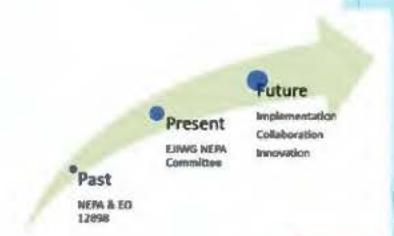




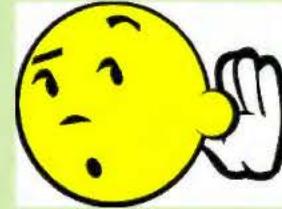
Future & Next Steps: Implementation Collaboration, and Innovation



- 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

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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

- 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**
 - *ECCR Ten Year Report*
 - *One Federal Decision*
 - *EIS Timeline Data*
 - *CE Guidance and CE List*
- 4:05pm OMB Accountability System**
 - *Accountability System –Permitting Dashboard, agency CERPO roles*
- 4:15pm Open Discussion**

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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 a blue background with the text "INFRASTRUCTURE PERMITTING IMPROVEMENTS" and a "READ MORE" button. Below the banner, a "Welcome" section is visible, followed by introductory text about the National Environmental Policy Act (NEPA).

NEPA.GOV
NATIONAL ENVIRONMENTAL POLICY ACT

Enter search request

HOME LAWS & REGULATIONS GUIDANCE GET INVOLVED NEPA PRACTICE CEO PUBLICATIONS CEO REPORTS

INFRASTRUCTURE PERMITTING IMPROVEMENTS

READ MORE

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. 56c. 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

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Council on Environmental Quality



User Name: Victoria Peters

Date and Time: 07/22/2014 9:30 AM EDT

Job Number: 11516259

Document(1)

1. 51 FR 15618

Client/Matter: -None-

51 FR 15618

April 25, 1986
Rules and Regulations

Reporter: 51 FR 15618

Federal Register > **1986** > **April** > **April 25, 1986** > **Rules and Regulations** > **FEDERAL REGISTER**

Title: National Environmental Policy Act Regulations; Incomplete or Unavailable Information

Action: Final rule.

Agency

FEDERAL REGISTER

Administrative Code Citation

40 CFR Part 1502

Synopsis

SUMMARY: The Council on Environmental Quality (CEQ) promulgates regulations, binding on all federal agencies, to implement the procedural provisions of the National Environmental Policy Act (NEPA). The regulations address the administration of the NEPA process, including preparation of environmental impact statements for major federal actions which significantly affect the quality of the human environment. On August 9, 1985, CEQ published a proposed amendment to one of these regulations ([40 CFR 1502.22](#)), which addresses incomplete or unavailable information in an environmental impact statement (EIS). [50 FR 32234](#). After reviewing the comments received in response to that proposal, the CEQ now issues the final amendment to that regulation. The final amendment requires all federal agencies to disclose the fact of incomplete or unavailable information when evaluating reasonably foreseeable significant adverse impacts on the human environment in an EIS, and to obtain that information if the overall costs of doing so are not exorbitant. If the agency is unable to obtain the information because overall costs are exorbitant or because the means to obtain it are not known, the agency must (1) affirmatively disclose the fact that such information is unavailable; (2) explain the relevance of the unavailable information; (3) summarize the existing credible scientific evidence which is relevant to the agency's evaluation of significant adverse impacts on the human environment; and (4) evaluate the impacts based upon theoretical approaches or research methods generally accepted in the scientific community. The amendment also specifies that impacts which have a low probability of occurrence but catastrophic consequences if they do occur, should be evaluated if the analysis is supported by credible scientific evidence and is not based on pure conjecture, and is within the rule of reason. The requirement to prepare a "worst case analysis" is rescinded.

The existing guidance regarding [40 CFR 1502.22](#), found in Question 20 of *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, 46 FR 18032 (1981), is hereby withdrawn. Guidance relevant to the amended regulation will be published after the regulation becomes effective.

Text

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(b) of the Executive Order and, as such, does not constitute a major rulemaking. As required by Executive Order 12291, this regulation was submitted to the Office of Management and Budget (OMB) for review. There were no comments from OMB to CEQ regarding compliance with Executive Order 12291 in relationship to amendment of [40 CFR 1502.22](#).

Paperwork Reduction Act

The information collection requirements in this proposed rule were submitted for approval to OMB under the Paperwork Reduction Act of 1980, [44 U.S.C. 3501 et seq.](#) No comments were submitted by OMB or the public on the information collection requirements.

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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. Accordingly, I hereby certify, pursuant to *5 U.S.C. 605(b)*, that this final amendment would not have a significant impact on a substantial number of small entities.

Environmental Assessment

Although there are substantial legal questions as to whether entities within the Executive Office of the President are required to prepare environmental assessments, CEQ, consistent with its practice in 1978, has prepared a special environmental assessment and a Finding of No Significant Impact regarding amendment of this regulation, which is available to the public upon request. For the reasons stated in the Finding of No Significant Impact, CEQ has concluded that the amendment to *40 CFR 1502.22* will not have a significant impact on the quality of the human environment.

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 federal agencies to assess the environmental impacts of 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, 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 agency practice, judicial decisions and CEQ guidance resulted in the development of what is commonly referred to as "the NEPA process", which includes the preparation of environmental impact statements for certain types of federal actions.

Because of complaints about paperwork and delays in projects caused by the NEPA process, and a perception that the problem was caused in part by lack of a uniform, binding authority, CEQ was directed in 1977 to promulgate binding regulations implementing the procedural provisions of NEPA. (Executive Order 11991, 3 CFR 123 (1978). Council was directed to specifically: "make the environmental impact statement process 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." After undertaking an extensive process of review and comment with 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 (1978). The regulations were hailed as a "significant improvement on prior EIS guidelines", (Letter, Chamber of Commerce of the United States, January 8, 1979), and became effective for, and binding upon, most federal agencies on July 30, 1979, and for all remaining federal agencies on November 29, 1979.

Since promulgation of the NEPA regulations, the Council has continually reviewed the regulations to identify areas where further interpretation or guidance is required. ¹ No broad support for amendment of the regulations surfaced during review under the 1981 Vice President's Regulatory Relief Task Force; indeed, some recommended that, "CEQ's streamlining regulations for the implementation of NEPA requirements should receive full support from the Administration and the federal agencies". (Letter, National League of Cities, May 14, 1981). Although continual attention is required to ensure that the mandate of the regulations is being fulfilled, the regulations appear to be generally working well.

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

¹ See, *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, [46 FR 18026 \(1981\)](#); *Memorandum for General Counsels, NEPA Liaisons and Participants in Scoping*, April 30, 1981 (available upon request from the General Counsel's office, CEQ); *Guidance Regarding NEPA Regulations*, [48 FR 34263 \(1983\)](#).

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"Section 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.

"(a) 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.

"(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 36486 \(1983\)](#). The draft guidance suggested that 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 weaken analysis of low probability and severe consequences impacts. Other writers suggested different approaches to the issue, or advocated amendment of 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. [49 FR 4803 \(1984\)](#).

After many discussions with federal agency representatives and other interested parties in state governments, public interest groups, and business and industry, the Council published an Advance Notice of Proposed Rulemaking (ANPRM) for [40 CFR 1502.22](#), and stated that it was considering the need to amend the regulation. [49 FR 50744 \(1984\)](#). The ANPRM posed five questions about the issue of incomplete or unavailable information in an EIS and asked for thoughtful written responses to the questions. The Council received 161 responses to the ANPRM. A majority of the commentators cited problems with the "worst case analysis" requirement, but recognized the need to address potential impacts in the face of incomplete or unavailable information. Many commentators thought that either the regulation itself or recent judicial decisions 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 the regulation. A minority of commentators felt strongly that the original regulation was adequate and should not be amended.

On March 18, 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 9535 \(1985\)](#). Shortly after that meeting, the Council voted to amend the regulation. On August 9, 1985, CEQ published a proposed amendment to [40 CFR 1502.22](#) which read as follows:

"Section 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 rule of reason." [50 FR 32238 \(1985\)](#).

The Council received 184 comments in response to the proposed amendment: 81 comments from business and industry; 39 comments from private citizens; 30 comments from public interest groups; 15 comments from federal

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agencies; 14 comments from state governments; 4 comments from local governments; and one comment from a Member of Congress.

A majority of the commentators favored an amendment to the regulation, and supported the general approach of the proposed amendment. However, many of these writers offered specific suggestions for improving the proposal. Many commentators asked for definitions of terms used in the proposal, particularly for the phrase "credible scientific evidence." Some commentators wanted the Council to specify a particular methodology, such as risk assessment, as a substitute for a worst case analysis. Many commentators had specific comments about particular words or phrases used in the proposed amendment. Many commentators asked CEQ to provide further guidance or monitoring after the regulation was issued in final form.

A minority of commentators strongly opposed the amendment. Some of these writers were concerned over perceived changes in the first two paragraphs of the original regulation -- requirements to disclose the fact that information is missing, and to obtain that information, if possible. Some commentators opposed deletion of the "worst case analysis" requirement. Other commentators believed that the proposed amendment did not require agencies to analyze or evaluate impacts in the face of incomplete or unavailable information. These comments, and others, will be discussed below in the section "Comments and the Council's Response".

On January 9, 1986, CEQ held a meeting, open to the public, to discuss the comments received in response to the proposed amendment. [50 FR 53061 \(1985\)](#). A summary of the presentation made at that meeting is available from the Office of the General Counsel. Shortly after that meeting, the Council voted to proceed to final amendment of the regulation.

Purpose and Analysis of Final Amendment

CEQ is amending this regulation because it has concluded that the new requirements provide a wiser and more manageable approach to the evaluation of reasonably foreseeable significant adverse impacts in the face of incomplete or unavailable information in an EIS. The new procedure for analyzing such impacts in the face of incomplete or unavailable information will better inform the decisionmaker and the public. The Council's concerns regarding the original wording of [40 CFR 1502.22](#) are discussed at length in the preamble to the proposed amendment. [50 FR 32234 \(1985\)](#). It must again be emphasized that the Council concurs in the underlying goals of the original regulation -- that is, disclosure of the fact of incomplete or unavailable information; acquisition of that information if reasonably possible; and evaluation of reasonably foreseeable significant adverse impacts even in the absence of all information. These goals are based on sound public policy and early NEPA case law.² Rather, the need for amendment is based upon the Council's perception that the "worst case analysis" requirement is an unproductive and ineffective method of achieving those goals; one which can breed endless hypothesis and speculation.

The amended regulation applies when a federal agency is preparing an EIS on a major federal action significantly affecting the quality of the human environment and finds that there is incomplete or unavailable information relating to reasonably foreseeable significant adverse impacts on the environment. It retains the legal requirements of the first paragraph and subsection (a) of the environment and finds that there is incomplete or unavailable information relating to reasonably foreseeable significant adverse impacts on the environment. It retains the legal requirements of the first paragraph and subsection (a) of the original regulation. Thus, when preparing an EIS, agencies must disclose the fact that there is incomplete or unavailable information. The term "incomplete information" refers to information which the agency cannot obtain because the overall costs of doing so are exorbitant. The term "unavailable information" refers to information which cannot be obtained because the means to obtain it are not known. If the incomplete information relevant to adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency must include the information in the EIS. The first paragraph and subsection (a) of the original regulation have been amended only insofar as the phrases "incomplete or unavailable information" (title of the original regulation) or "incomplete information" are substituted for synonymous phrases and the term "reasonably foreseeable" is added to modify "significant adverse impacts". These changes are made for consistency, clarity and readability.

Subsection (b) is amended to require federal agencies to include four items in an EIS if the information relevant to reasonably foreseeable significant adverse impacts remains unavailable because the overall costs of obtaining it are

² See, for example, [Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission](#), 481 F.2d 1079 (D.C. Cir. 1973).

exorbitant or the means to obtain it are not known. The first step is disclosure of the fact that such information is incomplete or unavailable; that is, "a statement that such information is incomplete or unavailable". The second step is to discuss why this incomplete or unavailable information is relevant to the task of evaluating reasonably foreseeable significant adverse impacts; thus, "a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable relevant to evaluating the reasonably foreseeable significant adverse impacts, impacts on the human environment". Fourth, the agency must use sound scientific methods to evaluate the potential impacts; or in the words of the regulation, "the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community".

The regulation also makes clear that the reasonably foreseeable potential impacts which the agency must evaluate include those which have a low probability of occurrence but which would be expected to result in catastrophic consequences if they do occur. However, the regulation specifies that the analysis must be supported by credible scientific evidence, not based on pure conjecture, and be within the rule of reason.

Subsection (b) deletes two substantive requirements from the same subsection of the original regulation, promulgated in 1978. First, it eliminates the requirement for agencies to "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" while in the process of preparing an EIS. The Council believes that the weighing of risks and benefits for the particular federal proposal at hand is properly done after completion of the entire NEPA process, and is reflected in the Record of Decision. Nothing, of course, prohibits a decisionmaker from withdrawing a proposal during the course of EIS preparation.

Second, the regulation eliminates the "worst case analysis" requirement. It does not, however, eliminate the requirement for federal agencies to evaluate the reasonably foreseeable significant adverse impacts of an action, even in the face of unavailable or incomplete information. Rather, it specifies that the evaluation must be carefully conducted, based upon credible scientific evidence, and must consider those reasonably foreseeable significant adverse impacts which are based upon scientific evidence. The requirement to disclose all credible scientific evidence extends to responsible opposing views which are supported by theoretical approaches or research methods generally accepted in the scientific community (in other words, credible scientific evidence).

The regulation also requires that analysis of impacts in the face of unavailable information be grounded in the "rule of reason". The "rule of reason" is basically a judicial device to ensure that common sense and reason are not lost in the rubric of regulation. The rule of reason has been cited in numerous NEPA cases for the proposition that, "An EIS need not discuss remote and highly speculative consequences. . . . This is consistent with the (CEQ) Council on Environmental Quality Guidelines and the frequently expressed view that adequacy of the content of the EIS should be determined through use of a rule of reason." *Trout Unlimited v. Morton*, 509 F.2d 1276, 1283 (9th Cir. 1974). In the seminal case which applied the rule of reason to the problem of unavailable information, the court 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" *Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission*, 481 F.2d 1079, 1092 (D.C. 1973), citing *Calvert Cliffs' Coordinating Committee v. Atomic Energy Commission*, 499 F.2d 1109, 1114 (D.C. Cir. 1971). The Council's amendment supports and conforms with this direction.

The evaluation of impacts under § 1502.22 is an integral part of an EIS and should be treated in the same manner as those impacts normally analyzed in an EIS. The information included in the EIS to fulfill the requirements of § 1502.22 is properly a part of the "Environmental Consequences" section of the EIS ([40 CFR 1502.16](#)). As with other portions of the EIS, material substantiating the analysis fundamental to the evaluation of impacts may properly be included in an appendix to the EIS.

Comments and the Council's Response

Comment: CEQ does not make clear the fact that the first paragraph and paragraph (a) of 1502.22 would be eliminated in the proposed amendment. The preamble says nothing about radical changes in the research requirements of the existing regulation.

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Response: The changes to the first paragraph and subsection (a) of the existing regulation in the proposed amendment were made primarily for the purpose of attempting to clarify and simplify the existing requirements. However, in response to a number of concerns regarding perceived changes in the legal requirements of these paragraphs, the Council has chosen to retain the original format of the regulation. The Council intends that the substitution of the phrase "incomplete or unavailable information" and "incomplete information" are taken from the title of the regulation itself, and are being inserted for the sake of consistency of terms and clarity.

Comment: The term "reasonable efforts" should be defined.

Response: The term "reasonable efforts" does not appear in the final regulation.

Comment: The proposed amendment drops the standard of "exorbitant costs" and substitutes "overall costs." Substantively, the current standard should be retained. It is a purposefully high standard, intended to counter agencies' demonstrated reluctance to seek out information. The proposed standard is lax and undefined.

Response: The final regulation retains the original standard.

Comment: The term "state of the art" should be replaced with "the availability of adequate scientific or other analytical techniques or equipment".

Response: The term has been deleted in the final regulation, and the phrase "the means to obtain it are not known" is substituted. That phrase is meant to include circumstances in which the unavailable information cannot be obtained because adequate scientific knowledge, expertise, techniques or equipment do not exist.

Comment: The regulation should make clear that "overall costs" include, among other things, all economic costs and delays in timing. The "overall cost" requirement needs to be further defined to reflect items such as comparing low cost/high cost risk (and vice versa), costs of time in obtaining information, costs of delaying projects, benefit/cost ratio and outyear impact cost.

Response: CEQ intends that the term "overall costs" encompasses financial costs and other costs such as costs in terms of time (delay) and personnel. It does not intend that the phrase be interpreted as a requirement to weigh the cost of obtaining the information against the severity of the impacts, or to perform a cost-benefit analysis. Rather, it intends that the agency interpret "overall costs" in light of overall program needs.

Comment: The term "missing information" should be clarified or changed.

Response: The term "missing information" is deleted in the final regulation, and is replaced with the terms "incomplete or unavailable information" and "incomplete information". These terms are consistent with the title of the regulation.

Comment: The word "material" should be substituted for the word "significant" because the word "significant" is a term of art and incorporates consideration of controversy surrounding a proposal. The word "material" would be more appropriate.

Response: The final regulation retains the term "significant". "Significant" is indeed a term of art which connotes the type of environmental impact which the agency is obligated to analyze in an EIS. Consideration of controversy is one of many factors which must be considered in determining whether an impact is "significant"; others include the degree to which the proposed action affects public health or safety, unique characteristics of the geographic area such as wetlands, wild and scenic rivers, etc., the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks, the cumulative impacts of an action, whether the action may adversely affect an endangered species or critical habitat, the degree to which an action may adversely affect historic areas, and whether the proposed action would violate another federal, state or local environmental law. [40 CFR 1508.27](#). The 1978 CEQ regulations differed from the earlier CEQ Guidelines in stating that the fact of controversy does not, alone, require preparation of an EIS; rather, it is one of many factors which the responsible official must bear in mind in judging the context and intensity of the potential impacts.

Comment: The term "in its judgment" gives agencies the administrative discretion to limit the data needed to prepare an EIS. It gives too much discretionary authority to agency officials to decide if they need to obtain the

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information. Suggest deleting "in its judgment" or adding "and with the concurrence of appropriate federal or state resource agencies".

Related Comment: It is important to allow an agency discretion to determine the extent of the investigation required to obtain information.

Response: The term "in its judgment" is deleted from the final regulation. However, deletion of that phrase is not intended to change the discretion currently vested in the agencies to determine the extent of the investigation required to obtain information. The agency's discretion must be used to make judgments about cost and scientific availability of the information.

Comment: The proposed amendment's definition of "reasonably foreseeable" should be strengthened or clarified or the use of this phrase should be changed.

Response: The term "reasonably foreseeable" has a long history of use in the context of NEPA law, and is included elsewhere in the CEQ NEPA regulations. [40 CFR 1508.8\(b\)](#). Generally, the term has been used to describe what kind of environmental impacts federal agencies must analyze in an EIS; for example, ". . . if the [agency] makes a good faith effort in the survey to describe the *reasonably foreseeable* environmental impact of the program, alternatives to the program and their *reasonably foreseeable* environmental impact, and the irreversible and irretrievable commitment of resources the program involves, we see no reason why the survey will not fully satisfy the requirements of [NEPA] section 102(C)." *Sierra Club v. Morton*, 379 F. Supp. 1254, 1259 (D. Col. 1974) (emphasis added). See also, *Town of Orangetown v. Gorsuch*, 718 F.2d 29, 34 (2d Cir. 1983); *NRDC v. NRC*, 685 F.2d 459, 476 (D.C. Cir. 1982). The term has also been used in the context of incomplete or unavailable information. See *Scientists' Institute for Public Information v. Atomic Energy Commission*, 481 F.2d 1079, 1092 (D.C. Cir. 1973).

Because of the controversy and nature of this particular regulation, CEQ has specified that in the context of [40 CFR 1502.22](#), the term "reasonably foreseeable" includes low probability/severe consequence impacts, provided that the analysis of such impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

Comment: To prevent confusion, the proposed amendment should use either the term "credible scientific evidence" or "credible scientific support" -- not both.

Response: The final regulation uses the term "credible scientific evidence" and deletes the term "credible scientific support".

Comment: The term "credible scientific evidence" should be defined. (A number of commentators offered specific suggestions for such a definition).

Response: The final regulation states that the agency's evaluation of impacts in the face of incomplete or unavailable information should be based upon theoretical approaches or research methods generally accepted in the scientific community. While this is admittedly a broad and general direction, CEQ is concerned that a narrow definition of "credible scientific evidence" would prove inappropriate in some circumstances, given the wide variety of actions which potentially fall under the auspices of this regulation. In many cases, the Council expects that "theoretical approaches or research methods generally accepted in the scientific community" will include commonly accepted professional practices such as literature searches and peer review.

Comment: The term "credible" should be deleted from the regulation, and all information should be considered.

Response: The definition of the word "credible" is, "capable of being believed". *Webster's II New Riverside University Dictionary*, 1984. Information which is unworthy of belief should not be included in an EIS.

Comment: The term "scientific" is overly restrictive since measurement of an action's environmental effects may be grounded in, among other things, economic, historical or sociological information.

Response: In an EIS, federal agencies are responsible for analysis of significant environmental effects which include "ecological, aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative." [40](#)

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CFR 1508.8(b). The requirement to analyze these potential impacts or effects are not modified in any manner by the qualified "scientific evidence" in 40 CFR 1502.22. Rather, the term "scientific" is meant to imply that the evidence presented about the possibility of a certain impact should be based upon methodological activity, discipline or study. *Webster's II New Riverside University Dictionary, 1984*.

Comment: The amendment should include some recognized scientific method for evaluating uncertainty, such as, perhaps, a risk assessment approach.

Response: Because of the wide variety of types of incomplete or unavailable information which may potentially fall within the scope of this regulation, CEQ does not choose to specify a particular methodology. Rather, each agency should select that approach which best meets the goals of evaluating potential impacts in the face of unavailable information. Further, a requirement that a particular methodology be utilized might be soon outdated by scientific developments in a particular field.

Comment: The draft preamble states that the summary of credible scientific evidence must include all information from all sources, including minority or opposing viewpoints. What are "minority views" as they relate to credible scientific evidence?

Response: The preamble to the proposed amendment states that the requirement to disclose all credible scientific evidence extends to those views which are generally regarded as "minority views" within the scientific community. The final preamble adopts the term "responsible opposing views" as the preferred term, consistent with 40 CFR 1502.9(b). The requirement to include responsible opposing views reflects the belief that many times, particularly when dealing with questions of incomplete or unavailable information, there will be more than one point of view about potential environmental impacts which has scientific credibility. The regulation requires an agency to include information about such views which have scientific credibility, rather than simply selecting one concept which supports its particular view. The responsible opposing views, must, of course, meet the criteria set out in subsection (b) of the regulation. Once such information is set out in the EIA, the agency must then use its own judgment and discretion to determine which viewpoint it believes is the most worthy of acceptance.

Comment: CEQ should indicate in the preamble that along with available scientific evidence, the views and conclusions of other government agencies and departments may be considered.

Response: The views and conclusion of other government agencies and departments are appropriately considered throughout the EIS process, beginning with the scoping process. Section 1502.22 does not limit involvement by other federal agencies in that process. Special attention should be paid to the views of those agencies with special expertise or jurisdiction by law in a particular field of inquiry. 40 CFR 1503.1(a)(1). The views of the public, and indeed all interested parties, are, of course also to be considered throughout the EIS process.

Comment: It should be made clear that the summary should be limited to credible scientific evidence only.

Response: This is precisely the requirement of the regulation itself. Again, credible scientific evidence includes both majority views and responsible opposing views, so long as these views meet the criteria in the regulation.

Comment: The regulation should require agencies to state the probability or improbability of the occurrence of the impacts which are identified.

Response: Although this requirement is not part of the final regulation, agencies are free to include this information in the EIS. The Council encourages the inclusion of such data when it is relatively reliable and when such information would help to put the analysis in perspective for the decisionmaker and other persons who read and comment on the EIS.

Comment: The fourth requirement, to include the agency's "evaluation" of the scientific evidence is vague. Presumably, what is meant is not a critique of the evidence, but an application of the evidence to predict impacts.

Response: The fourth requirement has been reworded so that it is clear that the agency is required to evaluate reasonably foreseeable significant adverse impacts which significantly affect the quality of the human environment.

Comment: There is no requirement for the agencies to analyze impacts -- the basic purpose of the regulation.

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Response: The fourth requirement clearly states a requirement for the agencies to evaluate the reasonably foreseeable significant adverse impacts.

Comment: The final amendment should require agencies to address high probability/low or chronic impacts, as well as low probability/catastrophic impacts.

Response: If there is a high probability of an impact occurring, an agency is probably not in the realm of incomplete or unavailable information; hence, the impacts would be analyzed under the ordinary requirements in the "Environmental consequences" section. This section includes the analysis of the environmental impacts of the proposal and the environmental impacts of alternatives to the proposed action. [40 CFR 1502.16](#).

Comment: The preamble to the draft amendment errs in asserting that case law has established a precedent to go beyond the rule of reason and it ignores subsequent Ninth Circuit case law which applies the rule of reason to find that agencies properly refused to prepare a worst case analysis.

Response: The Ninth Circuit decision referred to in this comment held that a worst case analysis was not required because the lead agency had obtained the information which it needed; thus there was no incomplete or unavailable information to trigger the worst case analysis requirement. [Friends of Endangered Species v. Jantzen, 760 F.2d 976 \(9th Cir. 1985\)](#).

Comment: The threshold triggering the agency's responsibility to comply with [40 CFR 1502.22\(b\)](#) is actually the existence of incomplete or unavailable information. "Scientific credibility" is not a threshold, but rather a standard to be applied to the analysis once the duty to comply is triggered.

Response: This comment is correct.

Comment: The Council should make clear in the regulation itself that "scientific credibility" is the threshold which triggers the regulation.

Response: "Scientific credibility" is the criterion for the evidence which should be used to evaluate impacts in the face of incomplete or unavailable information. The trigger to comply with the regulation itself is incomplete or unavailable information.

Comment: If the phrase "worst case analysis" is unacceptable, the Council should consider replacing the term with its functional equivalent, "spectrum of events".

Response: In the final regulation, a lead agency is required to evaluate "impacts". "Impacts" or "effects" (the two are synonymous under CEQ regulations) are the subject of analysis in an EIS, not "events". Indeed, the event to be anticipated is the proposed action itself.

Under the final regulation, agencies are required to evaluate impacts for which there is credible scientific evidence. In implementing this section, agencies will have to determine the appropriate range of analysis based on the unique facts of each particular proposal. In some cases, this may amount to a spectrum or range of impacts. In other cases, the scope of suggested impacts may be much more limited. Credible scientific evidence should determine the scope of the analysis, as opposed to a pre-determined number of impacts.

Comment: A careful reading of the case law reveals that neither the Ninth Circuit nor any other circuit has required worst case analysis in the absence of scientific opinion, evidence, and experience, as alleged in the draft preamble.

Response: Although CEQ was asked to consider this question by various persons who were concerned about the effect in future cases of possible interpretations of judicial decisions involving the worst case analysis requirement, CEQ has amended the regulation because it believes, based on further review, that the worst case analysis requirement is flawed, and the new requirements provide a better and more logical means of dealing with the analysis of impacts in the face of incomplete or unavailable information in an EIS.

Comment: Deletion of the worst case requirement will weaken environmental protection.

Response: This assertion is incorrect. The amended regulation establishes a better approach to dealing with the issue of incomplete and unavailable information in an EIS. It is a less sensational approach, but one which is a more

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careful and professional approach to the analysis of impacts in the face of incomplete or unavailable information. It should improve the quality of the EIS and the decision which follows, and, hence, strengthen environmental protection, in conformance with the purpose and goals of NEPA. 42 U.S.C. 4321, 4331. It will provide the public and the decisionmaker with an improved and more informed basis for the decision.

Comment: Before eliminating the term "worst case analysis", the Council should determine whether a worst case analysis is really impossible to prepare, or whether it is being resisted by agencies unwilling to learn because they do not want to admit the adverse impacts of their preferred programs.

Response: The Council does not maintain that a worst case analysis is impossible to prepare; however, it does view the worst case analysis requirement as a flawed technique to analyze impacts in the face of incomplete or unavailable information. The new requirement will provide more accurate and relevant information about reasonably foreseeable significant adverse impacts. To the extent that agencies were reluctant to discuss such impacts under the requirements of the original regulation, the amended regulation will not offer them an escape route.

Comment: The expressed need for clarification can be met by simply adding the "rule of reason" to the existing regulation.

Response: While the "rule of reason" is indeed added to the language of the regulation, CEQ believes that it is also important to amend the requirement to prepare a worst case analysis. The requirement that the analysis of impacts be based on credible scientific evidence is viewed as a specific component of the "rule of reason".

Comment: The proposal inappropriately removes the obligation to weigh the need for an action against its potential impacts.

Response: The regulation deletes this requirement because it is more properly accomplished at the conclusion of the entire NEPA process. A decisionmaker may, of course, decide to withdraw a proposal at any stage of the NEPA process for any reason, including the belief that the paucity of information undermines the wisdom of proceeding in the face of possibly severe impacts. However, such weighing and balancing in the middle of EIS preparation is a matter of policy, not law.

