utility of 309 Rating System



## Subsequent EPA Actions

- ▶ Letter Writing Guidance to regions (August 2017)
- ▶ Increased emphasis on early engagement
- ▶ Evaluation of alternatives to current 309 Rating System





# Agenda

Council on Environmental Quality

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14

CEQ075FY18150\_000002515



Council on Environmental Quality



# Questions?

Council on Environmental Quality

The screenshot shows the NEPA.GOV website. At the top, there is a search bar and a navigation menu with links for HOME, LAWS & REGULATIONS, GUIDANCE, GET INVOLVED, NEPA PRACTICE, CEO PUBLICATIONS, and CEO REPORTS. The main banner features the text "INFRASTRUCTURE PERMITTING IMPROVEMENTS" with a "READ MORE" button. Below the banner, a "Welcome" section provides introductory text about the National Environmental Policy Act (NEPA).

**Welcome**

The National Environmental Policy Act (NEPA) was enacted to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation, and to establish a Council on Environmental Quality (Sec. 2 (42 U.S. Code § 4321)

NEPA is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102 (2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act.

President Nixon signed NEPA into law on January 1, 1970. NEPA set forth a bold new vision for America. Acknowledging the decades of environmental neglect that had significantly degraded the nation's landscape and damaged the human environment, the law was established to foster and promote the general welfare; to create and maintain conditions under which

<https://ceq.doe.gov/index.html>



Council on Environmental Quality

## [EXTERNAL] Re: FW: CEQ NEPA Regulations ANPRM

---

**From:** borgstrom <borgstrom@cox.net>

**To:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>

**Date:** Tue, 19 Jun 2018 14:43:44 -0400

Thanks. Can you give me a call at (b) (6)?

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>

**Date:** 6/19/18 2:29 PM (GMT-05:00)

**To:** borgstrom@cox.net

**Subject:** FW: CEQ NEPA Regulations ANPRM

**From:** FN-CEQ-NEPA

**Sent:** Tuesday, June 19, 2018 12:44 PM

**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>

**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ

<(b) (6)> Mansoor, Yardena M. EOP/CEQ <(b) (6)>

Carol,

If you have thoughts on what might be improved in the CEQ regulations, feel free to submit comments. At tomorrow's meeting of the Federal NEPA Contacts, Ted plans to encourage them to distribute this widely.

Regards,

Yardena

**Subject:** CEQ NEPA Regulations ANPRM

Dear Colleagues,

The Council on Environmental Quality (CEQ) has submitted an Advance Notice of Proposed Rulemaking (ANPRM) titled "Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act" to the *Federal Register* for publication and public comment. As a respected member of the NEPA community, I want to ensure that you are engaged early in the process as CEQ begins this undertaking.

I've attached a copy of the ANPRM for your reference. (><https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-13246.pdf><) The official version will publish in the *Federal Register*. The ANPRM asks a series of 20 questions on the NEPA process, the scope of NEPA review, and other areas of interest related to NEPA. CEQ requests comment on potential revisions to update and clarify CEQ's NEPA regulations. Comments should be submitted on or before July 20, 2018, and should be submitted through ><https://www.regulations.gov>< by following the online instructions for submitting comments to Docket ID No. CEQ-2018-0001.

Sincerely,

Ted

Edward A. Boling

Associate Director for the

National Environmental Policy Act

Council on Environmental Quality

730 Jackson Place

Washington, DC 20503

## RE: CEQ NEPA Regulations ANPRM

---

**From:** Reid Nelson <rnelson@achp.gov>

**To:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>

**Date:** Wed, 20 Jun 2018 10:30:41 -0400

Thx.

---

**From:** Drummond, Michael R. EOP/CEQ [mailto:(b) (6)]

**Sent:** Wednesday, June 20, 2018 10:16 AM

**To:** Reid Nelson

**Subject:** FW: CEQ NEPA Regulations ANPRM

Reid,

The official Federal Register version is attached and available here:

<https://www.federalregister.gov/documents/2018/06/20/2018-13246/update-to-the-regulations-for-implementing-the-procedural-provisions-of-the-national-environmental-act>

It is also available on regulations.gov at <https://www.regulations.gov/docket?D=CEQ-2018-0001>

Best,

Michael

**From:** FN-CEQ-NEPA

**Sent:** Tuesday, June 19, 2018 12:44 PM

**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>

**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ

<(b) (6)> Mansoor, Yardena M. EOP/CEQ

<(b) (6)>

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Sincerely,

Ted

Edward A. Boling  
Associate Director for the  
National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place  
Washington, DC 20503

# Accepted: CEQ Federal NEPA Contacts Webinar @ Wed Jun 20, 2018 3pm - 4:30pm (EDT) (FN-CEQ-NEPA)

Where: Webinar: (b) (6) (b) (6) (b) (6)

When: Wed Jun 20 15:00:00 2018 (America/New\_York)

Until: Wed Jun 20 16:30:00 2018 (America/New\_York)

Organiser:

Required Attendee:

Optional Attendee:

joyce\_stanley@ios.doi.gov has accepted this invitation.

## CEQ Federal NEPA Contacts Webinar

When Wed Jun 20, 2018 3pm – 4:30pm Eastern Time

Where Webinar: (b) (6) (b) (6) (b) (6) ([map](#))

Calendar FN-CEO-NEPA

Who

- FN-CEQ-NEPA - organizer
- joyce\_stanley@ios.doi.gov - creator
- denise.freeman@hq.doe.gov
- Upchurch, Sara H. EOP/CEQ
- Hanley, Karen A. EOP/CEQ
- Drummond, Michael R. EOP/CEQ
- Mansoor, Yardena M. EOP/CEQ
- Boling, Ted A. EOP/CEQ
- Osterhues, Marlys A. EOP/CEQ

Attachments [NEPA Contacts Mtg 6.20 - Agenda.docx](#)  
[CEQNEPAContactsWebinar\\_06\\_20\\_18\\_final.pdf](#)  
[Webinar Instructions 062018.doc](#)  
[CEQ NEPA Regulations ANPRM \(pre-publication\).pdf](#)  
[ECCR Benefits Recommendations Report\\_5-02-018.pdf](#)

Good afternoon Federal NEPA Contacts,

In advance of tomorrow's webinar, we have updated the tele-conference participant code (correct code is (b) (6) ). Pleased find attached 1) a meeting agenda for tomorrow's webinar, 2) a slide deck for those unable to join the webinar, 3) instructions for joining the webinar, 4) the pre-publication version of the Advance Notice of Proposed Rulemaking for the CEQ NEPA Regulations,

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Lastly, please take a moment to review your agency's NEPA Contact listed here:

<https://ceq.doe.gov/docs/nepa-practice/2018-Federal-NEPA-contacts-and-websites-2018-06-15.pdf> and provide any necessary updates via email to (b) (6)

Sincerely,

The CEQ NEPA Team

\*\*\*\*\*

CEQ will host the Summer Meeting of the Federal NEPA Contacts via webinar on Wednesday, June 20 from 3:00pm – 4:30pm EDT.

Conference number and webinar URL are provided below. An agenda will be provided in advance of the meeting along with a PDF of the webinar slides for those unable to join the webinar.

Audio Conference Details:

Conference Number (Toll Free): (b) (6)

Participant Code: (b) (6)

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**To:** "Phillips, Michael B." <mphillips@fdic.gov>

**Date:** Wed, 20 Jun 2018 16:31:56 -0400

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On Jun 20, 2018, at 2:44 PM, Phillips, Michael B. <[MPhillips@FDIC.gov](mailto:MPhillips@FDIC.gov)> wrote:

CEQ's ANPR is the featured article.

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Counsel, Legal Division, FDIC  
550 17th Street, NW  
Washington, DC 20429  
(202) 898-3581  
[mphillips@fdic.gov](mailto:mphillips@fdic.gov)

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**From:** Regulatory Studies Center [<mailto:regulatorystudies@gwu.edu>]  
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**To:** Phillips, Michael B.  
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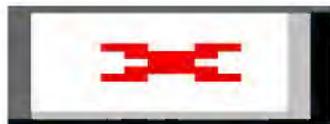
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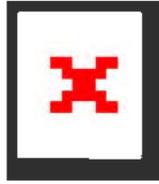


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**To:** "Mansoor, Yarden M. EOP/CEQ" <(b) (6)>

**Date:** Wed, 20 Jun 2018 14:43:40 -0400

CEQ's ANPR is the featured article.

Michael Phillips  
Counsel, Legal Division, FDIC  
550 17th Street, NW  
Washington, DC 20429  
(202) 898-3581  
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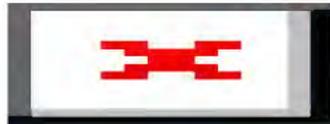
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## CEQ is considering amending its NEPA Regulations

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**From:** "Mansoor, Yardena M. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=2712a19fd57447088e0b9da580c16e15-ma">  
**To:** mandelker@wustl.edu  
**Date:** Thu, 21 Jun 2018 13:00:23 -0400  
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: ANPR (83 FR 28591) 2018-06-20.pdf (195.85 kB)

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Professor Mandelker,

I hope this finds you well -- thought I'd take a minute to say hello and alert you to NEPA news, in case you hadn't heard. . . .

Michael and I are still both working, respectively at FDIC and Department of Energy. DOE's NEPA Program has been less vibrant at headquarters since Carol Borgstrom's retirement in early 2017 and a subsequent reassignment of NEPA responsibilities from headquarters to the field offices. You have probably noticed that we have not published *Lessons Learned Quarterly Report* since last September. Since January, I have been on detail to the Council on Environmental Quality, which has been an interesting and gratifying opportunity for me to contribute in a different way.

Yesterday CEQ published an advance notice of proposed rulemaking (attached) inviting comments on potential revisions to update and clarify the CEQ NEPA regulations. Twenty questions are provided as means of structuring the conversation. Comments should be submitted on or before July 20, 2018, and should be submitted through <https://www.regulations.gov> by following the online instructions for submitting comments to Docket ID No. CEQ-2018-0001. We would especially value any recommendations you may make that reflect your unique depth of experience with NEPA.

Fond regards,

Yardena Mansoor

Deputy Associate Director for NEPA  
Council on Environmental Quality

(b) (6) / (b) (6)

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requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: May 30, 2018.

**Cosmo Servidio,**

*Regional Administrator, U.S. Environmental Protection Agency Region 3.*

[FR Doc. 2018–12709 Filed 6–10–18; 8:45 am]

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## COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508

[Docket No. CEQ–2018–0001]

RIN: 0331–AA03

### Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

**AGENCY:** Council on Environmental Quality (CEQ).

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Council on Environmental Quality (CEQ) is considering updating its implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA). Over the past four decades, CEQ has issued numerous guidance documents but has amended its regulations substantively only once. Given the length of time since its NEPA implementing regulations were issued, CEQ solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process consistent with the national environmental policy stated in NEPA.

**DATES:** Comments should be submitted on or before July 20, 2018.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number CEQ–2018–0001 through the Federal eRulemaking portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:**

Edward A. Boling, Associate Director for the National Environmental Policy Act, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503. Telephone: (202) 395–5750.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, was enacted in 1970. NEPA states that “it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. 4331(a). NEPA also established CEQ as an agency within the Executive Office of the President. 42 U.S.C. 4342.

By Executive Order (E.O.) 11514, “Protection and Enhancement of Environmental Quality” (March 5, 1970), President Nixon directed CEQ in Section 3(h) to issue “guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2)(C) of the Act.” CEQ published these guidelines in April of 1970 and revised them in 1973.

President Carter issued E.O. 11991 (May 24, 1977), “Relating to Protection and Enhancement of Environmental Quality,” which amended Section 3(h) of E.O. 11514 to direct CEQ to issue regulations providing uniform standards for the implementation of NEPA, and amended Section 2 of E.O. 11514 to require agency compliance with the CEQ regulations. CEQ promulgated its “Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act” (CEQ’s NEPA regulations) at 40 CFR parts 1500–1508. 43 FR 55978 (November 29, 1978). Since that time, CEQ has amended its NEPA regulations substantively only once, to eliminate the “worst case” analysis requirement of 40 CFR 1502.22. 51 FR 15618 (April 25, 1986).

On August 15, 2017, President Trump issued E.O. 13807, “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.” 82 FR 40463 (August 24, 2017). Section 5(e) of E.O. 13807 directed CEQ to develop an initial list of actions to enhance and modernize the Federal environmental review and authorization process. In response, CEQ published its initial list of actions pursuant to E.O. 13807 and stated that it intends to

review its existing NEPA regulations in order to identify changes needed to update and clarify these regulations. 82 FR 43226 (September 14, 2017).

## II. Request for Comment

CEQ requests comments on potential revisions to update and clarify CEQ NEPA regulations. In particular, CEQ requests comments on the following specific aspects of these regulations, and requests that commenters include question numbers when providing responses. Where possible, please provide specific recommendations on additions, deletions, and modifications to the text of CEQ’s NEPA regulations and their justifications.

### NEPA Process

1. Should CEQ’s NEPA regulations be revised to ensure that environmental reviews and authorization decisions involving multiple agencies are conducted in a manner that is concurrent, synchronized, timely, and efficient, and if so, how?

2. Should CEQ’s NEPA regulations be revised to make the NEPA process more efficient by better facilitating agency use of environmental studies, analysis, and decisions conducted in earlier Federal, State, tribal or local environmental reviews or authorization decisions, and if so, how?

3. Should CEQ’s NEPA regulations be revised to ensure optimal interagency coordination of environmental reviews and authorization decisions, and if so, how?

### Scope of NEPA Review

4. Should the provisions in CEQ’s NEPA regulations that relate to the format and page length of NEPA documents and time limits for completion be revised, and if so, how?

5. Should CEQ’s NEPA regulations be revised to provide greater clarity to ensure NEPA documents better focus on significant issues that are relevant and useful to decisionmakers and the public, and if so, how?

6. Should the provisions in CEQ’s NEPA regulations relating to public involvement be revised to be more inclusive and efficient, and if so, how?

7. Should definitions of any key NEPA terms in CEQ’s NEPA regulations, such as those listed below, be revised, and if so, how?

- a. Major Federal Action;
- b. Effects;
- c. Cumulative Impact;
- d. Significantly;
- e. Scope; and
- f. Other NEPA terms.

8. Should any new definitions of key NEPA terms, such as those noted below, be added, and if so, which terms?

a. Alternatives;  
 b. Purpose and Need;  
 c. Reasonably Foreseeable;  
 d. Trivial Violation; and  
 e. Other NEPA terms.  
 9. Should the provisions in CEQ's NEPA regulations relating to any of the types of documents listed below be revised, and if so, how?

a. Notice of Intent;  
 b. Categorical Exclusions Documentation;  
 c. Environmental Assessments;  
 d. Findings of No Significant Impact;  
 e. Environmental Impact Statements;  
 f. Records of Decision; and  
 g. Supplements.

10. Should the provisions in CEQ's NEPA regulations relating to the timing of agency action be revised, and if so, how?

11. Should the provisions in CEQ's NEPA regulations relating to agency responsibility and the preparation of NEPA documents by contractors and project applicants be revised, and if so, how?

12. Should the provisions in CEQ's NEPA regulations relating to programmatic NEPA documents and tiering be revised, and if so, how?

13. Should the provisions in CEQ's NEPA regulations relating to the appropriate range of alternatives in NEPA reviews and which alternatives may be eliminated from detailed analysis be revised, and if so, how?

#### General

14. Are any provisions of the CEQ's NEPA regulations currently obsolete? If so, please provide specific recommendations on whether they should be modified, rescinded, or replaced.

15. Which provisions of the CEQ's NEPA regulations can be updated to reflect new technologies that can be used to make the process more efficient?

16. Are there additional ways CEQ's NEPA regulations should be revised to promote coordination of environmental review and authorization decisions, such as combining NEPA analysis and other decision documents, and if so, how?

17. Are there additional ways CEQ's NEPA regulations should be revised to improve the efficiency and effectiveness of the implementation of NEPA, and if so, how?

18. Are there ways in which the role of tribal governments in the NEPA process should be clarified in CEQ's NEPA regulations, and if so, how?

19. Are there additional ways CEQ's NEPA regulations should be revised to ensure that agencies apply NEPA in a manner that reduces unnecessary

burdens and delays as much as possible, and if so, how?

20. Are there additional ways CEQ's NEPA regulations related to mitigation should be revised, and if so, how?

(Authority: 42 U.S.C. 4332, 4342, 4344 and 40 CFR parts 1500, 1501, 1502, 1503, 1505, 1506, 1507, and 1508)

### III. Statutory and Executive Order Reviews

Under E.O. 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993), this is a "significant regulatory action." Accordingly, CEQ submitted this action to the Office of Management and Budget (OMB) for review under E.O. 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action. Because this action does not propose or impose any requirements, and instead seeks comments and suggestions for CEQ to consider in possibly developing a subsequent proposed rule, the various statutes and executive orders that normally apply to rulemaking do not apply in this case. If CEQ decides in the future to pursue a rulemaking, CEQ will address the statutes and executive orders applicable to that rulemaking at that time.

**Mary B. Neumayr**,  
*Chief of Staff, Council on Environmental Quality.*

[FR Doc. 2018-13246 Filed 6-19-18; 8:45 am]

**BILLING CODE 3225-F8-P**

### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 105-60

[GSPMR Case 2016-105-1; Docket No. 2016-0004, Sequence No. 1]

RIN 3090-AJ74

#### Public Availability of Agency Records and Informational Materials

**AGENCY:** Office of Administrative Services (OAS), General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration (GSA) is issuing a proposed rule to amend its regulations implementing the Freedom of Information Act (FOIA). The regulations are being revised to update and streamline the language of several procedural provisions and to incorporate certain changes brought about by the amendments to the FOIA under both statutory and nonstatutory authorities. This rule also amends the

GSA's regulations under the Freedom of Information Act (FOIA) to incorporate certain changes made to the FOIA by the FOIA Improvement Act of 2016. Additionally, the regulations are being updated to reflect developments in case law, executive guidance from the Department of Justice—Office of Information Policy, technological advancements in how the FOIA is administered, and to include current cost figures to be used in calculating and charging fees. Finally, the revisions increase the amount of information that members of the public may receive from the Agency without being charged processing fees through proactive disclosures.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before August 20, 2018 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to GSPMR case 2016-105-1 by any of the following methods:

- *Regulations.gov*; <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "GSPMR Case 2016-105-1". Select the link "Comment Now" that corresponds with "GSPMR Case 2016-105-1." Follow the instructions provided on the screen. Please include your name, company name (if any), and "GSPMR Case 2016-105-1" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Lois Mandell, 1800 F Street NW, 2nd Floor, Washington, DC 20405.

*Instructions:* Please submit comments only and cite GSPMR Case 2016-105-1, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Mr. Travis S. Lewis, Director of GSA, OAS, Freedom of Information Act and Records Management Division, at 202-219-3078 via email at [travis.lewis@gsa.gov](mailto:travis.lewis@gsa.gov) for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite GSPMR Case 2016-105-1.

## Preview of ANPR responses so far

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**From:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>

**To:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>

**Date:** Wed, 27 Jun 2018 14:13:02 -0400

Thought I'd give you a preview. If you have any suggestions, please let me know.

**Notes:**

- **Log:** For comments on reg.gov, these are the docket numbers; for the others, I'm assigning numbers chronologically.
- **Name:** For comments submitted as an attachment, the name is the signer, not necessarily the uploader into reg.gov (who is listed on the regs.gov comment folder).
- **In Scope:** "General" signifies support or opposition to revising the CEQ regulations, etc. "Yes" submittals address specific question from the ANPR and are tallied in columns to the right (not shown here) for each of the questions. "Overview/Notable" is a high-level characterization, and not necessarily the commenter's wording.
- There are four extension requests so far, one of which represents >350 NGOs; all request a 60-day extension; two also request public hearings.
- I also have columns not shown here for address, zip code, and email. I'm not sure it's worth the effort of transcribing these, as most the submittals lack this information.

25		Number of Responses			25
Log	Mode	Organization / Name	Posted/Rcd.	In Scope?	Overview/Notable
0005	Portal	Thomas King	25-Jun-2018	Yes	Offers thoughts on whether and how to revise
0006	Portal	Thomas King	25-Jun-2018	General	Objects to Qs; re-imagine NEPA from scratch
0007	Portal	John Roberts	25-Jun-2018	General	Do not make changes
0008	Portal	Larry Freilich	25-Jun-2018	Yes	Page and time limits may cause problems
0009	Portal	Rue Eich	25-Jun-2018	General	Do not make changes
0010	Portal	David Keys	25-Jun-2018	Yes	Implementation has adapted, little change needed to regs

0011	Portal	Daniel Holt	25-Jun-2018	Yes	Re-adopt GHG guidance
0012	Portal	Michael Dechter	25-Jun-2018	Yes	Page limits make EIS less useful, add work
0013	Portal	Anonymous Anonymous	25-Jun-2018	General	Save all environmental protection provisions
0014	Portal	Jennifer Blegen	25-Jun-2018	No	(Comments concern EPA)
0015	Portal	Judith Konig	25-Jun-2018	General	Retain protections for air, water, wildlife
0016	Portal	Ronald Estepp	25-Jun-2018	General	Against changing NEPA role of scientists and public
0017	Portal	Env. Law & Policy Center, Howard Learner	20-Jun-2018	Extension	Requests public hearings, 60 day extension
0018	Portal	Whitney Kroschel	25-Jun-2018	General	Need better justification for changing
0019	Portal	David Hill	25-Jun-2018	Yes	States specific provisions not to change and general opposition
0020	Portal	Stephen Buckley	25-Jun-2018	General	NEPA community has interest in no change
0021	Portal	Michel Hammes	20-Jun-2018	General	Do not make changes
0022	Portal	Ssusan LaSala	25-Jun-2018	General	NEPA does not need an overhaul
0023	Portal	Assn. of Metr. Water Agencies, Diane VanDe Hei; American Water Works Assoc., Tracy Mehan	26-Jun-2018	Extension	Requests 60-day extension
0024	Portal	Jacob Siegel	26-Jun-2018	Yes	Address climate change, retain public involvement
0025	Portal	Susan Chapin	27-Jun-2018	General	Burdens, delay may protect future health, vitality of environment

PC-0001	Postcard	Katherine Delanoy(?)	18-Jun-2018	General	Do not weaken NEPA
PC-0002	Postcard	Schemy(?)	18-Jun-2018	General	Save NEPA
E-0001	Email	The Partnership Project (353 orgs.)	25-Jun-2018	Extension	Requests public hearings, 60-day extension
E-0002	Email	The Nature Conservancy, Karen Onley	26-Jun-2018	Extension	Requests 60-day extension

Yardena Mansoor  
Deputy Associate Director for NEPA  
Council on Environmental Quality  
(b) (6) / (b) (6)

## Extension requests

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**From:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>

**To:** "Neumayr, Mary B. EOP/CEQ" <(b) (6)>

**Cc:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>

**Date:** Mon, 02 Jul 2018 10:25:21 -0400

**Attachments:** Extension requests as of 2018-06-29.pdf (3.48 MB)

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As discussed, here are the 9 extension requests received through the regulations.gov portal and 2 by email. Please let me know if I can be of further help.

Yardena Mansoor  
Deputy Associate Director for NEPA  
Council on Environmental Quality  
(b) (6) / (b) (6)



## ENVIRONMENTAL LAW & POLICY CENTER

Protecting the Midwest's Environment and Natural Heritage

June 20, 2018

Mr. Edward Bolling  
Director for the National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place, N.W.  
Washington, DC 20503

**Re: Comment Period Extension Request for Advanced Notice of Proposed Rulemaking—  
Update to the Regulations for Implementing the Procedural Provisions of the National  
Environmental Policy RIN: 0331-AA03**

Dear Mr. Bolling,

The Environmental Law & Policy Center (ELPC) is the Midwest's leading public interest environmental legal advocacy and eco-business innovation organization with offices and staff in eight states and Washington DC. Our organization brings decades of experience engaging in a broad range of transportation, forestry and energy related actions involving the National Environmental Policy Act (NEPA). We are concerned about the Council on Environmental Quality's recently released Advanced Notice of Proposed Rule Making (ANPRM) to update "Implementation of the Procedural Provisions" of NEPA.

As we discussed with you in our June 14, 2018 meeting regarding this ANRPM related to Executive Order 12866, NEPA is the backbone of sound federal environmental decision-making. There is no reasonable justification or necessity for a wholesale rewriting of these regulations. In our meeting, we noted that if CEQ were to nonetheless pursue the ANPRM, the public would need adequate time to evaluate the ANPRM and comment on it, including through public hearings held in the Midwest and other regions of the United States. NEPA provides the public with an essential right of public participation. Indeed, that public participation is even more justified and essential in any process to revise the NEPA regulations.

ELPC specifically noted that many smaller environmental, conservation and community groups across the Midwest rely on NEPA to give them a voice in protecting their communities and special places and to ensure that projects are well understood and that alternatives are fully and fairly considered. The expansive potential outcomes from this proposed ANPRM warrant opportunity for the public's full analysis and comments.

ELPC recognizes that this is an ANPRM. Consistent with the requirement in 5 U.S.C. § 553(c) that the public have a meaningful opportunity to comment, ELPC requests that CEQ: (1) provide public hearings in a central Midwest location, and (2) extend the 30-day comment period from July 20, 2018 to at least September 20, 2018. Given the scope of the ANPRM and its potential

35 East Wacker Drive, Suite 1600 • Chicago, Illinois 60601  
(312) 673-6500 • [www.ELPC.org](http://www.ELPC.org)

Harry Drucker, Chairperson • Howard A. Learner, Executive Director  
Chicago, IL • Columbus, OH • Des Moines, IA • Duluth, MN • Grand Rapids, MI • Jamestown, ND  
Madison, WI • Minneapolis/St. Paul, MN • Sioux Falls, SD • Washington, D.C.

impacts on federal actions and public participation through NEPA, a public hearing should be held and a meaningful comment period “should generally be at least 60 days.” Exec. Order No. 13563 § 2(b); *see also* Exec. Order No. 12866 § 6(a).

As noted above, ELPC suggests that CEQ hold hearings across the country to hear input from regional groups. Adding 30 days to permit a public hearing or hearings, and an additional 30 days after the close of the public hearing(s) would provide the minimum reasonable opportunity for ELPC and our members and community partners to comment on this significant proposal and meaningfully inform CEQ’s process.

Sincerely,

A handwritten signature in black ink that reads "HOWARD LEARNER". The letters are in all caps and have a slightly cursive, hand-drawn quality.

Howard A. Learner  
Executive Director  
Environmental Law & Policy Center  
35 East Wacker Drive, Suite 1600  
Chicago, IL 60601  
(312) 673-6500  
HLearner@elpc.org



June 25, 2018

Mary B. Neumayr  
Chief of Staff  
Council on Environmental Quality  
730 Jackson Place, N.W.  
Washington, DC 20503

Re: Request for Comment Extension on CEQ's Advanced Notice of Proposed Rulemaking (ANPRM) *Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act* (Docket ID No. CEQ-2018-0001)

Dear Ms. Neumayr,

The Association of Metropolitan Water Agencies (AMWA) is an organization representing CEOs and general managers of the largest publicly owned drinking water utilities in the United States and the American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to providing total water solutions assuring the effective management of water. AMWA and AWWA thank the Council on Environmental Quality for the opportunity to comment on CEQ's Advanced Notice of Proposed Rulemaking (ANPRM): *Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA)* (CEQ-2018-0001).

As many members from both organizations are often applicants for or involved in projects that require review under NEPA, such as those for water supply and delivery, any changes in the NEPA process would significantly impact our members. Therefore our organizations request a 60 day extension to the comment period due to the scope of the requested information and the level of detail that is necessary for the responses. This extension would allow both AMWA and AWWA the time needed to more fully engage our members and to provide the most useful and comprehensive comments possible for the council.

Thank you for consideration of our request.

Sincerely,

Diane VanDe Hei  
Chief Executive Officer  
Association of Metropolitan Water Agencies

G. Tracy Mehan, III  
Executive Director of Government Affairs  
American Water Works Association



June 27, 2018

**Submitted via Federal eRulemaking Portal**

**<http://www.regulations.gov/>**

Edward A. Boling  
Associate Director for the National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, D.C. 20503

**Re: Request for 60-day extension of comment period on advance notice of proposed rulemaking: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, Docket ID No. CEQ-2018-0001**

The Western Urban Water Coalition (“WUWC”) requests a 60-day extension of the comment period on the Council on Environmental Quality’s (“CEQ”) advance notice of proposed rulemaking (“ANPRM”) to update its implementing regulations for the procedural provisions of the National Environmental Policy Act (“NEPA”). 83 Fed. Reg. 28591 (June 20, 2018). We thank CEQ for taking the time to update its implementing regulations, but believe that additional time is needed for the public to provide meaningful comments.

Created in June 1992 to address the West’s unique water issues, WUWC consists of the largest urban water utilities in the West, serving over 40 million western water consumers in major metropolitan areas in the western states. The membership of WUWC includes the following urban water utilities:

- *Arizona* – Central Arizona Project, City of Phoenix and Salt River Project;
- *California* – Eastern Municipal Water District, Los Angeles Department of Water and Power, The Metropolitan Water District of Southern California, San Diego County Water Authority, and City and County of San Francisco Public Utilities Commission;
- *Colorado* – Aurora Water, Colorado Springs Utilities, and Denver Water;
- *Nevada* – Las Vegas Valley Water District, Southern Nevada Water Authority, and Truckee Meadows Water Authority;
- *New Mexico* – Albuquerque Bernalillo County Water Utility Authority; and
- *Washington* – Seattle Public Utilities.

WUWC is committed to presenting a new and different perspective on the management of water resources in the modern West. WUWC articulates the needs and values of Western cities to provide a reliable, high quality urban water supply for present and future generations. As operators of public supply systems, WUWC members serve the health, environmental, and

economic needs of their communities around the clock and every day of the year. WUWC advocates for effective and practicable approaches to the implementation of environmental protection programs in a time when water is becoming more scarce and critical to the West's sustainability.

WUWC has been very active in legislative and regulatory initiatives related to NEPA throughout its 26-year history. We have appeared before congressional committees, met with federal agencies, and commented during many CEQ guidance procedures. Consistent with this involvement, WUWC intends to submit comments on the ANPRM, but requests that CEQ extend the comment period from 30 to 90 days. NEPA can be an important tool in helping federal agencies to address environmental effects and facilitate informed decision-making. The ANPRM addresses many broad and complex issues and covers regulations that have in been in place since 1978. These issues must be reviewed and commented on by a substantial number of parties with relevant expertise in environmental analysis based on decades of experience on a wide range of NEPA issues. CEQ will deprive itself of important and informative comments if it allows only a 30-day comment period. In addition to matters of procedure, the twenty questions posed by CEQ address important, fundamental questions regarding the reach and application of NEPA that, in our view require more than 30 days to address. WUWC therefore feels that a 90-day comment period is more appropriate to better assist CEQ in meaningfully updating the regulations.

We appreciate the opportunity to provide comments on the ANPRM. If you have any questions regarding this request to extend the comment period from 30 days to 90 days, please contact Don Baur of Perkins Coie, LLP at (202) 654-6234, dbaur@perkinscoie.com or me at (415) 934-5787, mcarlin@sfwater.org.

Sincerely,



Michael P. Carlin  
Chairman

cc: Donald C. Baur  
Perkins Coie LLP  
700 Thirteenth St., NW, Suite 600  
Washington, D.C. 20005



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## Comment from Russell Hodin, NA

This is a Comment on the Council on Environmental Quality (CEQ) Proposed Rule: [Implementation of Procedural Provisions of National Environmental Policy Act](#)

For related information, [Open Docket Folder](#)

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Show agency attachment(s)

### Attachments

View All (0)

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### Comment

View document:

I am requesting a sixty-day extension on the comment period for this proposed change

I am requesting public forums in urban and rural settings across the U.S. for this proposed change

I am requesting the opportunity for comments to be submitted via mail as well as in person at the public meetings (currently the only way to submit comments is online) for this proposed change.

*No documents available.*

### Attachments

View All (0)

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June 27, 2018

**Submitted via Federal eRulemaking Portal**

**<http://www.regulations.gov/>**

Edward A. Boling  
Associate Director for the National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, D.C. 20503

**Re: Request for 60-day extension of comment period on advance notice of proposed rulemaking: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, Docket ID No. CEQ-2018-0001**

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- *Arizona* – Central Arizona Project, City of Phoenix and Salt River Project;
- *California* – Eastern Municipal Water District, Los Angeles Department of Water and Power, The Metropolitan Water District of Southern California, San Diego County Water Authority, and City and County of San Francisco Public Utilities Commission;
- *Colorado* – Aurora Water, Colorado Springs Utilities, and Denver Water;
- *Nevada* – Las Vegas Valley Water District, Southern Nevada Water Authority, and Truckee Meadows Water Authority;
- *New Mexico* – Albuquerque Bernalillo County Water Utility Authority; and
- *Washington* – Seattle Public Utilities.

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Sincerely,



Michael P. Carlin  
Chairman

cc: Donald C. Baur  
Perkins Coie LLP  
700 Thirteenth St., NW, Suite 600  
Washington, D.C. 20005



Delivering water and power™

Kara Montalvo, Director  
Environmental Compliance and Permitting  
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June 27, 2018

Submitted via Federal eRulemaking Portal  
<http://www.regulations.gov/>

Edward A. Boling  
Associate Director for the National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, D.C. 20503

RE: Request for 60-day extension of comment period on advance notice of proposed rulemaking: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, Docket ID No. CEQ-2018-0001

Dear Mr. Boling,

The Salt River Valley Water Users' Association ("Association") and the Salt River Project Agricultural Improvement and Power District ("District"), (collectively "SRP")<sup>1</sup> respectfully request a 60-day extension of the comment period on the Council on Environmental Quality's ("CEQ") advance notice of proposed rulemaking ("ANPRM") to update its implementing regulations for the procedural provisions of the National Environmental Policy Act ("NEPA").<sup>2</sup> NEPA and the federal decisions based upon the environmental analyses arising from NEPA are critically important to SRP and the water and power customers we serve. SRP appreciates CEQ for considering updates to its implementing regulations. If finalized, the updates will cause federal agencies to review and revise, as necessary, their individual regulations, policies, and procedures. Due to the breadth and potentially far reaching implications of the ANPRM, SRP

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<sup>1</sup> Collectively, the District and Association operate the Salt River Project

<sup>2</sup> See Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act 83 Fed. Reg. 28591 (proposed June 20, 2018) (to be codified at 40 C.F.R. Parts 1500-1508).

believes that additional time is needed for the public and affected organizations, such as SRP, to provide meaningful comments that will help inform future CEQ NEPA revisions.

SRP is a multi-purpose federal reclamation project authorized and constructed under the Reclamation Act of 1902.<sup>3</sup> Pursuant to contracts with the United States, SRP operates the Project works, which include, among other things, six dams and reservoirs on the Salt and Verde rivers in central Arizona, and one dam and reservoir on East Clear Creek in northern Arizona. Water is stored by SRP in these reservoirs for subsequent delivery to municipal, industrial and agricultural water rights and uses. The watersheds for these dams include portions of five national forests. SRP's delivery system in the Phoenix metropolitan area encompasses 1,300 miles of canals and laterals serving cities, Indian communities, irrigation districts, homes and agricultural enterprises.

SRP also operates one of the nation's largest not-for-profit public power systems, providing retail electrical services to more than one million residential, commercial, industrial, agricultural and mining customers. SRP relies on a diverse portfolio of owned and purchased generation resources that include coal, natural gas, hydroelectric, nuclear, solar, wind, biomass and geothermal. In addition, SRP constructs, leases, owns, operates and maintains over 3,000 miles of electrical transmission and distribution lines and rights-of-way in various areas throughout Arizona on federal, state, tribal, and private lands.

Actions and projects undertaken by SRP are frequently subject to federal permits or approvals and, therefore, require compliance with NEPA. Most recently, SRP obtained an Extension Lease for the Navajo Generating Station requiring approvals from the U.S. Bureau of Reclamation and U.S. Bureau of Indian Affairs. Additionally, we are actively participating in the Four Forest Restoration initiative project and other U.S. National Forest restoration projects to protect critical watersheds in Arizona. To assure reliable and safe power transmission, SRP frequently engages and seeks authorizations from the U.S. Forest Service and U.S. Bureau of Land Management for powerline and associated infrastructure maintenance and vegetation treatments.

As a result of SRP's responsibility to provide and manage essential water and power resources in Arizona, we have a long history in navigating the NEPA process involving multiple federal agencies. SRP intends to submit substantive comments on the ANPRM based upon our working knowledge and experience with the law and its implementing regulations. The ANPRM addresses many broad and complex issues and covers regulations that have been in place since 1978. In addition, the twenty questions posed by CEQ<sup>4</sup> address important, fundamental questions regarding the reach and application of NEPA that, in our view, require more than 30 days to address. Therefore, a 60-day extension of the comment period is necessary to better assist CEQ in meaningfully updating NEPA regulations.

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<sup>3</sup> See 43 U.S.C. § 371 *et seq.*

<sup>4</sup> See 83 Fed. Reg. 28591-2 (June 20, 2018)

SRP appreciates the opportunity to provide comments on the ANPRM. If you have any questions regarding this request to extend the comment period from 30 days to 90 days, please contact me at (602) 236-5256, [kara.montalvo@srpnet.com](mailto:kara.montalvo@srpnet.com).

Sincerely,

A handwritten signature in black ink that reads "Kara M. Montalvo". The signature is written in a cursive style with a long horizontal stroke at the end.

Kara Montalvo



**CHESAPEAKE BAY FOUNDATION**  
*Saving a National Treasure*

June 28, 2018

Submitted via regulations.gov and U.S. Mail

Edward A. Bowling  
Associate Director for the National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place, NW  
Washington, DC 20503

**RE: Comment Period Extension Request for Advance Notice of Proposed Rulemaking, *Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act* Docket ID No. CEQ-2018-0001**

Dear Mr. Bowling:

The Chesapeake Bay Foundation, Inc. (CBF) respectfully requests that the Council on Environmental Quality (CEQ) extend the comment period for the above-referenced Advance Notice of Proposed Rulemaking (ANPRM) for an additional 60 days beyond the currently scheduled comment deadline of July 20, 2018.

CBF is a 501(c)(3) non-profit organization, founded in 1967. The organization's mission --carried out from offices in Maryland, Virginia, Pennsylvania and the District of Columbia -- is to restore and protect the ecological health of the Chesapeake Bay, one of the nation's most vital estuaries. As such, and on behalf of our 240,000 members across the United States, we are very interested in matters that will impact the health of the Chesapeake Bay and the waters that feed into the watershed.

In its ANPRM, *Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act*,<sup>1</sup> CEQ notes that in response to E.O. 13807,<sup>2</sup> it "intends to review its existing NEPA regulations in order to identify changes needed to update and clarify these regulations." CEQ requests comment on potential revisions and poses *twenty* broad questions (some with subparts) categorized as follows: (A) NEPA Process; (B) Scope of NEPA Review; and (C) General.

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<sup>1</sup> 83 Fed. Reg. 28591, June 20, 2018.

<sup>2</sup> *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*, 82 Fed. Reg. 40463, August 24, 2017.

Edward A. Bowling  
Associate Director for the National Environmental Policy Act  
Council on Environmental Quality

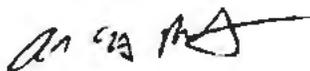
Page 2

The public's opportunity to have input regarding major federal actions is essential to fulfilling two of the key purposes of NEPA – *better informed decisions and citizen involvement*.<sup>3</sup> CBF has participated in numerous NEPA procedures including the review of major highway construction and providing comments and analysis for countless Environmental Impact Statements for major federal actions affecting the Chesapeake Bay. Through these efforts, CBF's staff of water and fisheries scientists, educators, lawyers, land use planners and agricultural experts contributed to the development of these actions. We fully anticipate that forthcoming major federal actions will be initiated that will impact the Bay Region and that we – and other stakeholders - will engage in the NEPA process.

A 30-day comment period is an inadequate amount of time within which to respond to CEQ's ANPRM to update NEPA regulations. It will take a substantial amount of time to review the current NEPA regulations and policies, evaluate how changes to these regulations may impact the enabling statute's ability to result in better informed decisions and citizen involvement, consider CEQ's twenty open-ended questions and provide recommendations. In general, a meaningful comment period should be at least 60 days.<sup>4</sup> As with any ANPRM that may result in significant changes to the implementation of environmental laws - but particularly given the expansive nature of this request and that one of the outcomes could be to alter the public's ability to engage in the NEPA process, which has been a bedrock of our environmental legal infrastructure for more than 40 years - a reasonable comment period is required. We therefore respectfully request that CEQ extend the comment period 60 days beyond the currently scheduled date of July 20, 2018.

Thank you for considering this request. We look forward to your reply and would appreciate acknowledgement of this letter.

Sincerely,



Alison Prost  
Maryland Executive Director  
Interim Vice President of Environmental Protection and Restoration  
Chesapeake Bay Foundation

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<sup>3</sup> See 42 U.S.C. §§ 4321, *et seq.*; Council on Environmental Quality, *A Citizen's Guide to the NEPA*, December 2007, p. 2.

<sup>4</sup> See E.O. 13563 §2(b), *Improving Regulation and Regulatory Review*, 76 Fed. Reg. 3821, January 21, 2011; E.O. 12866 §6(a)(1), *Regulatory Planning and Review*, 58 Fed. Reg. 51,735, October 4, 1993.

June 28, 2018

Edward A. Boling  
Associate Director for the National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place, NW  
Washington, DC 20503

Submitted via regulations.gov and overnight mail

Re: Request for 30 Day Extension of Comment Period for Council on Environmental Quality Advance Notice of Proposed Rulemaking to Update the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 83 Fed. Reg. 28,591 (June 20, 2018); Dkt. No. CEQ-2018-0001

Dear Mr. Boling:

The Utility Water Act Group (“UWAG”) respectfully requests a thirty day extension of the comment period on the Council on Environmental Quality’s (“CEQ”) Advance Notice of Proposed Rulemaking (“ANPRM”) to Update the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (“NEPA”), 83 Fed. Reg. 28,591 (June 20, 2018). Comments are currently due on July 20, 2018. UWAG requests that the comment period be extended through August 20, 2018, and that CEQ promptly notify the public regarding any applicable extension.

UWAG is a voluntary, non-profit, unincorporated group of 145 individual energy companies and three national trade associations of energy companies: the Edison Electric Institute, the National Rural Electric Cooperative Association, and the American Public Power Association. UWAG members operate power plants and other facilities that generate, transmit, and distribute electricity to residential, commercial, industrial, and institutional customers. One of UWAG’s purposes is to participate on behalf of its members in regulatory actions under the Clean Water Act (“CWA”) and in litigation arising from those regulatory actions.

UWAG is comprised of a diverse and extensive range of public and private entities whose activities are conducted nationwide. In the course of providing electricity, UWAG’s members must engage in activities that sometimes involve federal agency action. For example, its members may perform work in wetlands and other waters of the United States and must obtain permits under CWA section 404, section 10 of the Rivers and Harbors Act (“RHA”), or both. The issuance of a permit by the U.S. Army Corps of Engineers (“Corps”) under either

Edward A. Boling  
June 28, 2018  
Page 2

of these Acts is a federal action subject to review pursuant to NEPA. UWAG members undertake activities that involve actions by other federal agencies that are also subject to NEPA review. Accordingly, the implementation of NEPA, particularly (but not only) in connection with permits issued pursuant to the Corps regulatory program under section 404 of the CWA and section 10 of the RHA, is important to UWAG members, as well as to the public at large, whose health, safety, and general welfare depends on a cost-effective and reliable supply of electricity. Due to the nature of electric utility companies' operations, UWAG members expect to have a continuing need for federal agency permits and approvals that will undergo NEPA review.

In UWAG's experience, overly broad NEPA reviews can add significant and unreasonable costs and delays to projects, which can challenge the viability of projects that grow the economy and further energy development. Given its substantial experience with NEPA reviews, UWAG is well positioned to offer an important perspective on CEQ's ANPRM, which requests comment on a broad range of issues. In order to provide meaningful recommendations, we respectfully request that CEQ provide an additional thirty days, through August 20, to comment on the ANPRM and notify the public as soon as possible as to the extension.

Thank you for your prompt attention to this important matter.

Sincerely,



Karma B. Brown



Energy and Wildlife Action Coalition  
c/o Nossaman LLP  
1666 K Street, NW  
Suite 500  
Washington, DC 20006  
[www.energyandwildlife.com](http://www.energyandwildlife.com)

**June 28, 2018**

**Request of extension of comment period regarding the June 20, 2018 Notice of Proposed Rulemaking—Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (CEQ-2018-0001)**

Submitted by:

**Energy and Wildlife Action Coalition**

Filed electronically to the attention of:  
Docket No: CEQ-2018-0001  
Edward A. Boling,  
Associate Director for the National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, DC 20503

We are writing today regarding the Council on Environmental Quality’s (“CEQ”) Advance Notice of Proposed Rulemaking—*Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act*.<sup>1</sup> The Energy and Wildlife Action Coalition (“EWAC”)<sup>2</sup> commends the CEQ for undertaking a comprehensive review of its regulations governing NEPA implementation procedures pursuant to Executive Order 12866, and believes that thoughtful and careful changes could be made to such regulations that would provide a benefit not only to the regulated community, but to the human environment as well.

However, given both the scope and reach that changes to the CEQ’s NEPA implementation regulations could have on all sectors of the regulated community, and stakeholders more broadly, EWAC respectfully requests that the CEQ extend the comment period by no fewer than 30 days, until August 20, 2018, in order to provide a more complete opportunity for the public to provide thoughtful, useful, and constructive comments to CEQ regarding potential changes to long-standing regulations.

\*\*\*\*\*

EWAC appreciates the consideration of this request and looks forward to providing comments on the proposed rulemaking. Please do not hesitate to contact the following EWAC representatives should the CEQ seek additional clarity on any of the above:

Timothy G. Rogers, EWAC Policy Chair, [timothy.g.rogers@xcelenergy.com](mailto:timothy.g.rogers@xcelenergy.com), (612) 330-1955

John M. Anderson, EWAC Policy Director, [janderson@nossaman.com](mailto:janderson@nossaman.com), 202-887-1441

Alan M. Glen, Nossaman, LLP, [aglen@nossaman.com](mailto:aglen@nossaman.com), 512-813-7943

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<sup>1</sup> *Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act*, 83 Fed. Reg. 28591 (June 20, 2018)

<sup>2</sup> EWAC is a national coalition formed in 2014 whose members consist of electric utilities, electric transmission providers, and renewable energy entities operating throughout the United States. The fundamental goals of EWAC are to evaluate, develop, and promote sound environmental policies for federally protected wildlife and closely related natural resources while ensuring the continued generation and transmission of reliable and affordable electricity. EWAC supports public policies, based on sound science, that protect wildlife and natural resources in a reasonable, consistent, and cost-effective manner.

Edward A. Boling  
Associate Director for the National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place, N.W.  
Washington, DC 20503

June 25, 2018

**Re: Request for Sixty-day Extension on Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) [Docket No. CEQ-2018-0001]**

The 353 undersigned public interest organizations hereby request a sixty-day extension of the public comment period for the recently noticed Advance Notice of Proposed Rulemaking (ANPRM) on the “Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.”

This ANPRM opens up the entire set of regulations applicable to almost all proposed executive branch actions, from energy development decisions on our public lands and waters to the construction of industrial facilities and major transportation infrastructure that release vast quantities of air, and water pollution and that will affect our planet’s future. Given that this proposal could fundamentally change how every single agency in the federal government considers the health and environmental impacts of federal decisions as well as public input under NEPA, we believe that a minimum of 90 days is necessary to provide everyone, but especially the public, the time to properly understand and meaningfully respond to the questions outlined in the ANPRM. We note that given the multiple subparts in several of the questions, there are closer to 40, not 20 questions, in the ANPRM. As you well know, many of the questions involve understanding not just the words in the regulation itself, but decades of administrative and judicial interpretation. The current comment period of 30 days is simply not adequate – especially for the public who rely on NEPA as the only way to weigh in on decisions impacting their communities and who must take time off work and away from their families to read the regulations and respond to this notice. Like previous processes accompanying CEQ promulgation regulations, we encourage CEQ to host public forums to listen to people’s experiences and views regarding the NEPA process. Such forums should be held in both urban and rural settings in several areas of the country. Indeed, a 30-day comment period, without a variety of public meetings, strongly suggests a lack of sincere interest in thoughtful comments and broad engagement with the diverse constituencies affected by America’s environmental Magna Carta.

We also request that CEQ give those without access to reliable internet service an opportunity to comment on this ANPRM by providing the option of submitting comments via regular mail. Currently, over 25% of U.S. adults do not have home broadband. However, the ANPRM only allows for comments to be submitted through the Federal eRulemaking portal. A U.S. Forest Service ANPRM released in January of 2018 that proposed to revise the agency’s NEPA regulations provided no less than three different ways to submit comments: online, by email, or by regular mail. This ANPRM has the potential to impact an exponentially larger number of people, and thus there is no reason why CEQ should not similarly accept these same three methods for

comment submission. Additionally, CEQ should provide an opportunity for in-person comments at the public meetings requested above.

For this request of public comment to be meaningful, it is critical that the entire public, not just those with internet access, be allowed to comment. This request is consistent with Question 6 concerning revision of the NEPA regulations to be more inclusive and efficient. Lack of reliable access to broadband, especially in rural, remote areas, further underscores the need to extend the comment period for this ANPRM.

Accordingly, we request the public comment period be extended to a minimum of 90 days, CEQ host public forums in urban and rural settings, and that CEQ provide the opportunity for comments to be submitted via mail as well as in person at the public meetings.

Respectfully submitted,

**350 Bay Area**  
**350 New Orleans**  
**350.org**  
**Alabama Environmental Council**  
**Alaska Clean Water Advocacy**  
**Alaska Climate Action Network**  
**Alaska Wilderness League**  
**Alaska's Big Village Network**  
**All-Creatures.org**  
**Allegheny Defense Project**  
**Alliance for Democracy**  
**Alliance for the Wild Rockies**  
**American Bird Conservancy**  
**American Rivers**  
**Americas for Conservation + the Arts**  
**Amigos de Tres Palmas**  
**Animal Legal Defense Fund**  
**Animal Welfare Institute**  
**Animas Valley Institute**  
**Arizona Mining Coalition**  
**Atchafalaya Basinkeeper**  
**Audubon Naturalist Society**  
**Ballona Institute**  
**Bark**  
**Basin and Range Watch**  
**Battle Creek Alliance**  
**Bay Area – System Change not Climate Change**  
**Berkshire Environmental Action Team (BEAT)**  
**Biofuelwatch**

**Bird Conservation Network**  
**Black Hills Clean Water Alliance**  
**Black Warrior Riverkeeper**  
**Blue Mountains Biodiversity Project**  
**Blue Water Baltimore**  
**Bold Alliance**  
**Boulder County Audubon Society**  
**Boulder Rights of Nature, Inc.**  
**Brass Tactics**  
**Buffalo Field Campaign**  
**Buka Environmental**  
**Bullitt Foundation**  
**Cahaba River Society**  
**California Brain Tumor Association**  
**California Chaparral Institute**  
**California Environmental Health Initiative**  
**California Native Plant Society**  
**California Sportfishing Protection Alliance**  
**Californians for Alternatives to Toxics**  
**Californians for Western Wilderness**  
**Cascade Forest Conservancy**  
**Cascades Raptor Center**  
**CEMAR**  
**Center for Biological Diversity**  
**Center for Climate Adaptation Science and Solutions, University of Arizona**  
**Center for International Environmental Law**  
**Center for People, Food and Environment**  
**Center for Safer Wireless**  
**Center for Science in the Public Interest**  
**Center for Sierra Nevada Conservation**  
**Central New Mexico Audubon Society**  
**Charleston Audubon**  
**Chesapeake Climate Action Network**  
**Citizens Action Coalition of Indiana**  
**Citizens Against Ruining the Environment**  
**Citizens Against the Newport Silicon Smelter**  
**Citizens Coalition for a Safe Community**  
**Citizens Committee to Complete the Refuge**  
**Clean Air Watch**  
**Clean Water Action**  
**Climate Law & Policy Project**  
**Climate Resilience Consulting**  
**The Clinch Coalition**  
**Coal River Mountain Watch**  
**Coalition for American Heritage**  
**Coast Action Group**

**Coast Range Association**  
**Colorado EcoWomen**  
**Colorado Native Plant Society**  
**Coming Clean**  
**Committee for Green Foothills**  
**Compassion Over Killing**  
**Concerned Health Professionals New York**  
**Conservation Congress**  
**Conservation Kids**  
**Conservation Northwest**  
**Conserve Southwest Utah**  
**Consumers for Safe Cell Phones**  
**CORALations**  
**County News Service**  
**Crawford Stewardship Project**  
**CRSP**  
**Cynthia Howard Architect & Preservation Planner**  
**Dakota Rural Action**  
**DC Environmental Network**  
**DC Statehood Green Party**  
**Deer Creek Valley Natural Resources Conservation Association**  
**Defenders of Wildlife**  
**Delaware-Otsego Audubon Society (NY)**  
**Desert Tortoise Council**  
**Dogwood Alliance**  
**Dolores River Boating Advocates**  
**Don't Waste Arizona**  
**Earth Guardians**  
**Earth Island Institute**  
**Earthjustice**  
**Earthworks**  
**EcoFlight**  
**Eco-Justice Ministries**  
**El Sendero Backcountry Ski and Snowshoe Club**  
**EMF Safety Network**  
**Endangered Habitats League**  
**Endangered Species Coalition**  
**Enterprise Community Partners**  
**Environment and Human Health Inc.**  
**Environment New Jersey**  
**Environmental Protection Information Center**  
**Environmental Protection Network EPN**  
**Eyak Preservation Council**  
**Fairmont, MN Peace Group**  
**Family Farm Defenders**  
**Farmworker Association of Florida**

**Food Democracy Now!**  
**Food Empowerment Project**  
**Foundation for Louisiana**  
**Four Years. Go.**  
**Franciscan Action Network**  
**Friends of Blackwater**  
**Friends of Corte Madera Creek Watershed**  
**Friends of Dyke Marsh**  
**Friends of Harbors, Beaches and Parks**  
**Friends of Merrymeeting Bay**  
**Friends of the Bitterroot**  
**Friends of the Clearwater**  
**Friends of the Earth US**  
**Friends of the Eel River**  
**Friends of the Inyo**  
**Friends of the Kalmiopsis**  
**Friends of the Locust Fork River**  
**Friends of the Northern San Jacinto Valley**  
**Friends of the Sonoran Desert**  
**Friends of the Weskeag**  
**Fund for Wild Nature**  
**GARDEN Inc. (Growing Alternative Resource Development and Enterprise Network)**  
**Gasp**  
**Generation E Political Action Committee**  
**Geos Institute**  
**Gila Conservation Coalition**  
**Gila Resources Information Project**  
**Global Justice Ecology Project**  
**Global Union Against Radiation Deployment from Space (GUARDS)**  
**Glynn Environmental Coalition**  
**Golden West Women Flyfishers**  
**Grand Canyon Trust**  
**Grand Canyon Wildlands Council**  
**Grassroots Ecology**  
**Great Egg Harbor Watershed Association**  
**Great Old Broads For Wilderness**  
**Great Rivers Environmental Law Center**  
**Greater Hells Canyon Council**  
**Green Retirement, Inc.**  
**Green River Action Network**  
**GreenARMY**  
**GreenLatinos**  
**Greenpeace USA**  
**Greg Alan Walter Insurance**  
**Gulf Restoration Network**  
**Hands Across the Sand**