It is clear that, "one of the costs that must be weighed by decisionmakers is the cost of uncertainty -- i.e., the costs of proceeding without more and better information." *Alaska v. Andrus*, 580 F.2d 465, 473 (D.C. Cir. 1978). However, that weighing takes place after completion of the EIS process, including the public comment process. Indeed, it would seem that the results of such a weighing process would naturally be more informed and wiser after the agency has completed the requirements of § 1502.22 to evaluate the potential impacts in the face of incomplete or unavailable information. After completion of the EIS process, the responsible decisionmaker must then weigh the costs of proceeding in the face of uncertainty, "and where the responsible decision-maker has decided that it is outweighed by the benefits of proceeding with the project without further delay . . ." he may proceed to do so. *Id.* Similarly, he or she may also decide, with the benefit of the best possible information, to delay the project until further information is obtained or to cancel the project altogether.

Comment: CEQ should provide additional guidance about the new regulation, and oversee and actively monitor its implementation.

Response: CEQ plans to provide additional guidance about the new regulation in the form of an amended question 20 of *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*. CEQ also plans to actively monitor the implementation of the amended regulation, and evaluate its effectiveness after it has been implemented for a sufficient period of time to make a reasonable assessment.

Comment: It is unclear in which situations the new rule would apply, and what specific information it mandates. CEQ should apply the rule to actual or hypothetical situations and explain how the rule will apply and how the agencies' obligations differ under the new rule from those of the old. Request the Council provide such an analysis for particular fact patterns.

Response: CEQ plans to provide specific examples of the application of the rule to hypothetical situations in its guidance, following issuance of the final rule. The amended regulation will apply, of course, to the very same situations

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to which the original regulation applies; that is, the existence of incomplete or unavailable information related to significant adverse impacts on the human environment. The modifications to the regulation are designed to better articulate the precise requirements with which an agency must comply once it finds itself in this situation.

Comment: It is essential to mention the Committee of Scientists which was instrumental in development of the proposed regulation.

Response: The writer is probably referring to a proposed Advisory Committee on Worst Case Analysis, which would have included scientists. The Committee was never formed, and thus had no role in developing the amended regulation. Instead, the Council sought public comment through the process of asking questions in the Advance Notice of Proposed Rulemaking.

Comment: CEQ should state that this analysis is to be done only in conjunction with an EIS, as opposed to an environmental assessment.

Response: Section 1502.22 is part of the set of regulations which govern the EIS process, as opposed to the preparation of an environmental assessment. *It is only appropriate to require this level of analysis when an agency is preparing an EIS.* The type of analysis called for in § 1502.22 is clearly much more sophisticated and detailed than the scope of an environmental assessment. Environmental assessments should be concise public documents which *briefly* provide sufficient analysis for determining whether to prepare an EIS, and aid in an agency's compliance with NEPA when no EIS is necessary. "Since the EA [environmental assessment] is a concise document, it should not contain long descriptions or detailed data which the agency may have gathered". The Council's suggested page limit for environmental assessments are ten to fifteen pages. *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, Question 36a, [46 FR 18026, 18037 \(1981\)](#).

Comment: CEQ should state clearly that the amendment is intended to repudiate and overrule the Ninth Circuit decisions on worst case analysis.

Response: The Ninth Circuit opinions are based on the requirements of former § 1502.22, or agency reflections thereof, and are inapplicable to this revision. The regulation is being amended to provide a better approach to the problem of analyzing environmental impacts in the face of incomplete or unavailable information. Because the requirements of the amended regulation are more clearly articulated and manageable than the "worst case analysis" requirement, CEQ expects that there will be less litigation based on § 1502.22 than the former version of § 1502.22 interpreted by the Ninth Circuit.

Comment: CEQ should withdraw the guidance contained in the 1981 publication, *Forty Most Asked Questions about CEQ's NEPA Regulations*, relating to worst case analysis.

Response: That guidance is withdrawn by this publication.

Comment: CEQ has not complied with its duties to assert its substantive powers over federal agencies to comply with NEPA, to coordinate programs, and to issue instructions to agencies, but has instead succumbed to pressure from defendant agencies and their attorneys to amend the regulation. Further, CEQ is collaterally estopped from overruling the Ninth Circuit decisions.

Response: CEQ manifests its oversight of the NEPA process in a number of ways on a daily basis; for example, review of agency NEPA procedures, resolving referrals of proposals of major federal actions, and assisting parties on an individual basis in resolving difficulties with the NEPA process. The requirements of the amended regulation are a more productive use of the agencies' resources than attempting to prepare a worst case analysis. Collateral estoppel is a doctrine by which a party may be barred from relitigating a question decided in a prior case. It does not bar an agency from changing a regulation that the courts have interpreted.

Comment: Agencies should be required to present an evaluation of the existing evidence of the most likely outcome.

Response: Step four of subsection (b) requires agencies to evaluate potential impacts. The lead agency may wish to specify which of the impacts are the most likely to occur, and the Council encourages inclusion of such data when it is reliable information which would be useful to the decisionmaker and the public.

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Comment: Case law required worst case analysis prior to adoption of [40 CFR 1502.22](#).

Response: This assertion is incorrect. Case law prior to the adoption of [40 CFR 1502.22](#) did require agencies to make a "good faith effort . . . to describe the reasonably foreseeable environmental impact(s)" of the proposal and alternatives to the proposal in the face of incomplete or unavailable information, consistent with the "rule of reason". [Scientists' Institute for Public Information v. Atomic Energy Commission, 481 F.2d 1079, 1092 \(D.C. Cir. 1973\)](#). The "worst case analysis" requirement was a technique adopted by CEQ as a means of achieving the goals enunciated in such case law. The "worst case" requirement itself, however, was clearly a "major innovation". Comment, *New Rules for the NEPA Process: CEQ Establishes Uniform Procedures to Improve Implementation*, 9 *Env't'l L.Rep.* 10,005, 10,008 (1979). The U.S. Court of Appeals for the Fifth Circuit, interpreting the "worst case analysis" requirement for the first time in a litigation context, recognized that it was an innovation of CEQ. [Sierra Club v. Sigler, 695 F.2d 957, 972 \(5th Cir. 1983\)](#). CEQ has since observed difficulties with the technique of "worst case analysis" and is replacing it with a better approach to the problem of incomplete or unavailable information in an EIS.

Regulations

List of Subjects in 40 CFR Part 1502

Environmental impact statements.

PART 1502 -- [Amended].

40 CFR Part 1502 is 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. 309 of the Clean Air Act, as amended ([42 U.S.C. 7609](#)), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

2. Section 1502.22 is revised to read as follows:

§ 1502.22 Incomplete or unavailable information.

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking.

- (a) If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.
- (b) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement: (1) A statement that such information is incomplete or unavailable; (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment; (3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment, and (4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community. For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.
- (c) The amended regulation will be applicable to all environmental impact statements for which a Notice of Intent ([40 CFR 1508.22](#)) is published in the Federal Register on or after May 27, 1986. For environmental impact statements in progress, agencies may choose to comply with the requirements of either the original or amended regulation.

Dated: April 21, 1986.

Victoria Peters

A. Alan Hill,
Chairman.

[FR Doc. 86-9270 Filed 4-24-86; 8:45 am]

BILLING CODE 3125-01-M

Dates

EFFECTIVE DATE: May 27, 1986.

Contacts

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006. (202) 395-5754.

FEDERAL REGISTER

Victoria Peters

RE: Revised Comment Response

From: "Sharp, Thomas L. EOP/CEQ" <(b) (6)>
To: "Szabo, Aaron L. EOP/CEQ" <(b) (6)>
Date: Tue, 29 May 2018 13:03:19 -0400
Attachments: Draft Responses to Agency Comments Draft 3 5-29-18.docx (30.65 kB)

Aaron,

I have added the (b) (5) general comments, as well as the comments of their Counsel. I also made some cosmetic and organizational edits. I did not attempt to answer the (b) (5) comments, as I assumed you would want to write those, given (b) (5). Please let me know how I can further assist.

Thanks!

Thomas L. Sharp
Senior Advisor for Infrastructure
Council on Environmental Quality
Executive Office of the President
(b) (6)
(b) (6)
www.whitehouse.gov/ceq

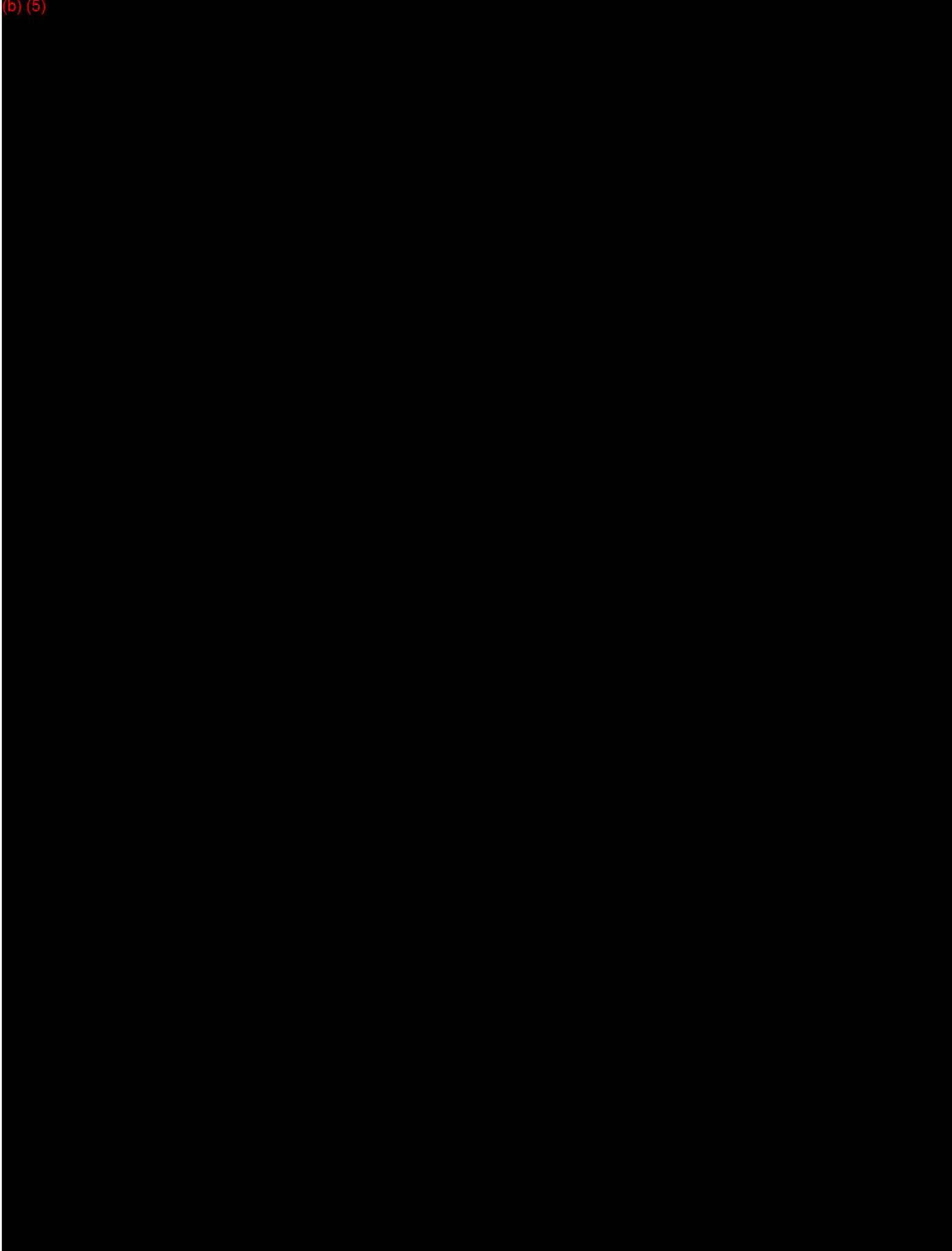
From: Szabo, Aaron L. EOP/CEQ
Sent: Tuesday, May 29, 2018 9:19 AM
To: Sharp, Thomas L. EOP/CEQ <(b) (6)>
Subject: Revised Comment Response

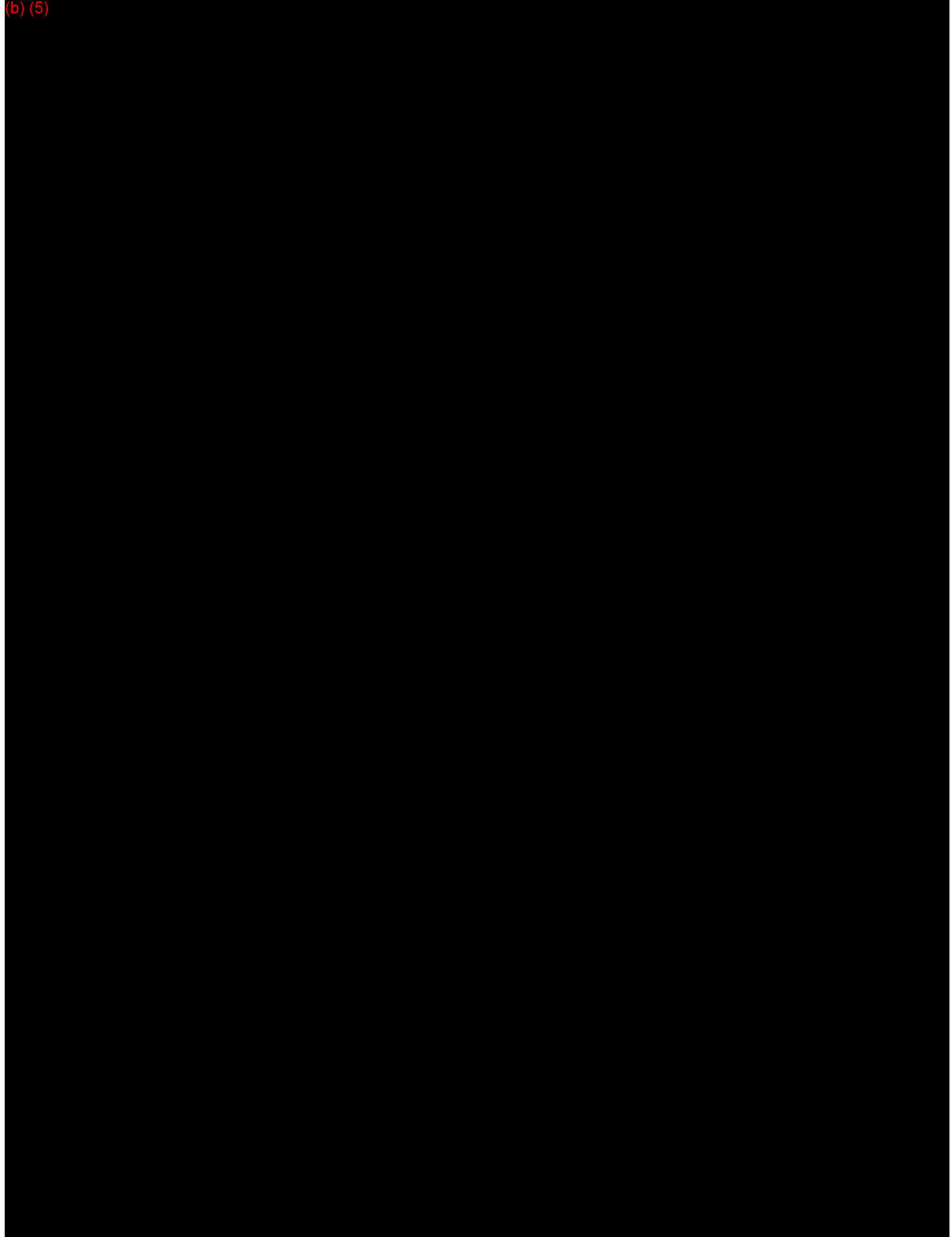
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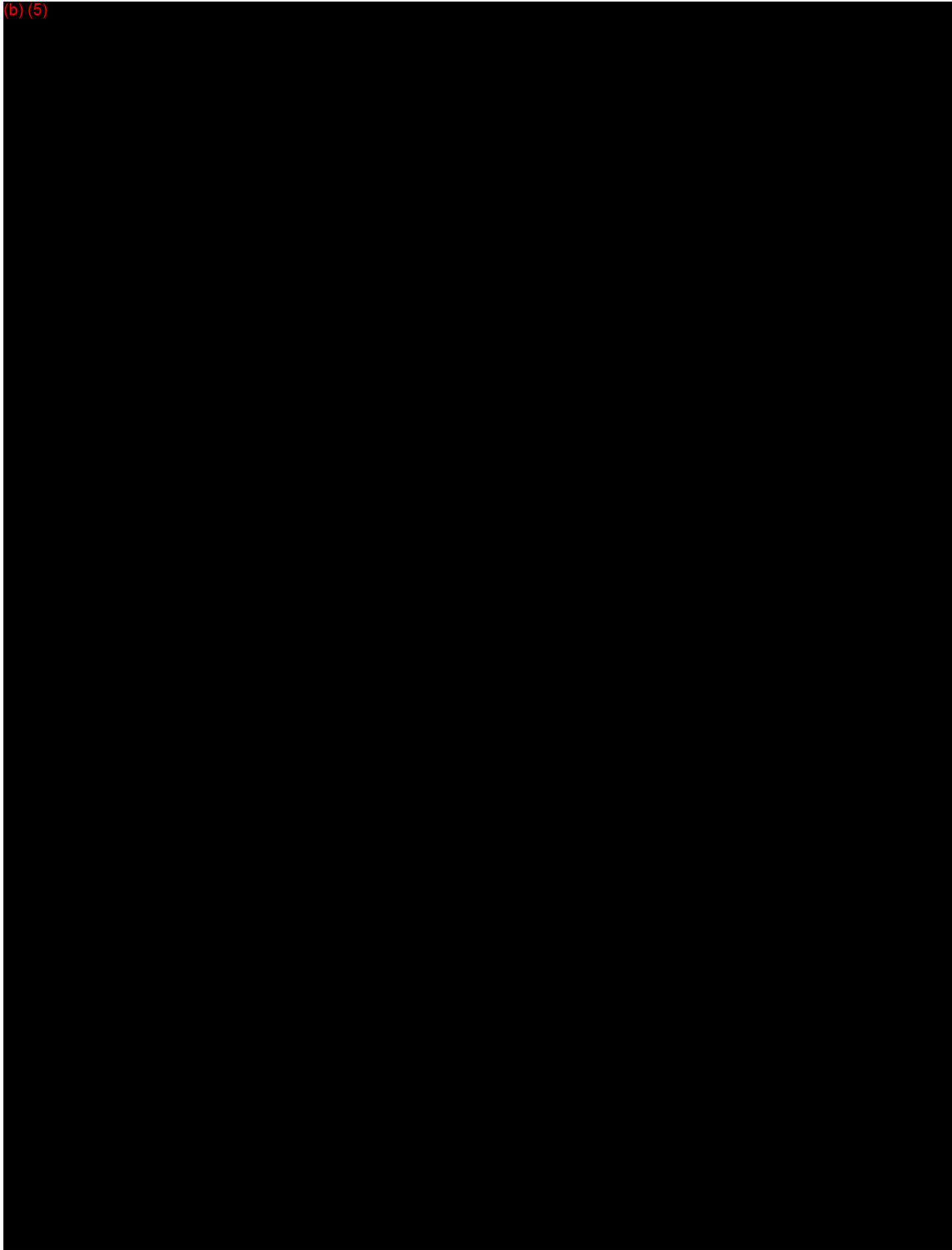
I have added (b) (5) comments in and made some cosmetic changes. Please add (b) (5) to the end of the document. Can you get this done by 1pm today?

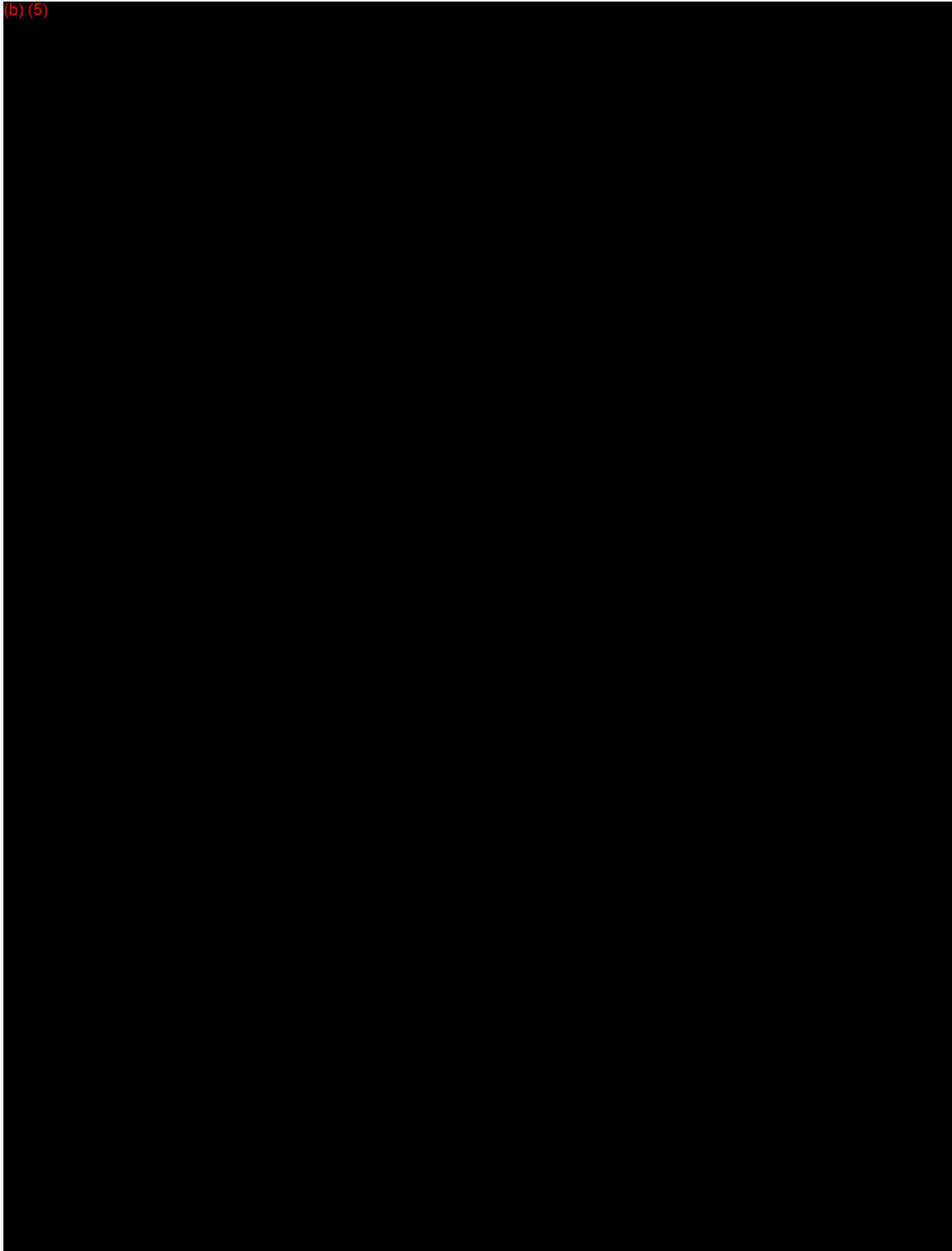
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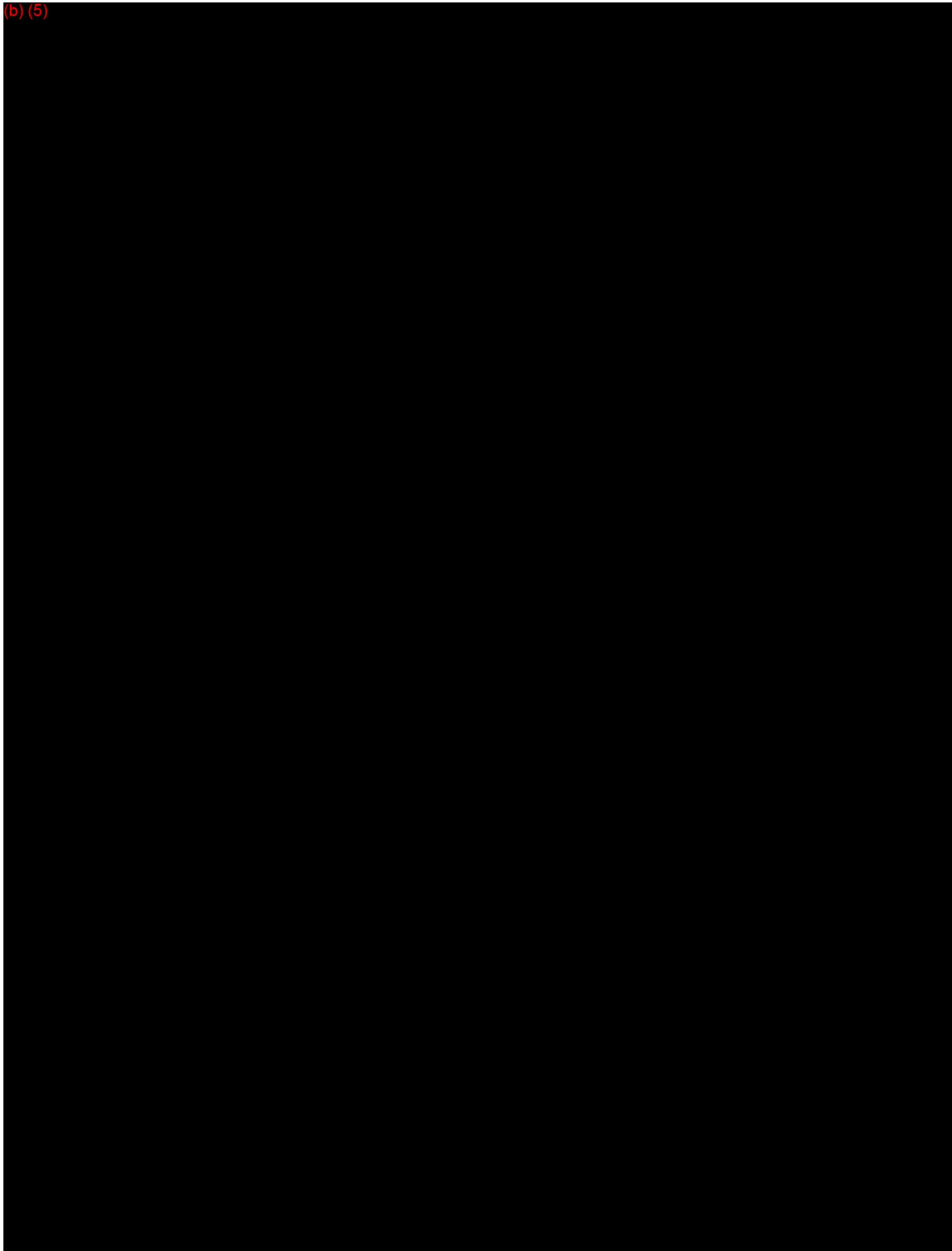
Aaron L. Szabo
Senior Counsel
Council on Environmental Quality
(b) (6) (Desk)
(b) (6) (Cell)
(b) (6)