**Harambee House, Inc./Coalition for Environmental Justice (CFEJ)**  
**Heartwood**  
**High Country Conservation Advocates**  
**Hilton Pond Center for Piedmont Natural History**  
**Honor the Earth**  
**Howarth & Marino Lab Group, Cornell University**  
**Humboldt Baykeeper**  
**Idaho Conservation League**  
**Idaho Sporting Congress, Inc.**  
**iMatter**  
**inNative**  
**Institute for Fisheries Resources**  
**International Wildlife Rehabilitation Council (IWRC)**  
**Kentucky Heartwood**  
**Kettle Range Conservation Group**  
**Klamath Forest Alliance**  
**KyotoUSA**  
**Lahontan Audubon Society**  
**Lake Superior Research Institute**  
**Laurie M. Tisch Center for Food, Education & Policy, Teachers College Columbia University**  
**Law for the Environmental Grassroots**  
**League of Conservation Voters**  
**Living Economy Advisors**  
**Local Clean Energy Alliance**  
**Long Beach 350**  
**Long Beach Gray Panthers**  
**Los Angeles Audubon Society**  
**Los Padres ForestWatch**  
**Louisiana Environmental Action Network/Lower Mississippi Riverkeeper (LEAN)**  
**Lower Brazos Riverwatch**  
**Lower Ohio River Waterkeeper**  
**Mankato Area Environmentalists**  
**Maryland Ornithological Society**  
**Maryland Smart Meter Awareness**  
**Mass Forest Rescue Campaign**  
**Miami Waterkeeper**  
**Midwest Pesticide Action Center**  
**Mining Action Group of the Upper Peninsula Environmental Coalition**  
**Moloka'i Community Service Council**  
**Moms Advocating Sustainability (MOMAS)**  
**Mount Graham Coalition**  
**MountainTrue**  
**National Alliance of Community Economic Development Associations (NACEDA)**  
**National Congress of American Indians**  
**National Institute for Science, Law & Public Policy**

**National Latino Farmers & Ranchers Trade Association**  
**National Wildlife Federation**  
**National Whistleblower Center**  
**National Wolfwatcher Coalition**  
**Native Conservancy Land Trust**  
**Native Justice Coalition**  
**Natural Resources Defense Council**  
**Nature Coast Conservation, Inc.**  
**NC WARN**  
**New Jersey Conservation Foundation**  
**New Jersey Highlands Coalition**  
**New Mexico Audubon Council**  
**New Mexico Wild**  
**No Smart Meters or Small Cells LI**  
**Northcoast Environmental Center**  
**Northeast Oregon Ecosystems**  
**Northeastern Minnesotans for Wilderness**  
**Northwest Animal Rights Network**  
**Ocean Conservancy**  
**Ocean Conservation Research**  
**Oceana**  
**Ohio Valley Environmental Coalition (OVEC)**  
**Olympic Forest Coalition**  
**Olympic Park Associates**  
**One More Generation™**  
**Operation HomeCare, Inc.**  
**Orca Conservancy**  
**Oregon Natural Desert Association**  
**Oregon Shores Conservation Coalition**  
**Oregon Wild**  
**Oxfam America**  
**Pacific Coast Federation of Fishermen's Associations**  
**Pacific Rivers**  
**Partnership for Policy Integrity**  
**Partnership for the National Trails System**  
**Partnership for Working Families**  
**Peace and Social Justice Center of South Central Kansas**  
**Pelican Media**  
**Penguin PI LLC**  
**Pinelands Preservation Alliance**  
**Pipeline Awareness Southern Oregon**  
**PolicyLink**  
**Post Carbon Institute**  
**Powder River Basin Resource Council**  
**Prairie Hills Audubon Society of Western South Dakota**  
**Presidio Historical Association**

**Progressive Caucus Action Fund**  
**PSR Arizona**  
**Public Citizen**  
**Public Lands Project**  
**Rails-to-Trails Conservancy**  
**Rainier Audubon Society**  
**Raptors Are The Solution**  
**Regional Association of Concerned Environmentalists (RACE)**  
**Regional Parks Association, Berkeley CA**  
**Richmond Trees**  
**Rivers Without Borders**  
**Rock Creek Alliance**  
**Rocky Mountain Wild**  
**Rural Coalition**  
**Sacramento Audubon Society**  
**Safe Alternatives for our Forest Environment**  
**San Bernardino Valley Audubon Society**  
**San Francisco Baykeeper**  
**San Juan Citizens Alliance**  
**San Luis Valley Ecosystem Council**  
**SanDiego350**  
**Save Nevada's Water: Ban Fracking In Nevada**  
**Save Our Cabinets**  
**Save Our Shores**  
**Save Our Sky Blue Waters**  
**SAVE THE FROGS!**  
**Save the Scenic Santa Ritas**  
**Science and Environmental Health Network**  
**Selkirk Conservation Allinace**  
**Sequoia ForestKeeper®**  
**Shawnee Chapter, Illinois Audubon Society**  
**Shawnee Forest Defense**  
**Shawnee Forest Sentinels**  
**Sierra Club**  
**Sky Island Alliance**  
**Slow Food USA**  
**Smith River Alliance**  
**Snake River Alliance**  
**Soda Mountain Wilderness Council**  
**Song to Gaia**  
**Southern Illinoisans Against Fracturing Our Environment**  
**Spottswoode Winery**  
**Sustain Rural Wisconsin Network**  
**Sustainable Arizona**  
**Swan View Coalition**  
**Talon Scientific**

**TAP Communications**  
**Tennessee Environmental Council**  
**The Bay Institute**  
**The Campaign for Sustainable Transportation**  
**The Coalition for Sonoran Desert Protection**  
**The Interfaith Council for the Protection of Animals and Nature**  
**The Lands Council**  
**The Moving Forward Network**  
**The Rewilding Institute**  
**The Story of Stuff Project**  
**The Urban Wildlands Group**  
**The Wilderness Society**  
**Time Laboratory**  
**Topanga Peace Alliance and MLK Coalition of Greater Los Angeles**  
**Torrance Refinery Action Alliance**  
**TransForm**  
**Transition Cornwall Network**  
**Tre Gatti Vineyards**  
**Tri-Valley CAREs (Communities Against a Radioactive Environment)**  
**Trustees for Alaska**  
**Tulane Institute on Water Resources Law and Policy, Tulane Law School**  
**Turtle Island Restoration Network**  
**Umpqua Watersheds, Inc.**  
**Upper Peninsula Environmental Coalition**  
**Uranium Watch**  
**Utah Physicians for a Healthy Environment**  
**Valley Watch**  
**Wallin Mental Medical**  
**Waterways Restoration Institute**  
**West Montgomery County Citizens Association**  
**Western Colorado Alliance for Community Action**  
**Western Environmental Law Center**  
**Western Nebraska Resources Council**  
**Western Organization of Resource Councils**  
**Western Watersheds Project**  
**Western Wildlife Conservation**  
**Western Wildlife Outreach**  
**Wbolly H2O**  
**Wild Connections**  
**Wild Heritage Planners**  
**Wild Horse Education**  
**Wild Nature Institute**  
**WILDCOAST**  
**WildEarth Guardians**  
**Wilderness Workshop**  
**Wildlands Network**

**Women's International League for Peace and Freedom, U.S./Earth Democracy Group  
Worksafe**



Kameran Onley  
Director  
U.S. Government Relations  
The Nature Conservancy  
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Fax (703) 841-7400

konley@tnc.org  
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June 26, 2018

Edward A. Boling  
Associate Director for NEPA  
Council on Environmental Quality  
730 Jackson Place, NW  
Washington, DC 20503

RE: Request for Sixty-day Extension for Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (Docket No. CEQ-2018-0001).

Dear Mr. Boling:

I am writing to request a sixty-day extension to the comment period for CEQ's advanced notice of proposed rulemaking (ANPRM) to "Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act" (Docket No. CEQ-2018-0001).

Our mission at The Nature Conservancy is to conserve the lands and waters on which all life depends. Today, we operate in all 50 U.S. states and contribute to conservation outcomes in 72 countries around the world. Environmental laws adopted over the last five decades in the United States have dramatically improved the quality of the nation's air and water, reduced the public's exposure to harmful chemicals, given the public a greater voice in government decisions, and conserved our fish, wildlife, and other natural resources. Generations of Americans have benefitted from this legacy of leadership in environmental protection.

Because of its broad application to federal actions, strong commitment to public engagement, and pathways for scientific input to inform and improve our decision making, the National Environmental Policy Act (NEPA), as implemented by CEQ regulations, is one of the most important bedrock environmental laws in the United States. Given the importance of NEPA and implementing regulations, and the complexity of the issues implicated by the questions posed in the ANPRM, I am requesting an extension of the public comment period.

An extension of the comment period is necessary to provide sufficient time to provide detailed responses to the questions in the ANPRM that will be most useful to the rule-making process, and to ensure that the general public has a sufficient opportunity to be made aware of this process and provide input. Accordingly, I respectfully request no less than a sixty-day extension of the comment period from the originally proposed end date for the ANPRM to Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.

Sincerely,

A handwritten signature in black ink that reads "Kameran L. Onley".

Kameran L. Onley  
Director, U.S. Government Relations  
The Nature Conservancy

## Re: NEPA ANPR

---

**From:** (b) (6) Michael Drummond  
**To:** "Knight, Kelly" <knight.kelly@epa.gov>  
**Date:** Tue, 03 Jul 2018 07:27:20 -0400

---

Yes, that would be great. We've taken the "cast a wide net" approach. In fact, the head of IAIA was in town the other week (I'm blanking on her name) and she offered to share the ANPRM with her membership.

Best,

Michael Drummond  
Deputy Associate Director for NEPA  
Council on Environmental Quality  
(b) (6)

On Jul 3, 2018, at 6:43 AM, Knight, Kelly <knight.kelly@epa.gov> wrote:

---

Good Morning Michael,

Some of my regions folks are asking whether it would be ok to share the NEPA ANPR with our Canadian friends. Since we (the US) have commented on their proposed new legislation, I am assuming the answer is yes?

Thanks

Kelly Knight  
Director, NEPA Compliance Division  
Environmental Protection Agency  
202-564-2141 (office)  
(b) (6) (cell)

# NEPA ANPR

---

**From:** "Knight, Kelly" <knight.kelly@epa.gov>

**To:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>

**Date:** Tue, 03 Jul 2018 06:42:32 -0400

---

Good Morning Michael,

Some of my regions folks are asking whether it would be ok to share the NEPA ANPR with our Canadian friends. Since we (the US) have commented on their proposed new legislation, I am assuming the answer is yes?

Thanks

Kelly Knight  
Director, NEPA Compliance Division  
Environmental Protection Agency  
202-564-2141 (office)  
(b) (6) (cell)

## RE: CEQ NEPA ANPRM\_Comment Period Extension\_Final2

---

**From:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>

**To:** "Seale, Viktoria Z. EOP/CEQ" <(b) (6)>

**Date:** Thu, 05 Jul 2018 14:15:14 -0400

Viktoria,

Thank you, I have reviewed and have no suggested changes.

Best,

Michael

**From:** Seale, Viktoria Z. EOP/CEQ

**Sent:** Thursday, July 5, 2018 2:06 PM

**To:** Drummond, Michael R. EOP/CEQ <(b) (6)>

**Subject:** CEQ NEPA ANPRM\_Comment Period Extension\_Final2

Michael,

Attached for your review is the final draft of the extension notice for the ANPRM comment period.

The Office of Federal Register has given it a preliminary review and made no suggested changes.

Could you please review it one more time and let me know if you have comments/edits? (b) (5)

Thank you,

Viktoria

## CEQ NEPA ANPRM\_Comment Period Extension\_Final2

---

**From:** "Seale, Viktoria Z. EOP/CEQ" <(b) (6)>  
**To:** "Drummond, Michael R. EOP/CEQ" (b) (6)  
**Date:** Thu, 05 Jul 2018 14:05:30 -0400  
**Attachments:** CEQ NEPA ANPRM Comment Period Extension Final2.docx (41.57 kB)

---

Michael,

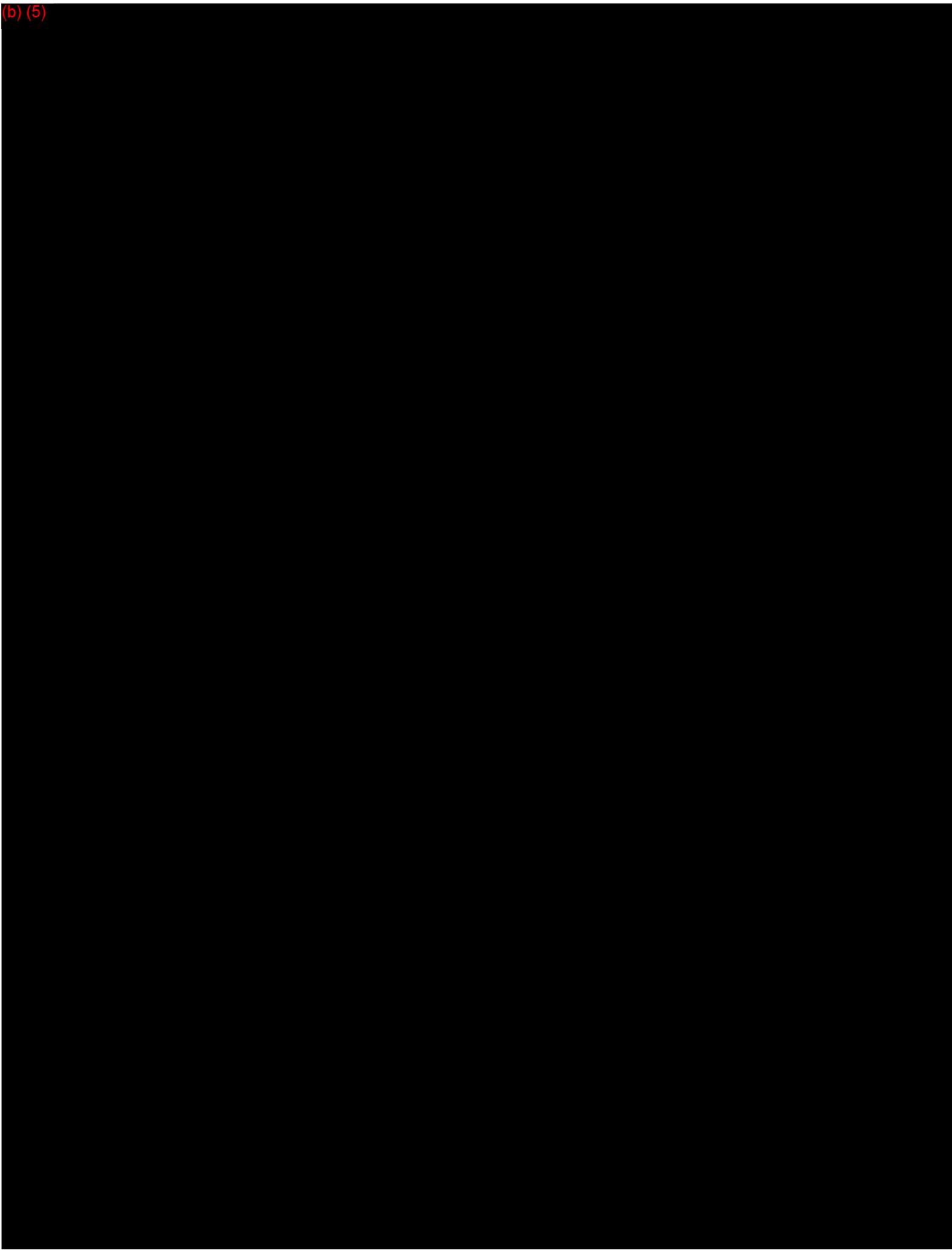
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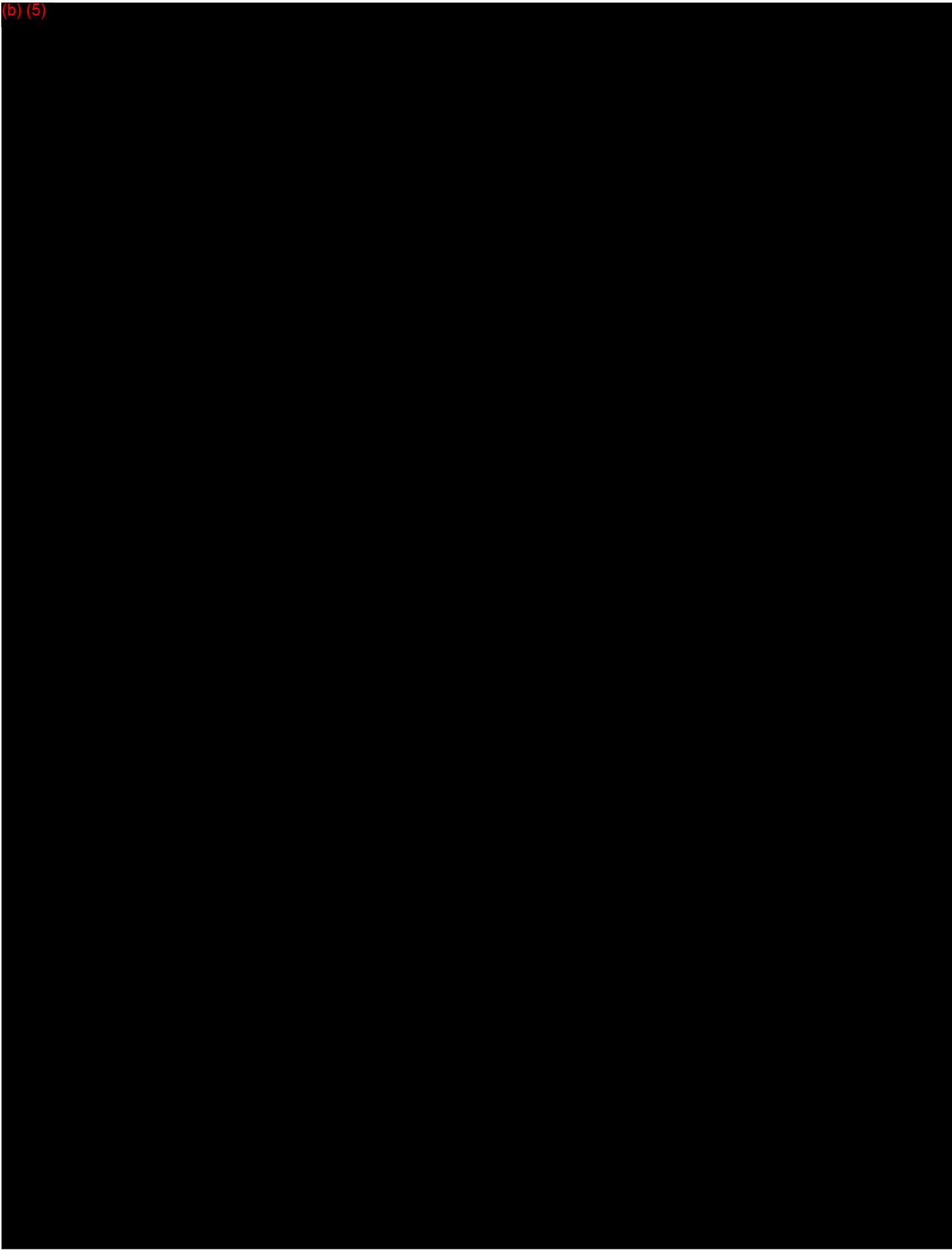
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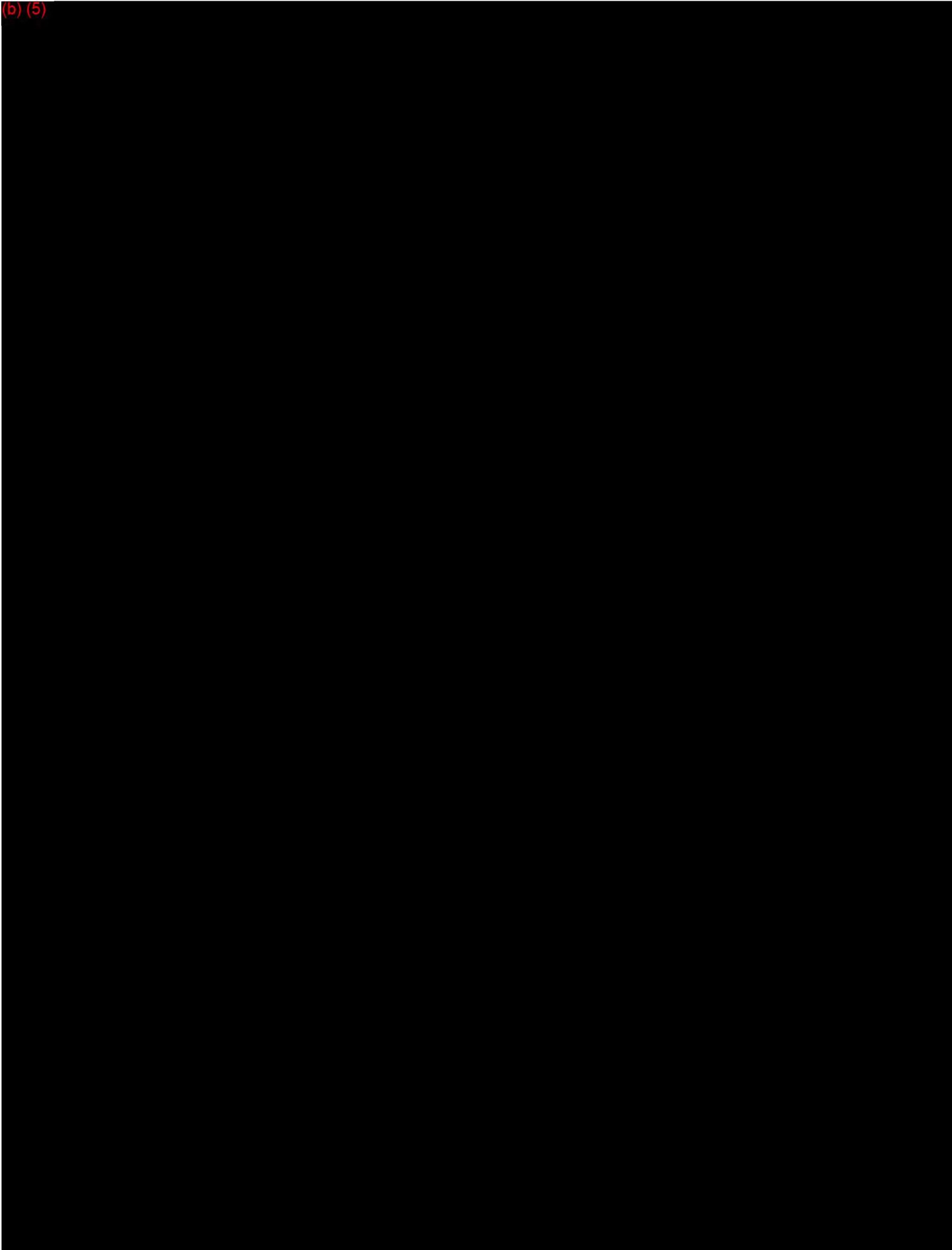
Could you please review it one more time and let me know if you have comments/edits? (b) (5)  
[REDACTED]

Thank you,

Viktoria







## CEQ NEPA ANPRM\_Comment Period Extension\_Final2

---

**From:** "Seale, Viktoria Z. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=af5f6888d706481b94d18088a30821c9-se">

**To:** "Drummond, Michael R. EOP/CEQ" (b) (6)

**Date:** Thu, 05 Jul 2018 14:05:28 -0400

**Attachments**  
: CEQ NEPA ANPRM Comment Period Extension Final2.docx (41.57 kB)

---

Michael,

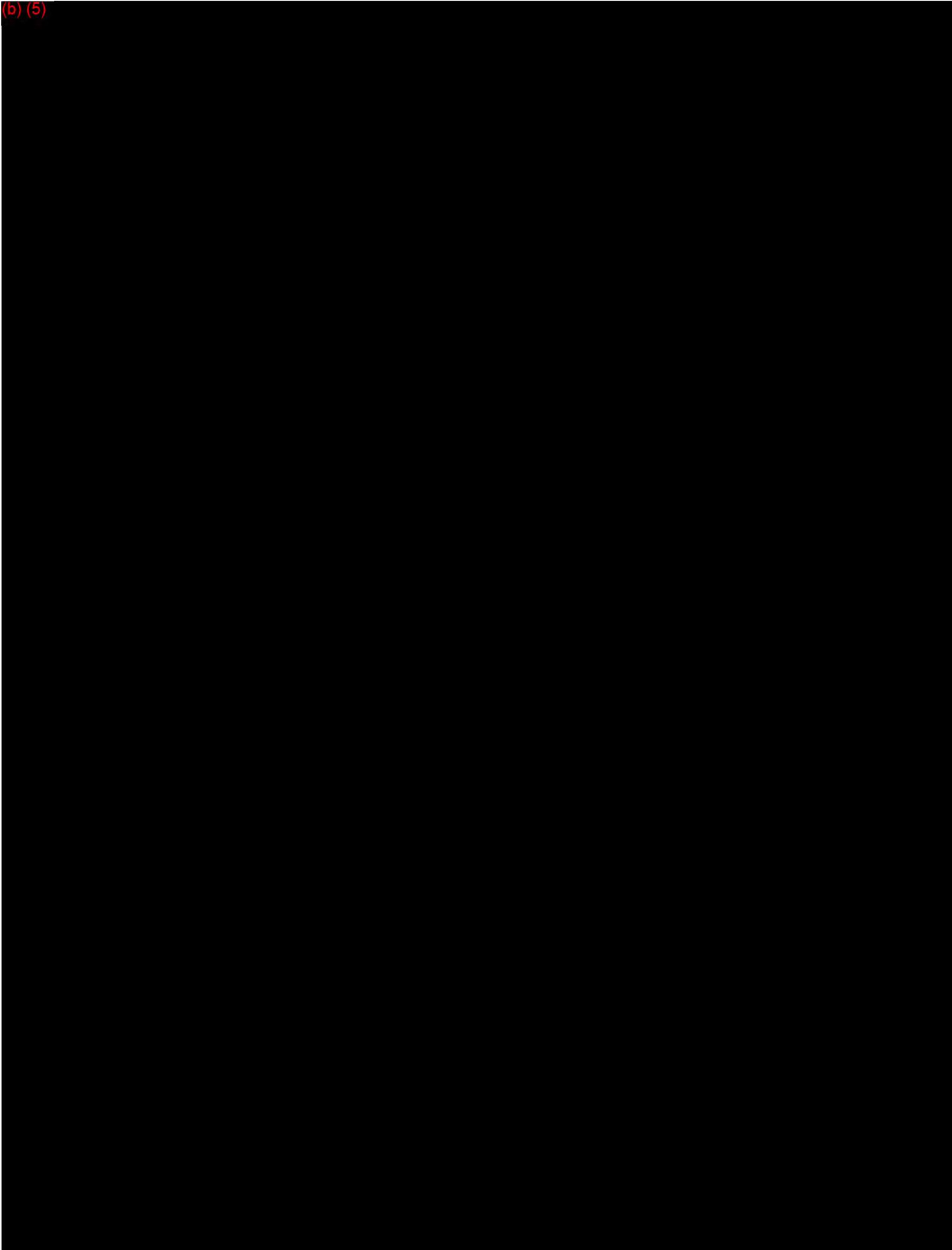
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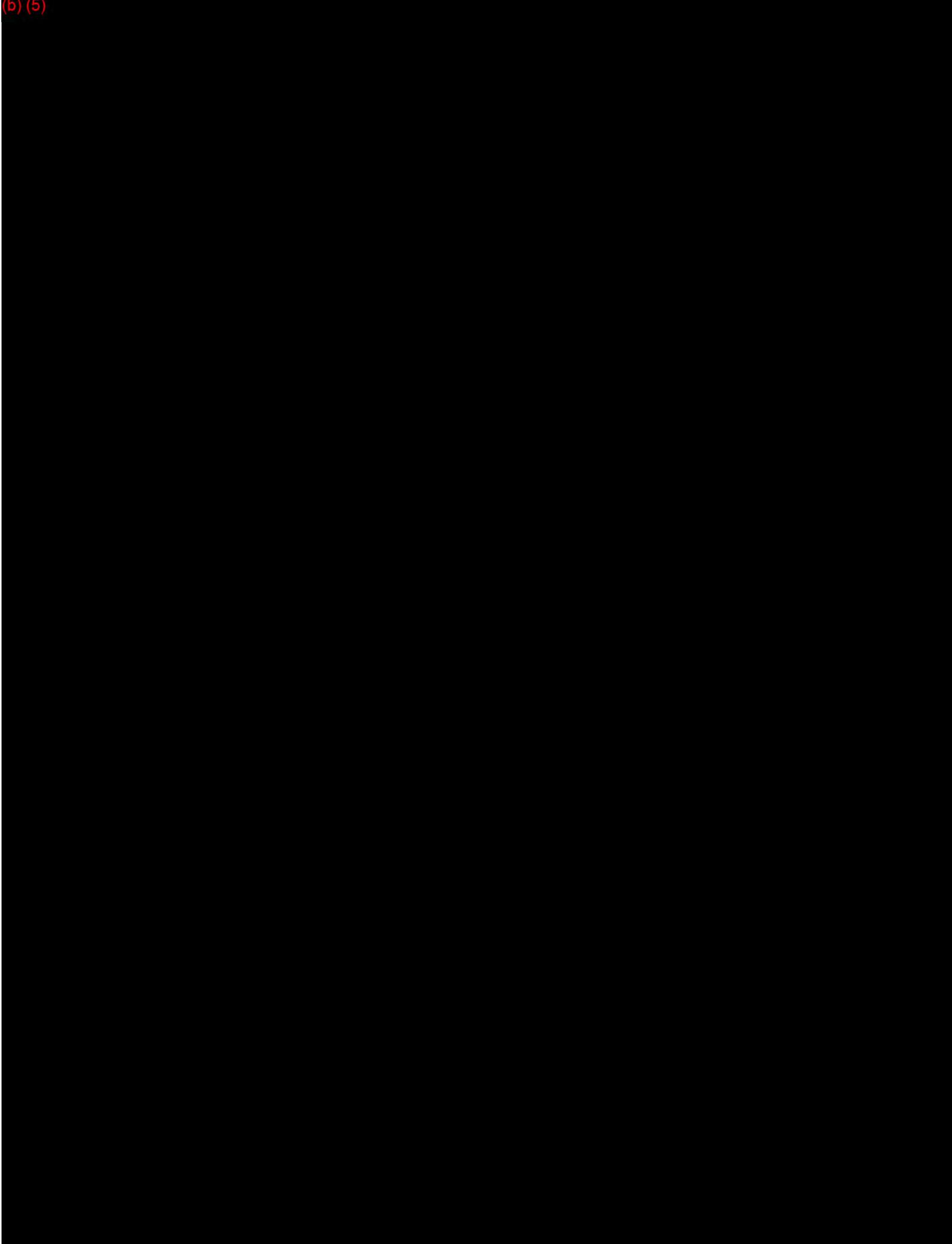
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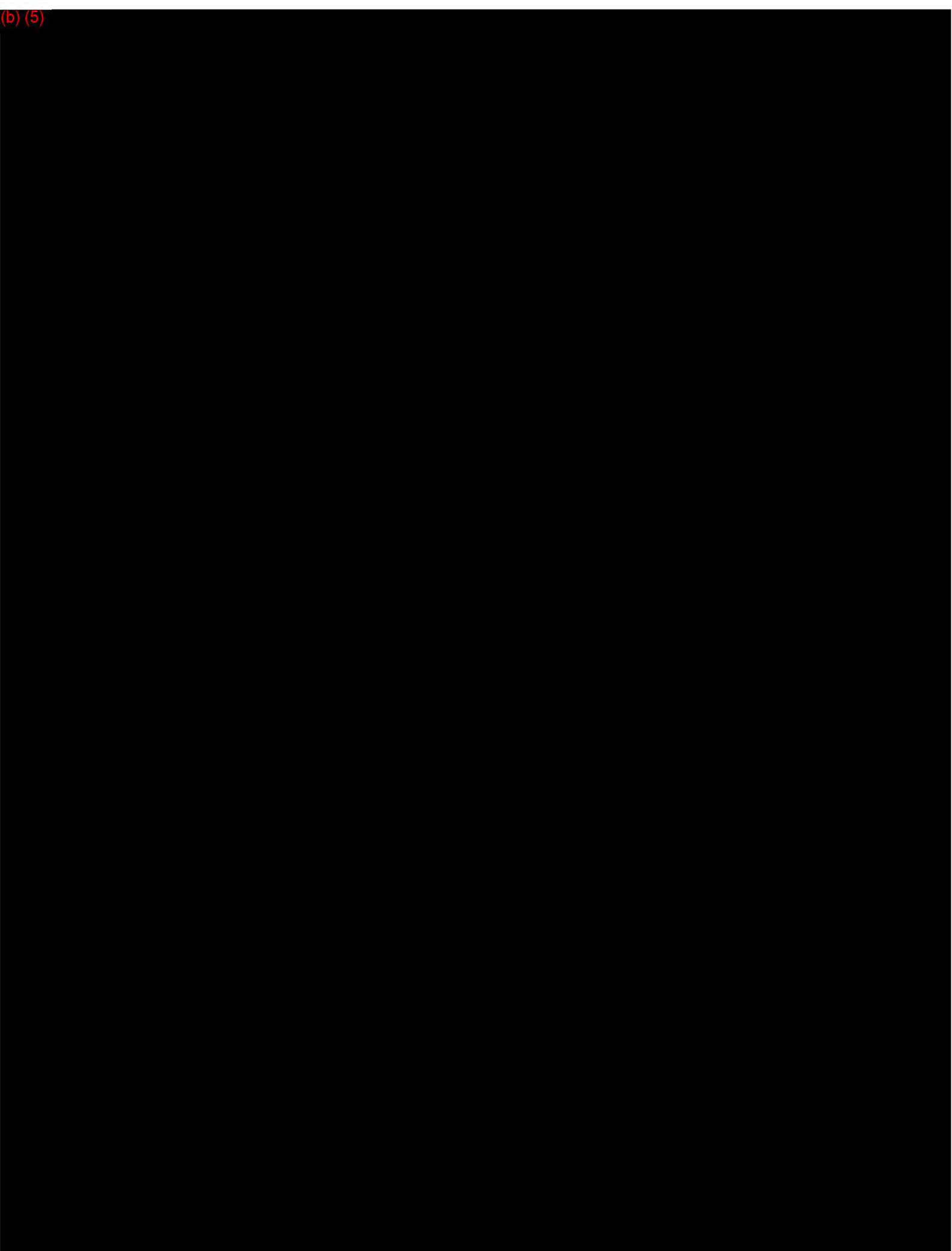
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Thank you,

Viktoria







## RE: Comment from CEQ?

---

**From:** "Schneider, Daniel J. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=70576341fcb44ab780c5f4d1ca218647-sc">  
**To:** Nick Sobczyk <nsobczyk@eenews.net>  
**Date:** Tue, 10 Jul 2018 11:03:32 -0400

We received a number of requests to extend public comment.

<https://www.regulations.gov/docketBrowser?rpp=25&po=0&dct=PS&D=CEQ-2018-0001&refD=CEQ-2018-0001-0001>

**From:** Nick Sobczyk <nsobczyk@eenews.net>  
**Sent:** Tuesday, July 10, 2018 11:00 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Hey Dan,

Thanks for the heads up. Does this come in direct response to the environmental groups that requested last month that it be extended to 90 days? Or did you get other input as well?

Best,  
Nick

**From:** Schneider, Daniel J. EOP/CEQ [mailto:(b) (6)]  
**Sent:** Tuesday, July 10, 2018 10:49 AM  
**To:** Nick Sobczyk <nsobczyk@eenews.net>  
**Subject:** RE: Comment from CEQ?

Hey Nick,

Just wanted to make sure you were aware. CEQ is extending the comment period on the Advanced Notice of Proposed Rulemaking, which was originally set to close on July 20, 2018. We've extended it through August 20, 2018. The notice is expected to be published in the Federal Register tomorrow, July 11, 2018. The pre-publication version is available at the link below.

><https://www.federalregister.gov/documents/2018/07/11/2018-14821/implementation-of-the-procedural-provisions-of-the-national-environmental-policy-act><

Dan

---

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Tuesday, June 19, 2018 11:37 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Thanks, Dan. Appreciate you getting back to me. I'll let you know if I have any additional follow ups.

---

**From:** Schneider, Daniel J. EOP/CEQ [[\(b\) \(6\)](mailto:(b) (6))]  
**Sent:** Tuesday, June 19, 2018 11:35 AM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

On background, attributable to a CEQ spokesman.

In terms of the format of the ANPRM, it depends on agency preference and different groups choose different techniques. We feel this approach is the best way to increase public engagement. Given that we've had lots of interest over the years from stakeholders, we're hopeful we receive a number of substantive comments.

In regards to the 30 day comment period, if we receive requests for a longer than a 30 day comment period, we will consider it.

I'm happy to keep you informed as things progress.

---

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Tuesday, June 19, 2018 11:18 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Hey Dan – one additional question for you. An early criticism I'm hearing from environmentalists is that 30 days is an exceedingly short comment period. Do you have a response to that? What was the rationale for that time frame?

---

**From:** Schneider, Daniel J. EOP/CEQ [[\(b\) \(6\)](mailto:(b) (6))]  
**Sent:** Tuesday, June 19, 2018 10:32 AM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

Hey Nick, what's your deadline?

Dan

---

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Tuesday, June 19, 2018 9:52 AM

**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Good Morning Dan,

We're going to run a story on this in today's Greenwire, so I wanted to see if CEQ has any additional comment.

Is the series of 20 questions a typical format for an ANPRM? If not, what is the rationale?  
Was CEQ waiting to advance this document until it got a nominee for director?  
Does Ms. Neumayr's official nomination make things easier, or will it effectively be the same?  
I suspect this will be a popular document. How many comments do you think you'll get?

Best,  
Nick

**From:** Schneider, Daniel J. EOP/CEQ [mailto:(b) (6)]  
**Sent:** Monday, June 18, 2018 3:55 PM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

Hey Nick,

Just wanted to flag this for you given your interest in the subject matter. CEQ submitted an ANPRM to the Federal Register for publication on Friday, June 15, 2018 requesting public comment on potential revisions to update and clarify CEQ's NEPA regulations. Through a series of 20 questions, CEQ is requesting comments on provisions of the regulations to the NEPA process and the scope of NEPA review. It should be published in the Federal Register in the next couple of days.

Fact Sheet: <https://www.whitehouse.gov/wp-content/uploads/2017/11/FINAL-ANPRM-Fact-Sheet-20180615.pdf>

Prepublication Text: [https://www.whitehouse.gov/wp-content/uploads/2017/11/CEQ-NEPA-ANPRM\\_WebVersion-20180615.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/CEQ-NEPA-ANPRM_WebVersion-20180615.pdf)

Webpage: <https://www.whitehouse.gov/ceq/initiatives/>

Dan

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Monday, May 21, 2018 10:46 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Sure: 202-446-0437

---

**From:** Schneider, Daniel J. EOP/CEQ [mailto:(b) (6)]  
**Sent:** Monday, May 21, 2018 10:46 AM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

What's the best number to reach you at? Would like to discuss. Thanks.

---

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**Sent:** Monday, May 21, 2018 10:39 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Hey Dan – any update on this? If you'd like to provide a statement from CEQ, I could work with that, too. I'm wondering:

How long will the process take?  
Are there any specific areas of the NEPA regulations that are ripe for reform?  
Do you think the FAST Act and MAP-21 provide a model for streamlining/change?  
How will the current lack of Senate-confirmed political leadership affect how CEQ handles the potential regulatory changes?  
How many public comments is CEQ expecting to get?

Best,  
Nick

---

**From:** Schneider, Daniel J. EOP/CEQ [mailto:(b) (6)]  
**Sent:** Friday, May 18, 2018 12:49 PM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

Hey Nick, still checking in on this.

Dan

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**Sent:** Friday, May 18, 2018 10:06 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Hey Dan – any word yet on whether you'll be able to connect me with Mr. Boling?

Nick

---

**From:** Schneider, Daniel J. EOP/CEQ [mailto:(b) (6)]  
**Sent:** Thursday, May 17, 2018 11:58 AM

**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>

**Subject:** RE: Comment from CEQ?

Hey Nick,

What's your timing on this?

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---

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>

**Sent:** Thursday, May 17, 2018 11:43 AM

**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>

**Subject:** [EXTERNAL] RE: Comment from CEQ?

Hey Dan,

I'm hoping to do a follow up to the below examining in more detail what the process will look like and what areas of CEQ's NEPA regulations would be ripe for change.

Would you be able to set up an interview with Ted Boling? Would be great to get some of his thoughts on the issue and have his voice in the story.

Best,  
Nick

---

**From:** Schneider, Daniel J. EOP/CEQ [[mailto:\(b\) \(6\)](mailto:(b) (6)@)]

**Sent:** Monday, May 07, 2018 3:16 PM

**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>

**Subject:** RE: Comment from CEQ?

Hey Nick,

On background, attributable to a CEQ Spokesman:

On May 3<sup>rd</sup>, the Council on Environmental Quality (CEQ) submitted a draft Advanced Notice of Proposed Rulemaking (ANPRM) entitled "Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act" to the Office of Management and Budget for interagency review consistent with Executive Order 12866. After completion of interagency review, CEQ anticipates will publish the ANPRM in the Federal Register for public comment.

This ANPRM is being developed in response to Executive Order 13807 issued by President Trump on August 15, 2017. While CEQ has issued memoranda and guidance documents over the years, it has only amended its regulations once. Therefore, CEQ believes it is appropriate at this time to solicit public comment and consider updating the implementation regulations.



## RE: Comment from CEQ?

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**From:** "Schneider, Daniel J. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=70576341fcb44ab780c5f4d1ca218647-sc">  
**To:** Nick Sobczyk <nsobczyk@eenews.net>  
**Date:** Tue, 10 Jul 2018 10:49:11 -0400

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Hope that helps,

Dan

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>

**Sent:** Monday, May 7, 2018 2:27 PM

**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>

**Subject:** [EXTERNAL] Comment from CEQ?

Hi Dan,

Hope all is well and that you're enjoying your new gig at the White House! I saw CEQ submitted a prerule with OMB on May 3 to update its NEPA regulations. I'm looking for a comment from CEQ on the following questions. My deadline is 3:15 pm.

Does CEQ plan to follow this up with an advanced notice of proposed rulemaking? Or are there other options available?

What are the next steps and what is the timeline looking like?

What specific changes will CEQ make to its NEPA regs? How will they affect permitting processes at other agencies?

Thanks!

Nick Sobczyk  
E&E News reporter  
[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)  
Office: 202-446-0437  
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## RE: Comment analysis

---

**From:** "Carlin, Erin A. EOP/CEQ (Intern)" <(b) (6)>

**To:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>

**Date:** Thu, 19 Jul 2018 16:11:03 -0400

Hello Yardena,

After reviewing 0498, (b) (5)

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

[redacted] Please let me know if you would like me to revise this or review other comments. Thank you!

Best,  
Erin Carlin

**From:** Mansoor, Yardena M. EOP/CEQ  
**Sent:** Thursday, July 19, 2018 2:10 PM  
**To:** Carlin, Erin A. EOP/CEQ (Intern) <(b) (6)>  
**Subject:** Comment analysis

Please take a look at 0498 (b) (5)  
[redacted]

Hang on to the FR notice. I may send you additional comment documents to sort out. Thanks for the help.

Yardena Mansoor  
Deputy Associate Director for NEPA  
Council on Environmental Quality  
(b) (6) / (b) (6)

## Comment analysis

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**From:** "Mansoor, Yardena M. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=2712a19fd57447088e0b9da580c16e15-ma">

**To:** "Carlin, Erin A. EOP/CEQ (Intern)" <(b) (6)>

**Date:** Thu, 19 Jul 2018 14:10:27 -0400

**Attachments**  
: 0498.pdf (370.94 kB); ANPR (83 FR 28591) 2018-06-20.pdf (195.85 kB)

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Please take a look at 0498 (b) (5)

Hang on to the FR notice. I may send you additional comment documents to sort out. Thanks for the help.

Yardena Mansoor  
Deputy Associate Director for NEPA  
Council on Environmental Quality  
(b) (6) / (b) (6)



10<sup>th</sup> Year Anniversary 2015



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July 18, 2018

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Edward Boling, Associate Director for NEPA  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, D.C. 20503

RE: National Environmental Policy Act implementing regulations,  
Docket ID No. CEQ-2018-0001

Dear Council on Environmental Quality,

Alaska Institute for Justice submits these comments regarding CEQ's proposal to amend its regulations implementing the National Environmental Policy Act. The Alaska Institute for Justice is a non-profit agency headquartered in Anchorage, Alaska. Through its research and policy program, Alaska Institute for Justice is working in collaboration with 15 Alaska Native communities that are threatened by erosion, permafrost thaw, flooding, shrinking sea ice, and storm surges. In order to protect these communities in their current location, or, as a last resort, relocate communities, these Alaska Native villages have applied for grant funding and assistance from federal agencies. In some cases, environmental review requirements have delayed critical actions needed to address imminent threats to communities. These delays can be dangerous in rural Alaskan communities where summer construction seasons are short and needs are critical. A delay of even a couple of months may mean the loss of someone's home to erosion or the loss of an entire construction season and consequent exposure of the community to another storm season without completing needed protective measures. We submit these comments in order to suggest amendments to the NEPA regulatory scheme so that the NEPA environmental review process is not a barrier for Alaska Native communities threatened by flooding and erosion and urgently needing federal funding to develop protection strategies.

**Background: Challenges faced by Alaskan communities in adapting to a changing climate**

Each of the 15 communities with which AIJ collaborates is working to respond to increasing danger from environmental threats. Loss of arctic sea ice, the natural storm barrier for coastal communities, results in inundation of coastal communities by flooding and storm surges during extreme weather events. During the winter of 2017-2018, 42 storms battered the west coast of Alaska, causing damage in many communities that collaborate with AIJ. The communities, all identified by a 2009 Government Accountability Office report as ‘imminently threatened by flooding and erosion’, are located in northern Alaska, northwestern Alaska, the Yukon-Kuskokwim Delta, and southwestern Alaska, and are already losing homes as a result of rapid environmental changes. In some communities, homes are currently located on the edge of eroding river banks or coastal bluffs and may be lost within the next year or the next several years. Alternate living spaces are not available in the communities for the families who will be displaced, putting these families at serious risk of homelessness from the next storm or extreme weather event. Many of these communities, and other similarly-situated communities in Alaska, have had difficulty obtaining funding to repair and protect existing homes and village infrastructure, or to construct new homes and infrastructure in safe locations either within the community or, for communities left with no alternative but relocation, in a new village site.



*Figure 1 Map of the 15 communities collaborating with AIJ.*

The 2009 Government Accountability Office report, *Alaska Native Villages: Limited Progress Has Been Made in Relocating Villages Threatened by Flooding and Erosion*, identified the NEPA process as one of several barriers for Alaska Native communities to protect their lives and their homes. The need to take action to assist threatened communities is urgent. Protecting communities from extreme weather events, through mitigation measures or relocation, is a complicated process and federal assistance is critical to allow communities to succeed in the face of a rapidly changing climate.

## RECOMMENDATIONS:

We ask CEQ to consider revising its regulations to improve the process for communities that are working to address urgent safety priorities. Specifically, we ask you to adopt the following recommendations:

1. Clarify regulations regarding the designation of a lead agency for communities that have chosen, as a last resort, to relocate because of increasing environmental threats.

We ask that you revise 40 C.F.R. § 1501.5 to provide clear guidance in identifying a lead agency for the NEPA environmental review process for community relocation projects. This will help communities move forward with environmental reviews in an expedited, coordinated fashion so that they can take the actions that are necessary to protect their residents, homes, and infrastructure.

When multiple agencies are involved in a project, 40 C.F.R. § 1501.5 requires a lead agency to supervise the preparation of an environmental impact statement. For villages that are seeking to relocate, there are many federal agencies involved in permitting, funding, and building infrastructure for the community's relocation. Communities like Shishmaref, Kivalina, and Newtok have experienced difficulties in getting the environmental review process started because no federal agency wants to take the lead role in the NEPA process. For example in Newtok, Alaska, a community that elected to relocate, the Denali Commission completed an EIS to discuss the environmental effects of relocation in 15 months.<sup>1</sup> This process, however, began in 2007 but at that time no federal government agency wanted to be the lead agency for the NEPA review. Ultimately, the NEPA review occurred because the Denali Commission prioritized and funded the work.

The 2009 Government Accountability Office report identified this problem, but the problem has not been addressed.<sup>2</sup> This report found:

A primary matter of concern is how to address NEPA requirements, which require federal agencies to review the likely environmental effects of major federal actions. If more than one federal agency is involved in the same action or group of actions directly related to each other, NEPA regulations require a lead agency to supervise the NEPA evaluation. Currently, the Corps is the lead agency for funding and planning the design and construction of the evacuation center [in Newtok] to be built at the new village site, but there is no designated lead federal agency for the overall relocation of the village. The Corps issued an environmental assessment that found no significant impacts in July 2008. However, the Corps assessed only the environmental effects of the evacuation center and associated project features, including an access road from the barge landing, a sewage lagoon and landfill, a quarry site, and connecting roads. Participants in the Newtok Planning Group [interagency working group

<sup>1</sup> See Denali Commission, *Proactive approach to environmental permitting pays off for village in Alaska*, available at <https://www.denali.gov/images/Denali%20Commission%20-%20ROD%20Press%20Release.pdf>.

<sup>2</sup> See Government Accountability Office, *Alaska Native Villages: Limited Progress Has Been Made in Relocating Villages Threatened by Flooding and Erosion* (June 2009).

coordinating the construction of infrastructure at Newtok's relocation site] are concerned that until a federal lead agency is identified for funding, planning, designing, or constructing all of the other components of the village relocation, the NEPA requirements for these other relocation components will remain unfulfilled.

Government Accountability Office, *Alaska Native Villages: Limited Progress Has Been Made in Relocating Villages Threatened by Flooding and Erosion* (June 2009) at 31.

Communities continue to struggle with planning and carrying out relocations because there is no clear guidance to determine which federal agency must act as the lead agency for NEPA purposes. The existing guidance in 40 C.F.R. § 1501.5 has not been sufficient in these circumstances because no one agency has expertise in all of the areas relevant to a community relocation and agencies are hesitant to undertake the complex task. With at least 31 communities in Alaska imminently threatened by flooding and erosion, this is a recurring problem that needs to be addressed through uniform guidance, not on a case-by-case basis that results in delays for imperiled communities.

2. Require federal agencies to prioritize NEPA reviews for projects addressing imminent environmental threats in order to expedite these critical projects.

We ask CEQ to adopt a regulation establishing a prioritization schedule and timeline for NEPA reviews to expedite the review process for projects to protect or relocate communities imminently threatened by environmental hazards. We request that CEQ establish a prioritization schedule for NEPA reviews for projects to protect or relocate communities imminently threatened by environmental hazards so that these reviews are a first priority and agencies can complete these reviews in an expedited fashion, as is appropriate given the urgency of the threats. Without the establishment of a prioritization schedule, these reviews can be delayed by agency work on NEPA reviews for other, complex projects that do not have urgent timelines. In addition, please consider establishing maximum timelines for this type of environmental review.

Completing the NEPA review process can take months to years depending on the project involved. In both the 2003 and 2009 Government Accountability Office (GAO) reports, the GAO identified problems with the environmental review process for village relocations.<sup>3</sup> The lengthy process of completing NEPA reviews is a serious problem for imminently threatened communities seeking to complete projects that are critical for the survival of the community and the protection of residents, their homes, and critical infrastructure.

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<sup>3</sup> See Government Accountability Office, *Alaska Native Villages: Limited Progress Has Been Made in Relocating Villages Threatened by Flooding and Erosion* (June 2009); Government Accountability Office, *Alaska Native Villages: Most Are Affected by Flooding and Erosion, but Few Qualify for federal Assistance* (December 2003).

3. Establish categorical exclusions for imminent threats and provide a process to minimize delay for projects covered by categorical exclusions addressing imminent threats.

We ask CEQ to adopt a regulation establishing a categorical exclusion for projects that do not alter environmental conditions and are necessary to control or arrest the effects from disasters or imminent threats to public safety. Under 40 C.F.R. § 1508.4, agencies are authorized to adopt categorical exclusions covering projects that generally do not require environmental impact statements. Some agencies have established categorical exclusions for certain projects that address imminent environmental threats. For example, the Department of Housing and Urban Development considers “temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration” to be exempt from environmental review requirements.<sup>4</sup> Not all agencies have similar categorical exclusions, and this presents a problem for villages attempting to relocate or mitigate imminent environmental threats.

This categorical exclusion for projects that do not alter environmental conditions and are necessary to control or arrest the effects from disasters or imminent threats to public safety would also be consistent with the authority provided under 40 C.F.R. § 1506.11 allowing agencies to follow alternative procedures in emergencies. Instead of requiring agencies to consult with CEQ in each case, as required under 40 C.F.R. § 1506.11, however, a categorical exclusion would clarify that an environmental impact statement is not required where action is needed to address imminent threats.

To improve the process of reviewing these urgent projects, we ask CEQ to adopt a regulation that requires cooperating agencies, in the case of projects that are addressing imminent threats and are covered by categorical exclusions, to meet within one week of receiving an application for funding or permitting to complete and approve the environmental review. An expedited process for reviewing projects subject to this type of categorical exclusion is necessary. Projects that meet the requirements for categorical exclusions are still subject to delay because each relevant agency has a period of time to review and approve the project. When those review periods are not coterminous, the delay can be extensive. Given the urgent nature of projects addressing imminent environmental threats, it is critical to establish an expedited process for completing NEPA requirements.

4. Amend 40 C.F.R. § 1501.4 to include a statement explaining the category of review (environmental assessment or environmental impact statement) generally required for community relocations resulting from environmental threats.

As discussed above, with dozens of villages in Alaska facing the need to relocate because of environmental threats, and communities in other states facing similar situations, federal agencies are likely to be involved in the planning and implementation of many community relocation projects. In each case, the situation is urgent. To facilitate and expedite this process, please amend 40 C.F.R. § 1501.4 to include guidance indicating whether these projects will normally require an environmental assessment or an environmental impact statement.

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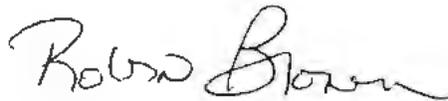
<sup>4</sup> 24 C.F.R. § 58.34(a)(10). HUD has established similar categorical exclusions under 24 C.F.R. § 58.35.

5. Amend 40 C.F.R. § 1502.14 to provide that when a federal agency completes an environmental impact statement or environmental assessment for a community relocation and the community has selected a relocation site within the community's traditional lands, the agency is not required to analyze alternatives that would require relocation in another site.

Communities that are left with no alternative but to relocate because of environmental threats that cannot be mitigated face a difficult choice. Communities have a right to self-determination and should be granted deference in deciding where to live. When a community chooses a relocation site on the community's traditional lands, federal agencies should not be required to consider alternative locations. Adopting a regulation specifying that federal agencies do not have to consider alternative relocation sites under these circumstances would ensure that communities are not forced to relocate to an area outside of their traditional territory against their will.

Thank you for considering these comments. We would be happy to discuss these issues with you in more detail at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Robin Bronen". The signature is written in a cursive, flowing style.

Robin Bronen

Executive Director

requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

**Dated:** May 30, 2018.

**Cosmo Servidio,**

*Regional Administrator, U.S. Environmental Protection Agency Region 3.*

[FR Doc. 2018–12709 Filed 6–19–18; 8:45 am]

**BILLING CODE 6560–50–P**

## COUNCIL ON ENVIRONMENTAL QUALITY

**40 CFR Parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508**

[Docket No. CEQ–2018–0001]

**RIN: 0331–AA03**

### Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

**AGENCY:** Council on Environmental Quality (CEQ).

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Council on Environmental Quality (CEQ) is considering updating its implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA). Over the past four decades, CEQ has issued numerous guidance documents but has amended its regulations substantively only once. Given the length of time since its NEPA implementing regulations were issued, CEQ solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process consistent with the national environmental policy stated in NEPA.

**DATES:** Comments should be submitted on or before July 20, 2018.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number CEQ–2018–0001 through the Federal eRulemaking portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Boling, Associate Director for the National Environmental Policy Act, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503. Telephone: (202) 395–5750.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, was enacted in 1970. NEPA states that “it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. 4331(a). NEPA also established CEQ as an agency within the Executive Office of the President. 42 U.S.C. 4342.

By Executive Order (E.O.) 11514, “Protection and Enhancement of Environmental Quality” (March 5, 1970), President Nixon directed CEQ in Section 3(h) to issue “guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2)(C) of the Act.” CEQ published these guidelines in April of 1970 and revised them in 1973.

President Carter issued E.O. 11991 (May 24, 1977), “Relating to Protection and Enhancement of Environmental Quality,” which amended Section 3(h) of E.O. 11514 to direct CEQ to issue regulations providing uniform standards for the implementation of NEPA, and amended Section 2 of E.O. 11514 to require agency compliance with the CEQ regulations. CEQ promulgated its “Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act” (CEQ’s NEPA regulations) at 40 CFR parts 1500–1508. 43 FR 55978 (November 29, 1978). Since that time, CEQ has amended its NEPA regulations substantively only once, to eliminate the “worst case” analysis requirement of 40 CFR 1502.22. 51 FR 15618 (April 25, 1986).