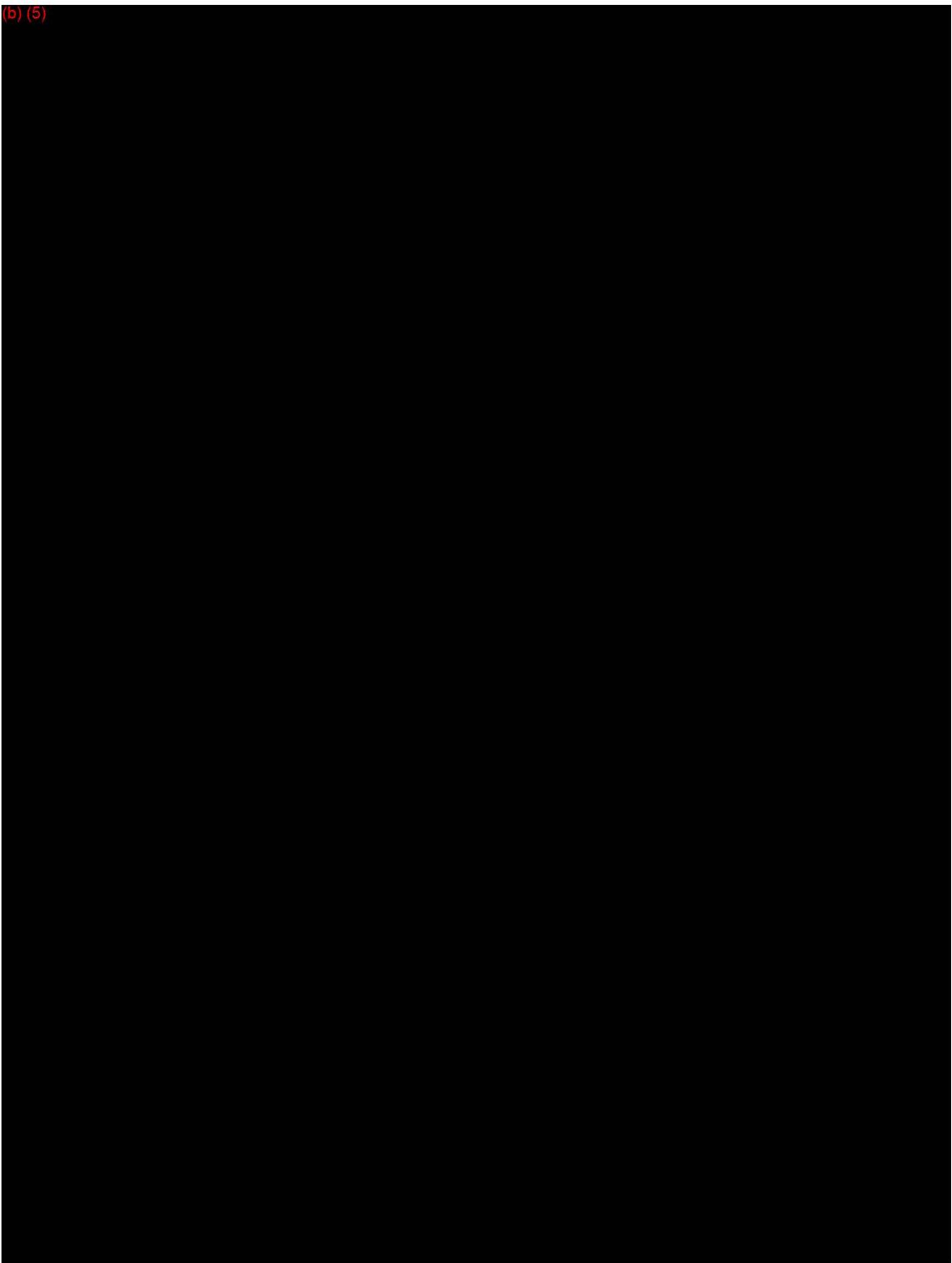


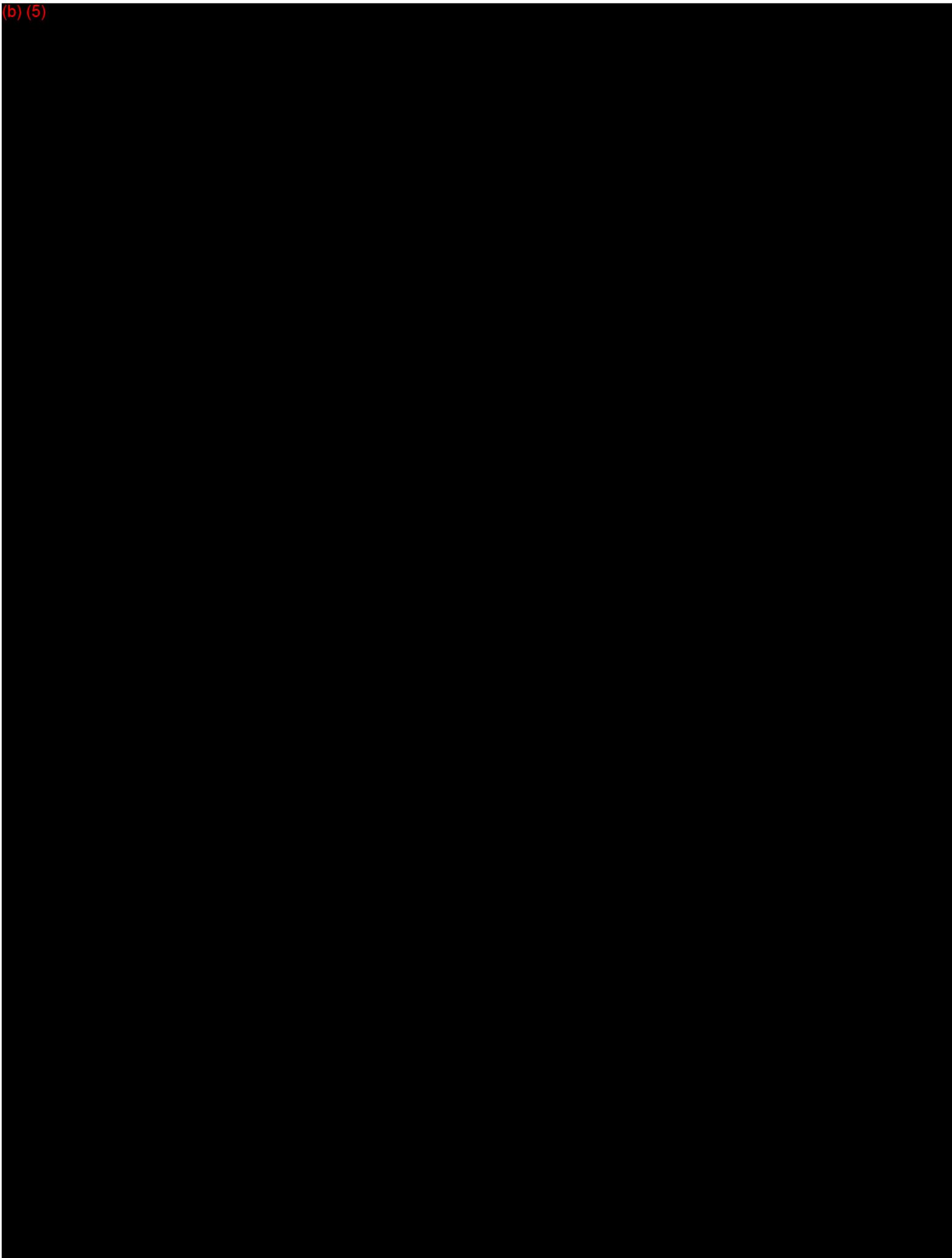


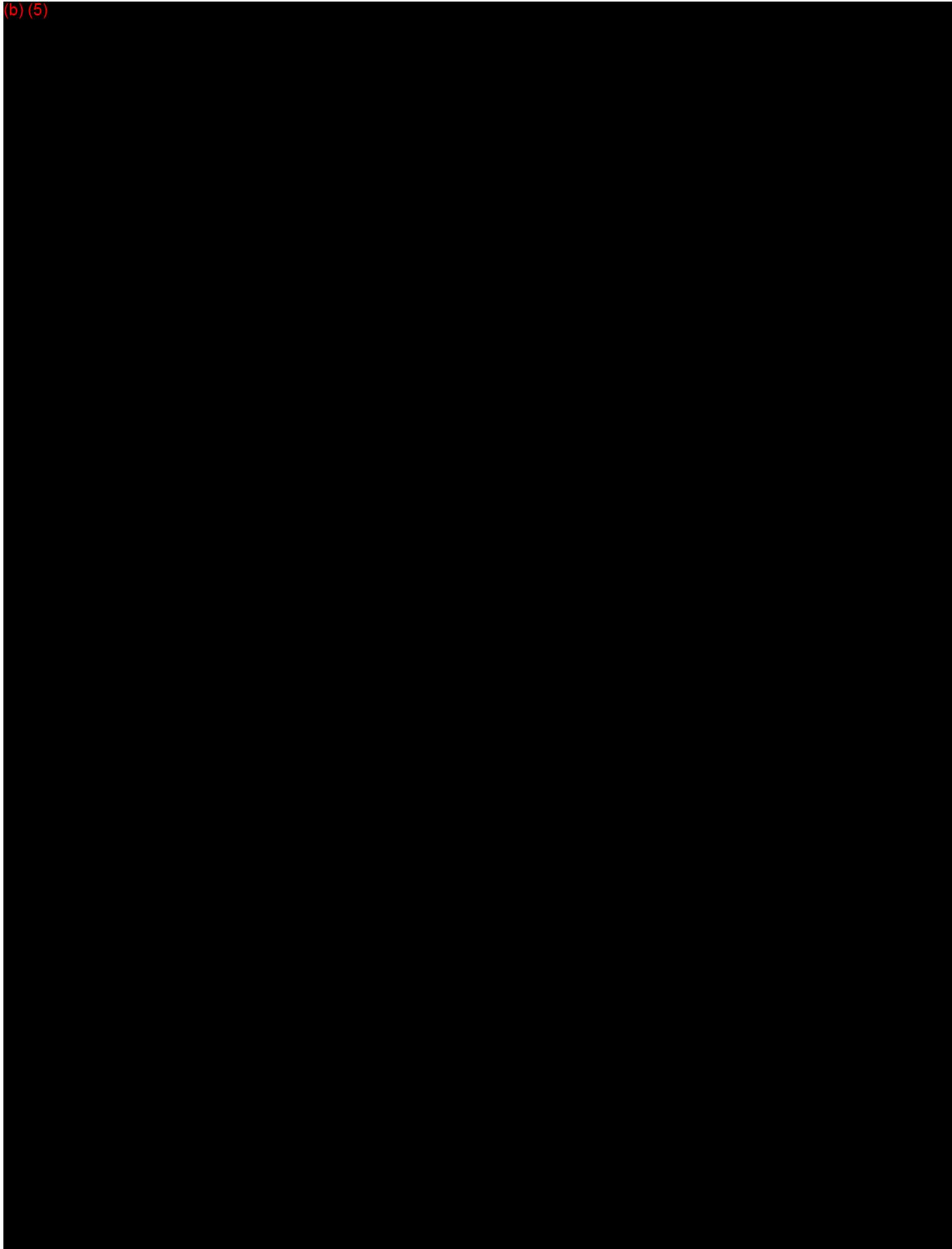


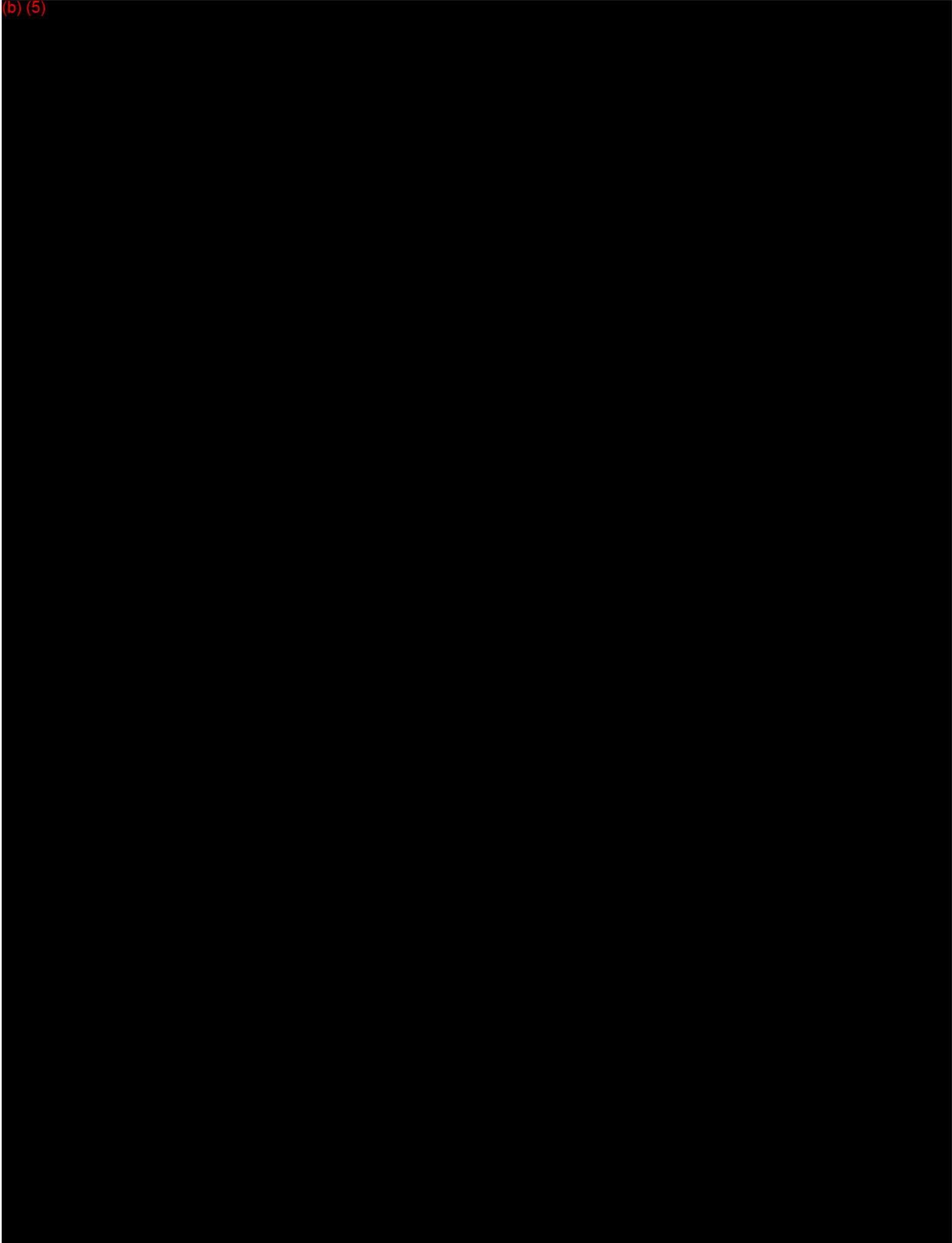












Revised Comment Response

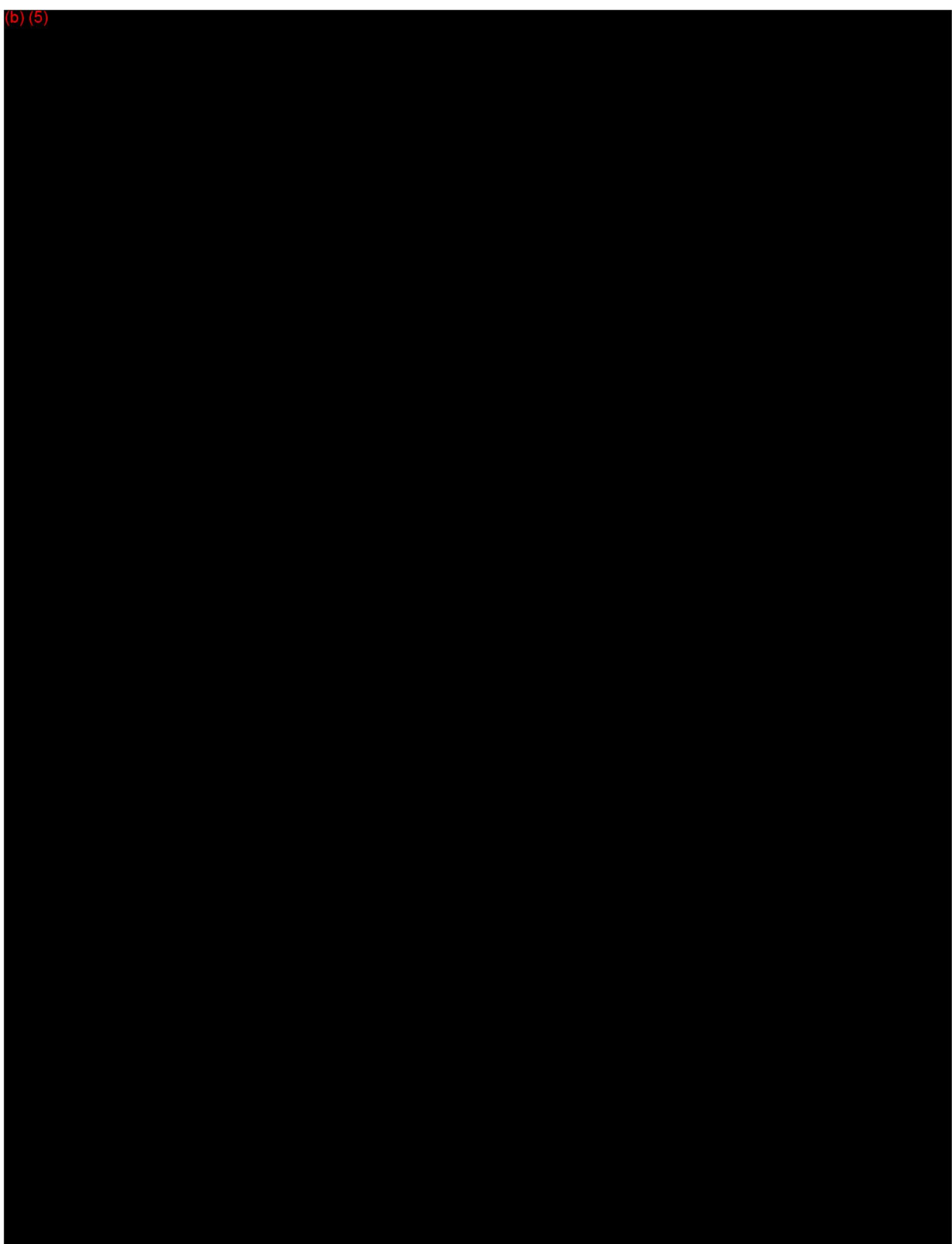
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To: "Sharp, Thomas L. EOP/CEQ" <(b) (6)>
Date: Tue, 29 May 2018 09:19:10 -0400
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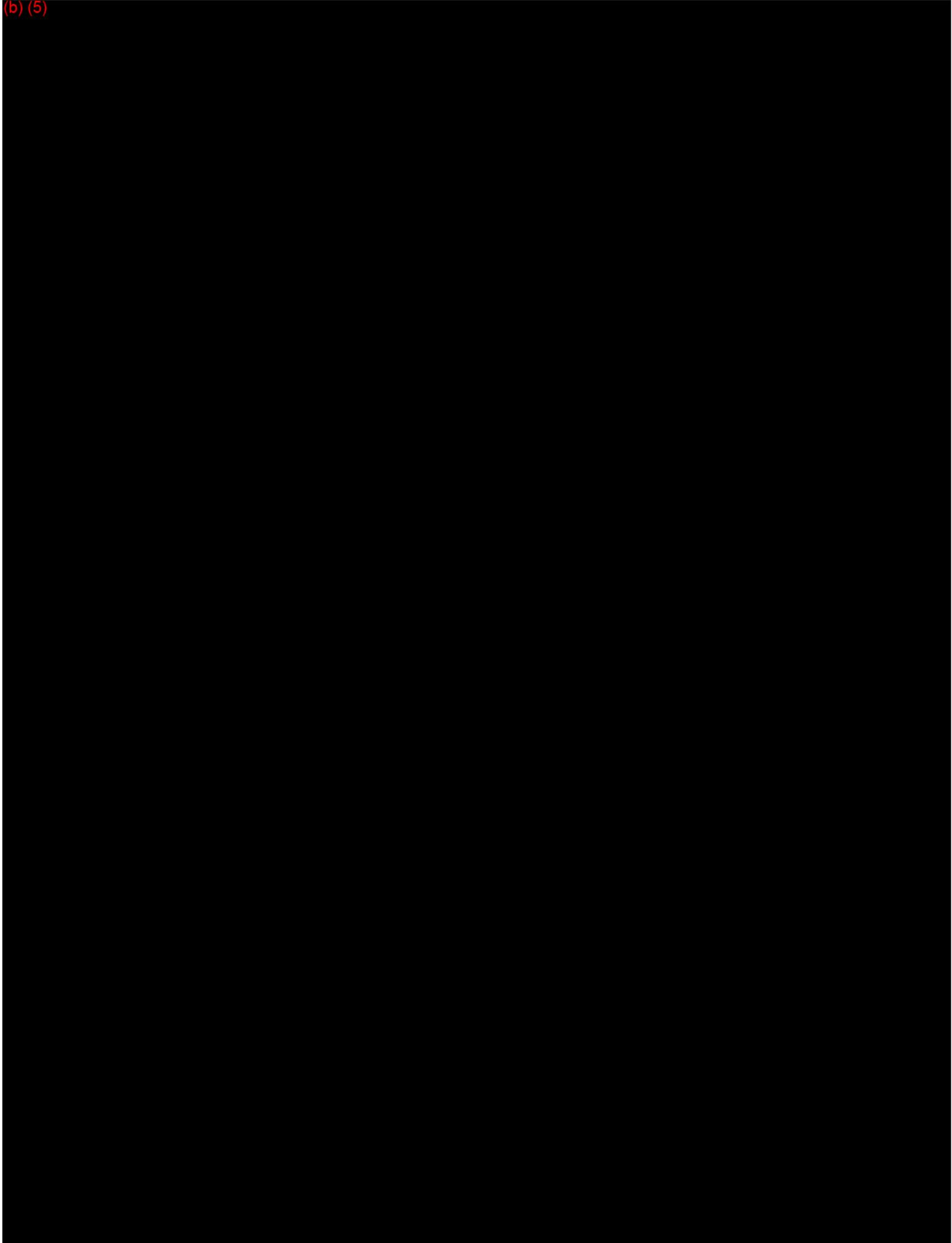
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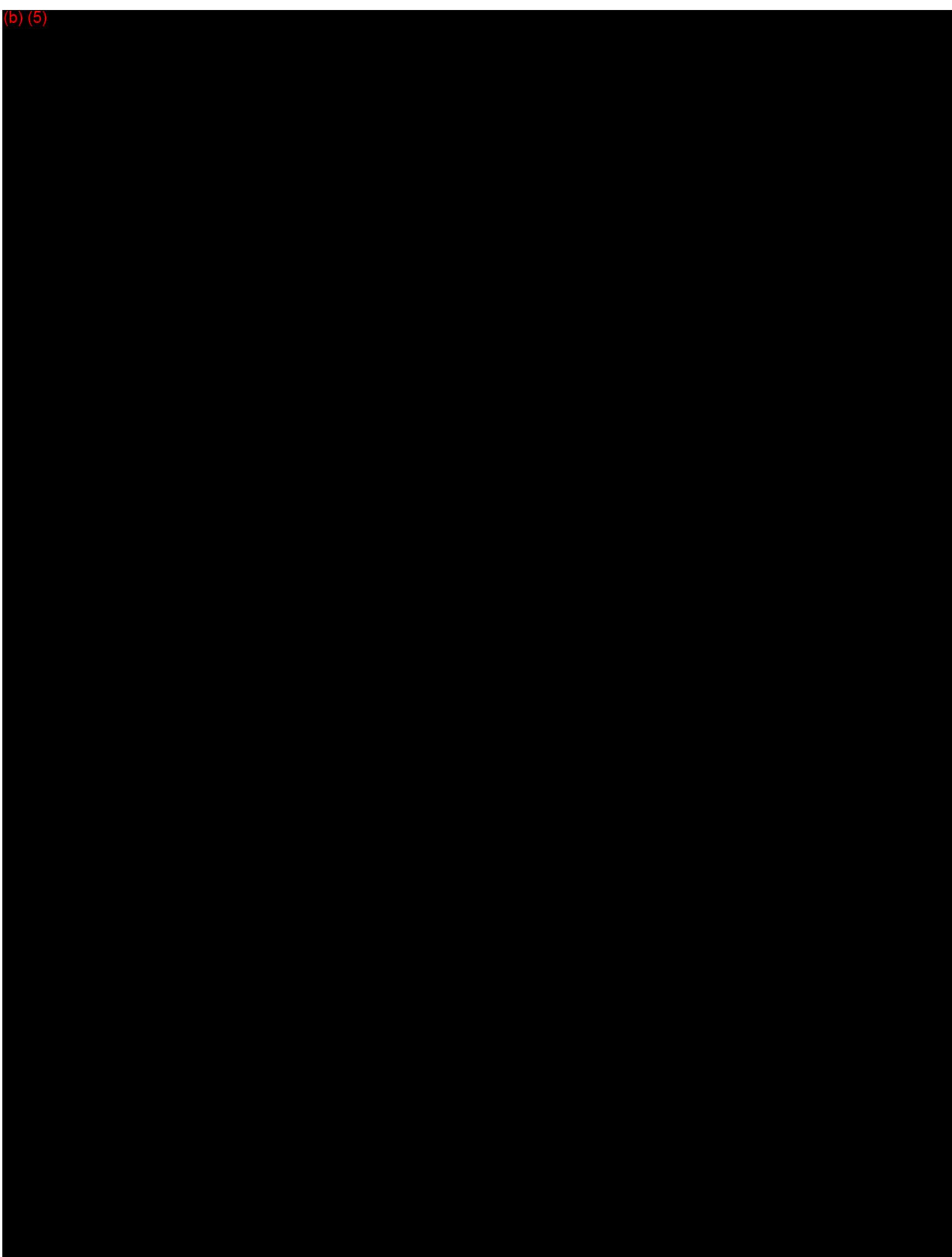
I have added (b) (5) comments in and made some cosmetic changes. Please add (b) (5) to the end of the document. Can you get this done by 1pm today?

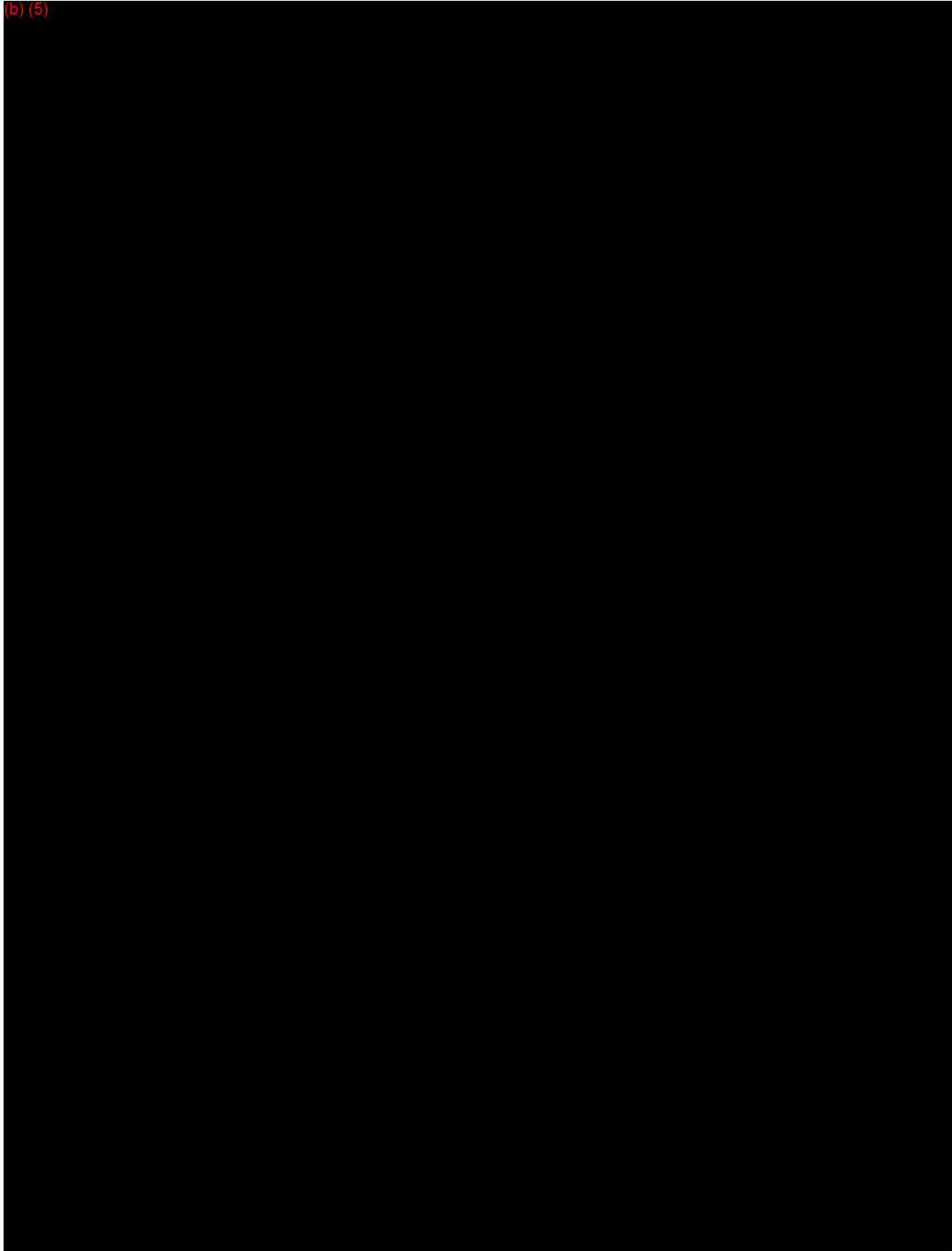
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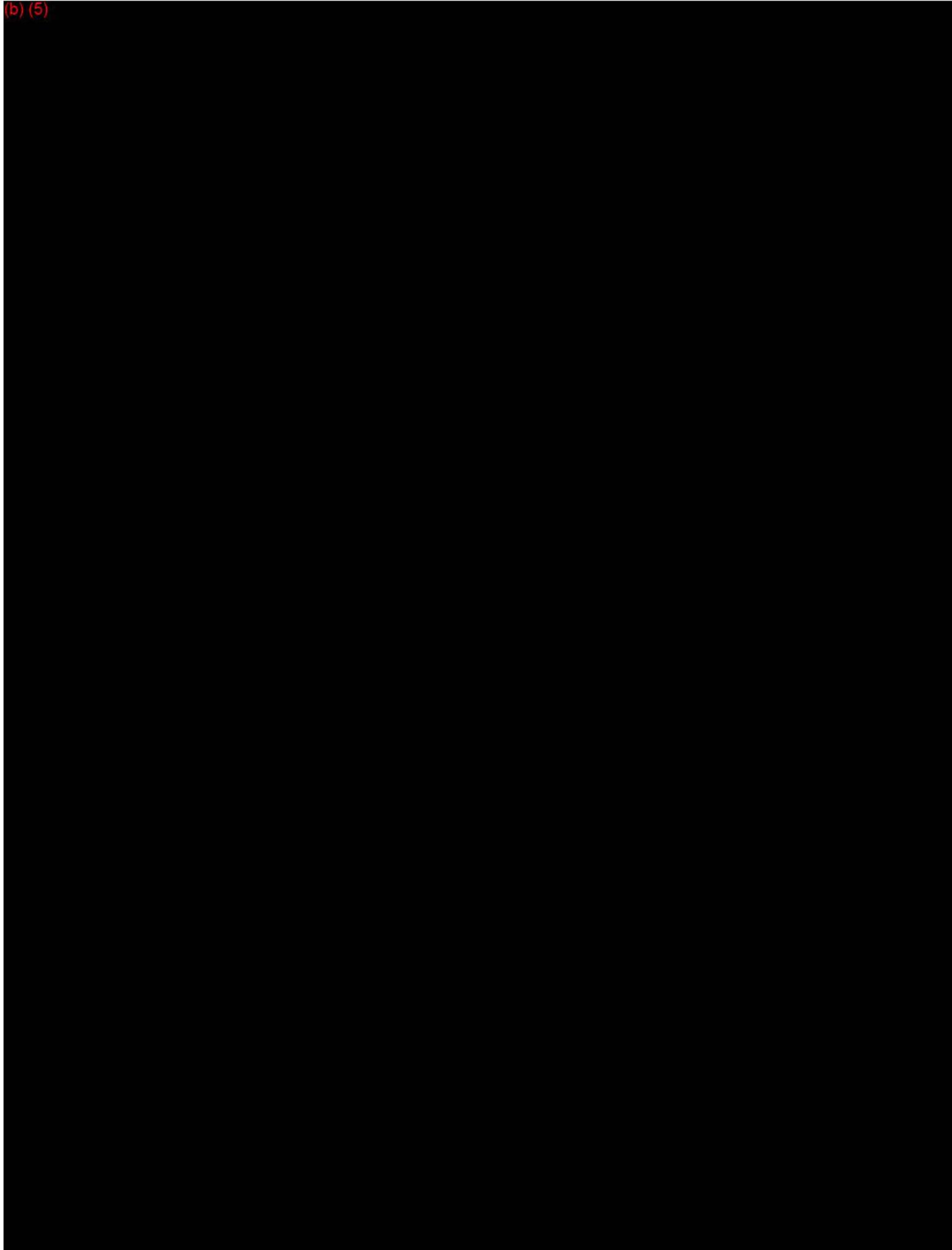
Aaron L. Szabo
Senior Counsel
Council on Environmental Quality
(b) (6) (Desk)
(b) (6) (Cell)
(b) (6)