On August 15, 2017, President Trump issued E.O. 13807, “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.” 82 FR 40463 (August 24, 2017). Section 5(e) of E.O. 13807 directed CEQ to develop an initial list of actions to enhance and modernize the Federal environmental review and authorization process. In response, CEQ published its initial list of actions pursuant to E.O. 13807 and stated that it intends to

review its existing NEPA regulations in order to identify changes needed to update and clarify these regulations. 82 FR 43226 (September 14, 2017).

## II. Request for Comment

CEQ requests comments on potential revisions to update and clarify CEQ NEPA regulations. In particular, CEQ requests comments on the following specific aspects of these regulations, and requests that commenters include question numbers when providing responses. Where possible, please provide specific recommendations on additions, deletions, and modifications to the text of CEQ’s NEPA regulations and their justifications.

### NEPA Process

1. Should CEQ’s NEPA regulations be revised to ensure that environmental reviews and authorization decisions involving multiple agencies are conducted in a manner that is concurrent, synchronized, timely, and efficient, and if so, how?

2. Should CEQ’s NEPA regulations be revised to make the NEPA process more efficient by better facilitating agency use of environmental studies, analysis, and decisions conducted in earlier Federal, State, tribal or local environmental reviews or authorization decisions, and if so, how?

3. Should CEQ’s NEPA regulations be revised to ensure optimal interagency coordination of environmental reviews and authorization decisions, and if so, how?

### Scope of NEPA Review

4. Should the provisions in CEQ’s NEPA regulations that relate to the format and page length of NEPA documents and time limits for completion be revised, and if so, how?

5. Should CEQ’s NEPA regulations be revised to provide greater clarity to ensure NEPA documents better focus on significant issues that are relevant and useful to decisionmakers and the public, and if so, how?

6. Should the provisions in CEQ’s NEPA regulations relating to public involvement be revised to be more inclusive and efficient, and if so, how?

7. Should definitions of any key NEPA terms in CEQ’s NEPA regulations, such as those listed below, be revised, and if so, how?

- a. Major Federal Action;
- b. Effects;
- c. Cumulative Impact;
- d. Significantly;
- e. Scope; and
- f. Other NEPA terms.

8. Should any new definitions of key NEPA terms, such as those noted below, be added, and if so, which terms?

- a. Alternatives;
  - b. Purpose and Need;
  - c. Reasonably Foreseeable;
  - d. Trivial Violation; and
  - e. Other NEPA terms.
9. Should the provisions in CEQ's NEPA regulations relating to any of the types of documents listed below be revised, and if so, how?
- a. Notice of Intent;
  - b. Categorical Exclusions Documentation;
  - c. Environmental Assessments;
  - d. Findings of No Significant Impact;
  - e. Environmental Impact Statements;
  - f. Records of Decision; and
  - g. Supplements.
10. Should the provisions in CEQ's NEPA regulations relating to the timing of agency action be revised, and if so, how?
11. Should the provisions in CEQ's NEPA regulations relating to agency responsibility and the preparation of NEPA documents by contractors and project applicants be revised, and if so, how?
12. Should the provisions in CEQ's NEPA regulations relating to programmatic NEPA documents and tiering be revised, and if so, how?
13. Should the provisions in CEQ's NEPA regulations relating to the appropriate range of alternatives in NEPA reviews and which alternatives may be eliminated from detailed analysis be revised, and if so, how?

#### General

14. Are any provisions of the CEQ's NEPA regulations currently obsolete? If so, please provide specific recommendations on whether they should be modified, rescinded, or replaced.
15. Which provisions of the CEQ's NEPA regulations can be updated to reflect new technologies that can be used to make the process more efficient?
16. Are there additional ways CEQ's NEPA regulations should be revised to promote coordination of environmental review and authorization decisions, such as combining NEPA analysis and other decision documents, and if so, how?
17. Are there additional ways CEQ's NEPA regulations should be revised to improve the efficiency and effectiveness of the implementation of NEPA, and if so, how?
18. Are there ways in which the role of tribal governments in the NEPA process should be clarified in CEQ's NEPA regulations, and if so, how?
19. Are there additional ways CEQ's NEPA regulations should be revised to ensure that agencies apply NEPA in a manner that reduces unnecessary

burdens and delays as much as possible, and if so, how?

20. Are there additional ways CEQ's NEPA regulations related to mitigation should be revised, and if so, how?

(Authority: 42 U.S.C. 4332, 4342, 4344 and 40 CFR parts 1500, 1501, 1502, 1503, 1505, 1506, 1507, and 1508)

### III. Statutory and Executive Order Reviews

Under E.O. 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993), this is a "significant regulatory action." Accordingly, CEQ submitted this action to the Office of Management and Budget (OMB) for review under E.O. 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action. Because this action does not propose or impose any requirements, and instead seeks comments and suggestions for CEQ to consider in possibly developing a subsequent proposed rule, the various statutes and executive orders that normally apply to rulemaking do not apply in this case. If CEQ decides in the future to pursue a rulemaking, CEQ will address the statutes and executive orders applicable to that rulemaking at that time.

**Mary B. Neumayr**,  
Chief of Staff, Council on Environmental Quality.

[FR Doc. 2018-13246 Filed 6-19-18; 8:45 am]

BILLING CODE 3225-F8-P

### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 105-60

[GSPMR Case 2016-105-1; Docket No. 2016-0004, Sequence No. 1]

RIN 3090-AJ74

#### Public Availability of Agency Records and Informational Materials

**AGENCY:** Office of Administrative Services (OAS), General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration (GSA) is issuing a proposed rule to amend its regulations implementing the Freedom of Information Act (FOIA). The regulations are being revised to update and streamline the language of several procedural provisions and to incorporate certain changes brought about by the amendments to the FOIA under both statutory and nonstatutory authorities. This rule also amends the

GSA's regulations under the Freedom of Information Act (FOIA) to incorporate certain changes made to the FOIA by the FOIA Improvement Act of 2016. Additionally, the regulations are being updated to reflect developments in case law, executive guidance from the Department of Justice—Office of Information Policy, technological advancements in how the FOIA is administered, and to include current cost figures to be used in calculating and charging fees. Finally, the revisions increase the amount of information that members of the public may receive from the Agency without being charged processing fees through proactive disclosures.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before August 20, 2018 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to GSPMR case 2016-105-1 by any of the following methods:

- [Regulations.gov](http://www.regulations.gov); <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "GSPMR Case 2016-105-1". Select the link "Comment Now" that corresponds with "GSPMR Case 2016-105-1." Follow the instructions provided on the screen. Please include your name, company name (if any), and "GSPMR Case 2016-105-1" on your attached document.

- **Mail:** General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Lois Mandell, 1800 F Street NW, 2nd Floor, Washington, DC 20405.

**Instructions:** Please submit comments only and cite GSPMR Case 2016-105-1, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Mr. Travis S. Lewis, Director of GSA, OAS, Freedom of Information Act and Records Management Division, at 202-219-3078 via email at [travis.lewis@gsa.gov](mailto:travis.lewis@gsa.gov) for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite GSPMR Case 2016-105-1.

## RE: Comment analysis

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**From:** "Mansoor, Yardena M. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=2712a19fd57447088e0b9da580c16e15-ma">

**To:** "Carlin, Erin A. EOP/CEQ (Intern)" <(b) (6)>

**Date:** Thu, 19 Jul 2018 16:12:44 -0400

Thanks. If I encounter more of these, I'll send them on.

---

**From:** Carlin, Erin A. EOP/CEQ (Intern)

**Sent:** Thursday, July 19, 2018 4:11 PM

**To:** Mansoor, Yardena M. EOP/CEQ <(b) (6)>

**Subject:** RE: Comment analysis

Hello Yardena,

After reviewing 0498, (b) (5)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]  
[REDACTED] Please let me know if you would like me to revise this or review other comments. Thank you!

Best,

Erin Carlin

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**From:** Mansoor, Yardena M. EOP/CEQ

**Sent:** Thursday, July 19, 2018 2:10 PM

**To:** Carlin, Erin A. EOP/CEQ (Intern) <(b) (6)>

**Subject:** Comment analysis

Please take a look at 0498 (b) (5)

Hang on to the FR notice. I may send you additional comment documents to sort out. Thanks for the help.

Yardena Mansoor  
Deputy Associate Director for NEPA  
Council on Environmental Quality  
(b) (6) / (b) (6)

## RE: A flood of comments

---

**From:** "Mansoor, Yardena M. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=2712a19fd57447088e0b9da580c16e15-ma">

**To:** "Carlin, Erin A. EOP/CEQ (Intern)" <(b) (6)>

**Date:** Tue, 24 Jul 2018 10:37:58 -0400

**Attachments**  
: 02 ANOPR Comment Log 07-23 to Erin.xlsx (75.45 kB)

(b) (5)

**From:** Carlin, Erin A. EOP/CEQ (Intern)  
**Sent:** Tuesday, July 24, 2018 10:17 AM  
**To:** Mansoor, Yardena M. EOP/CEQ <(b) (6)>  
**Subject:** RE: A flood of comments

Hello Yardena,

I have been looking through some of the comments, (b) (5)

?

Best,

Erin Carlin

**From:** Mansoor, Yardena M. EOP/CEQ  
**Sent:** Tuesday, July 24, 2018 9:37 AM  
**To:** Carlin, Erin A. EOP/CEQ (Intern) <(b) (6)>  
**Cc:** Drummond, Michael R. EOP/CEQ <(b) (6)> 8oling, Ted A. EOP/CEQ

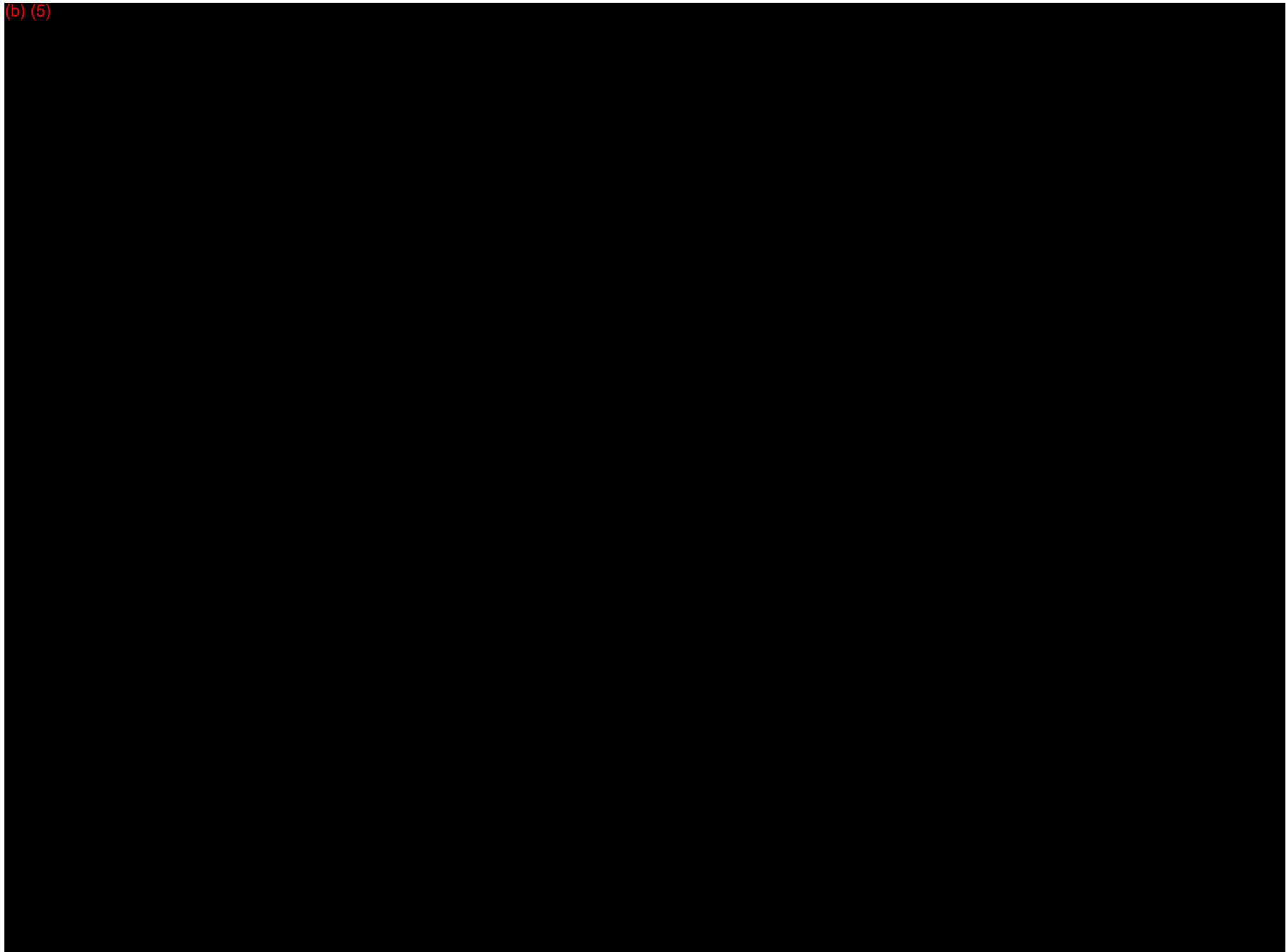
<(b) (6) [REDACTED]

**Subject:** A flood of comments

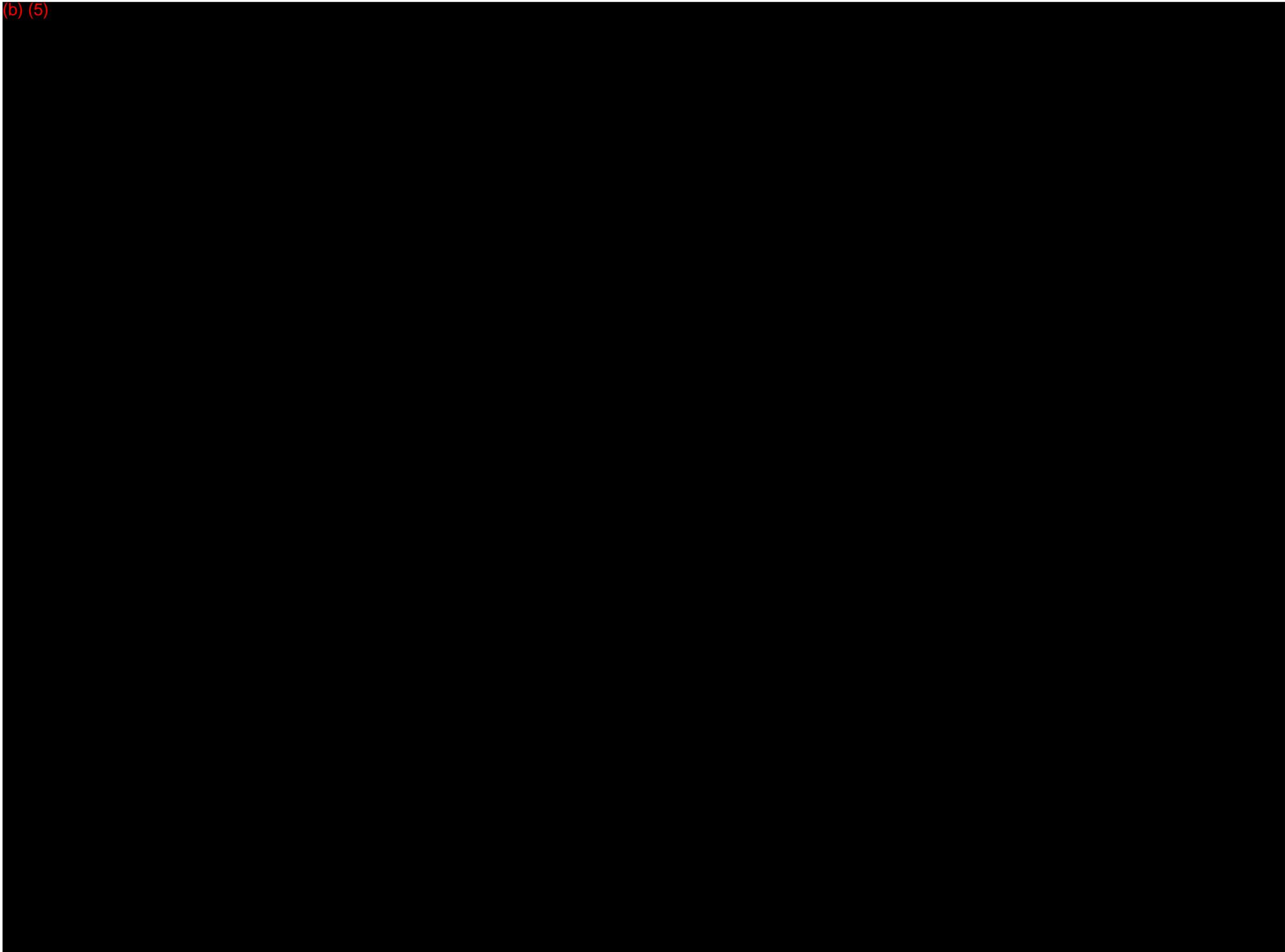
Overnight we went from 517 comments to 847. I'll download the new data into the spreadsheet and we can then split the set for screening. At this point, (b) (5) [REDACTED].

Yardena Mansoor  
Deputy Associate Director for NEPA  
Council on Environmental Quality  
(b) (6) [REDACTED] / (b) (6) [REDACTED]

(b) (5)



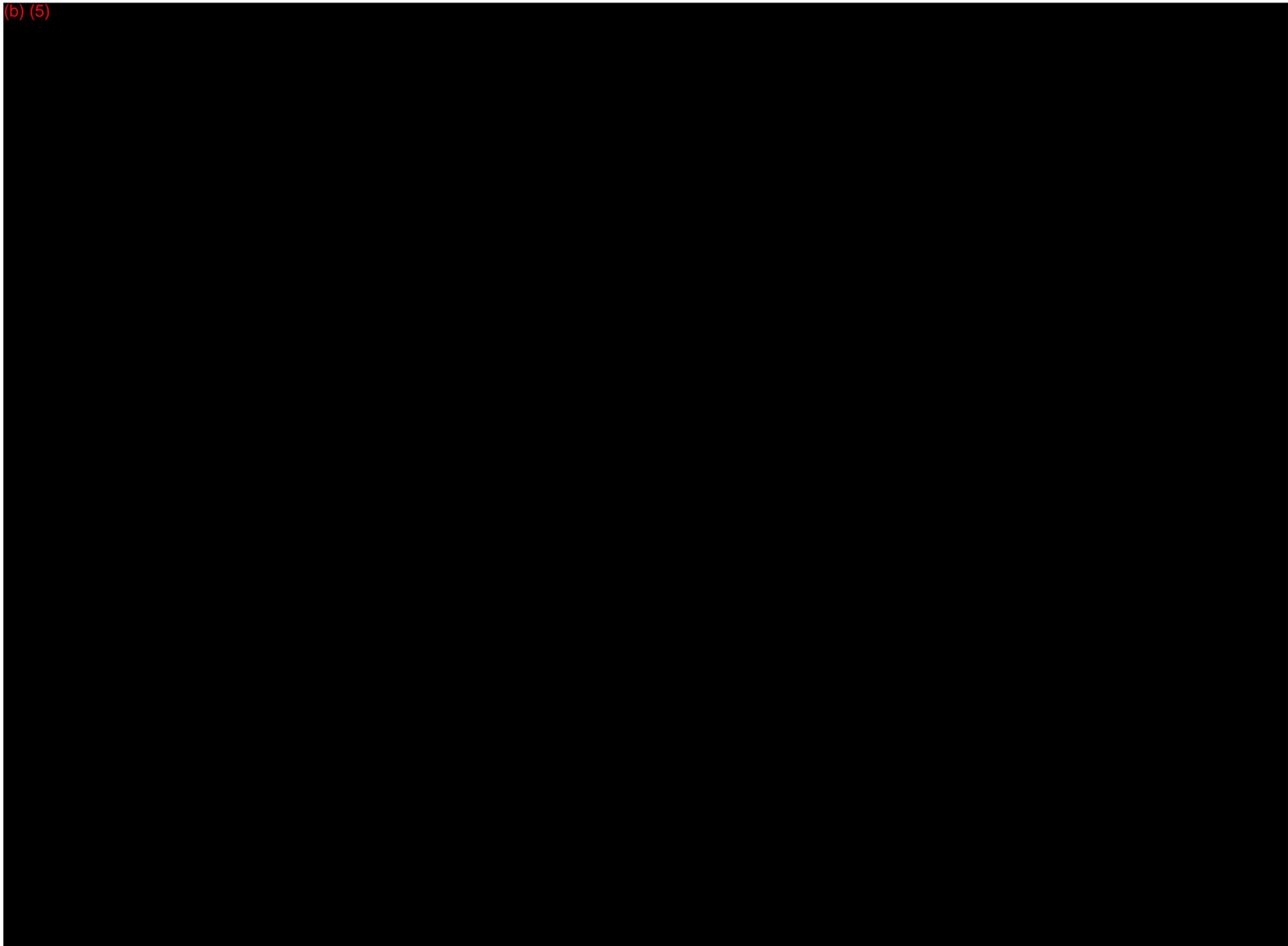
(b) (5)



(b) (5)



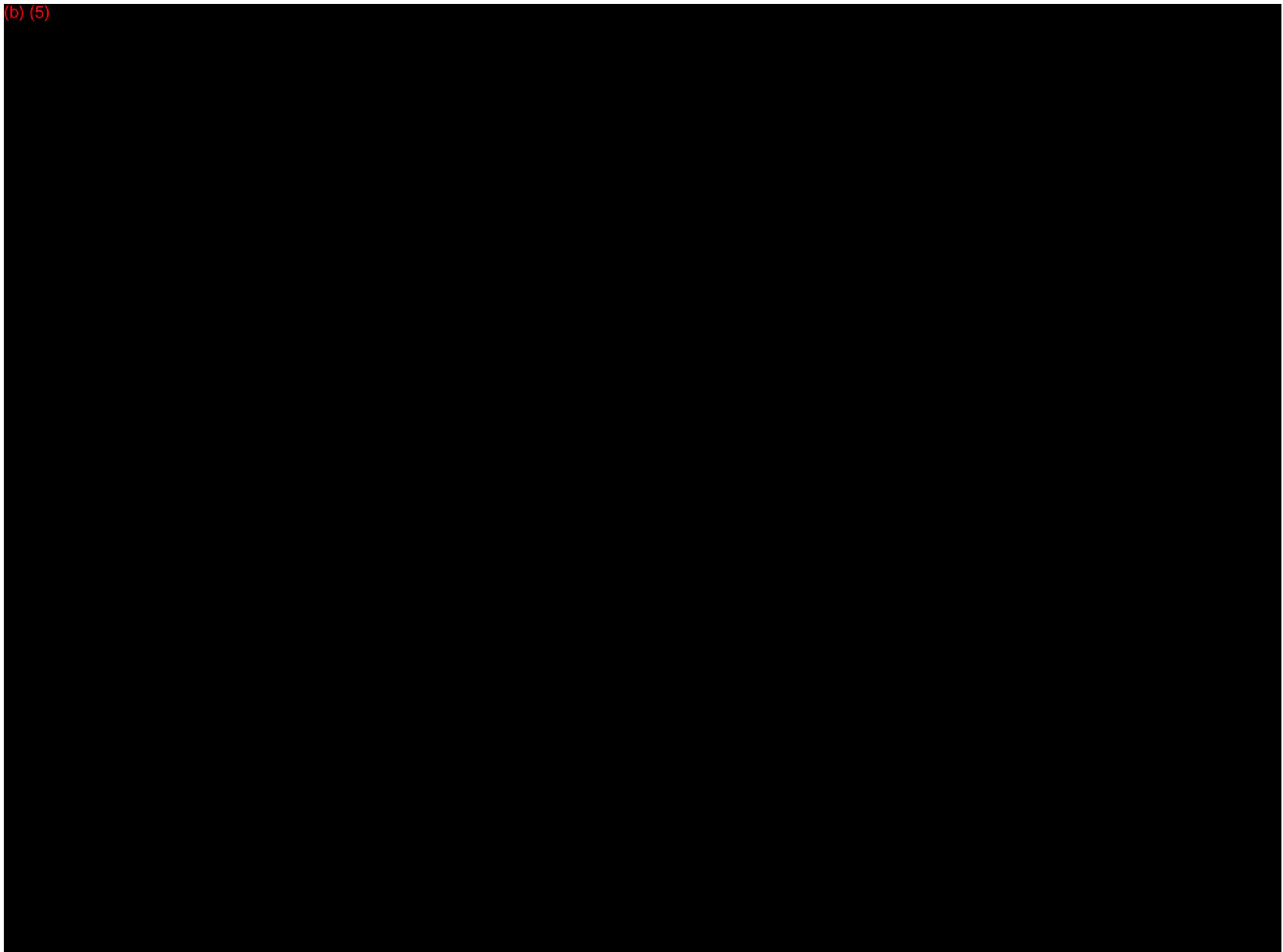
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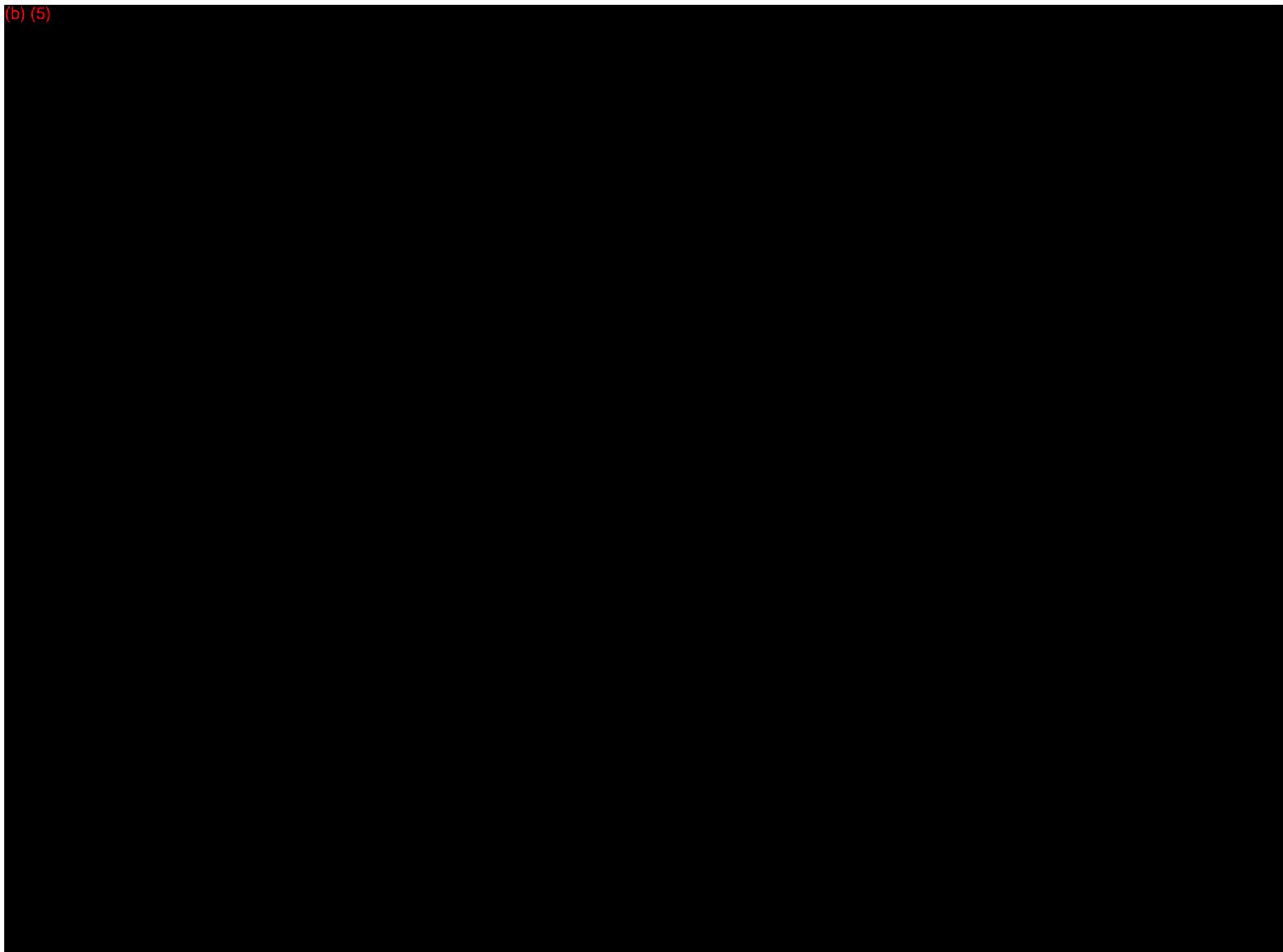
(b) (5)