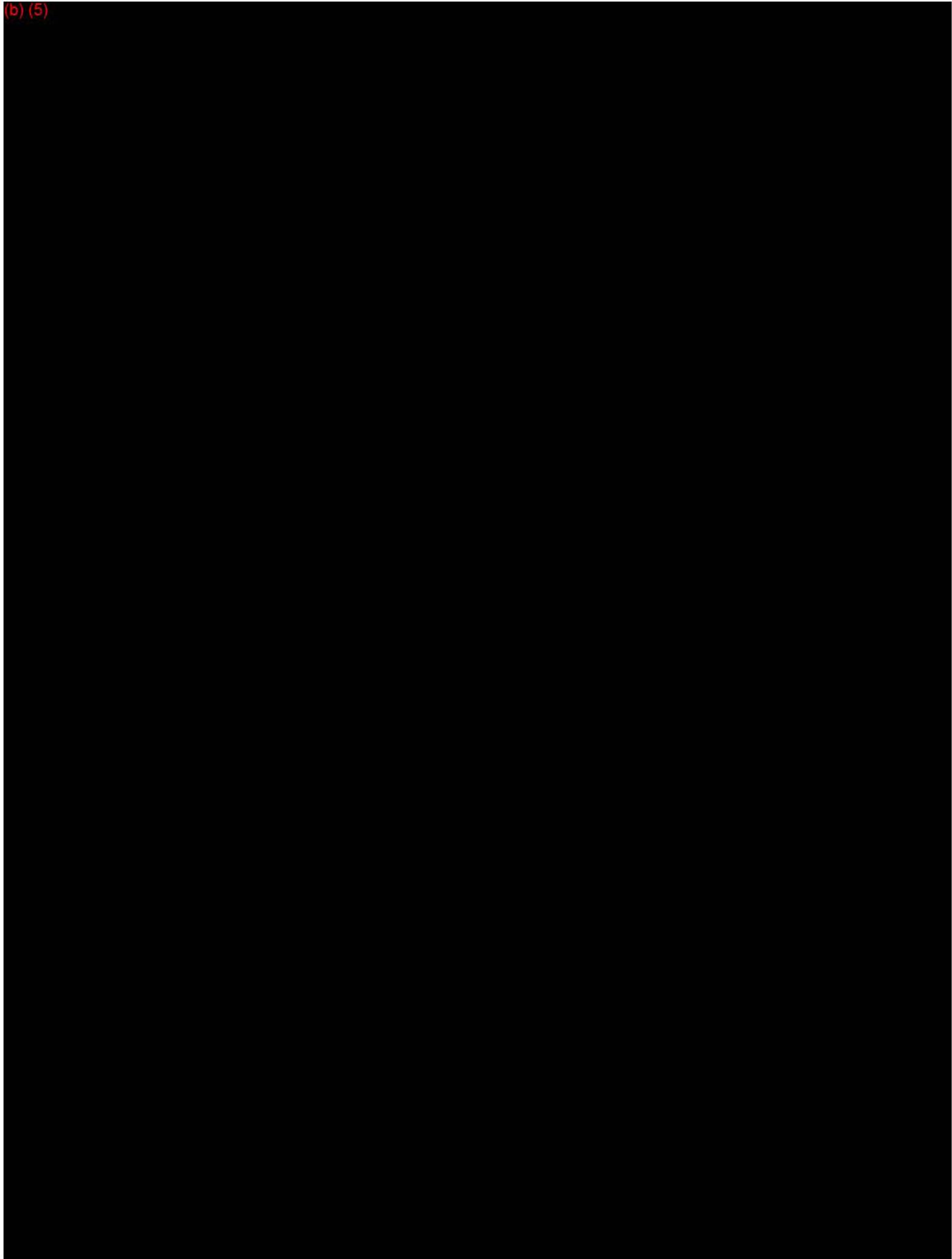












EO 12866 Review: CEQ's Revised ANPRM and Response to Interagency Comments

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

To: "Chad S. EOP/OMB Whiteman (b) (6) [REDACTED] <(b) (6) [REDACTED]>

Date: Wed, 30 May 2018 16:00:40 -0400

Attachments
: EO12866 Review CEQ NEPA ANPRM_Revised_RLSO.DOCX (48.1 kB); EO12866 Review CEQ Responses to Interagency Comments.docx (33.5 kB); EO12866 Review CEQ NEPA ANPRM_Revised_Clean.docx (47.61 kB)

Chad,

Please find attached a RLSO and Clean version of the revised ANPRM and a response to interagency comments document.

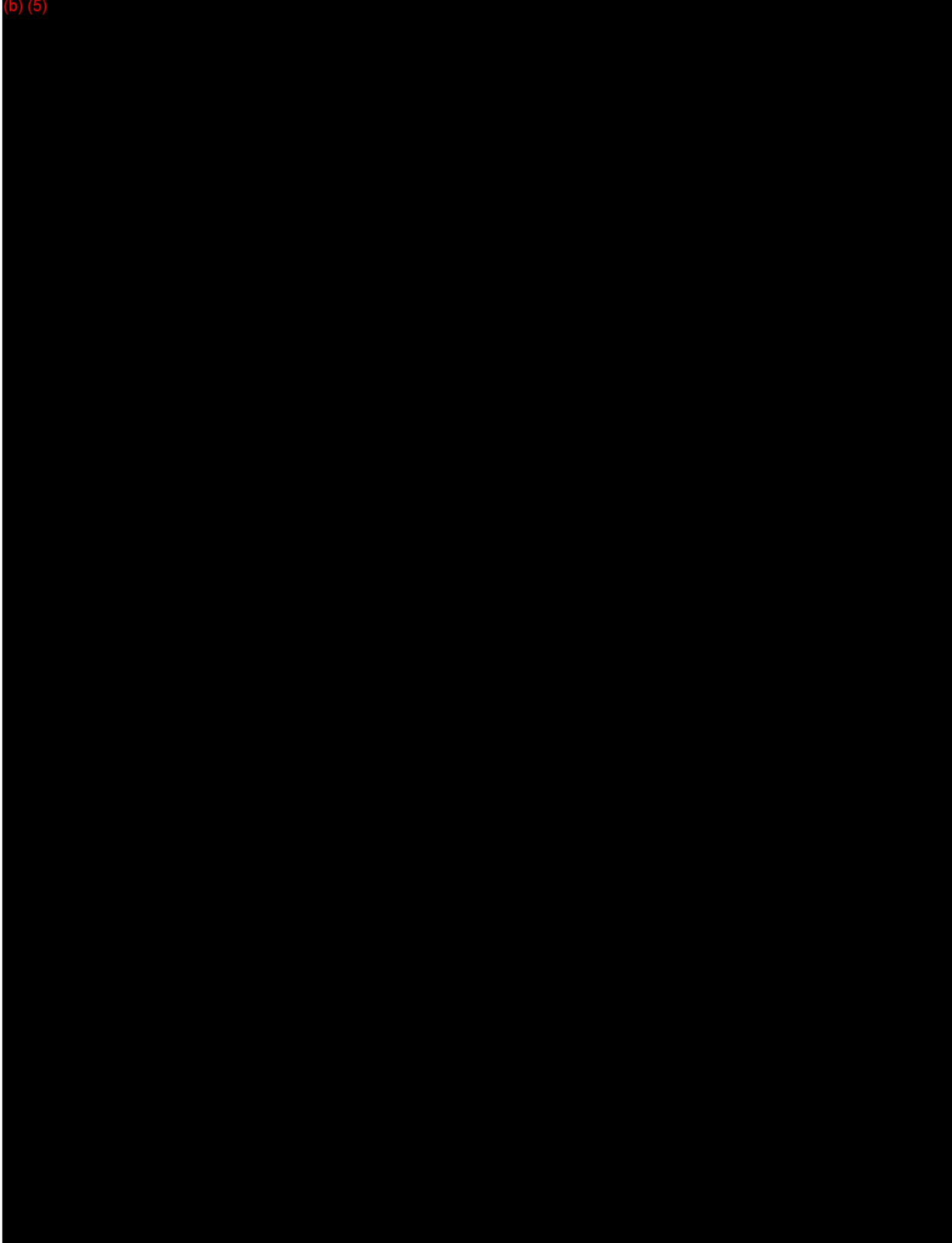
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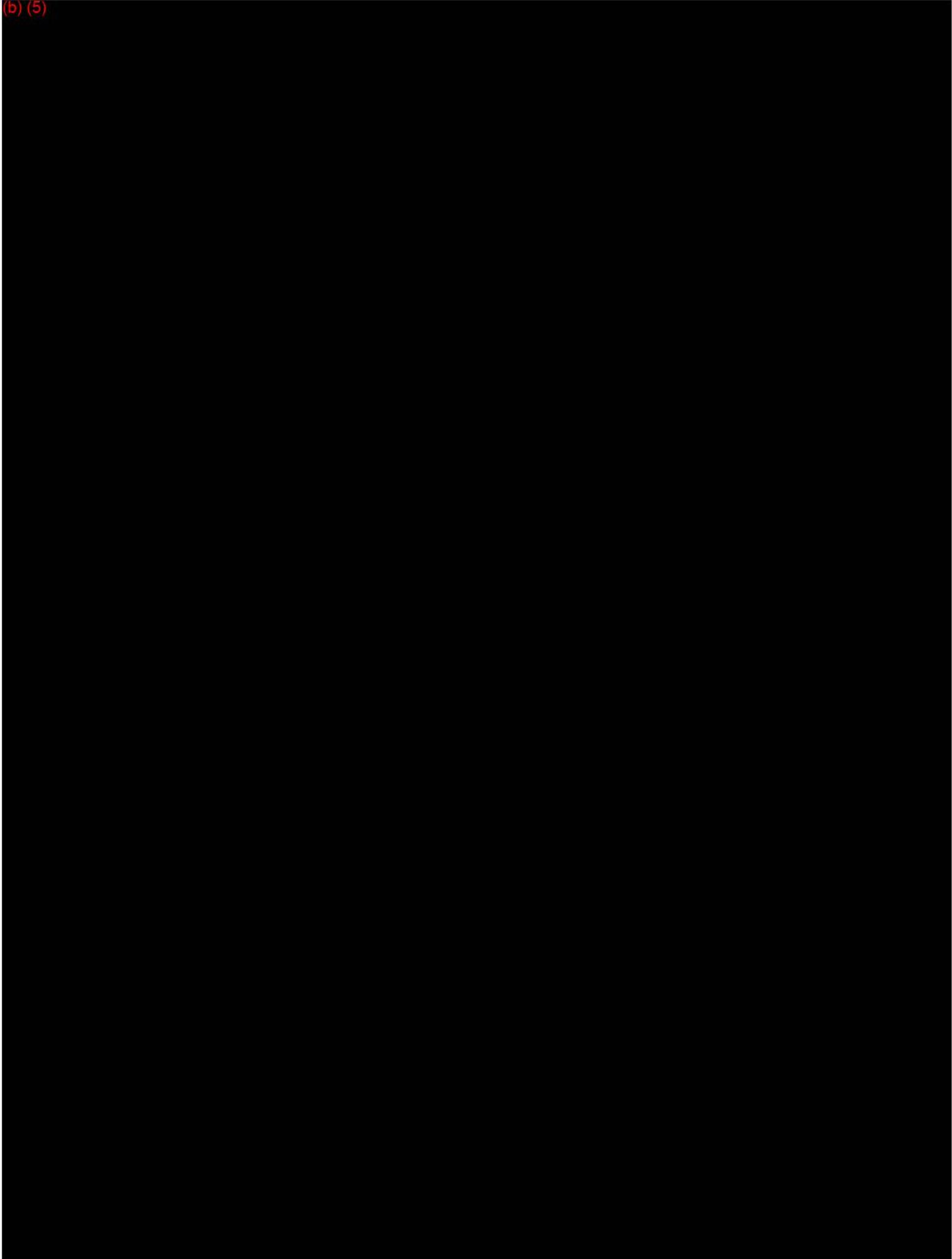
Aaron L. Szabo
Senior Counsel
Council on Environmental Quality

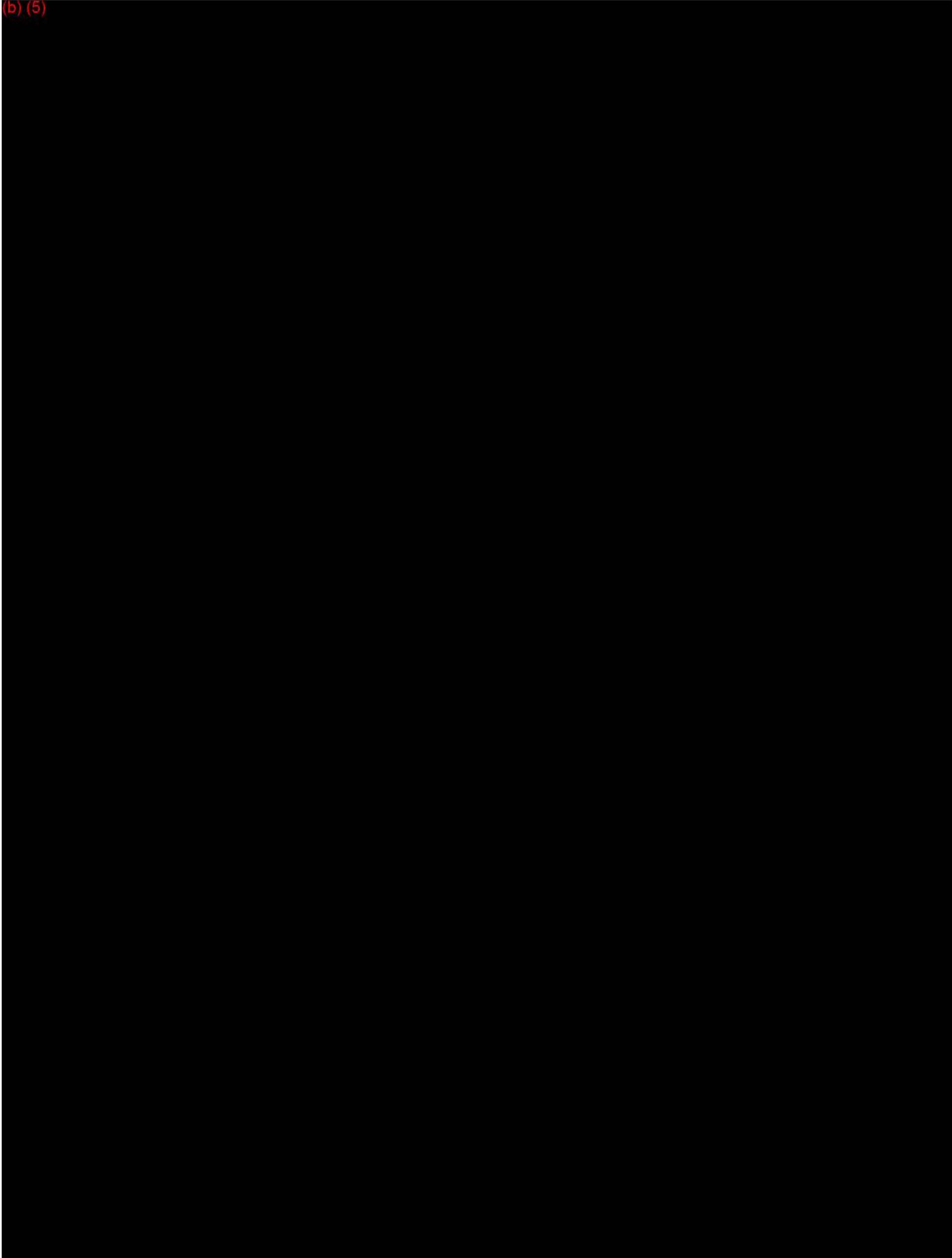
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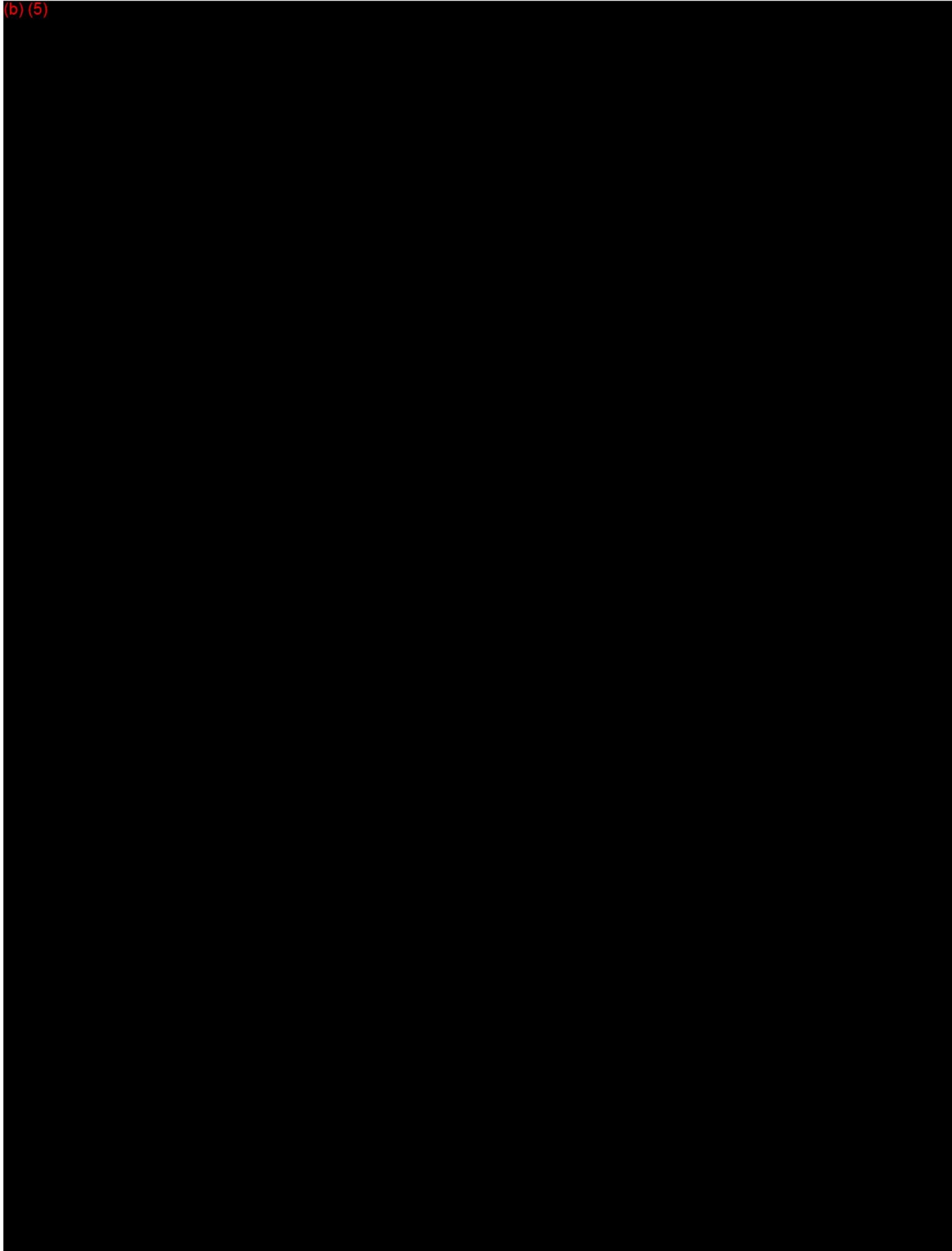
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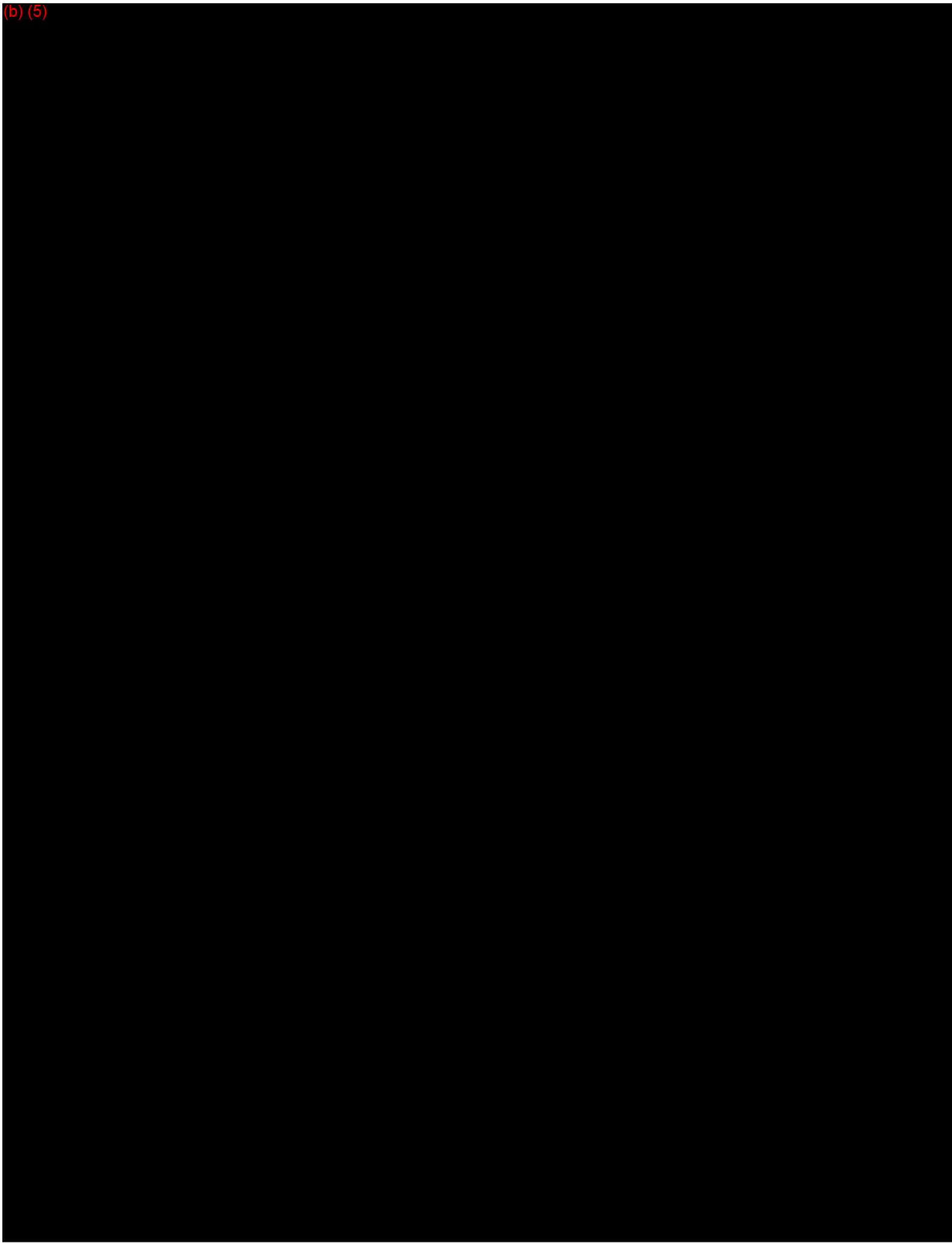
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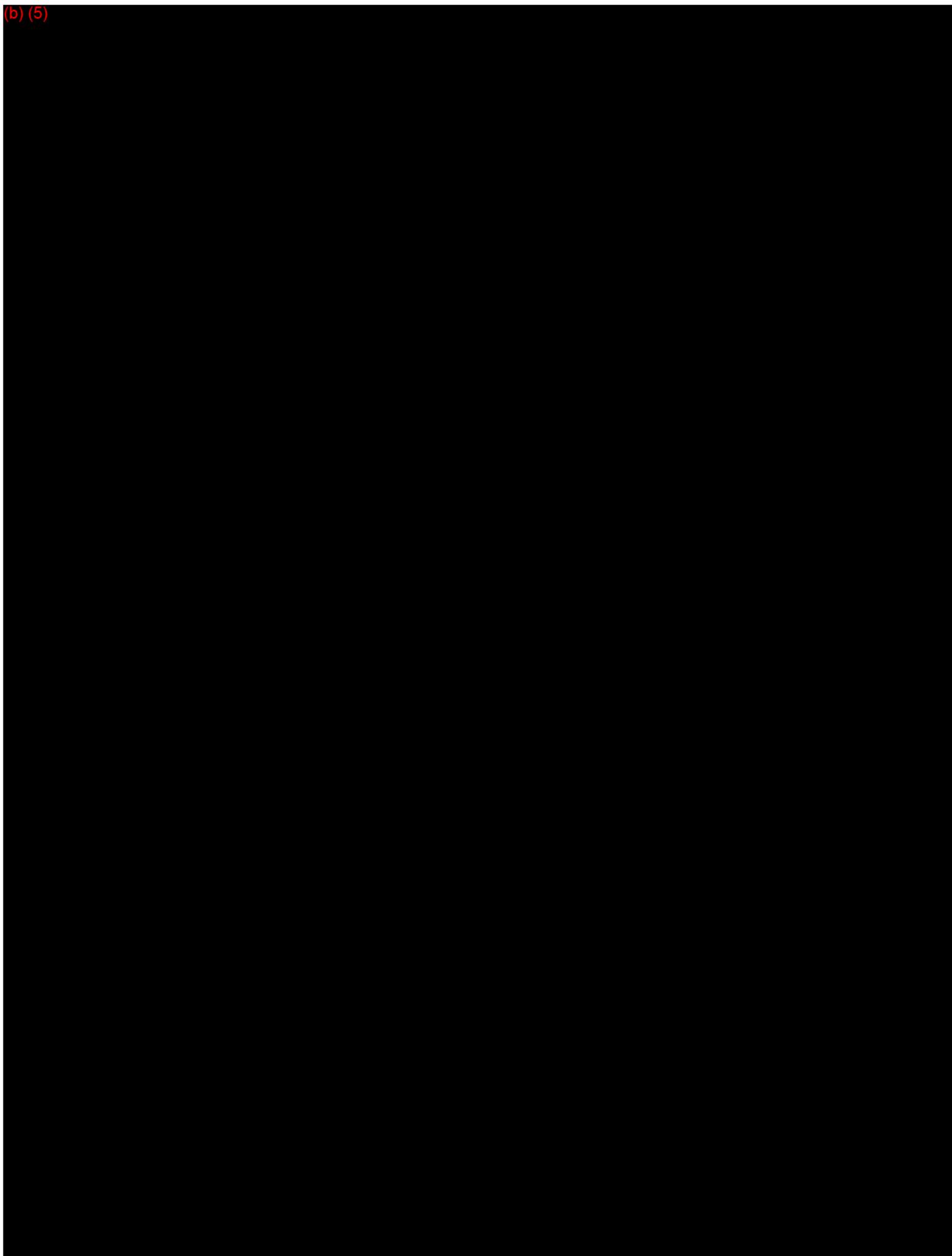


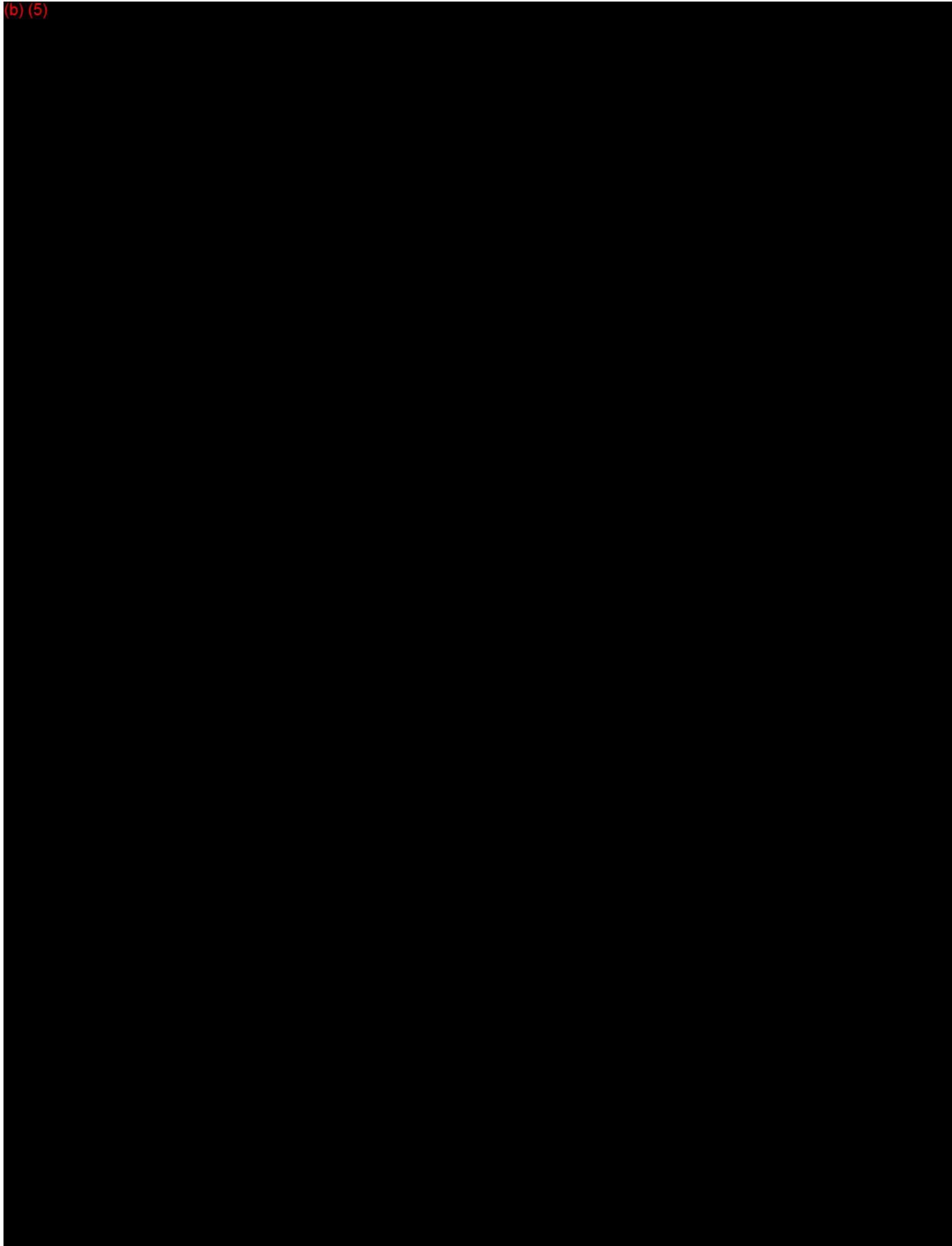


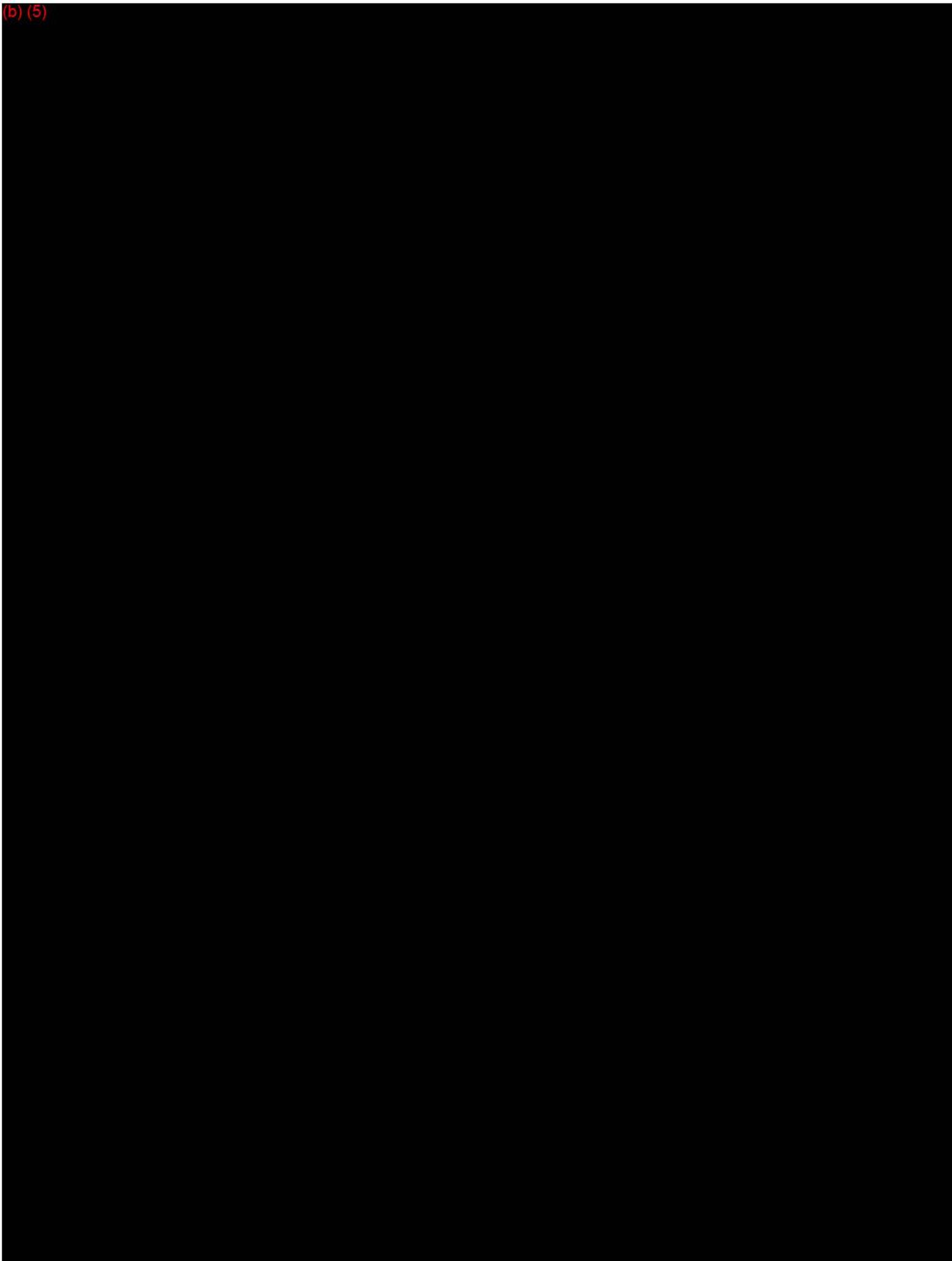


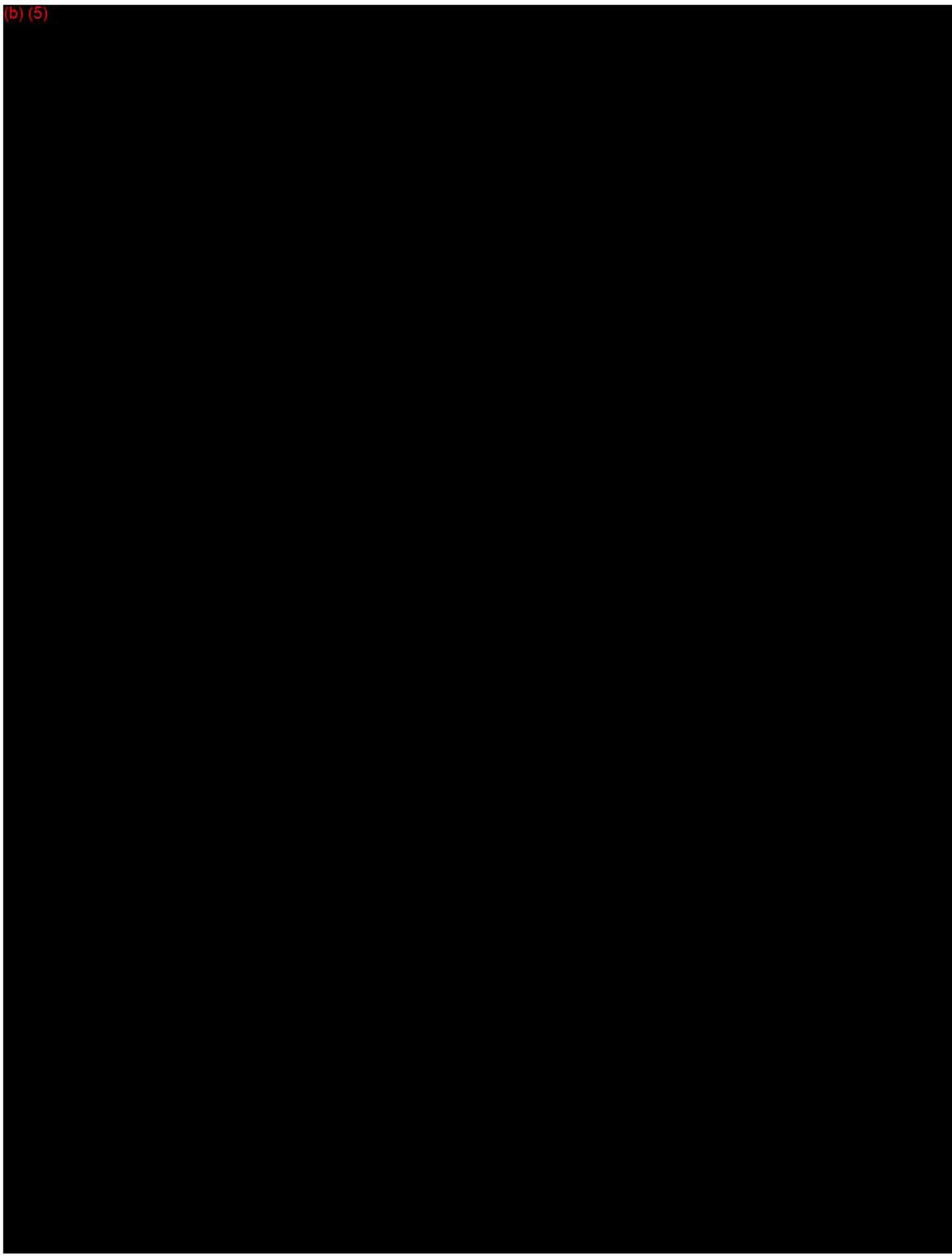


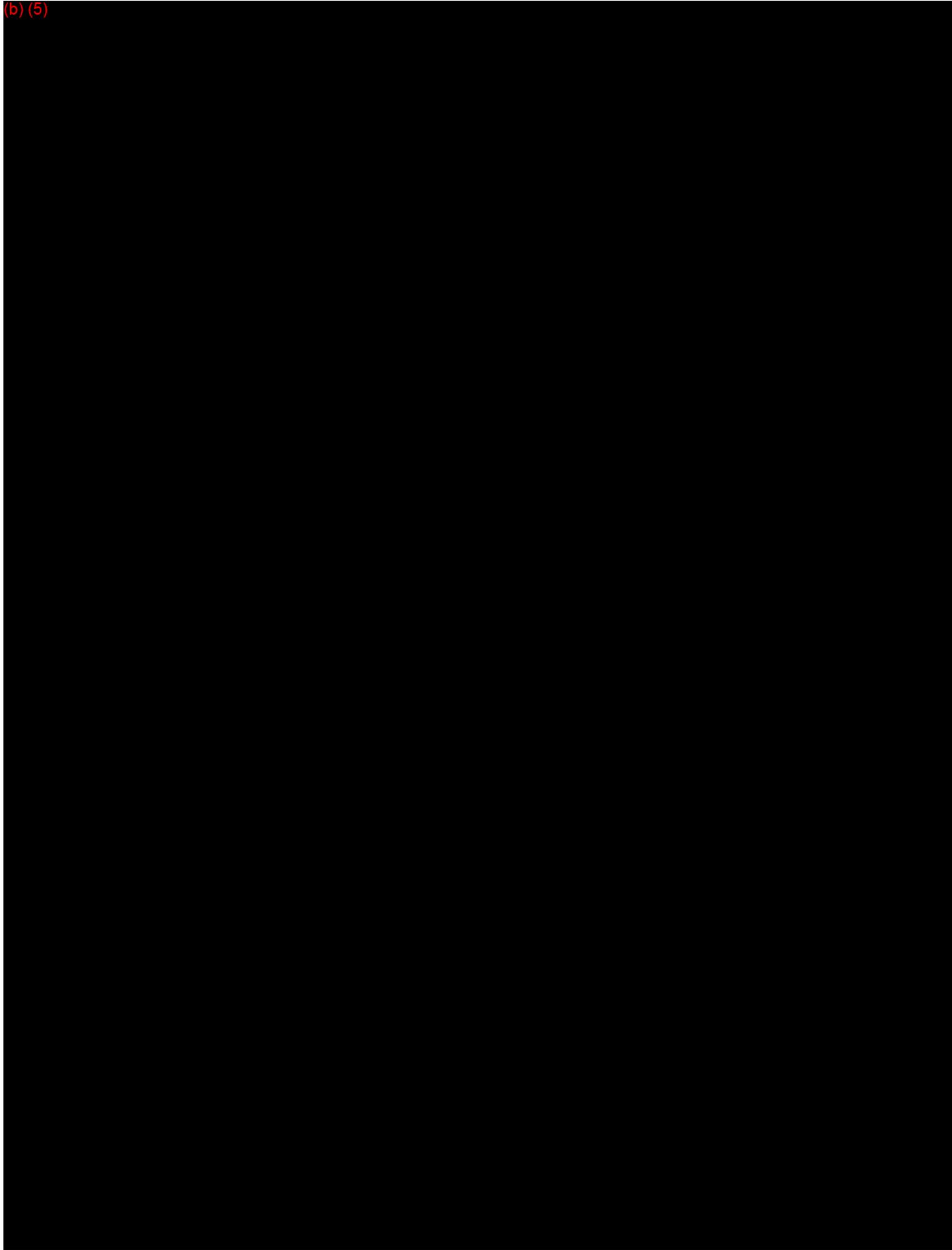


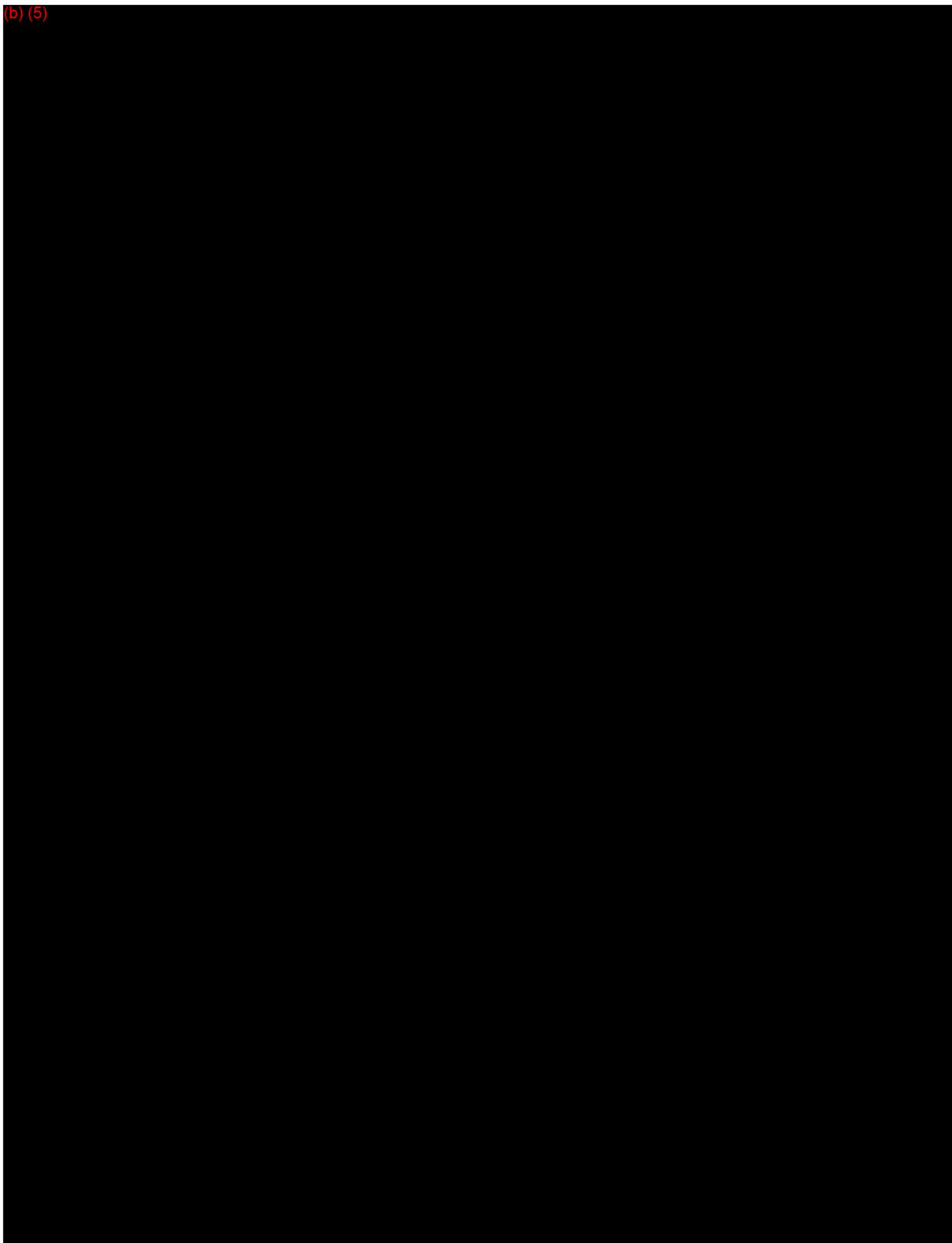


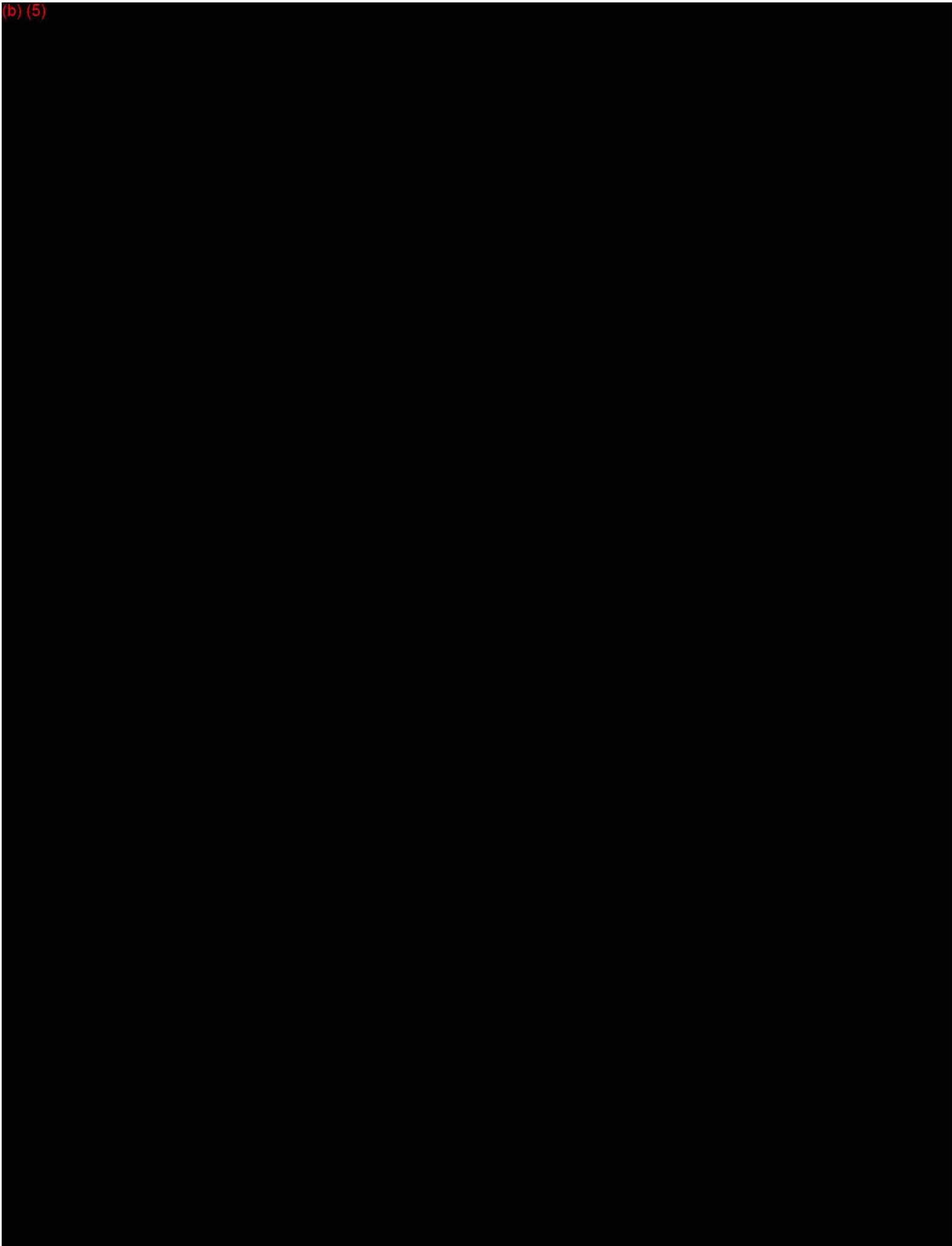


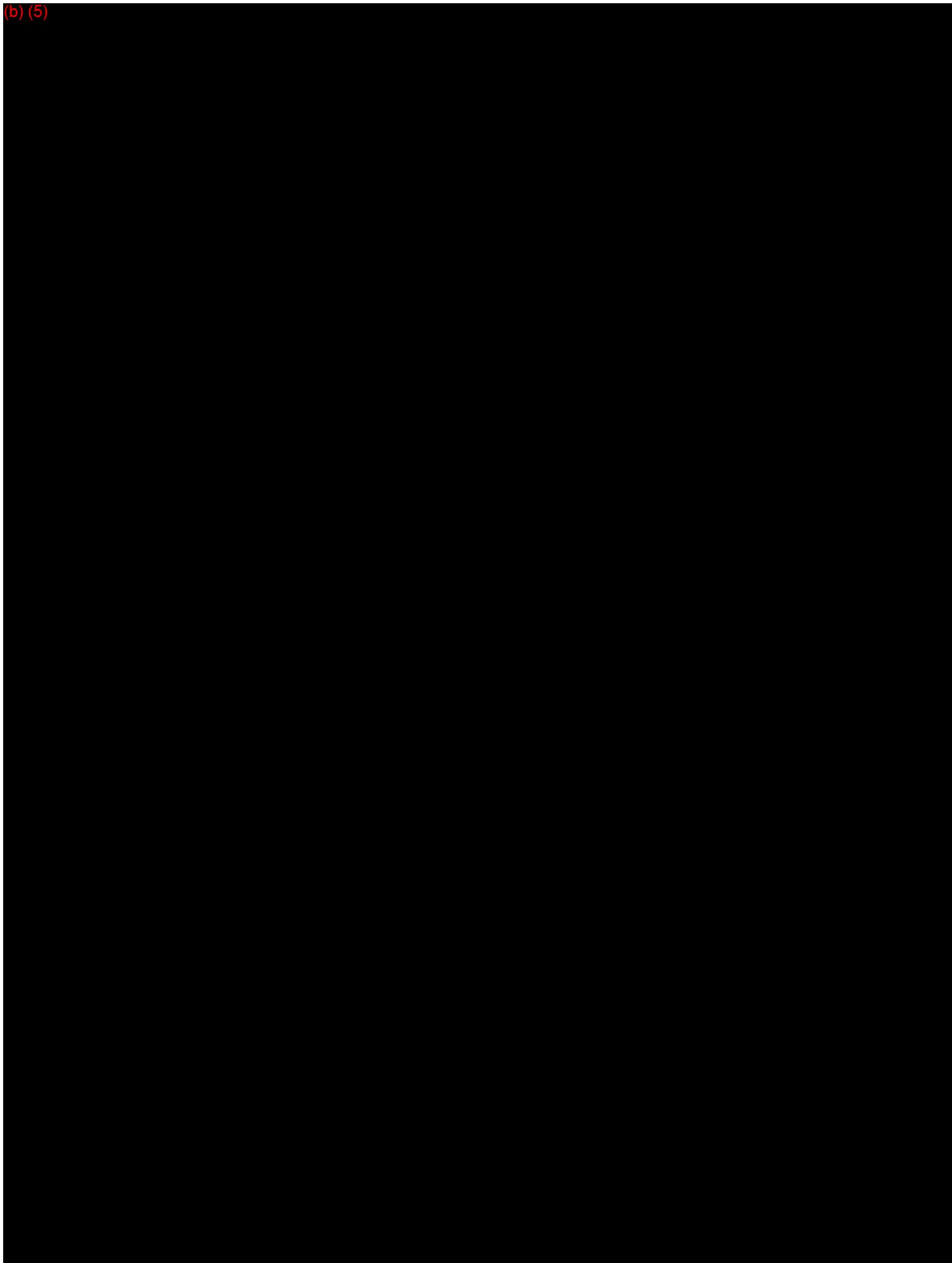


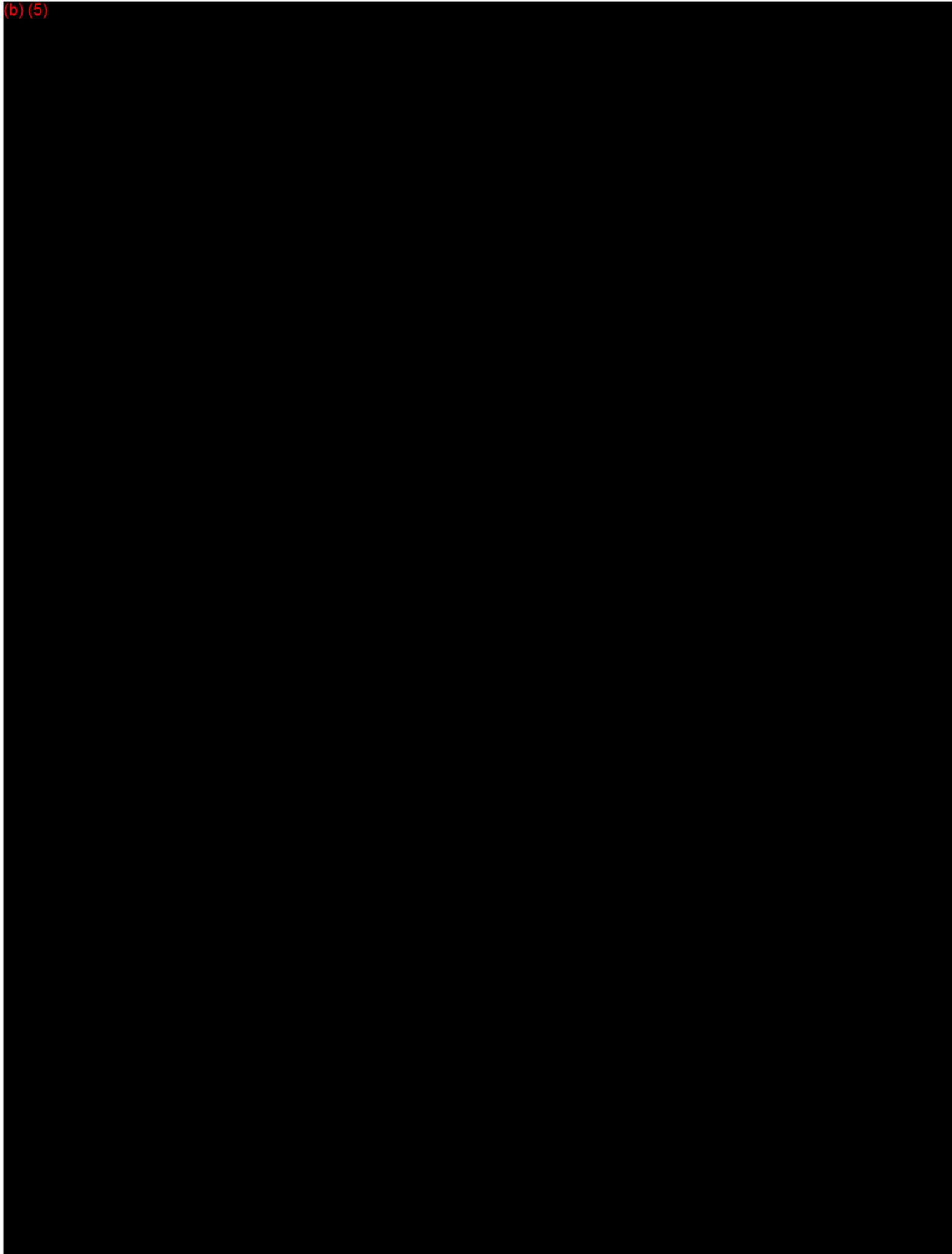


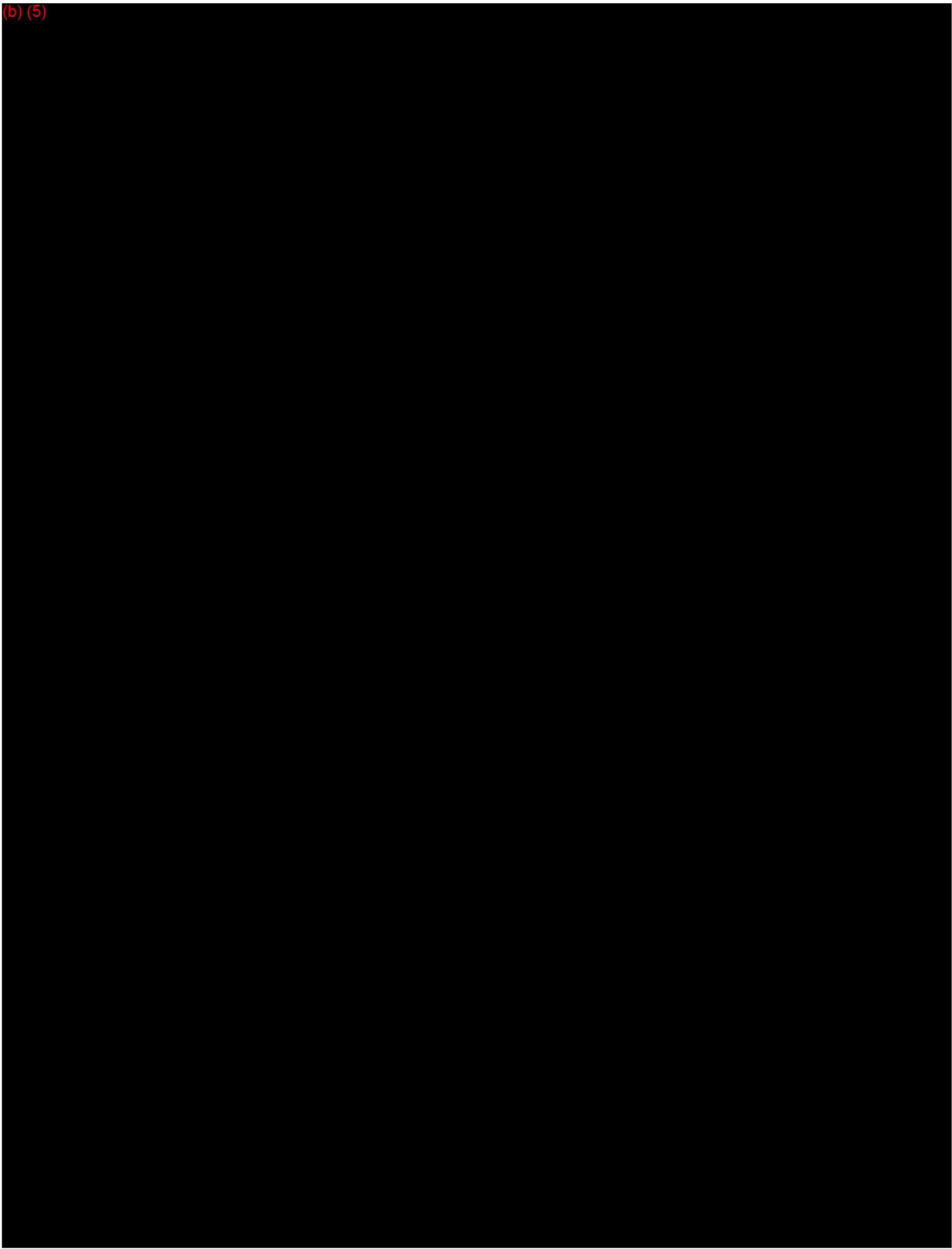


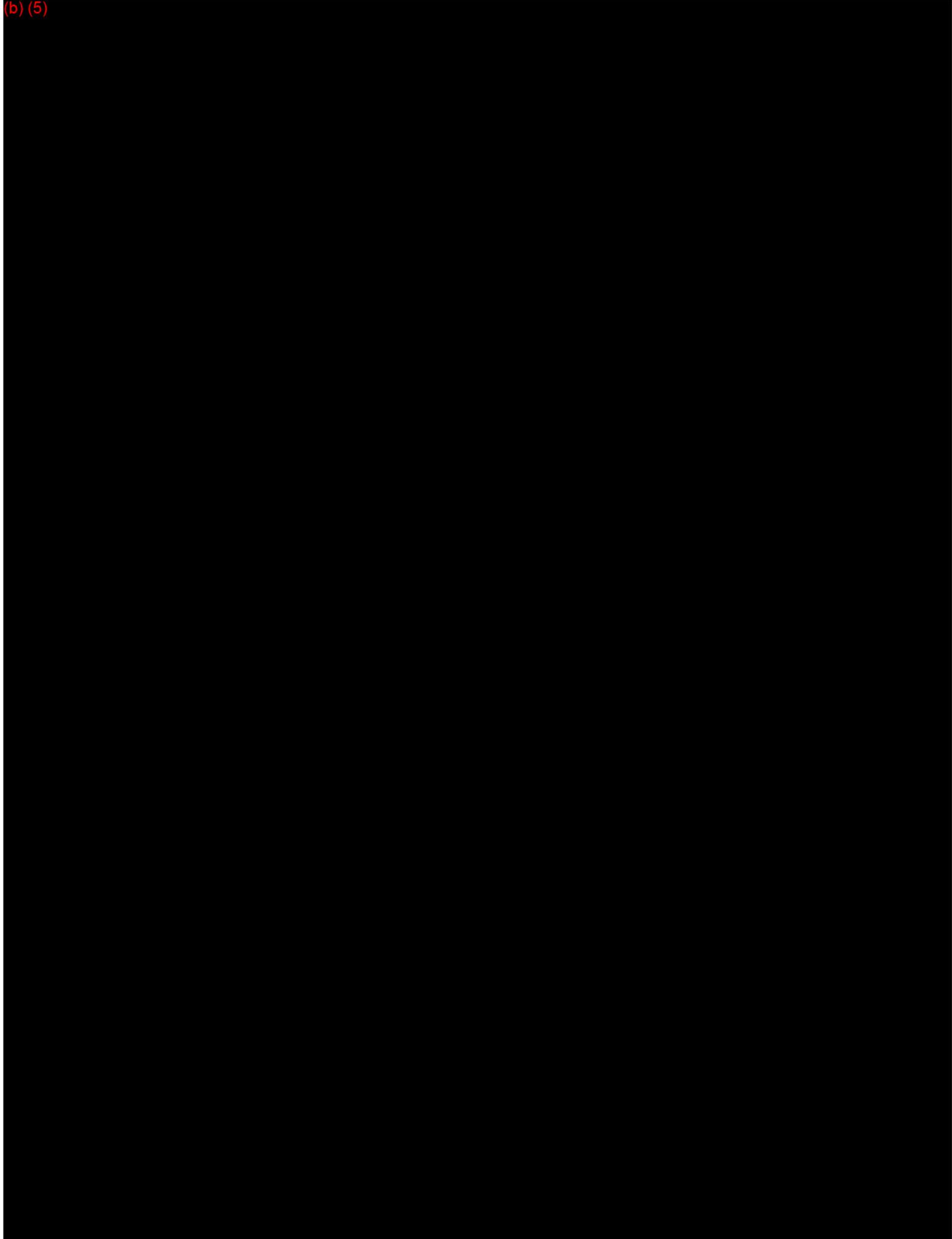