(b) (5)

(b) (5)

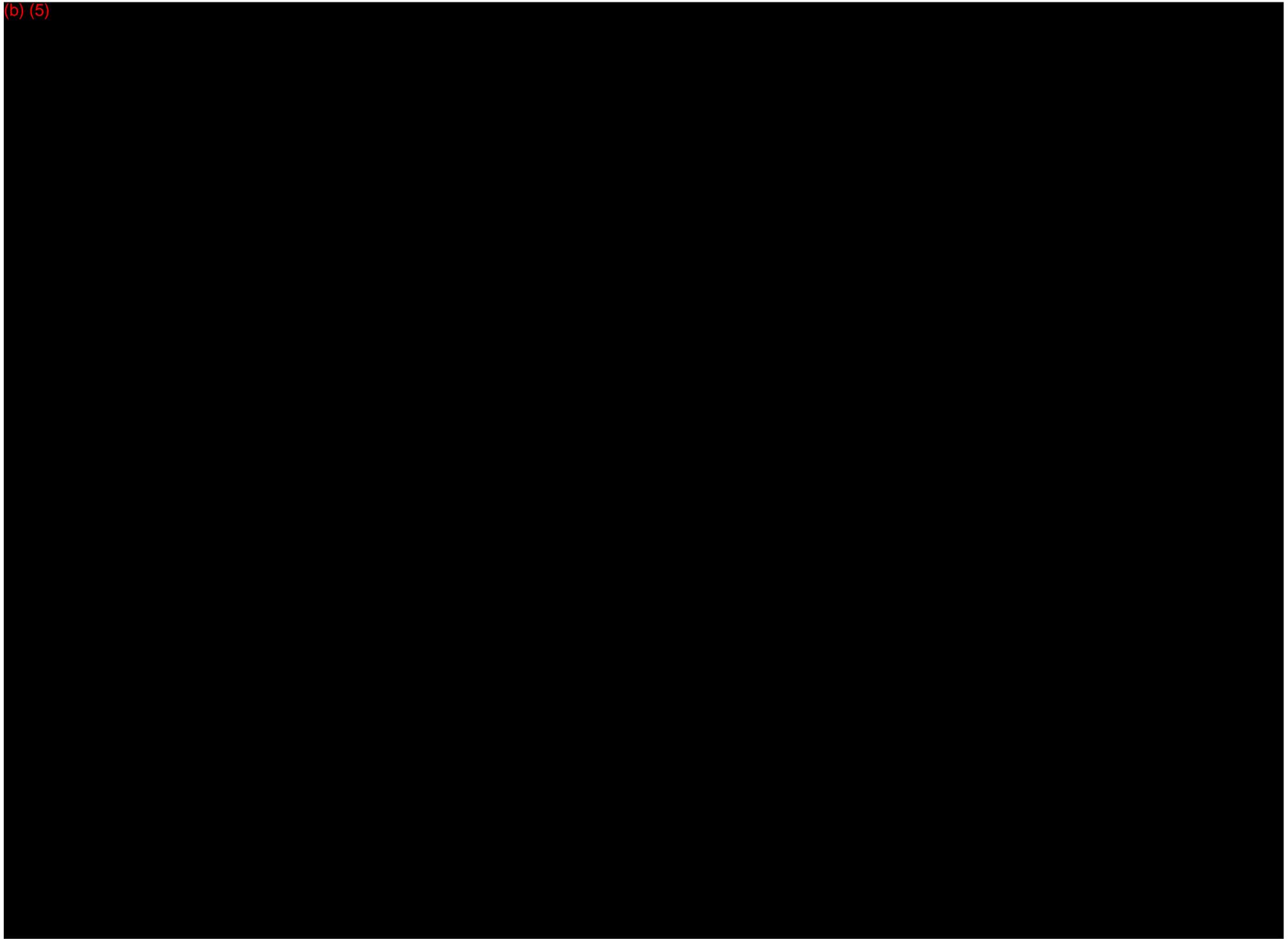


(b) (5)



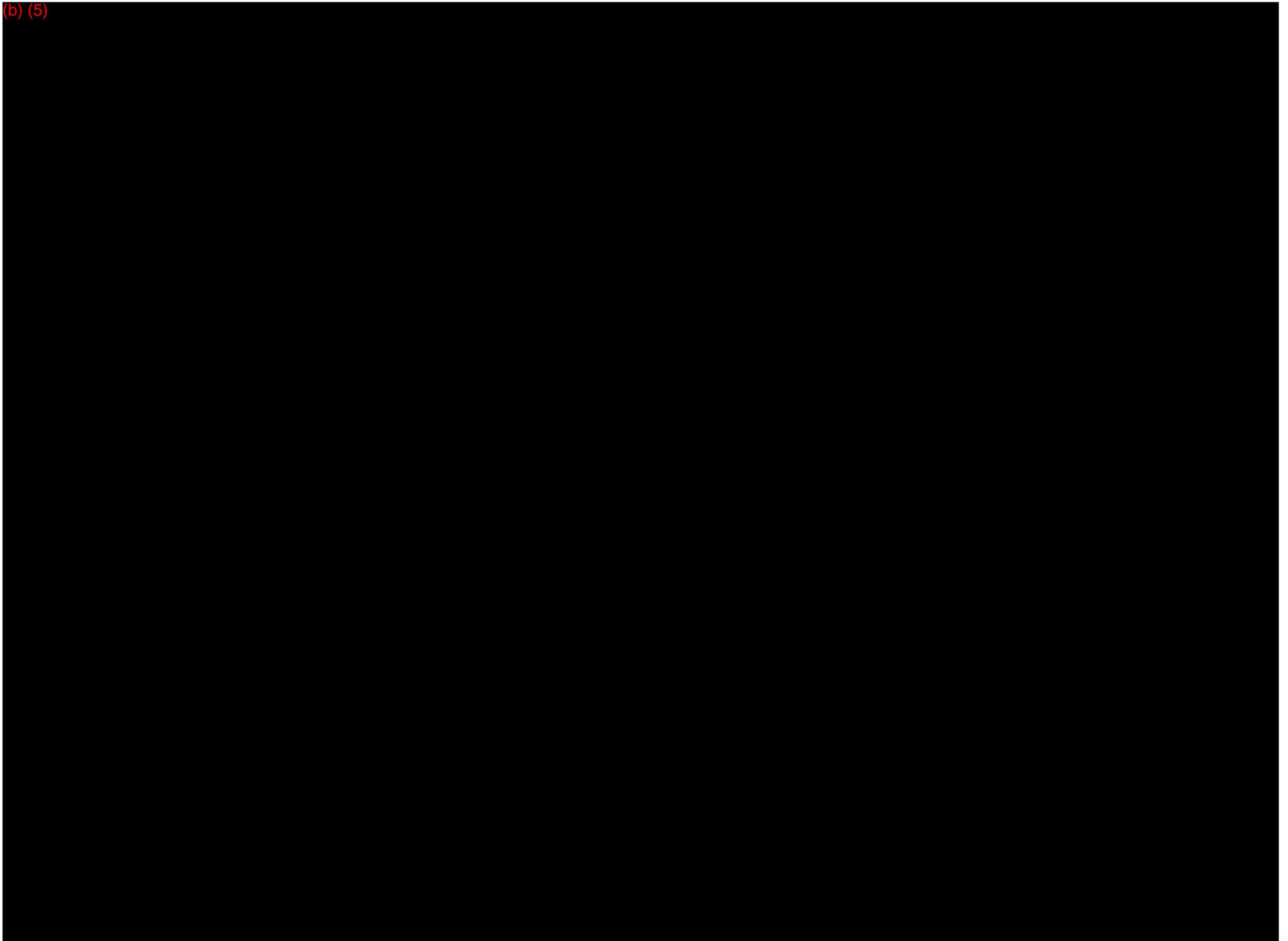
(b) (5)

(b) (5)

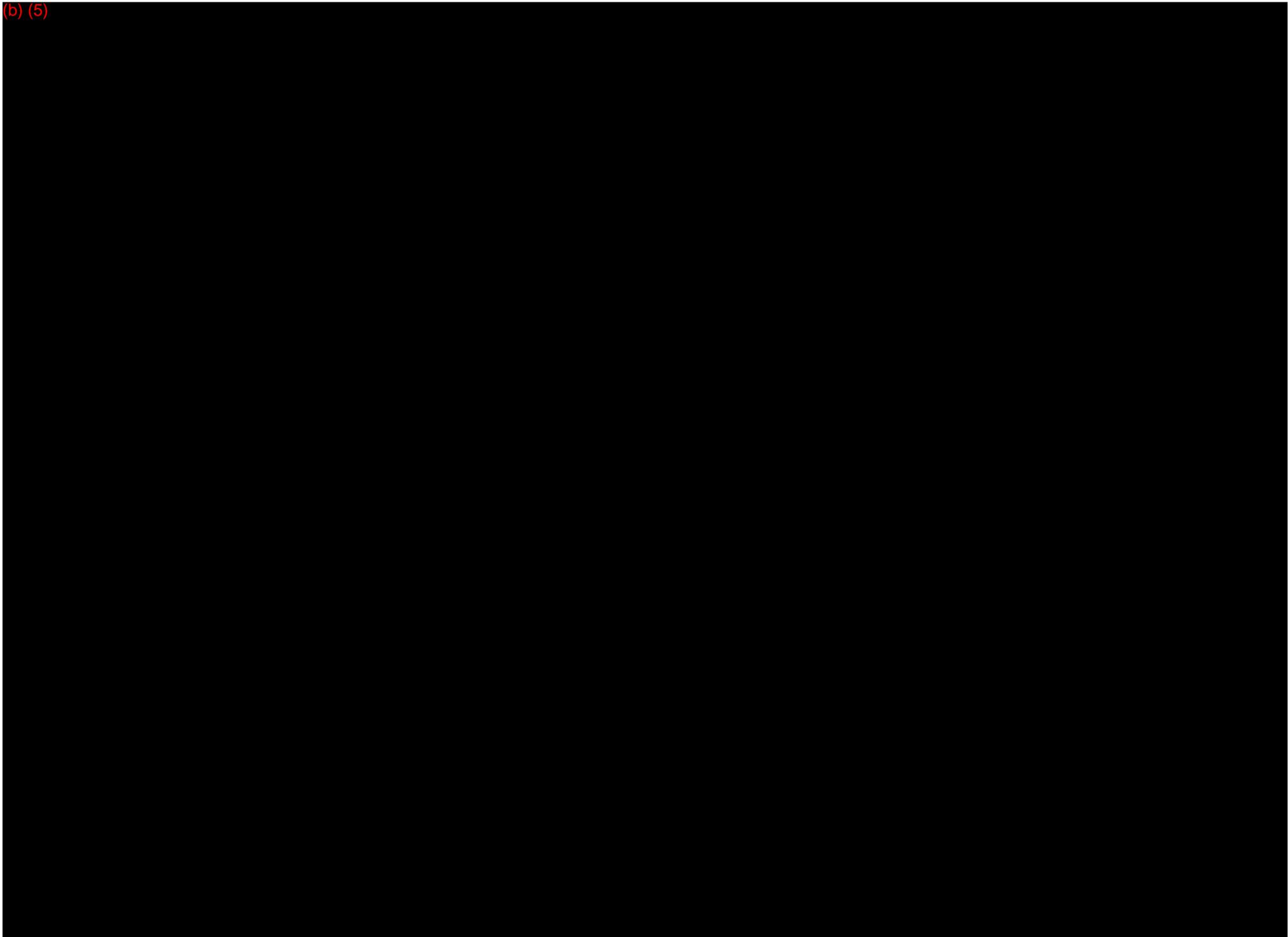


(b) (5)

(b) (5)



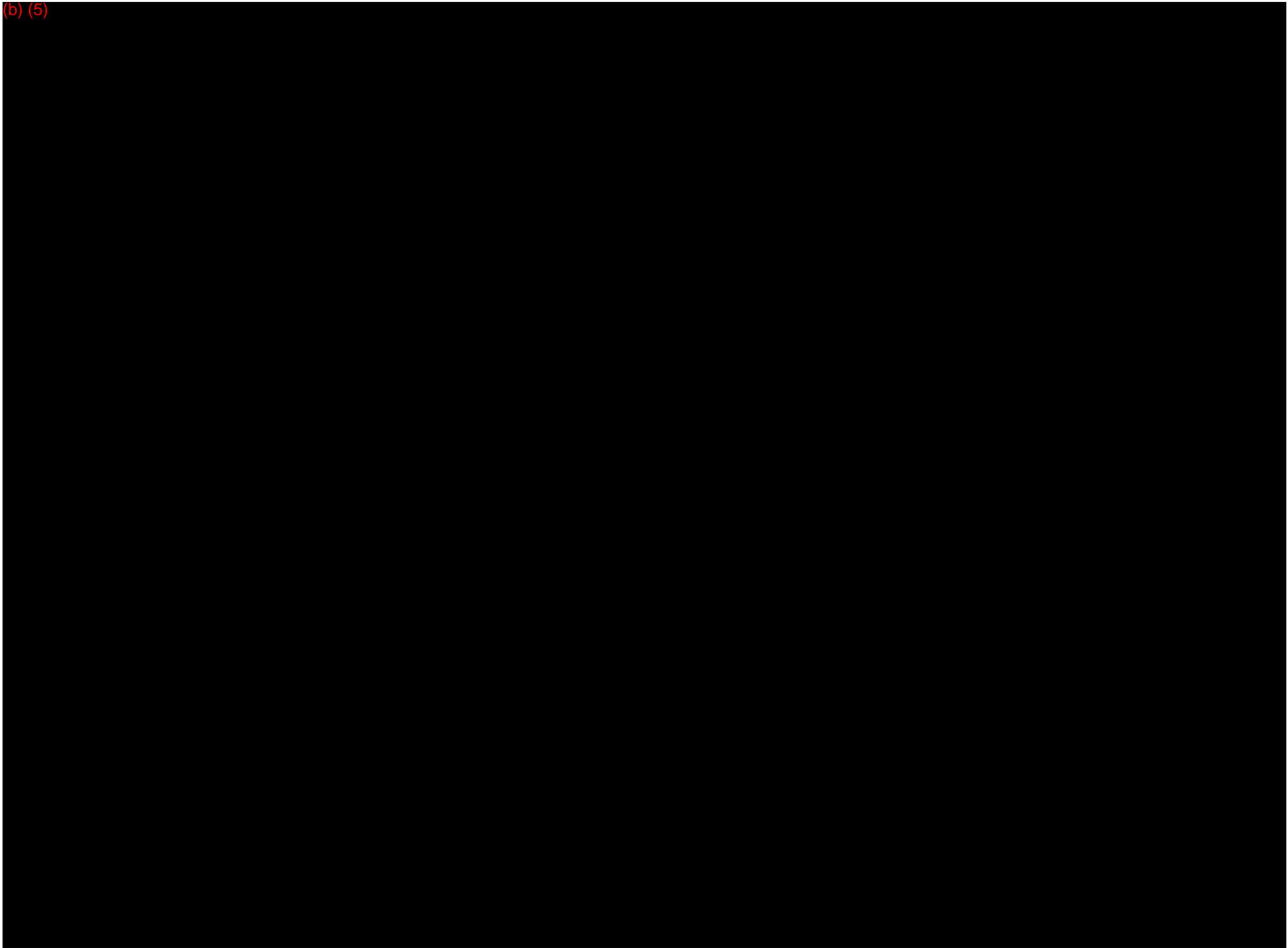
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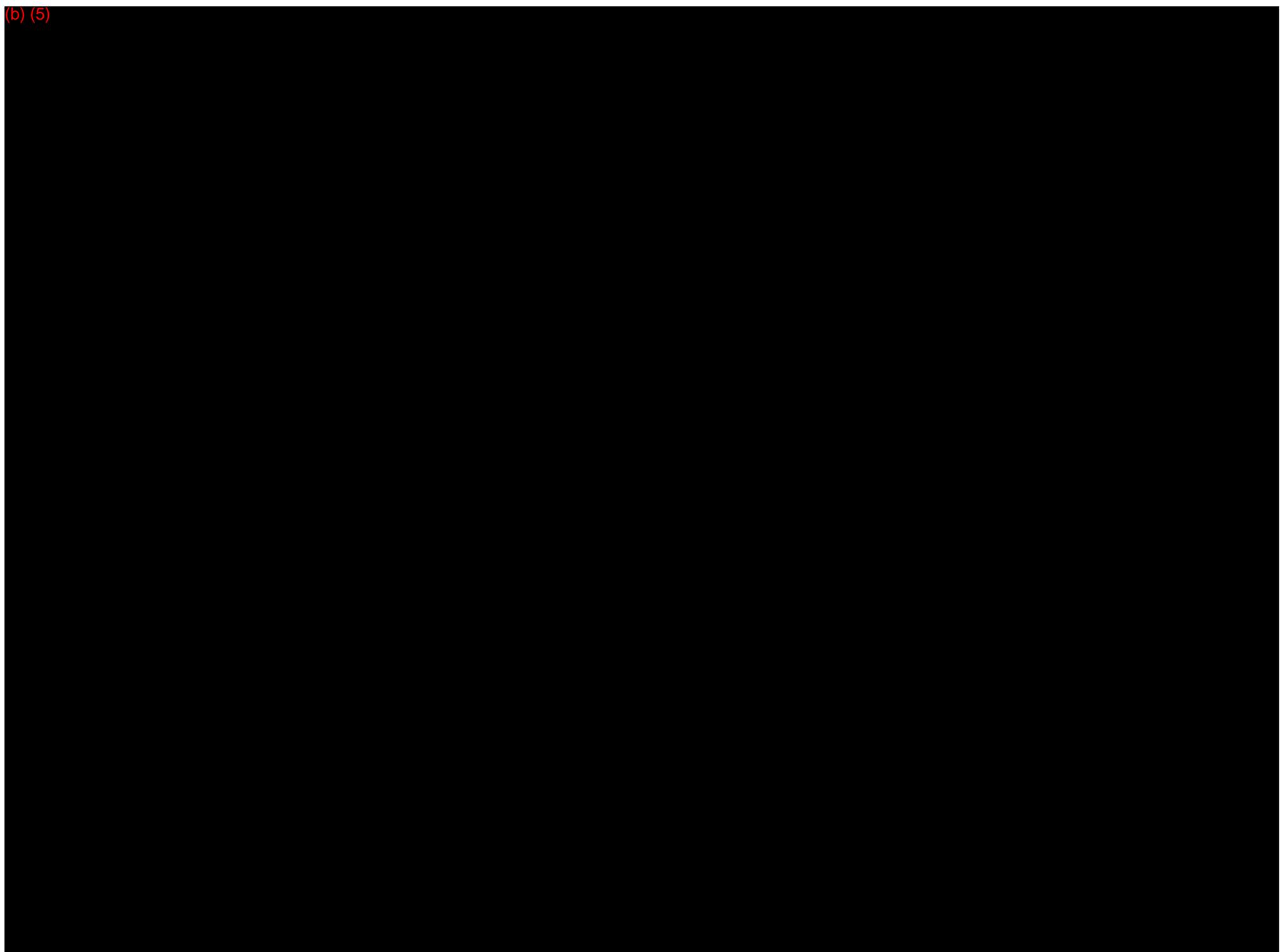


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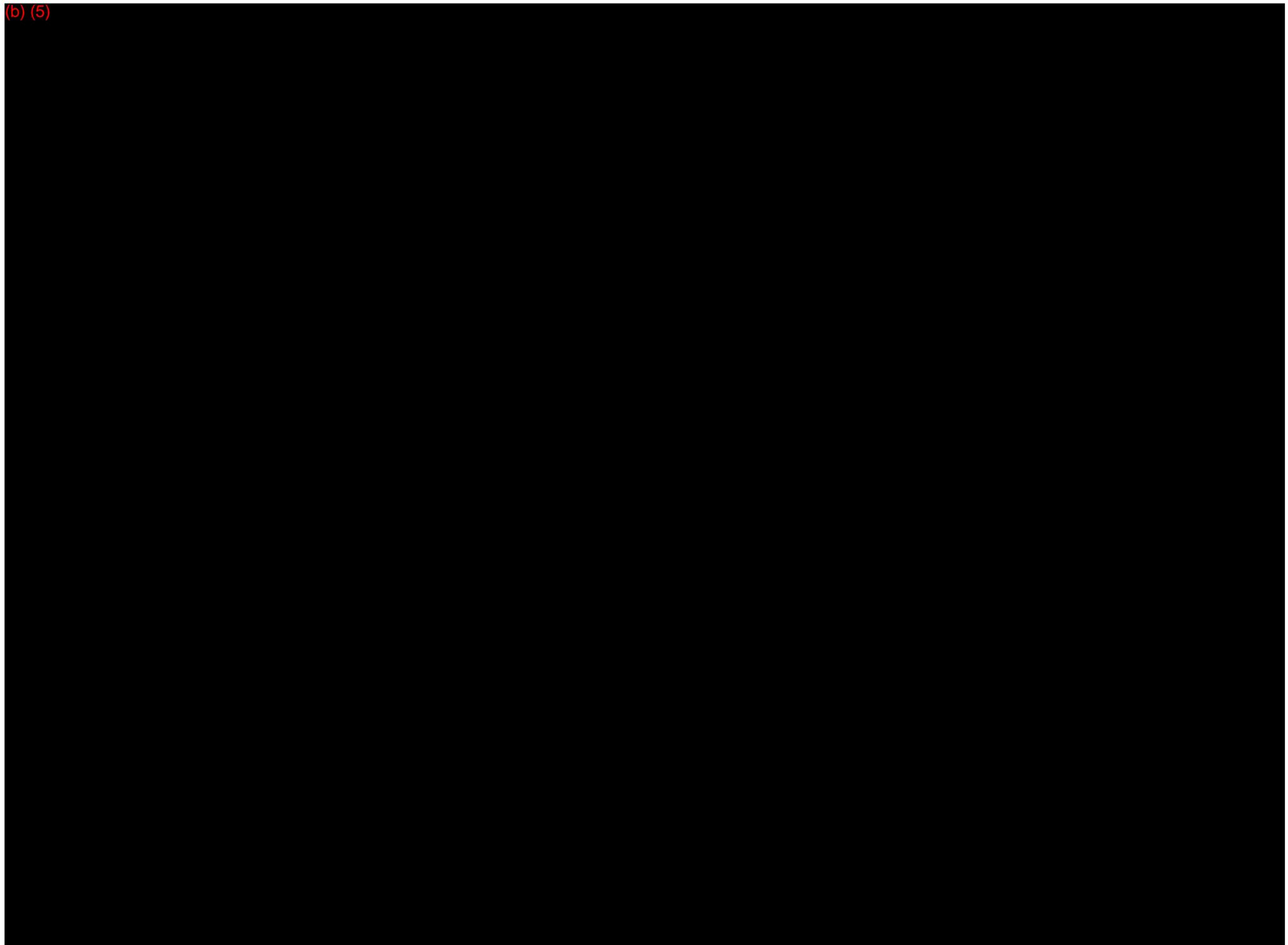
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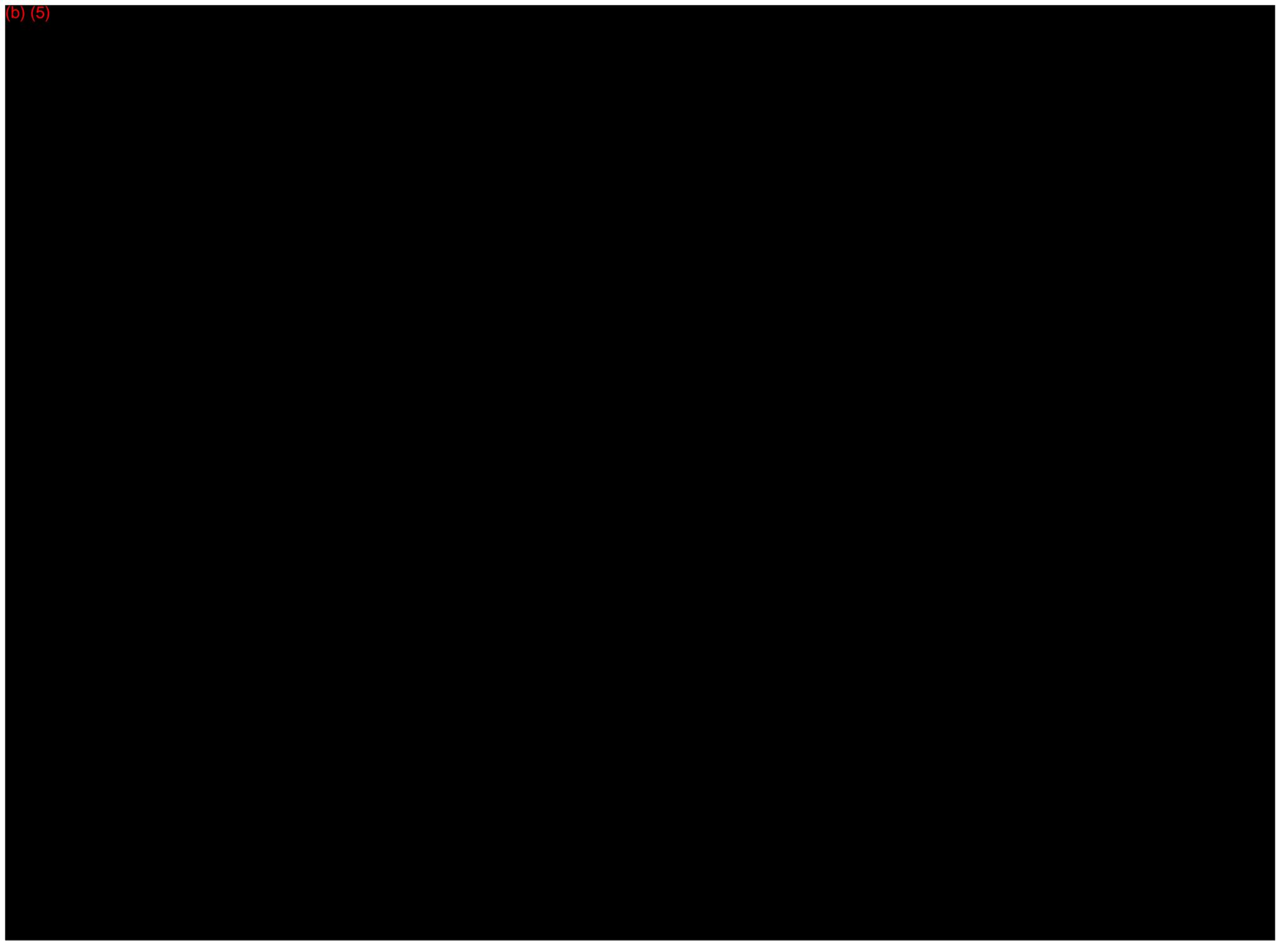