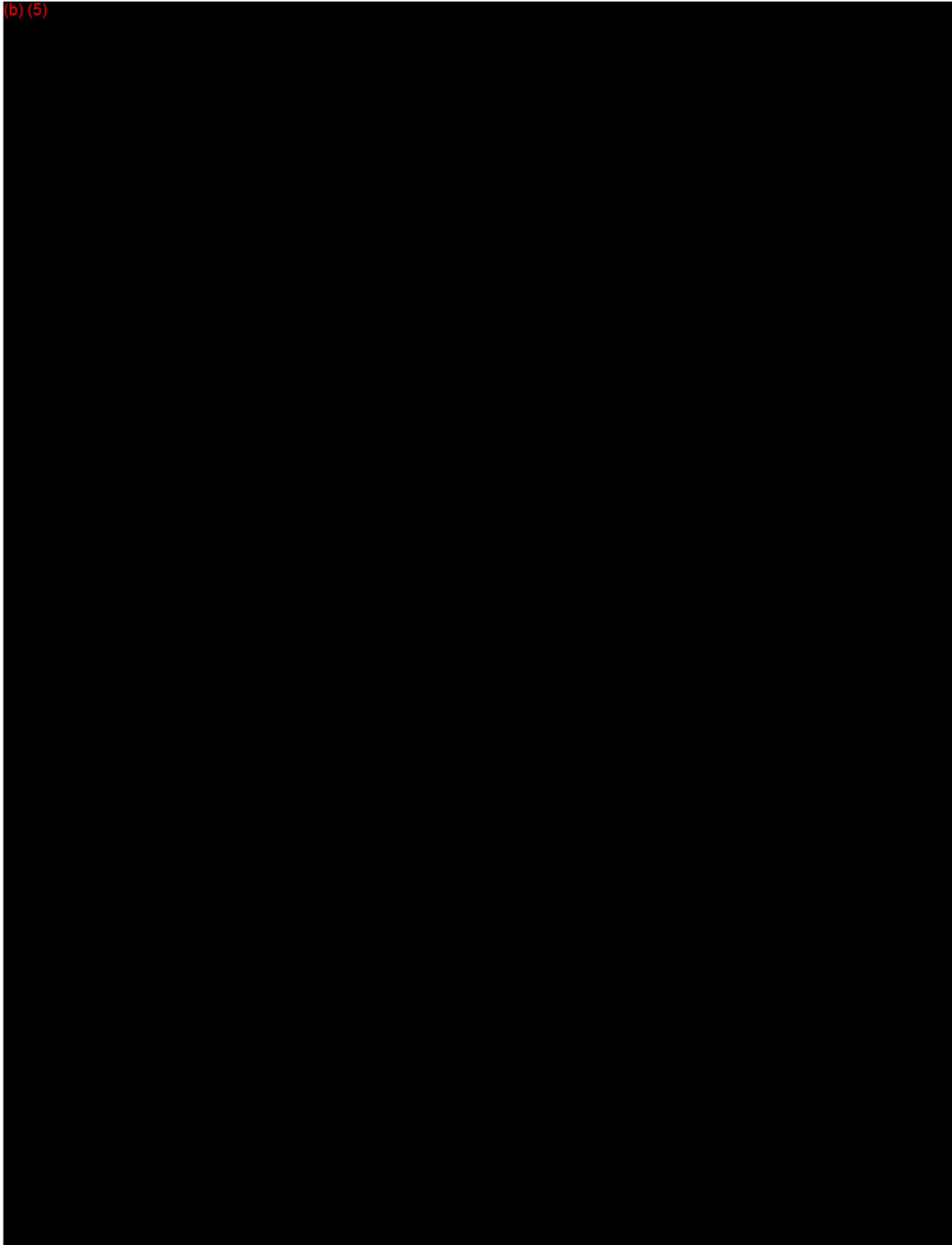


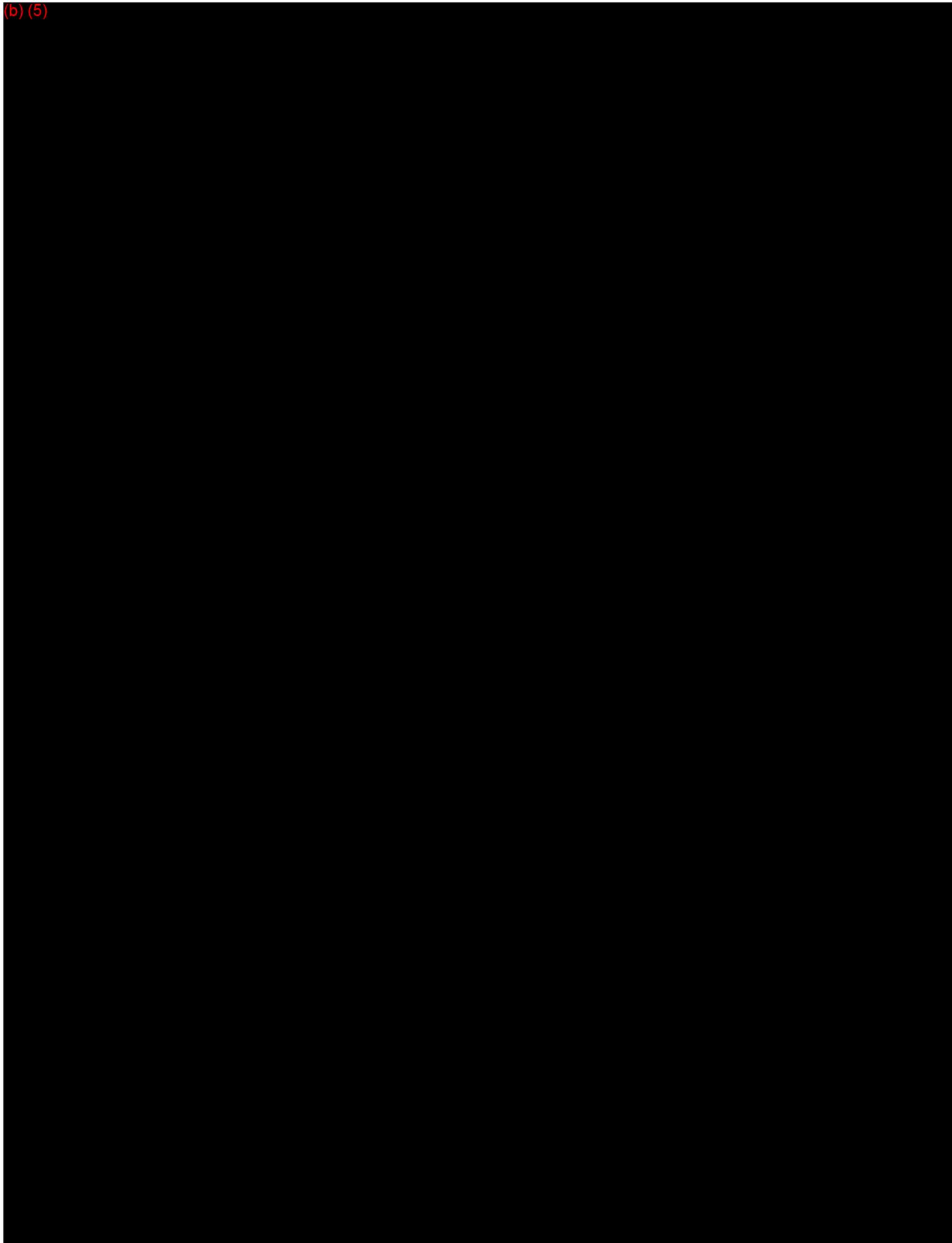


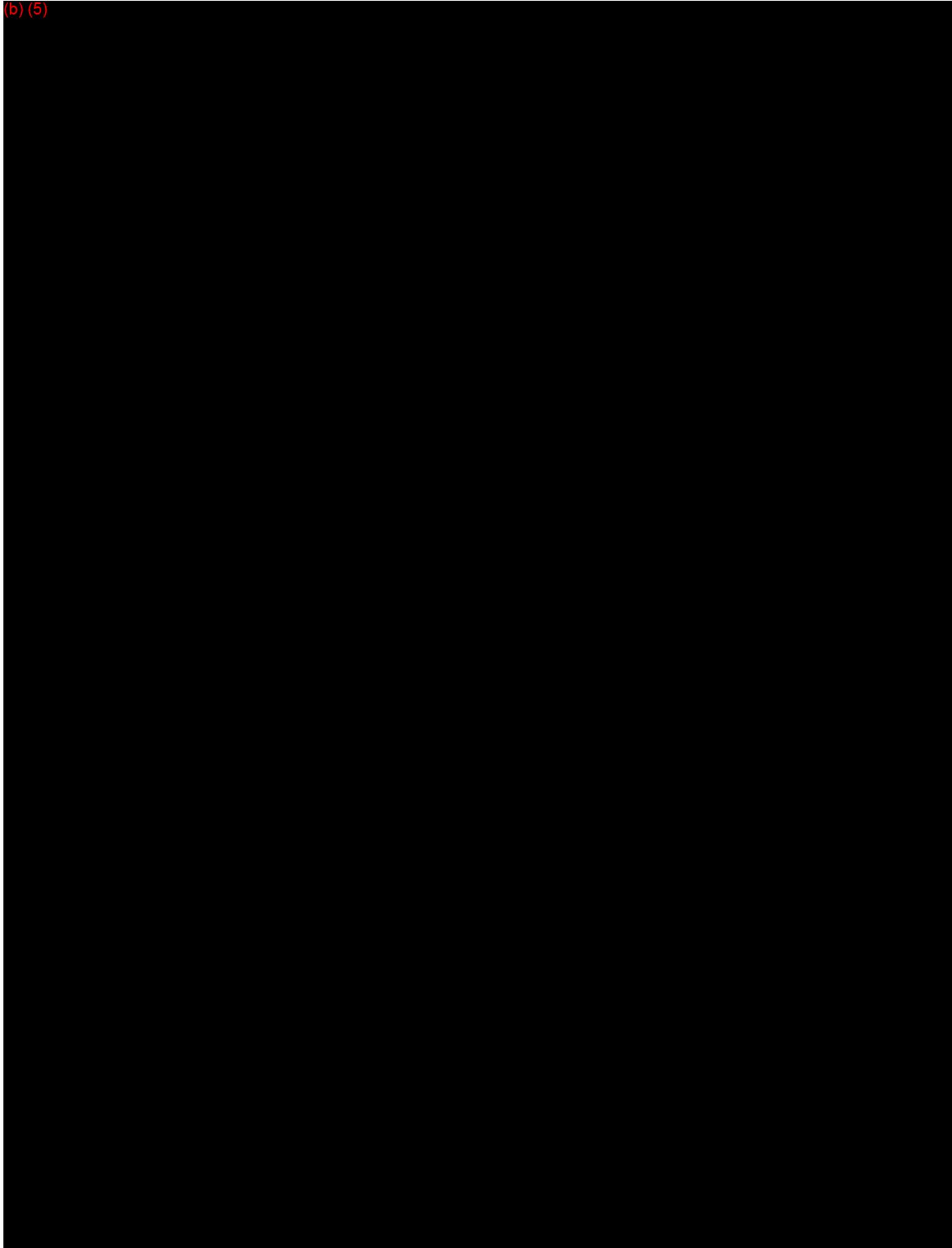


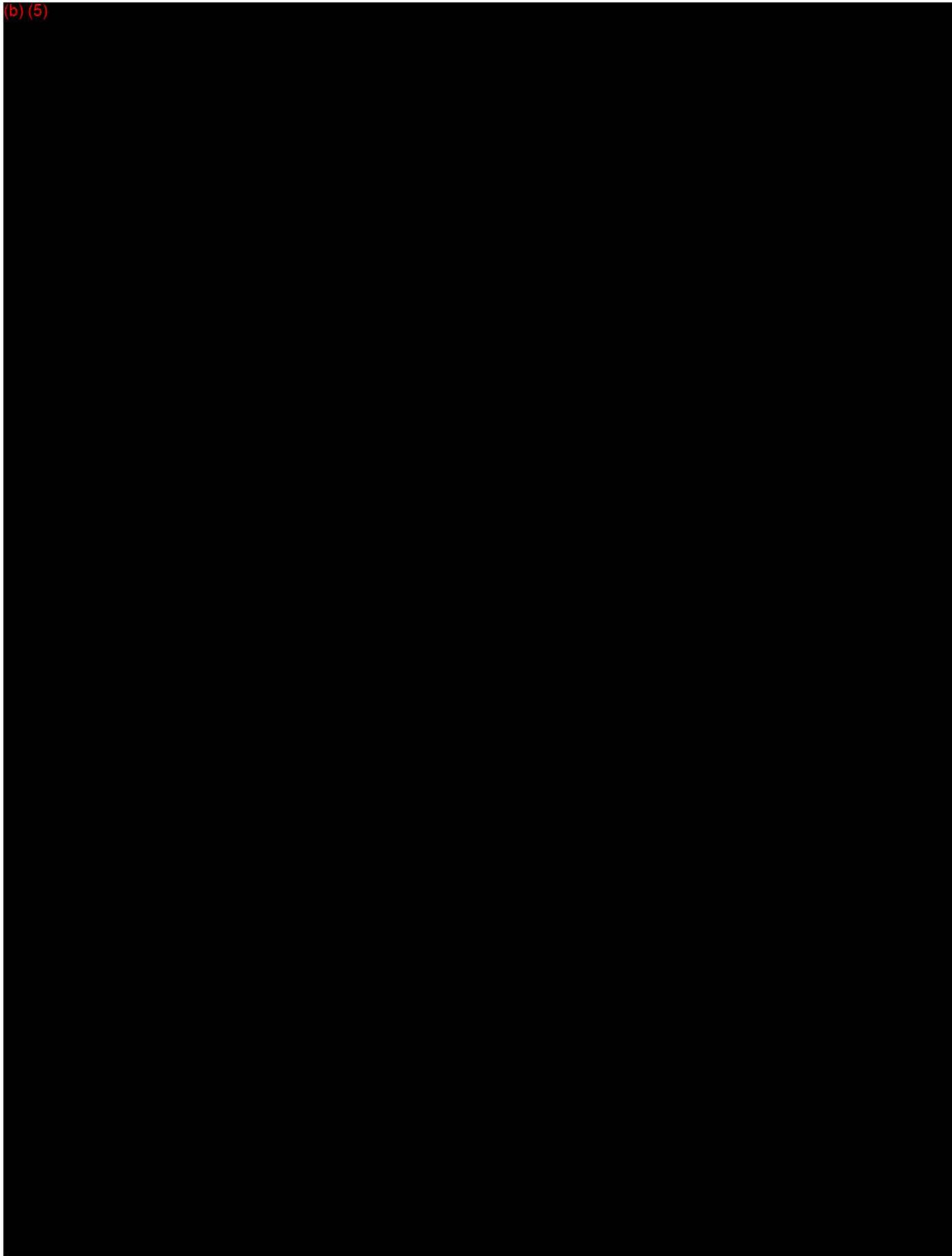


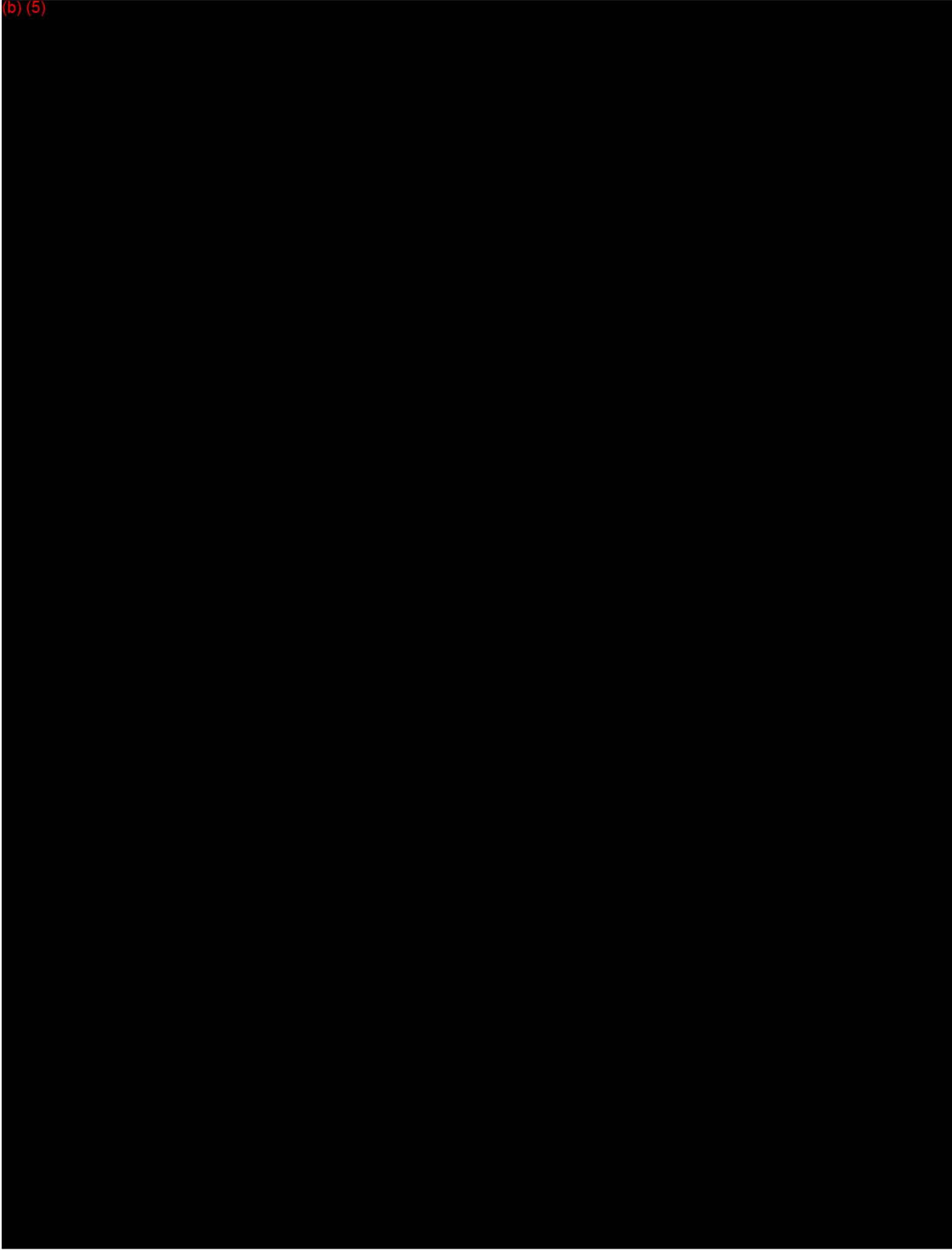


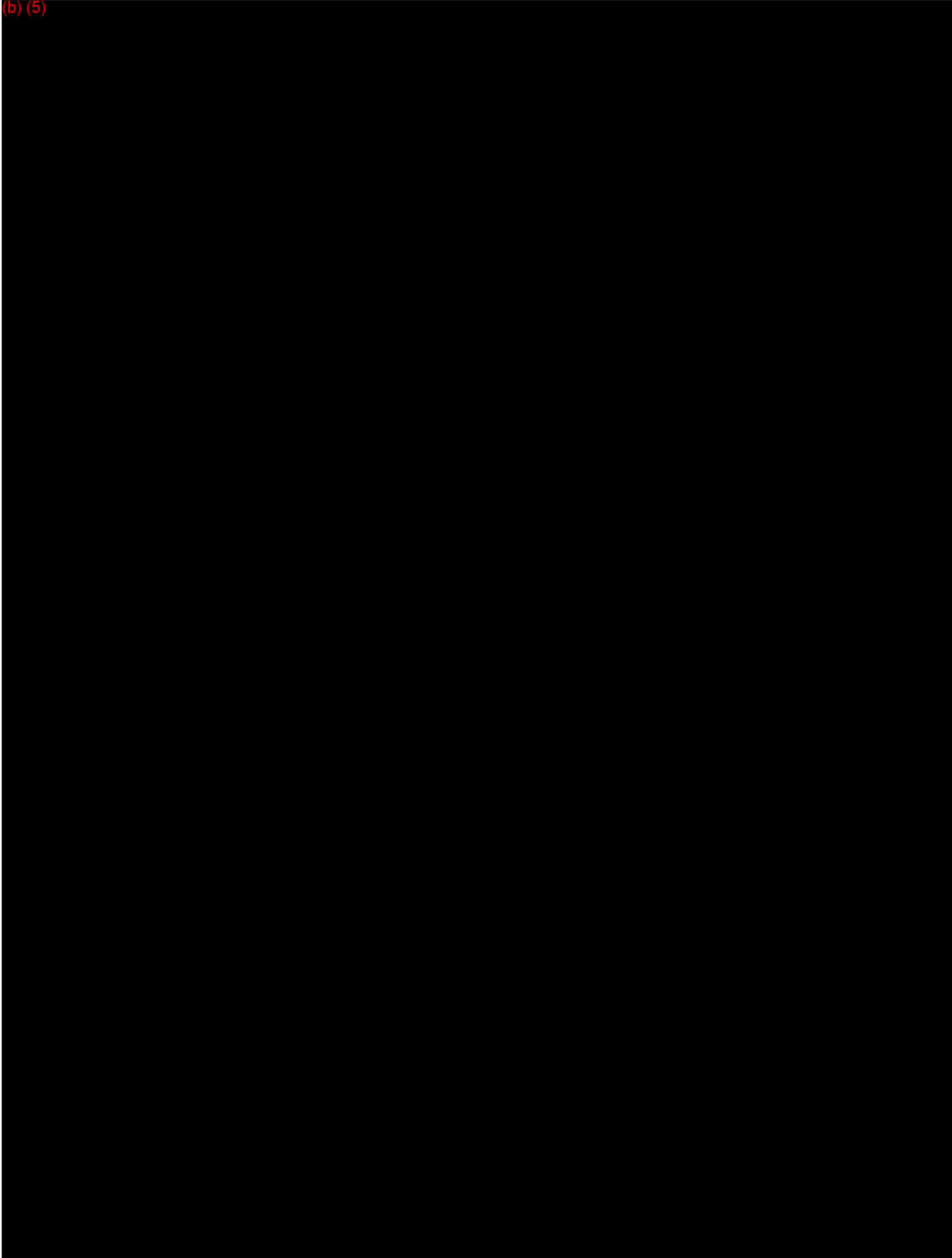


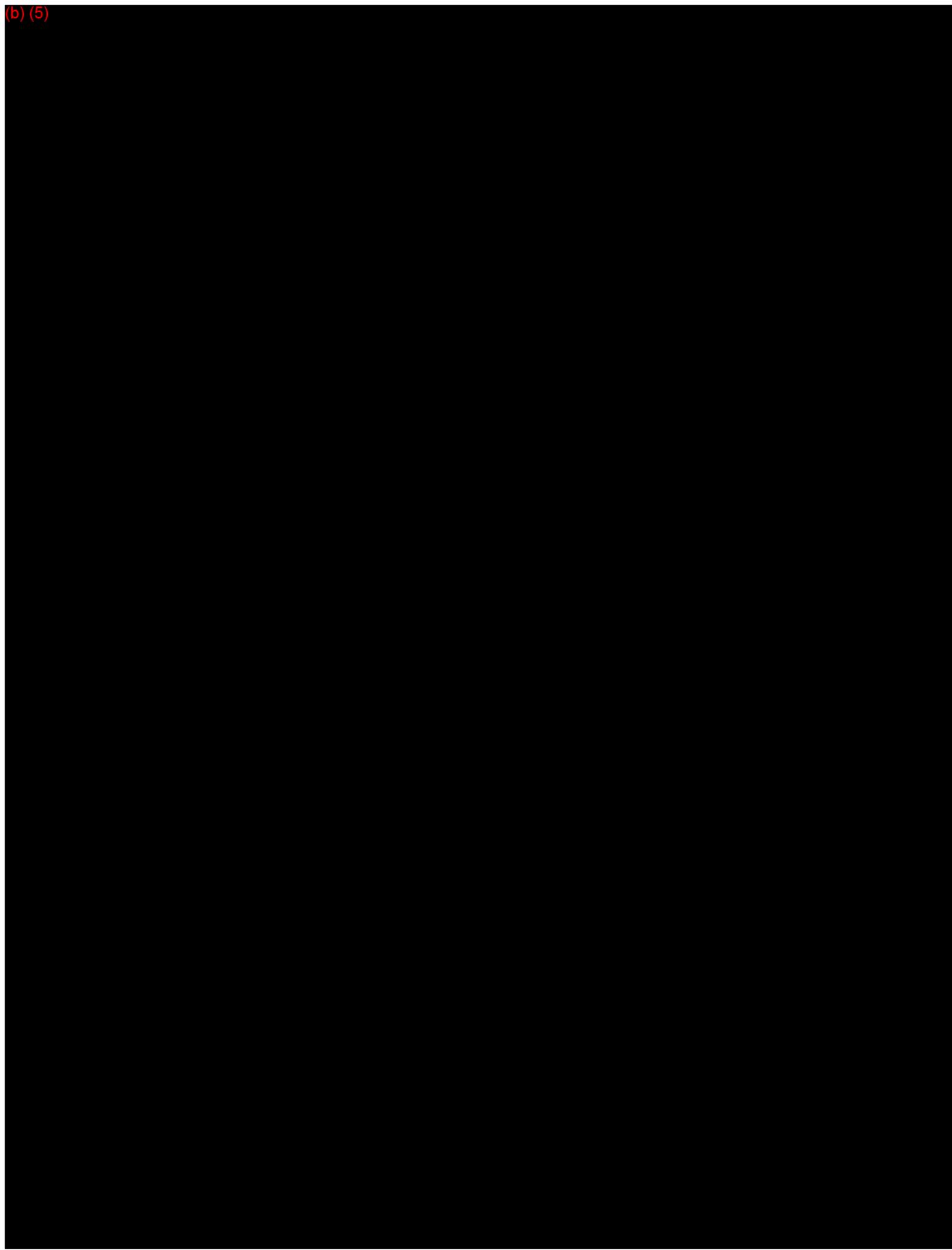


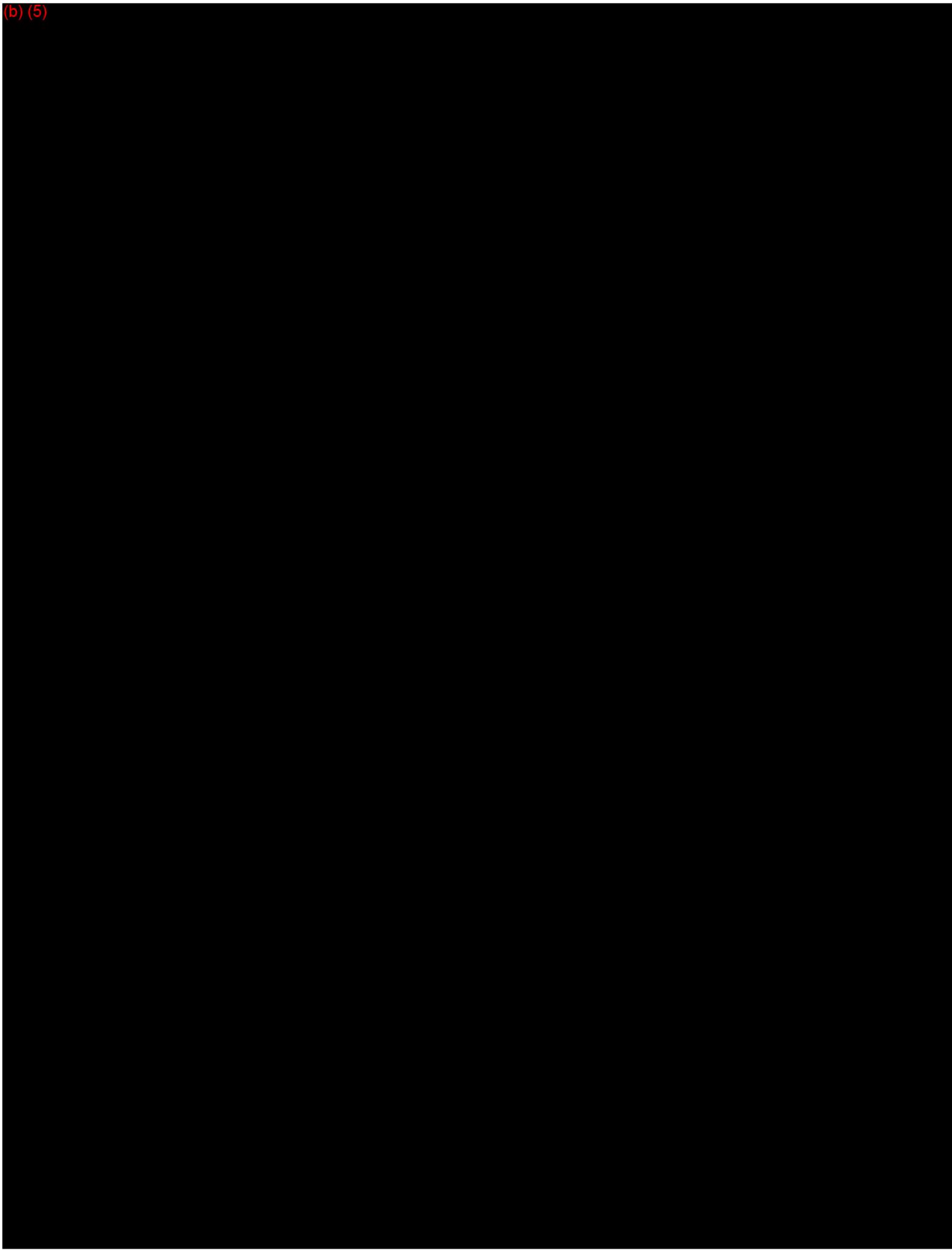


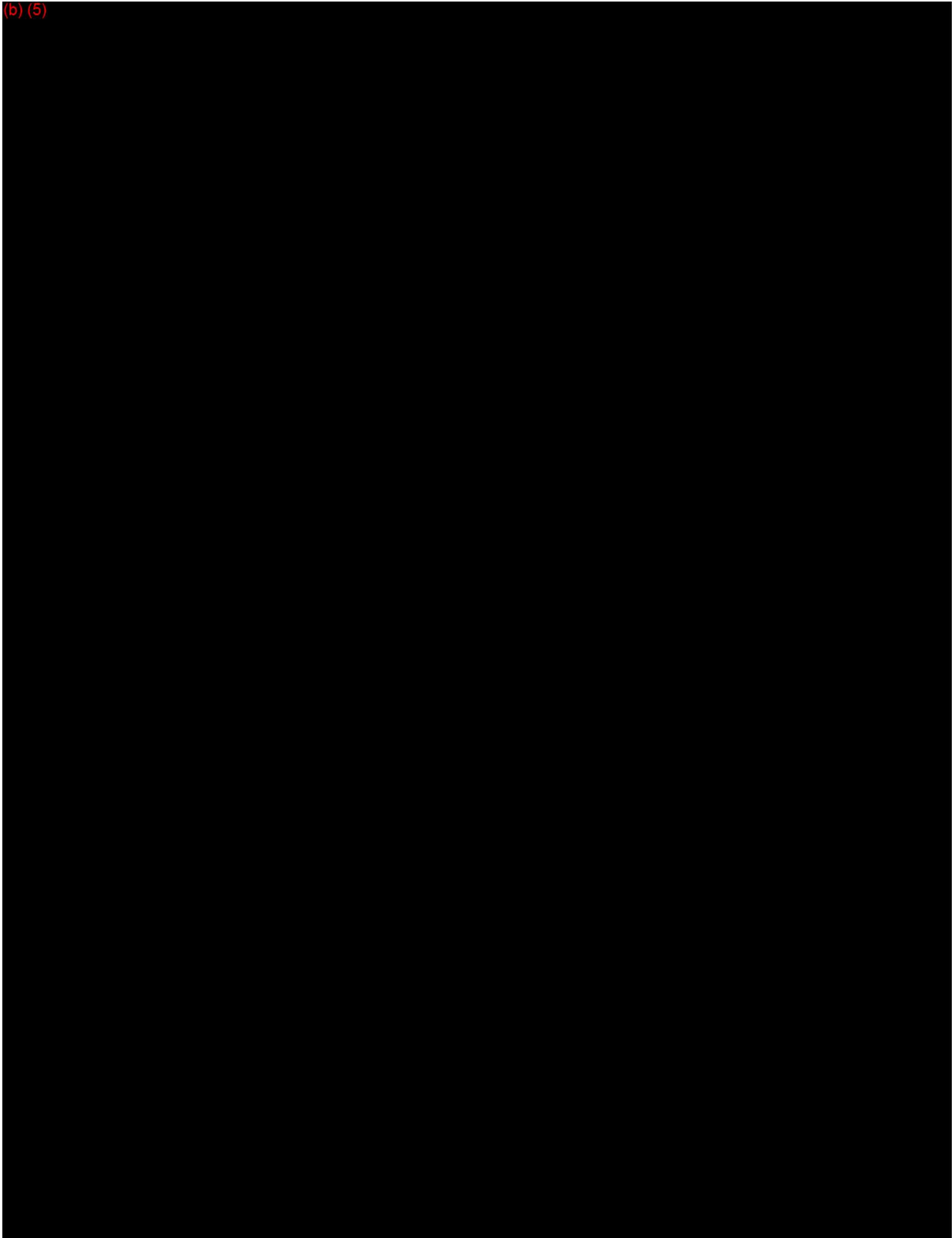


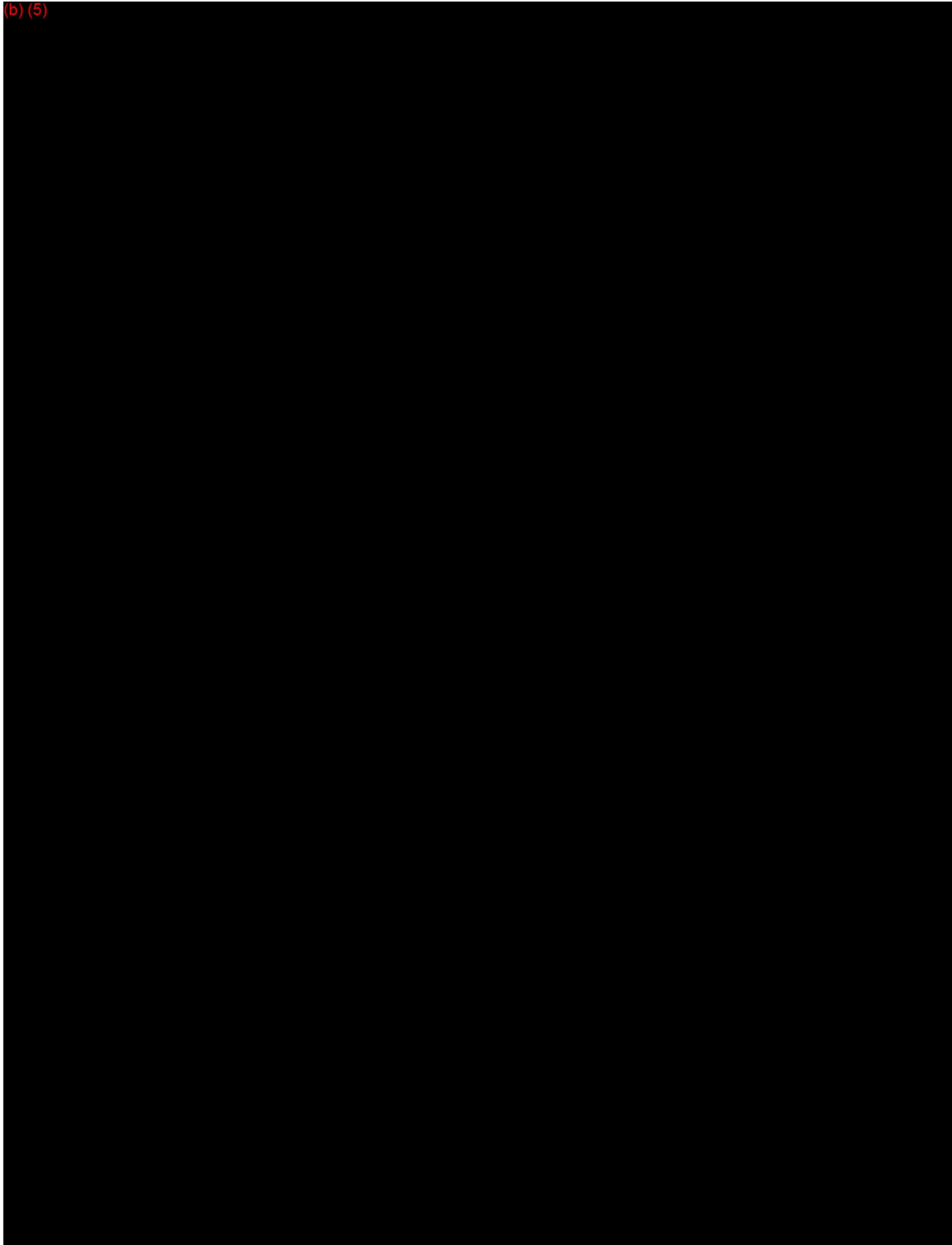


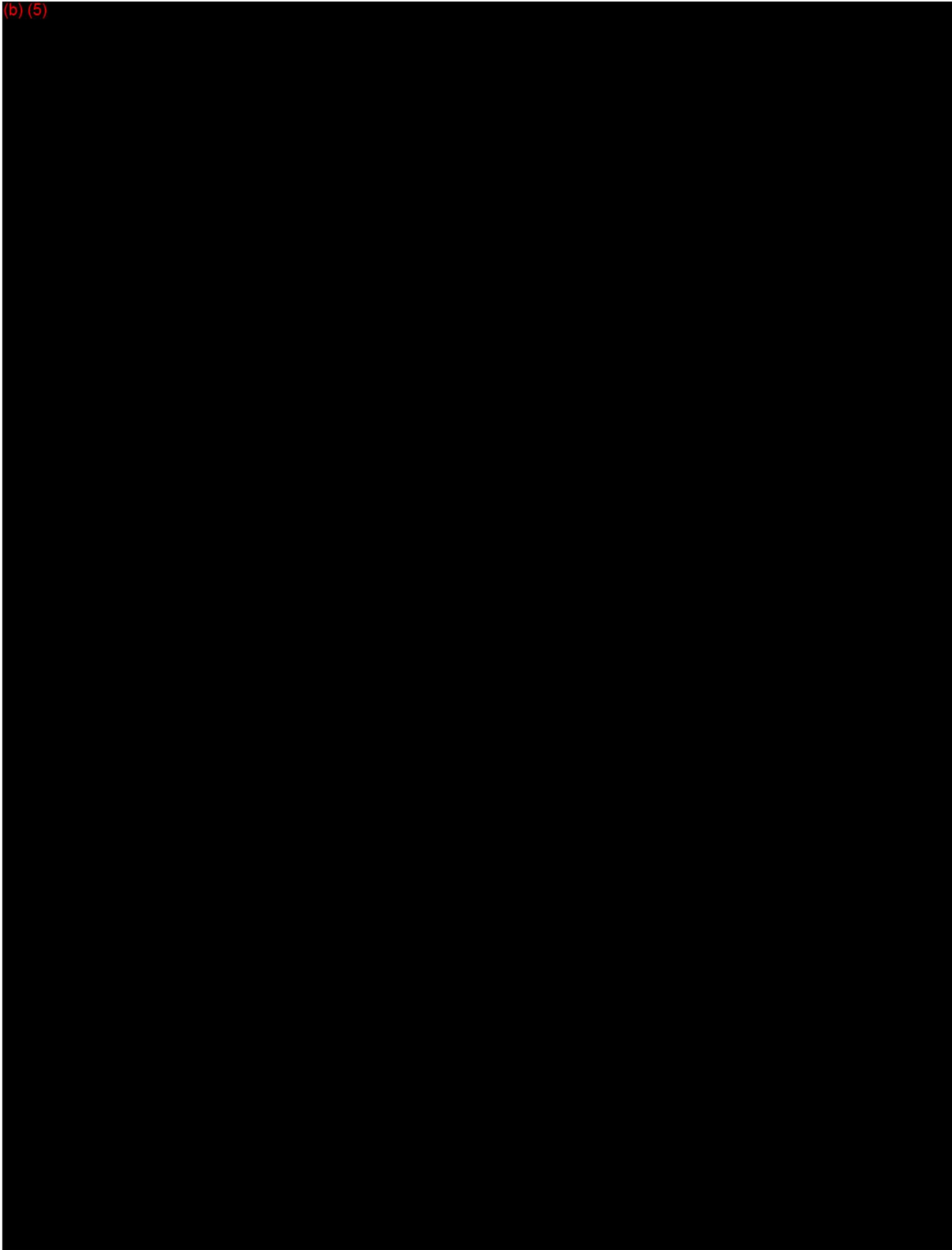


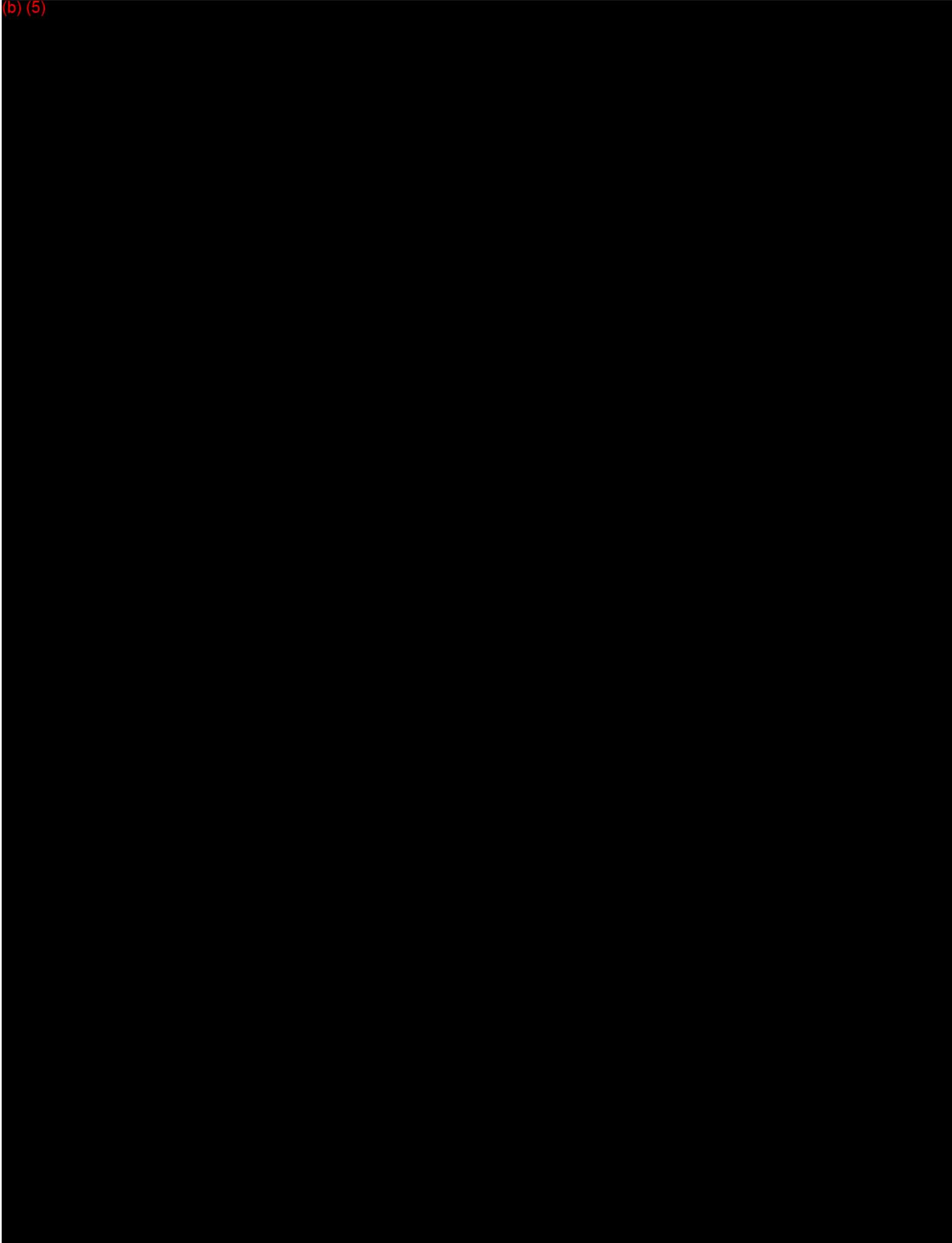


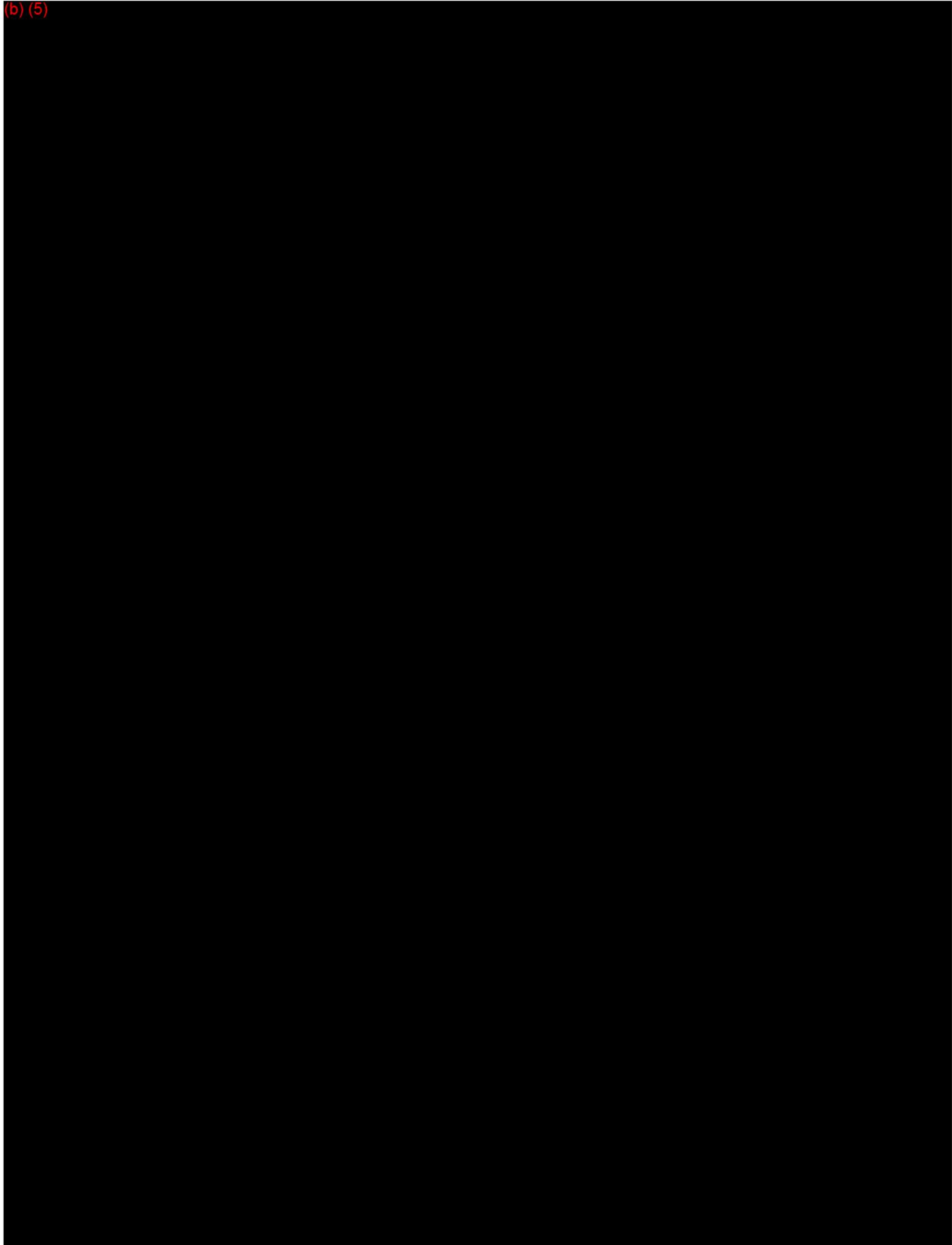


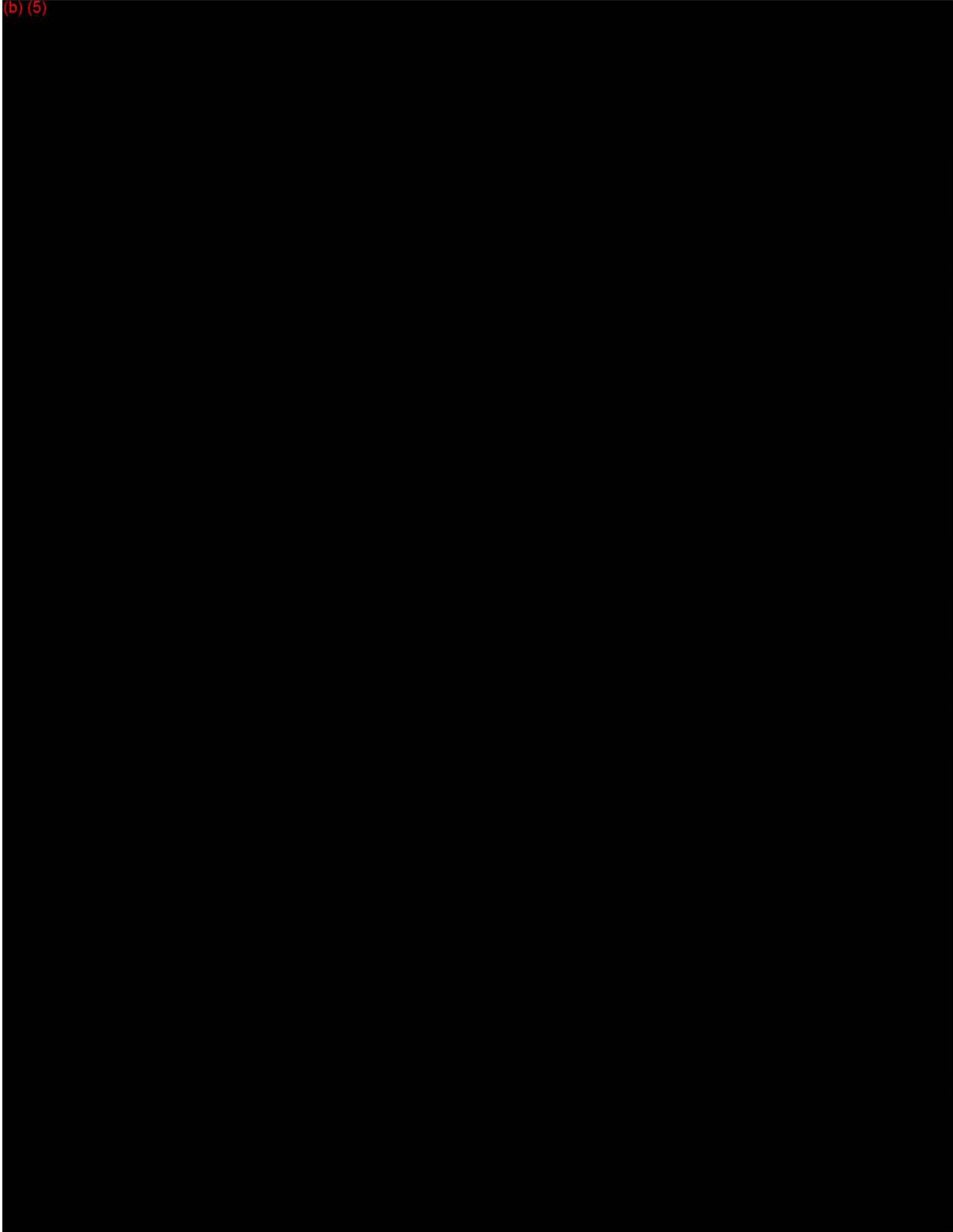


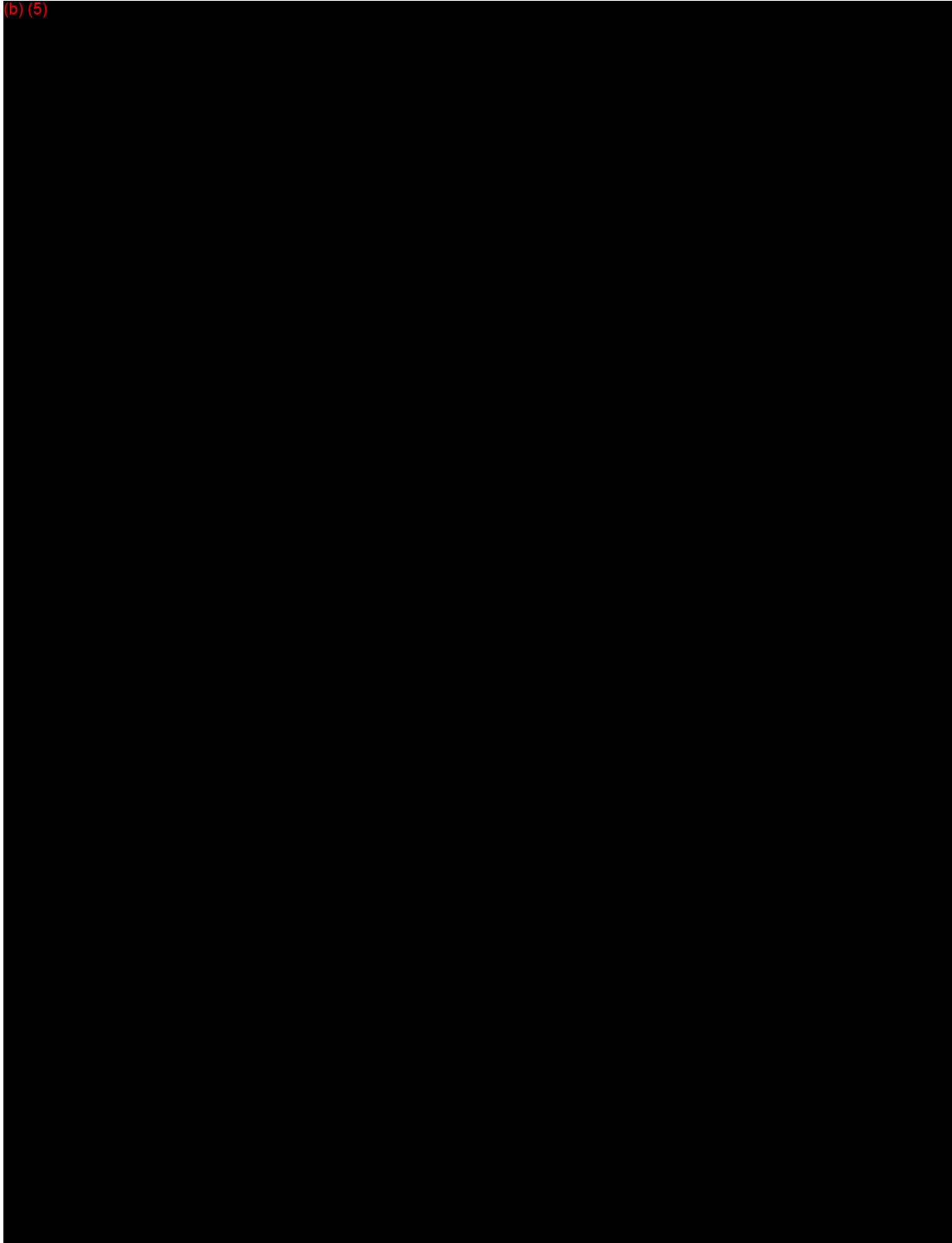


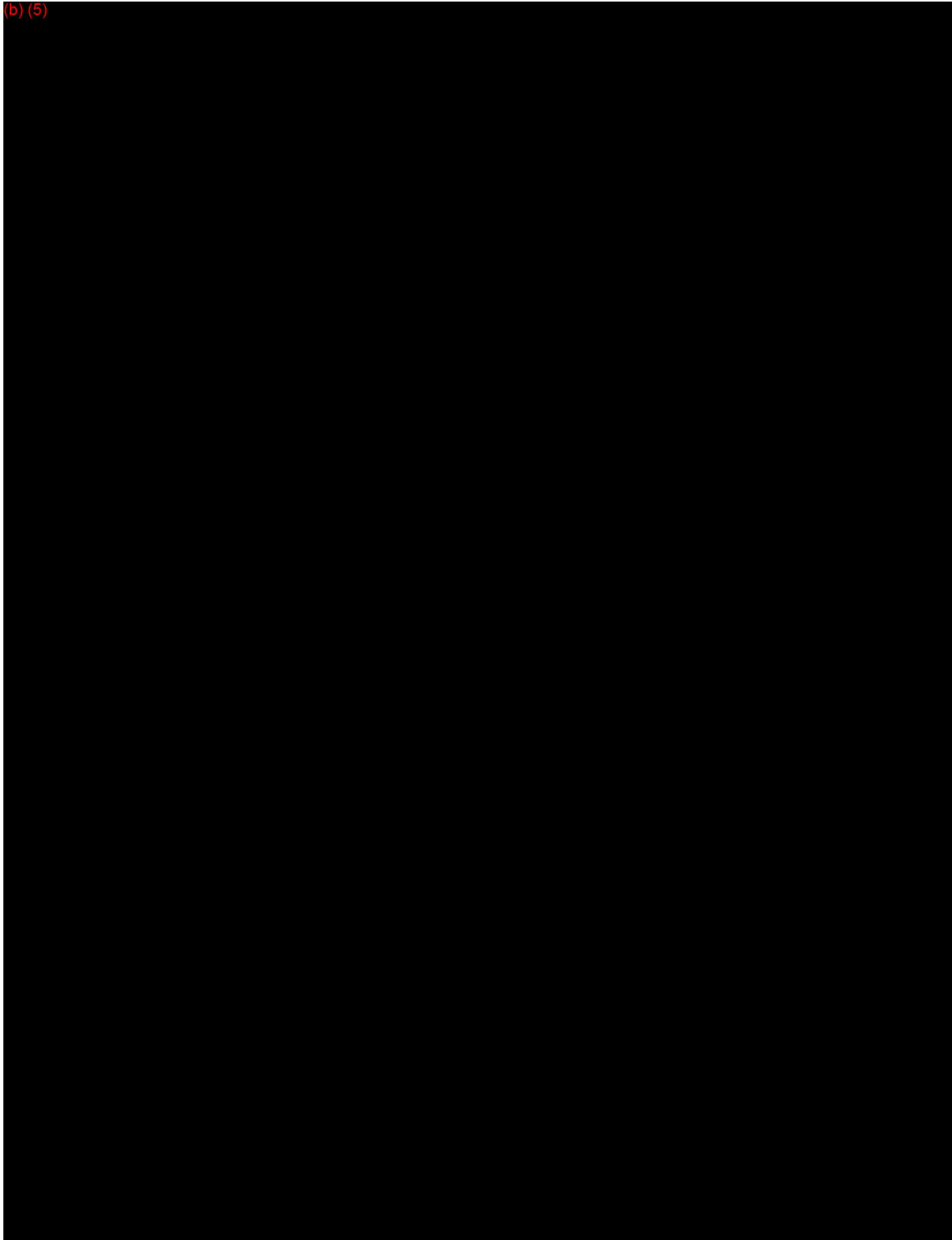


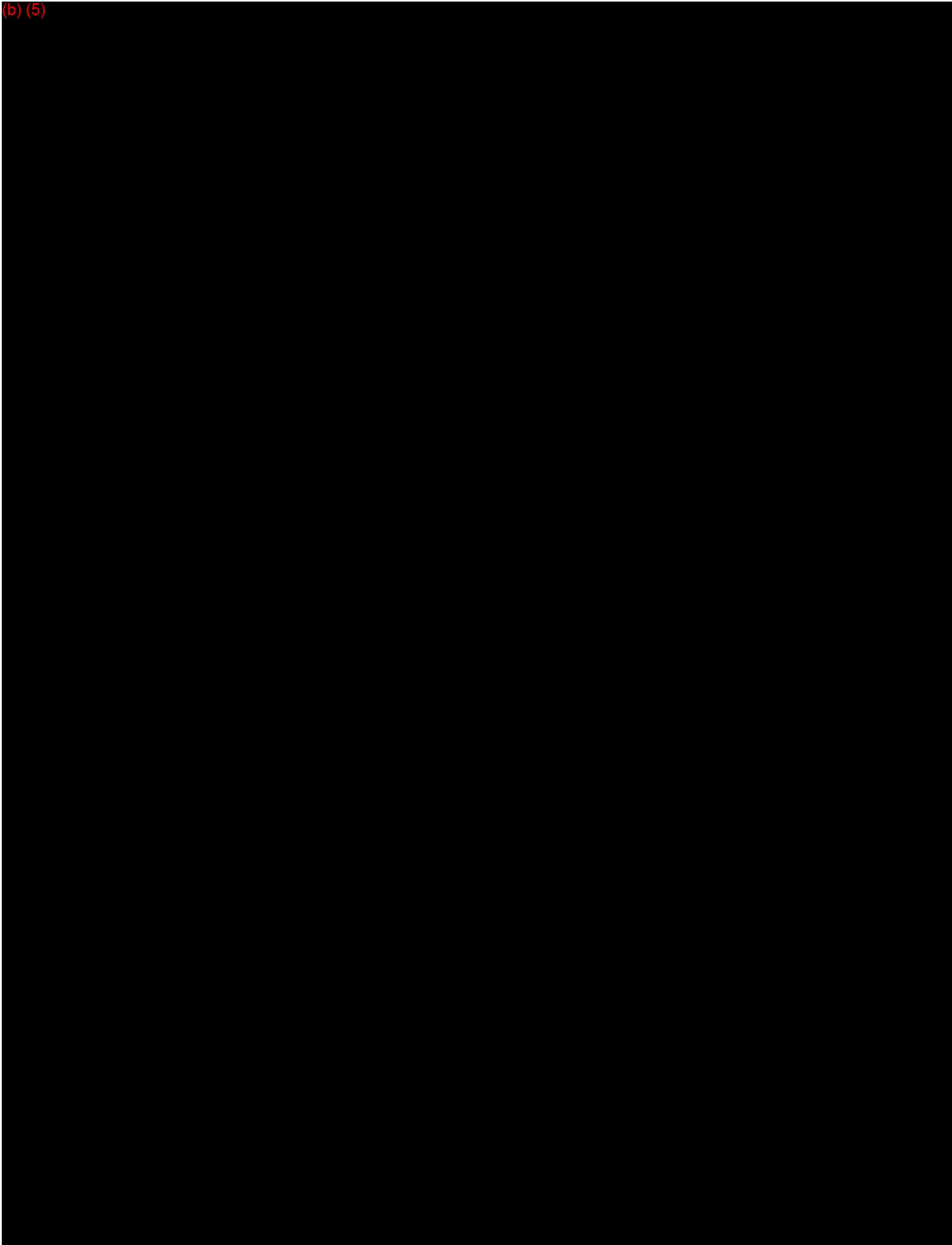


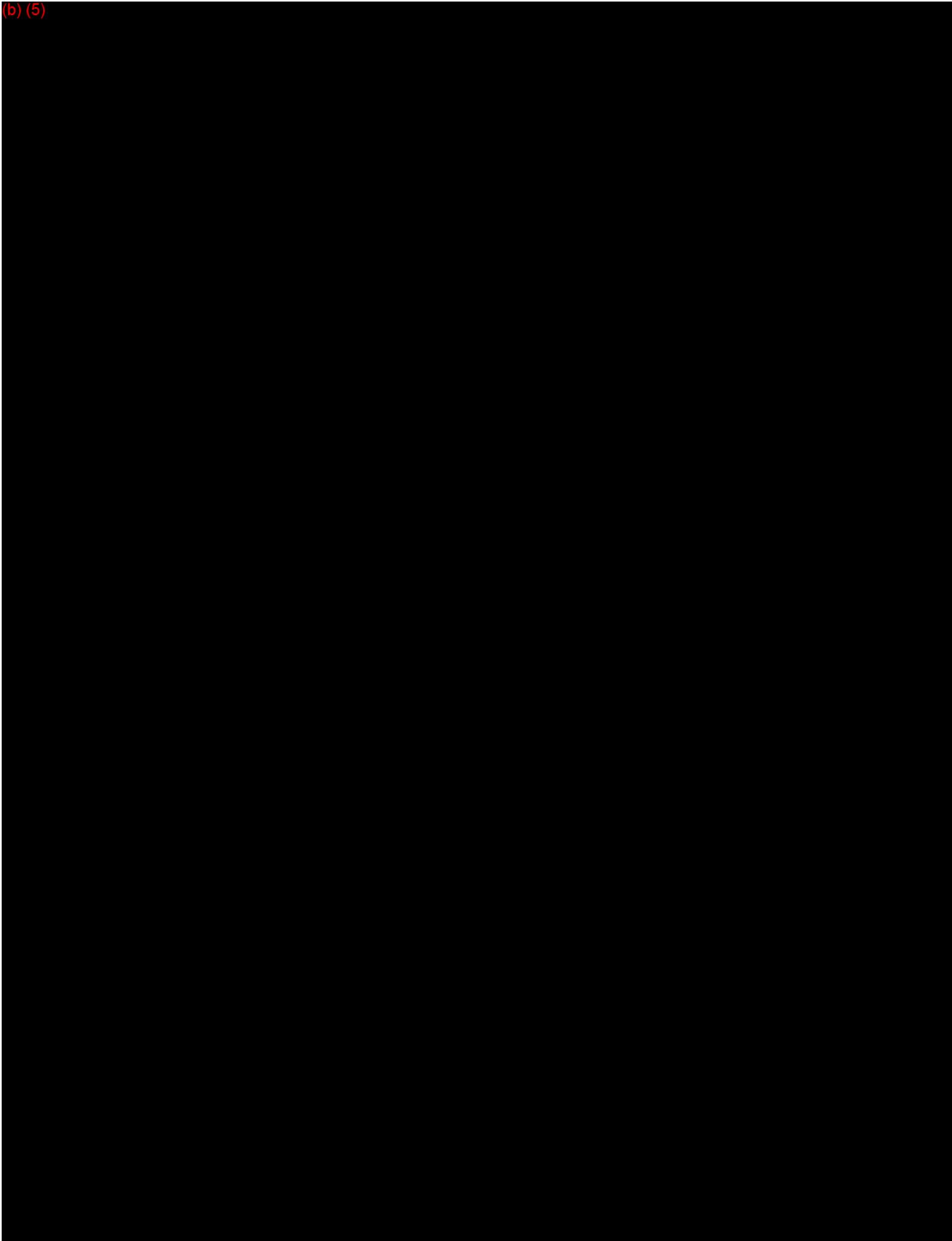












Updated CEQ ANPRM Version

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