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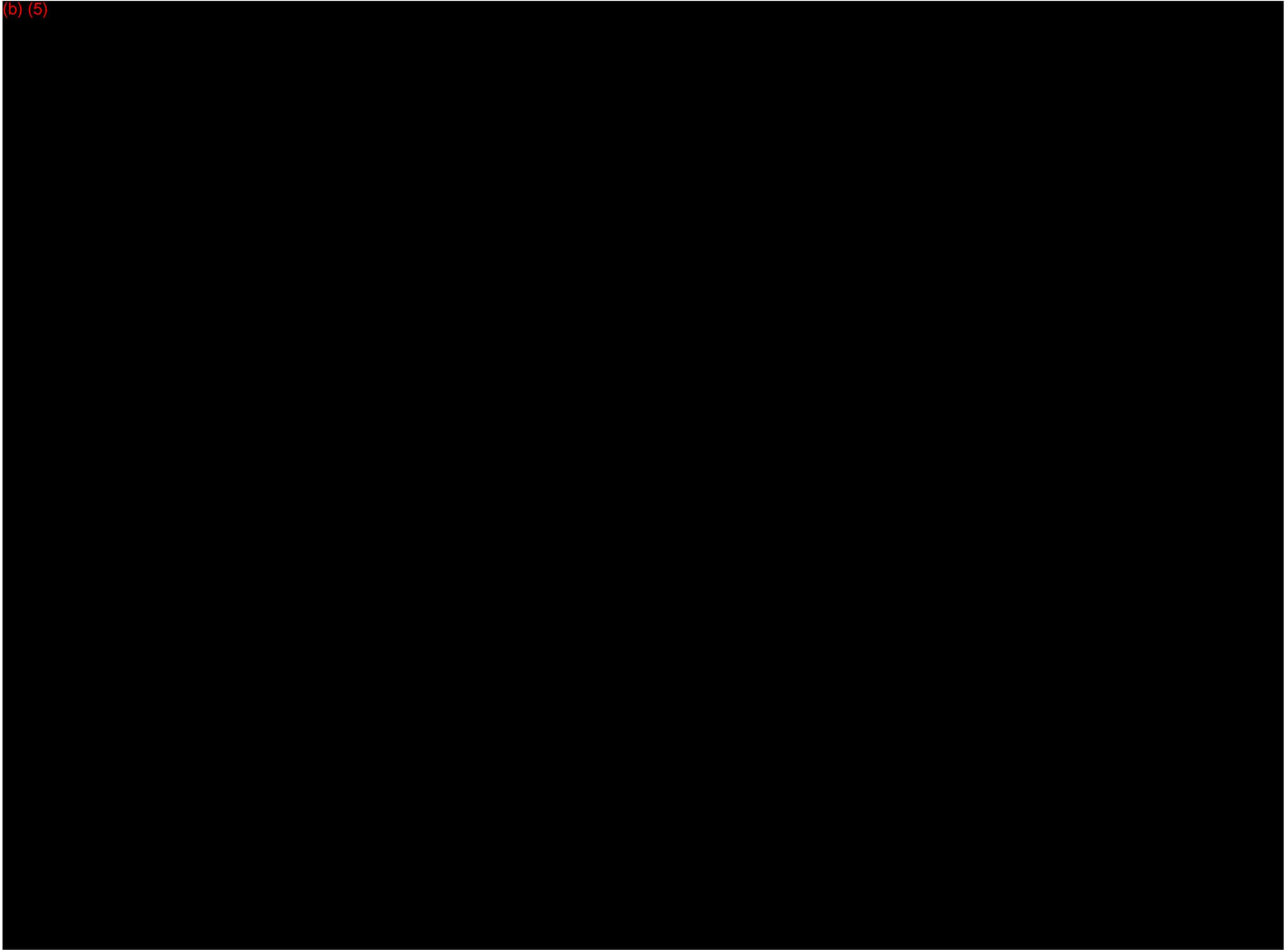
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(b) (5)

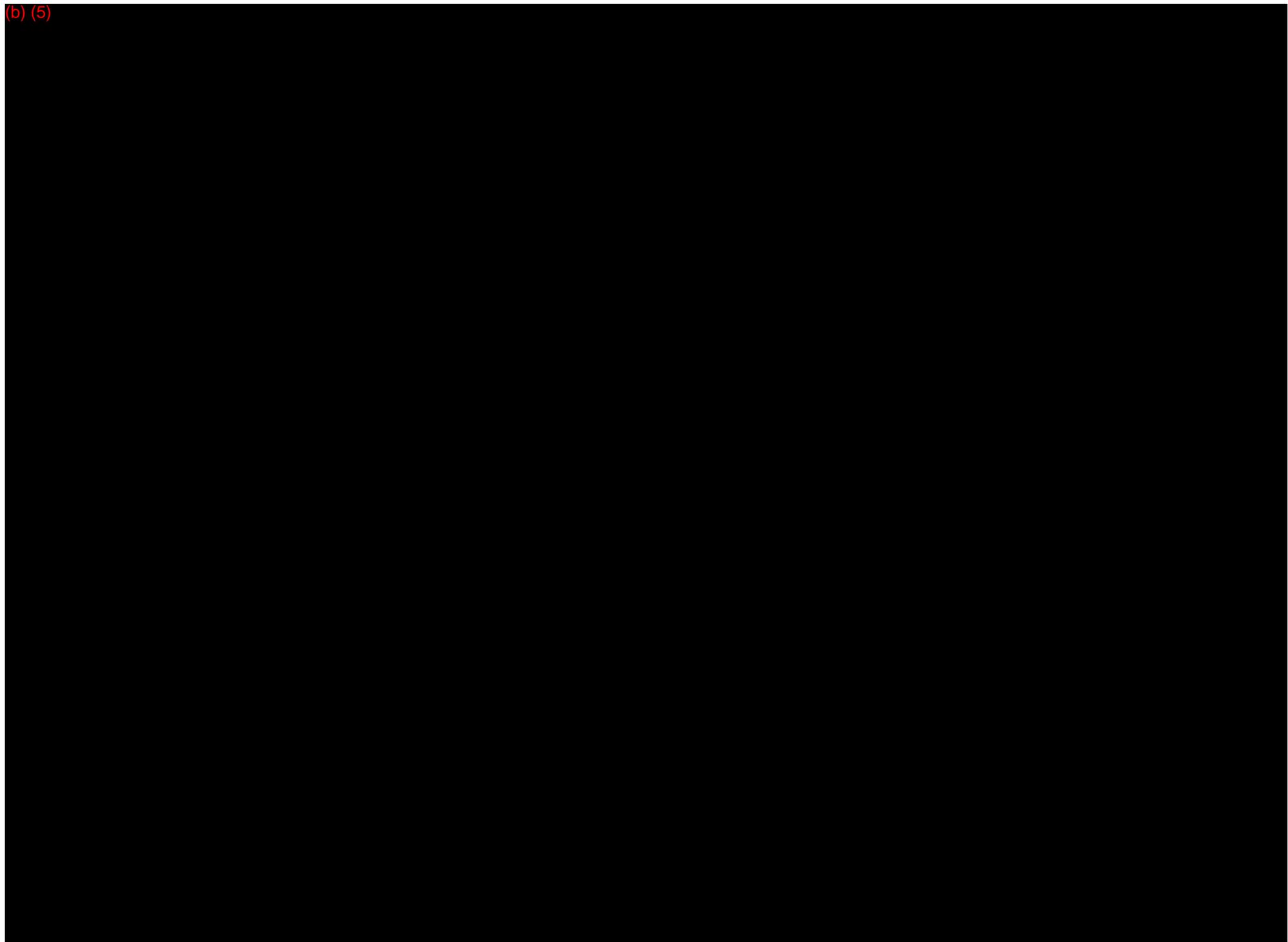


(b) (5)



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(b) (5)



## Updated ANOPR document

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**From:** "Carlin, Erin A. EOP/CEQ (Intern)" <(b) (6)>

**To:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>

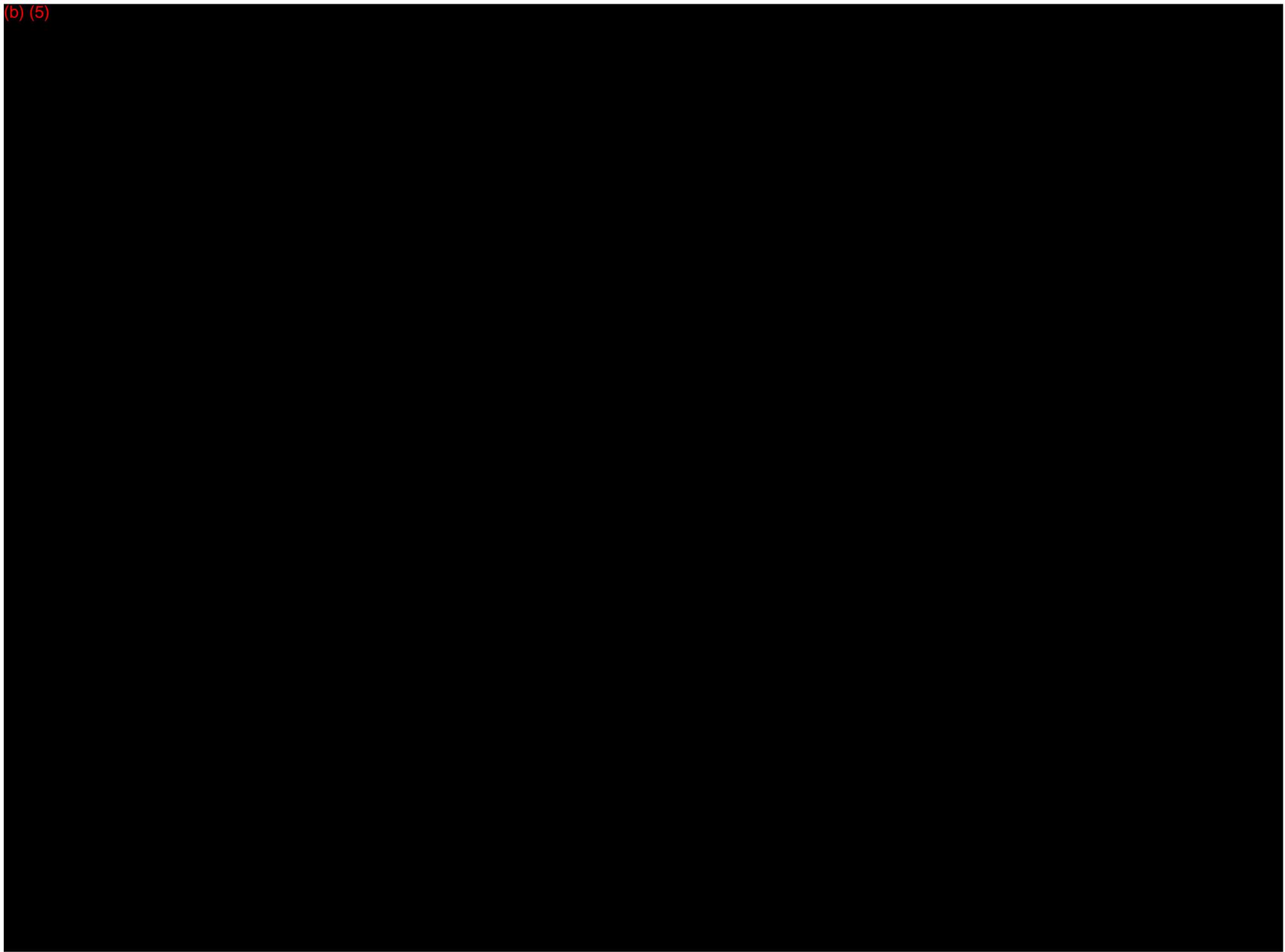
**Date:** Thu, 26 Jul 2018 09:56:49 -0400

**Attachments:** 02 ANOPR Comment Log 07-23 to Erin.xlsx (77.66 kB)

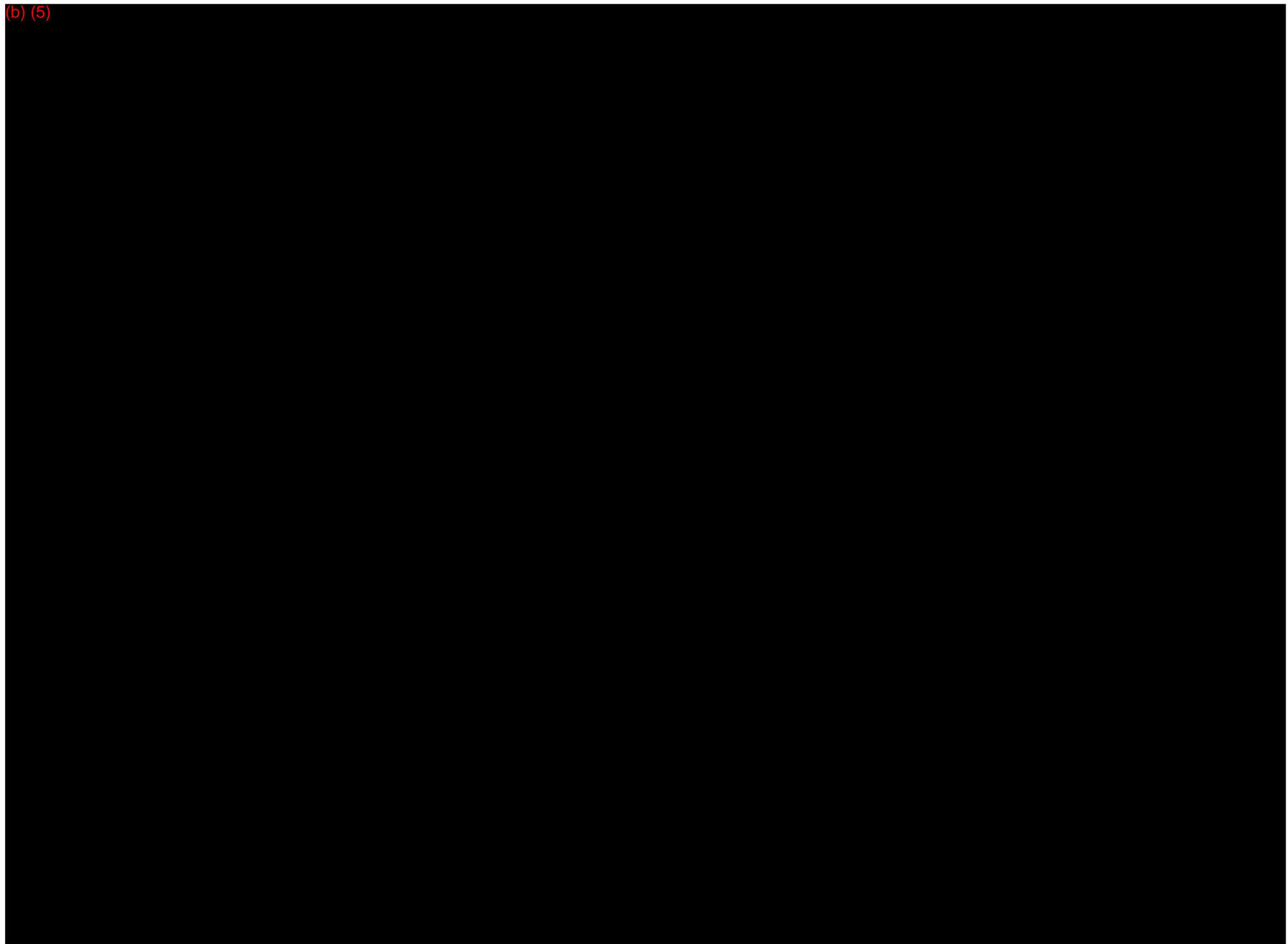
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(b) (5)

(b) (5)



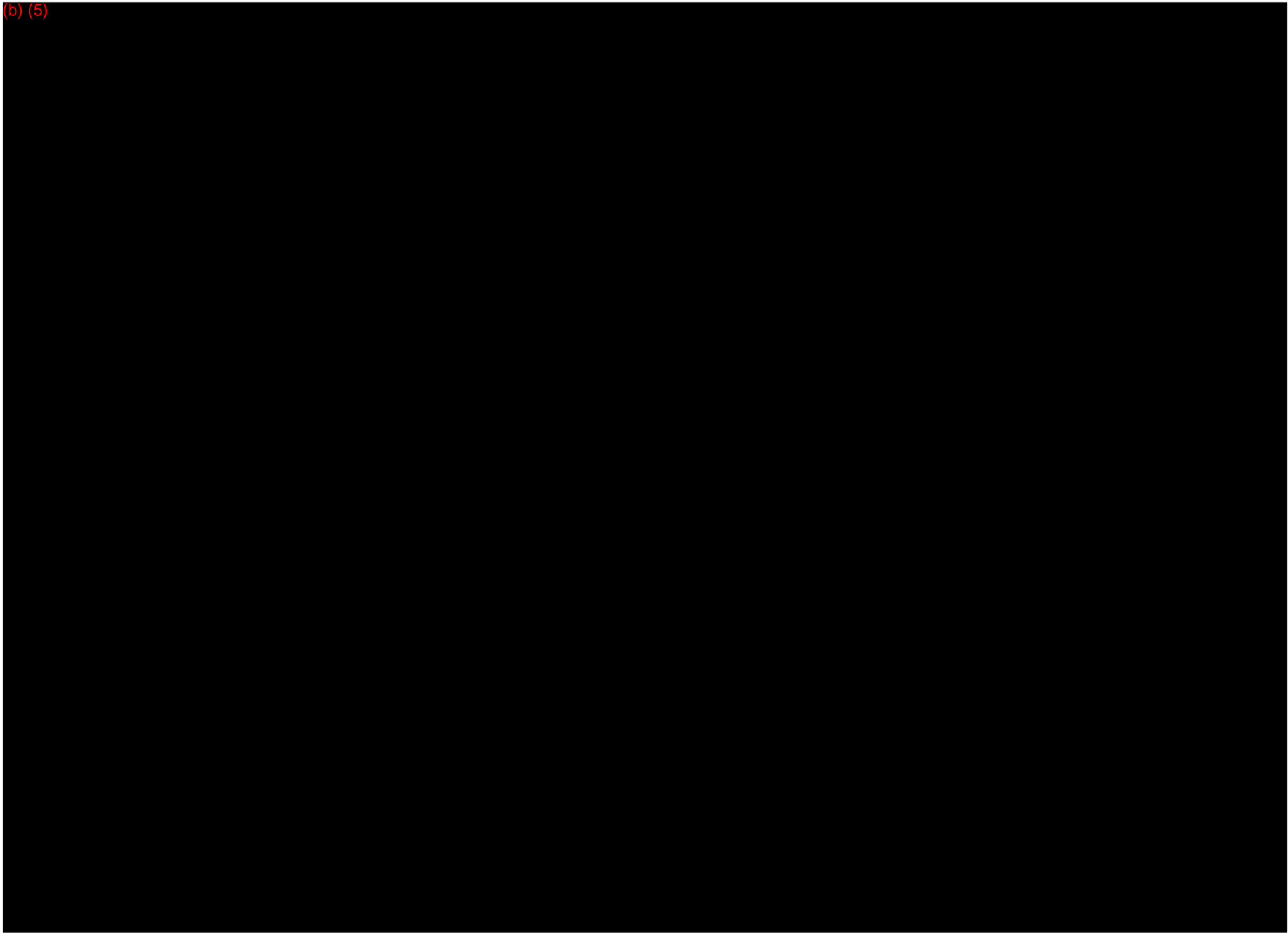
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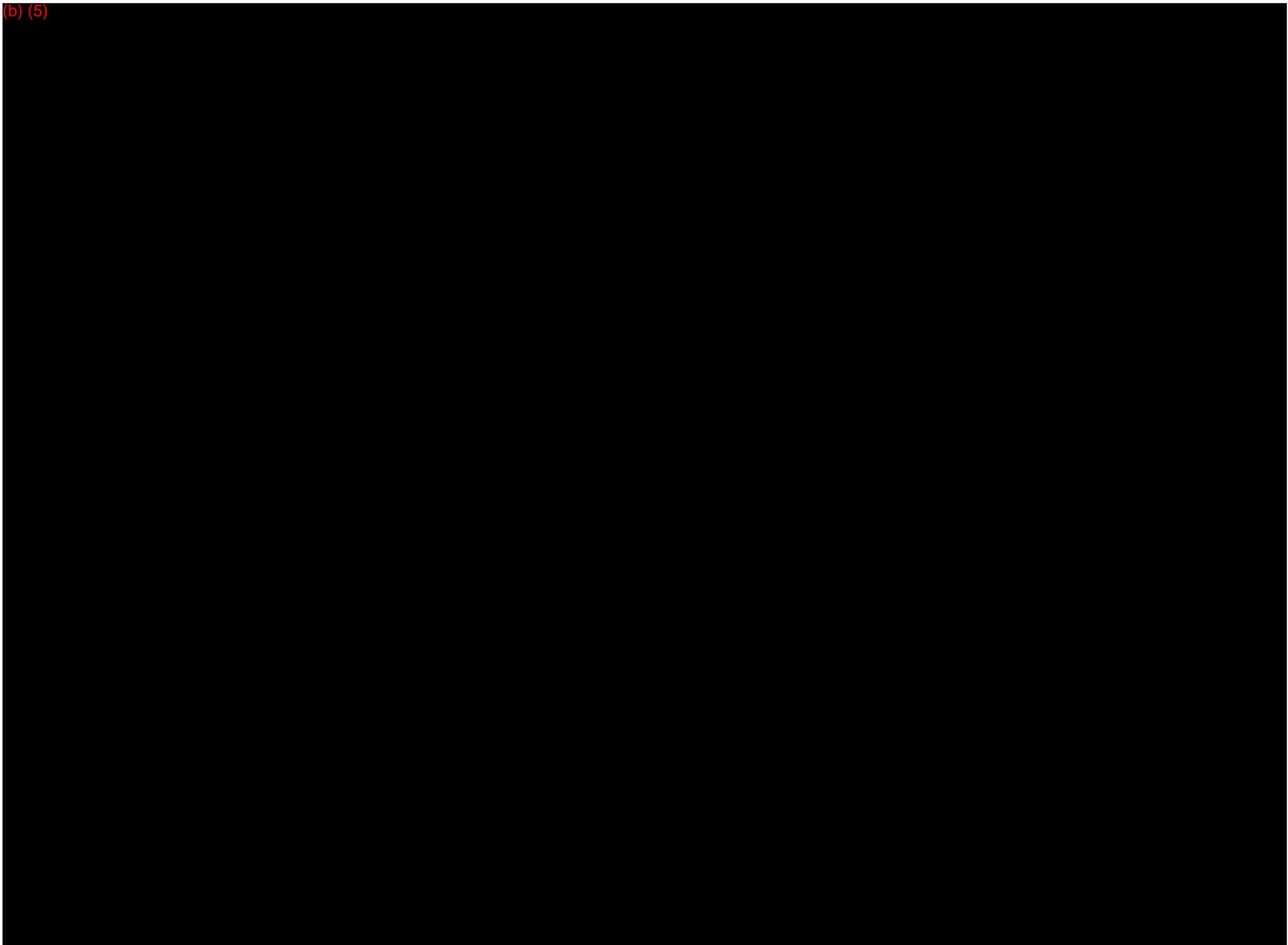
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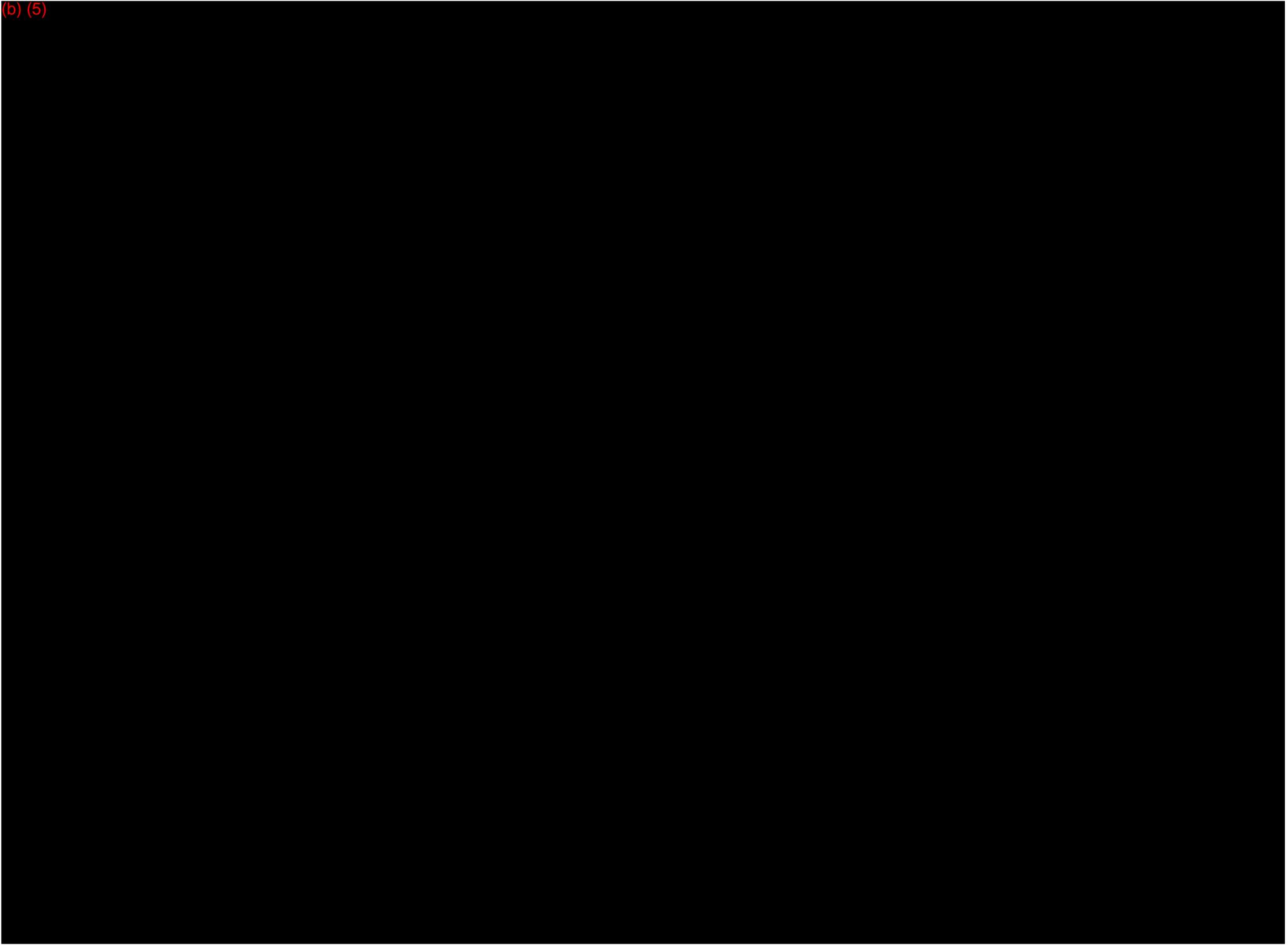
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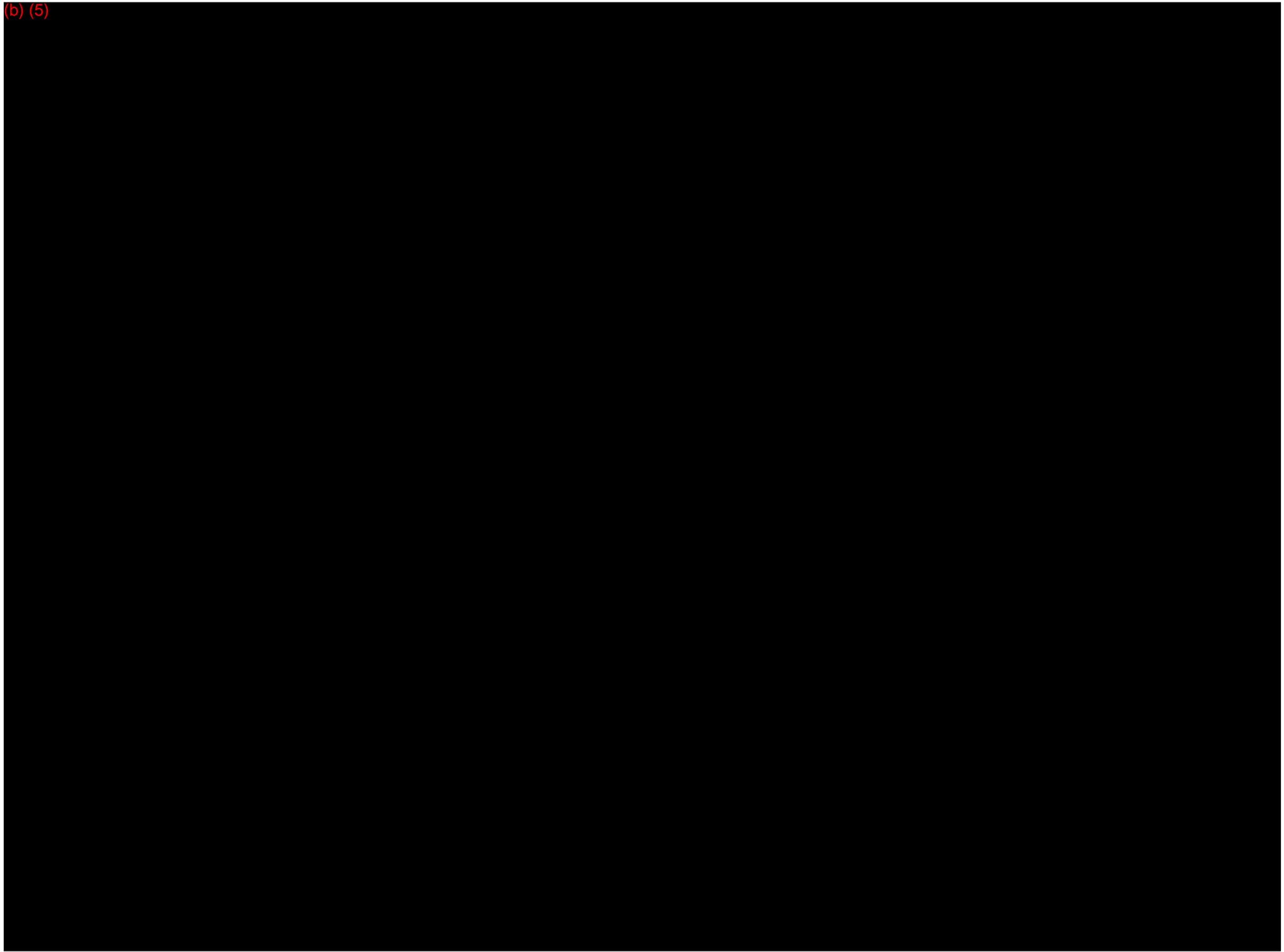
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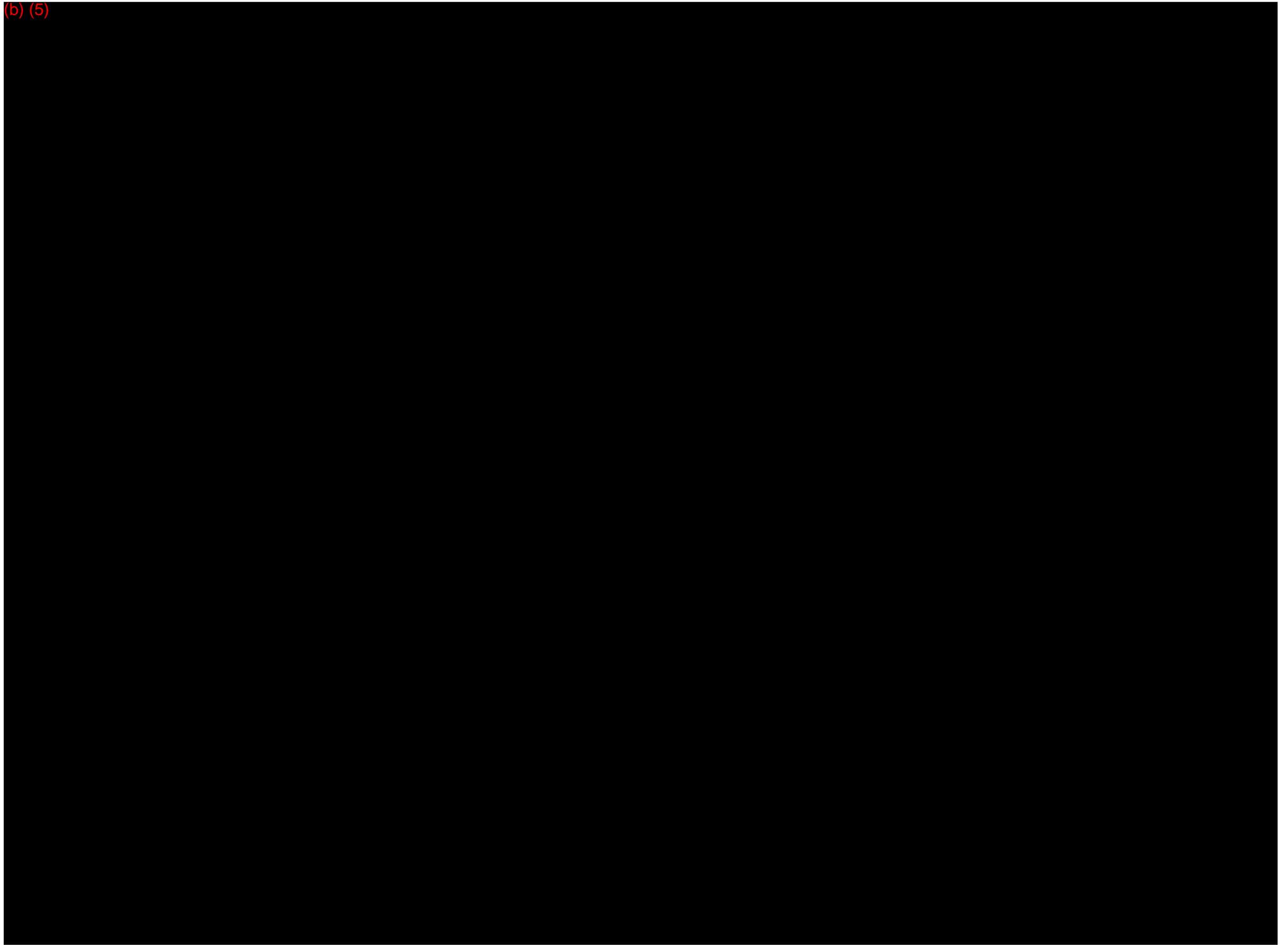
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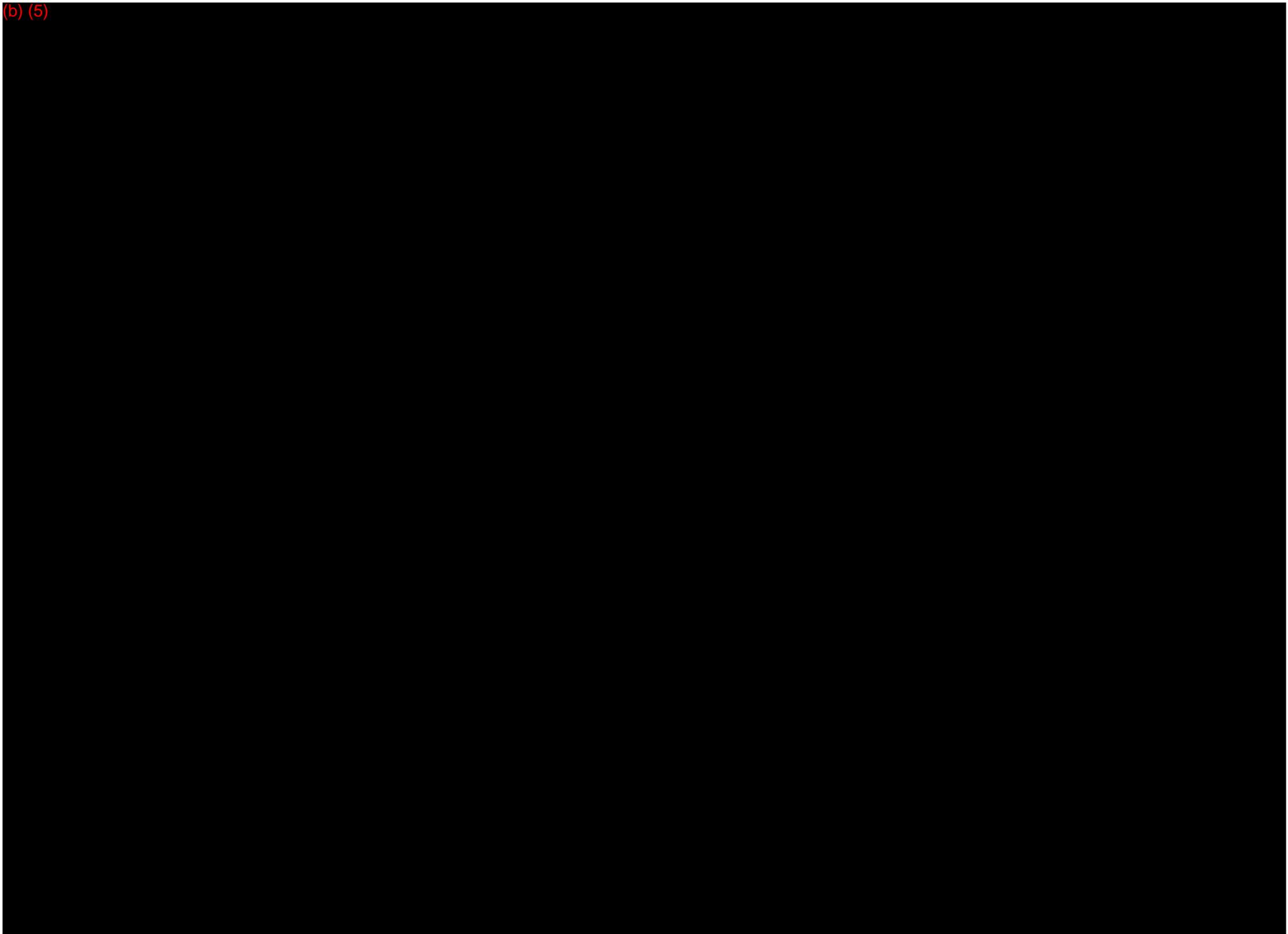
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(b) (5)



(b) (5)



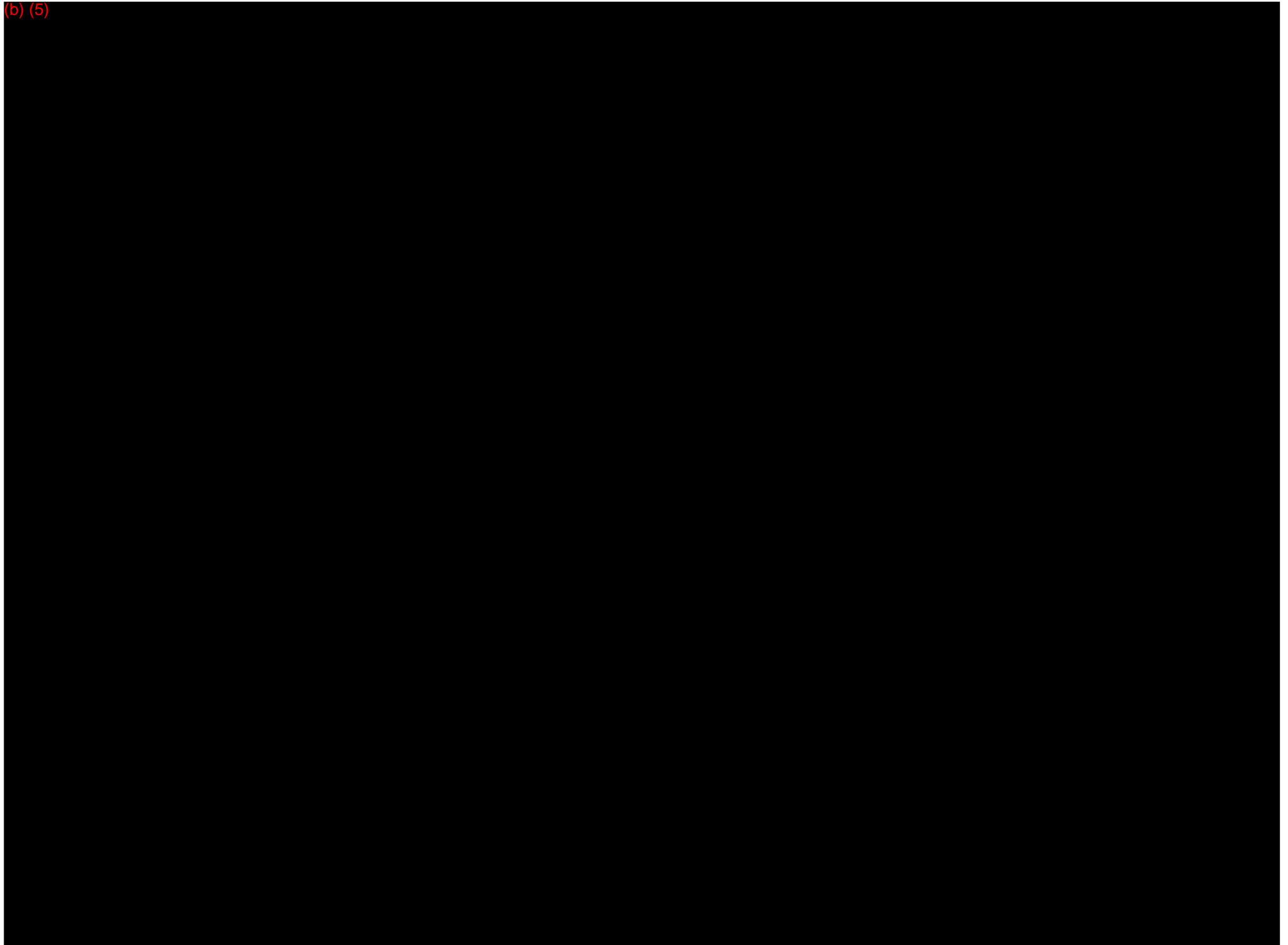
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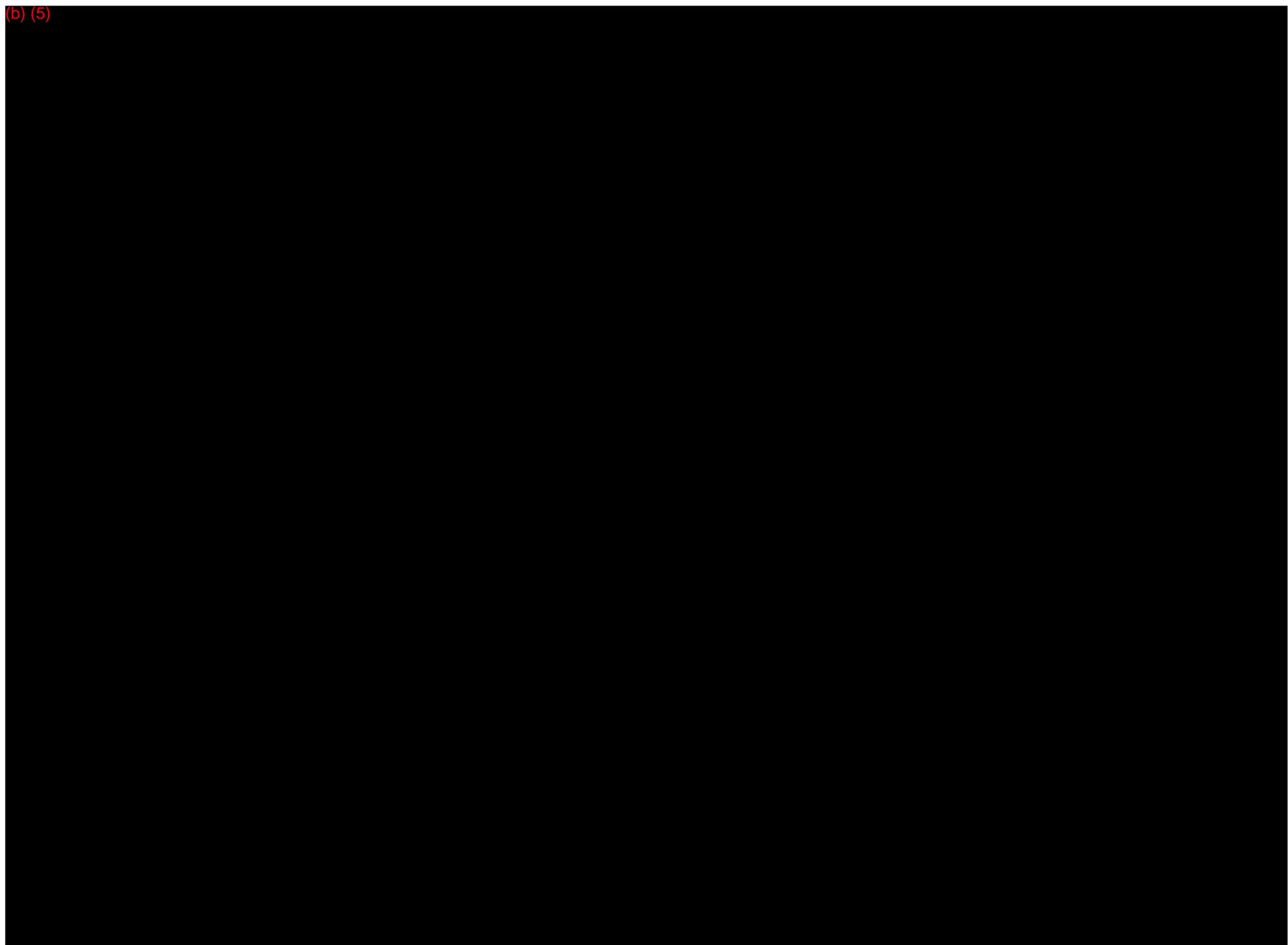
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(b) (5)



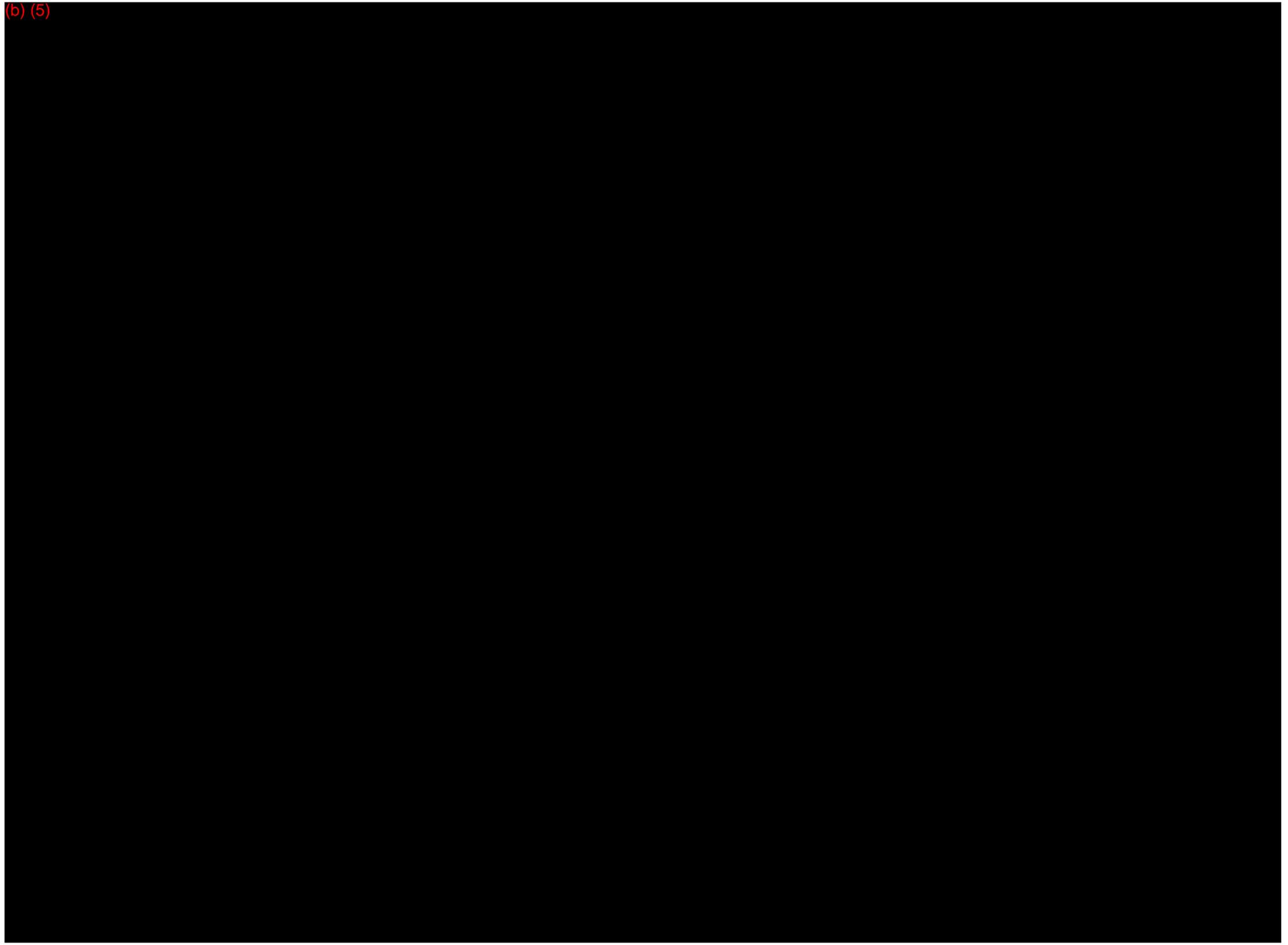
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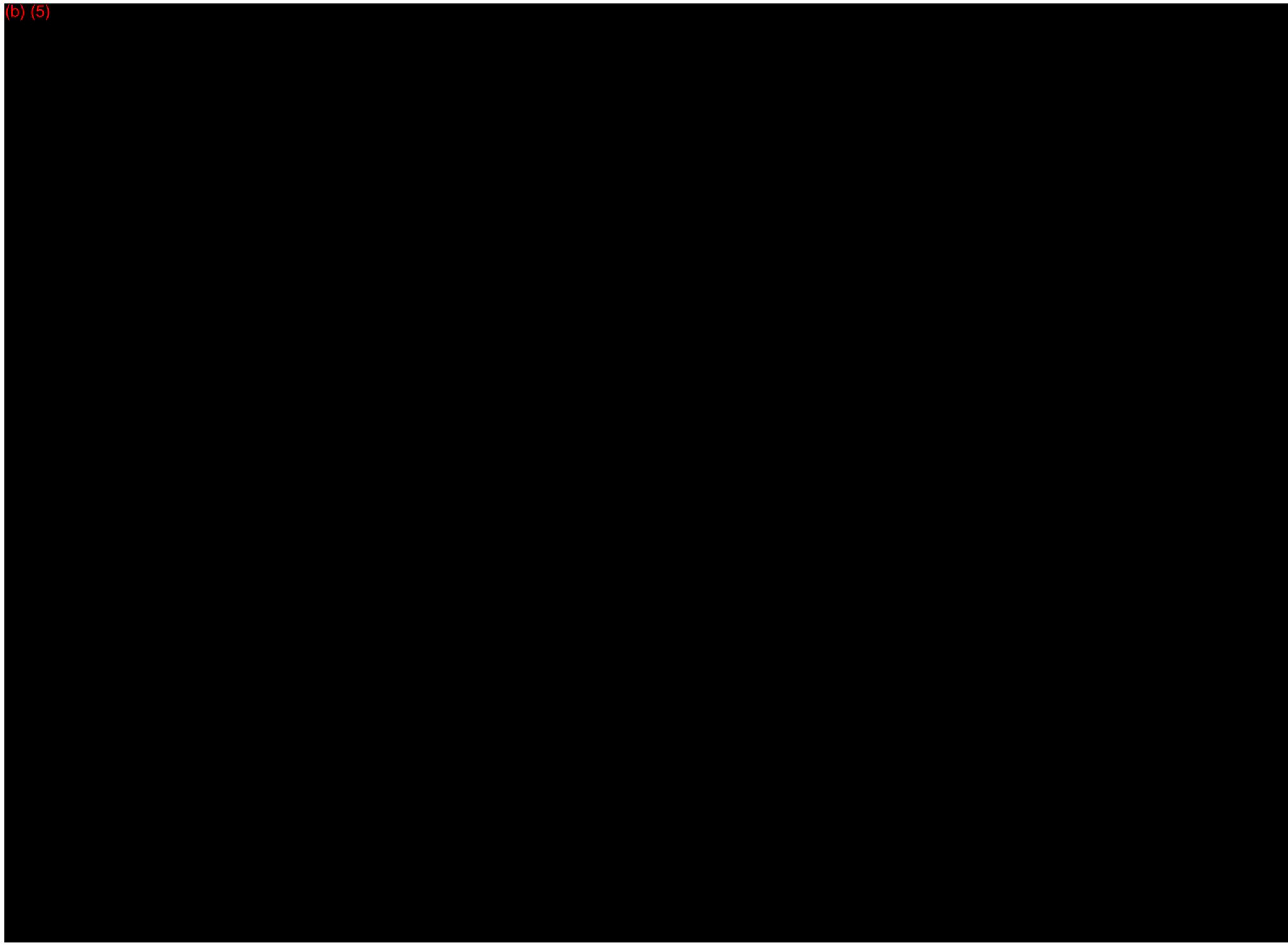
(b) (5)

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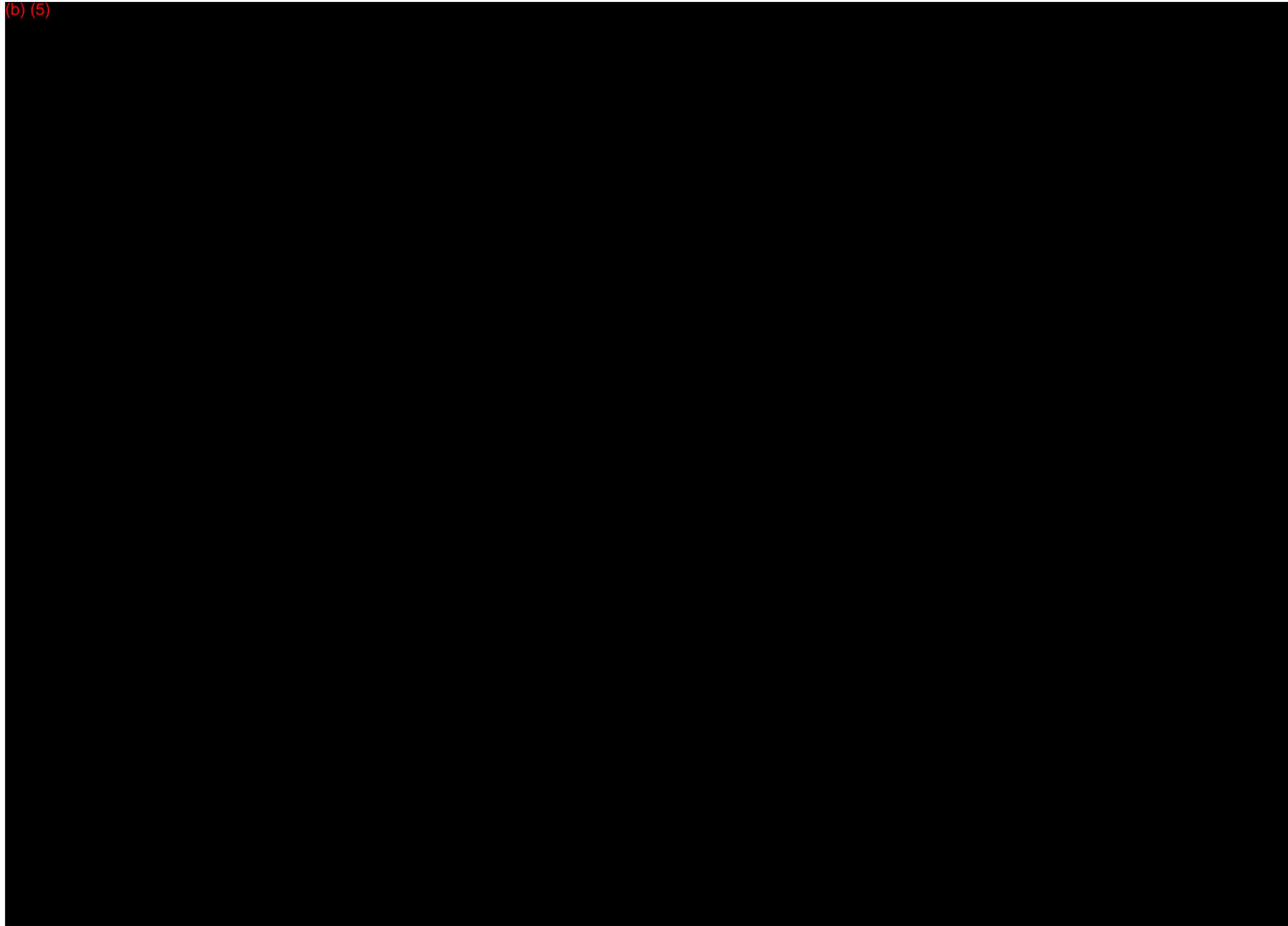
(b) (5)



(b) (5)



(b) (5)



(b) (5)