To: "Chad S. EOP/OMB Whiteman ((b) (6) [REDACTED]) <(b) (6) [REDACTED]>

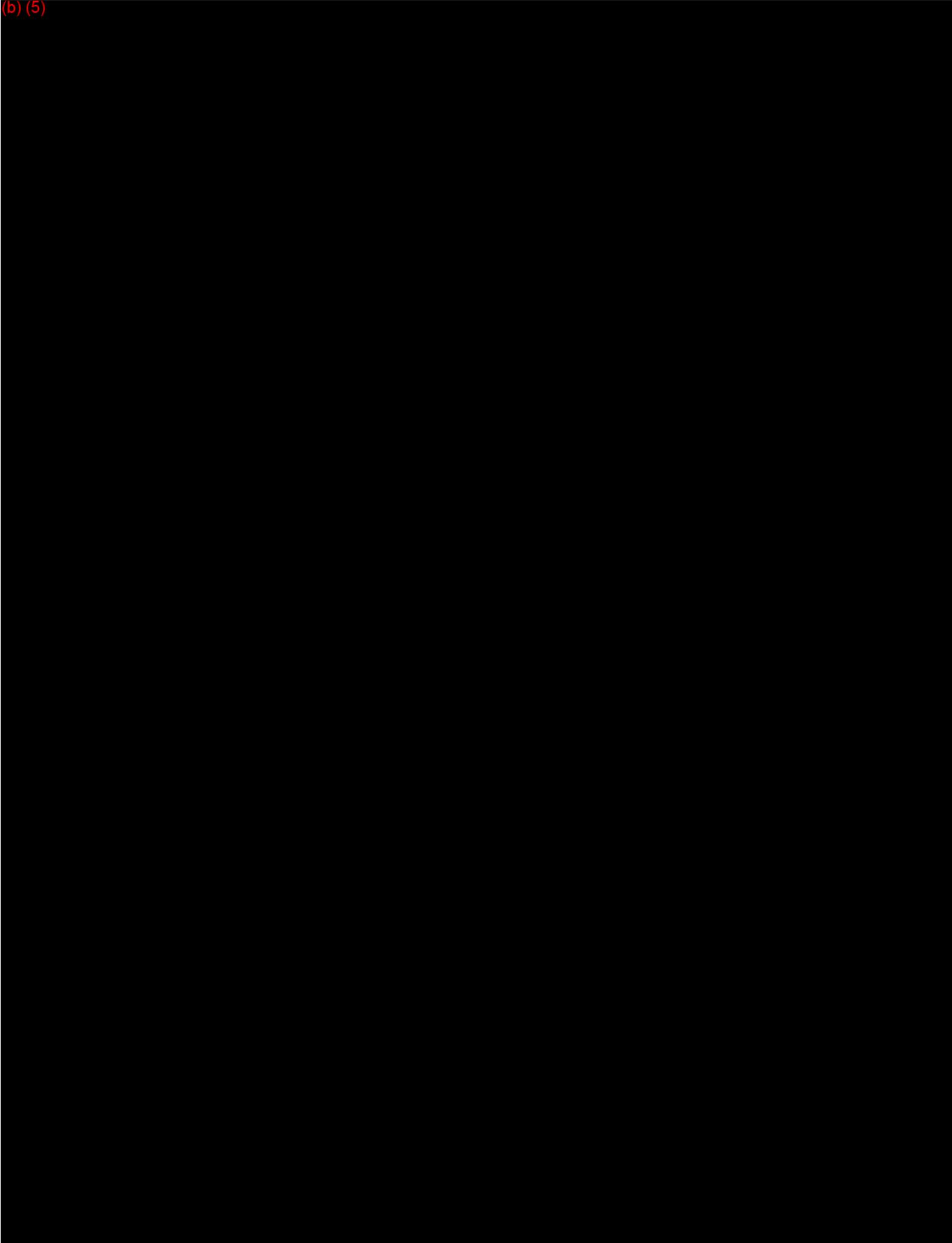
Date: Mon, 18 Jun 2018 09:32:35 -0400

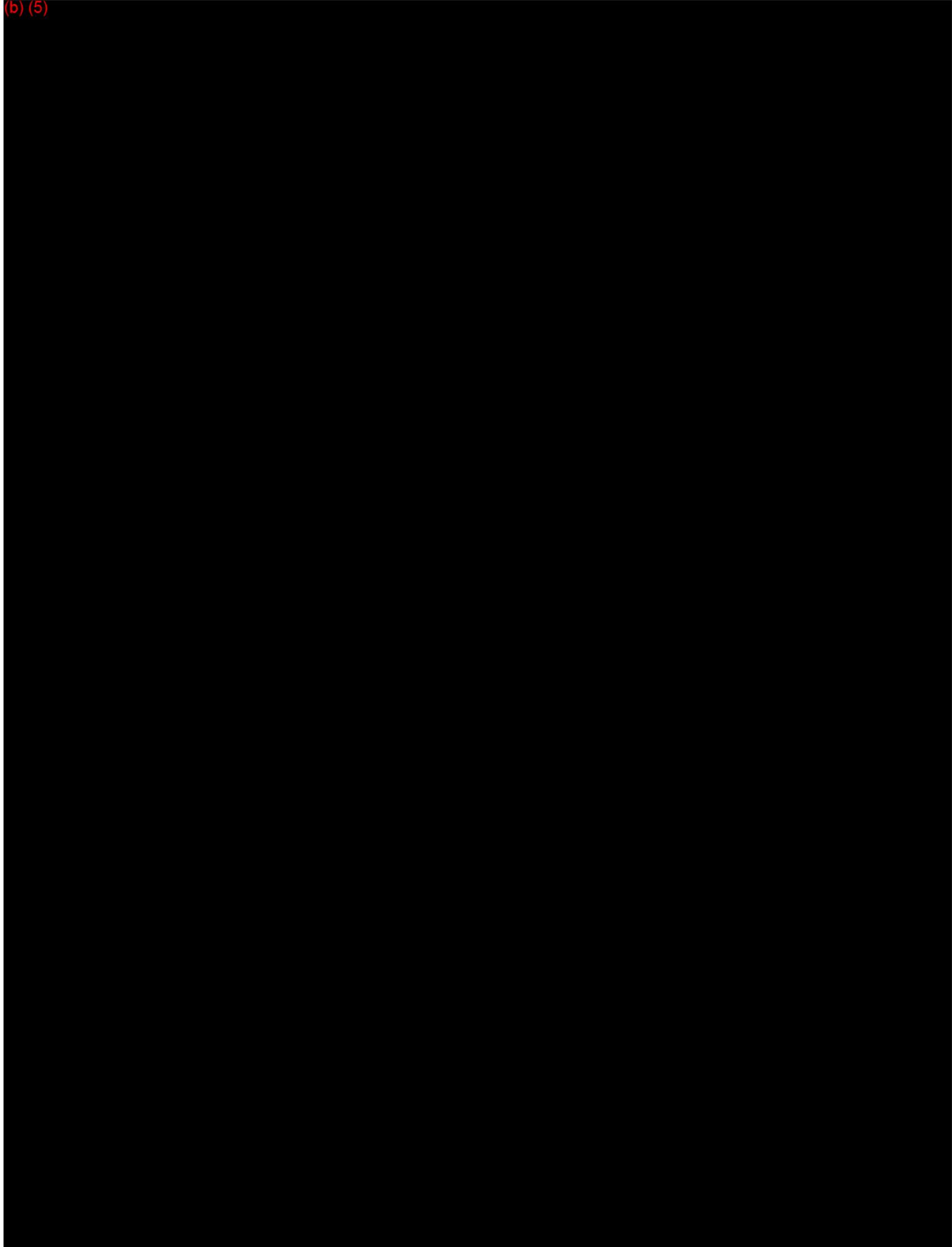
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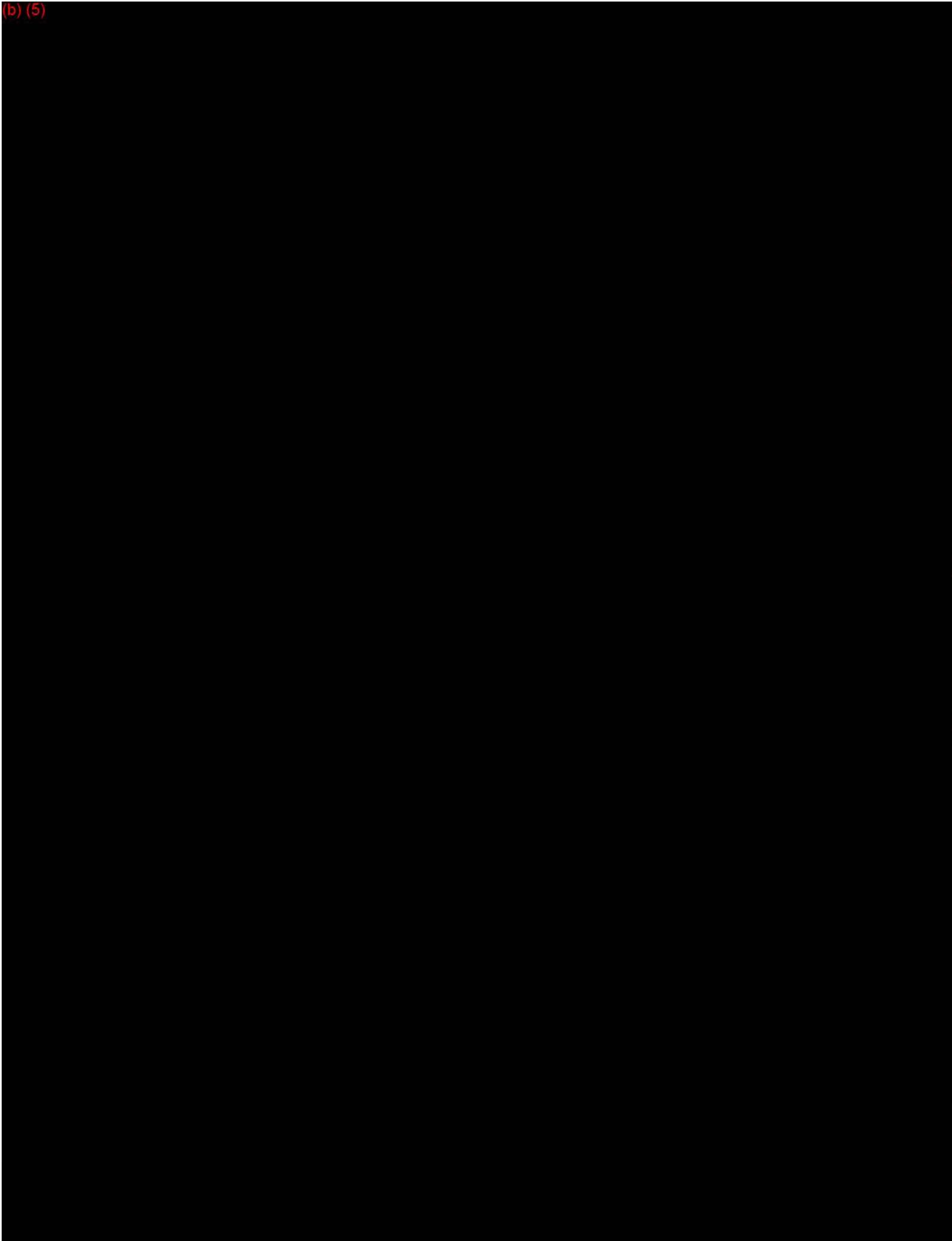
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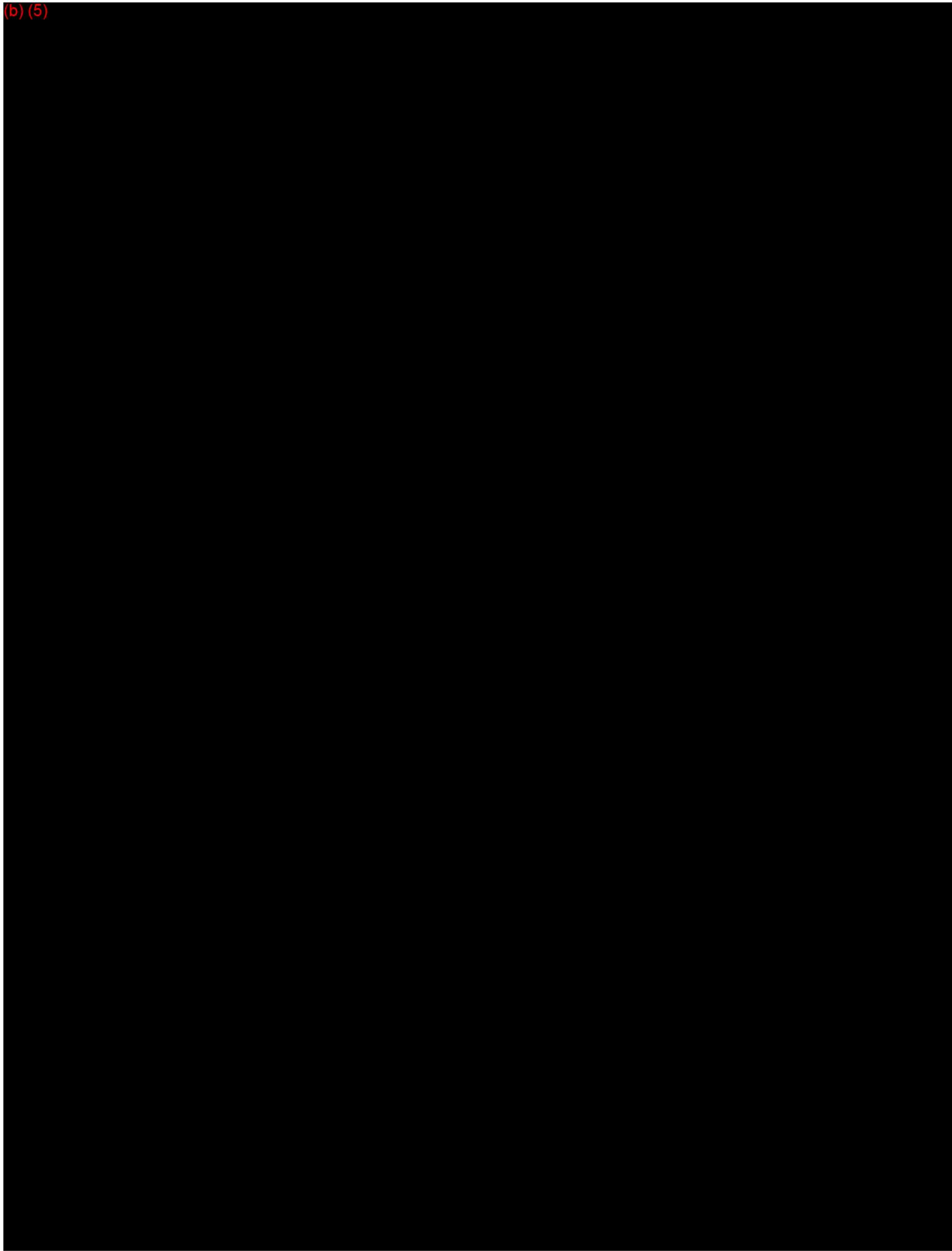
Per our conversation on Friday, please find attached the revised version per OFR's instructions.

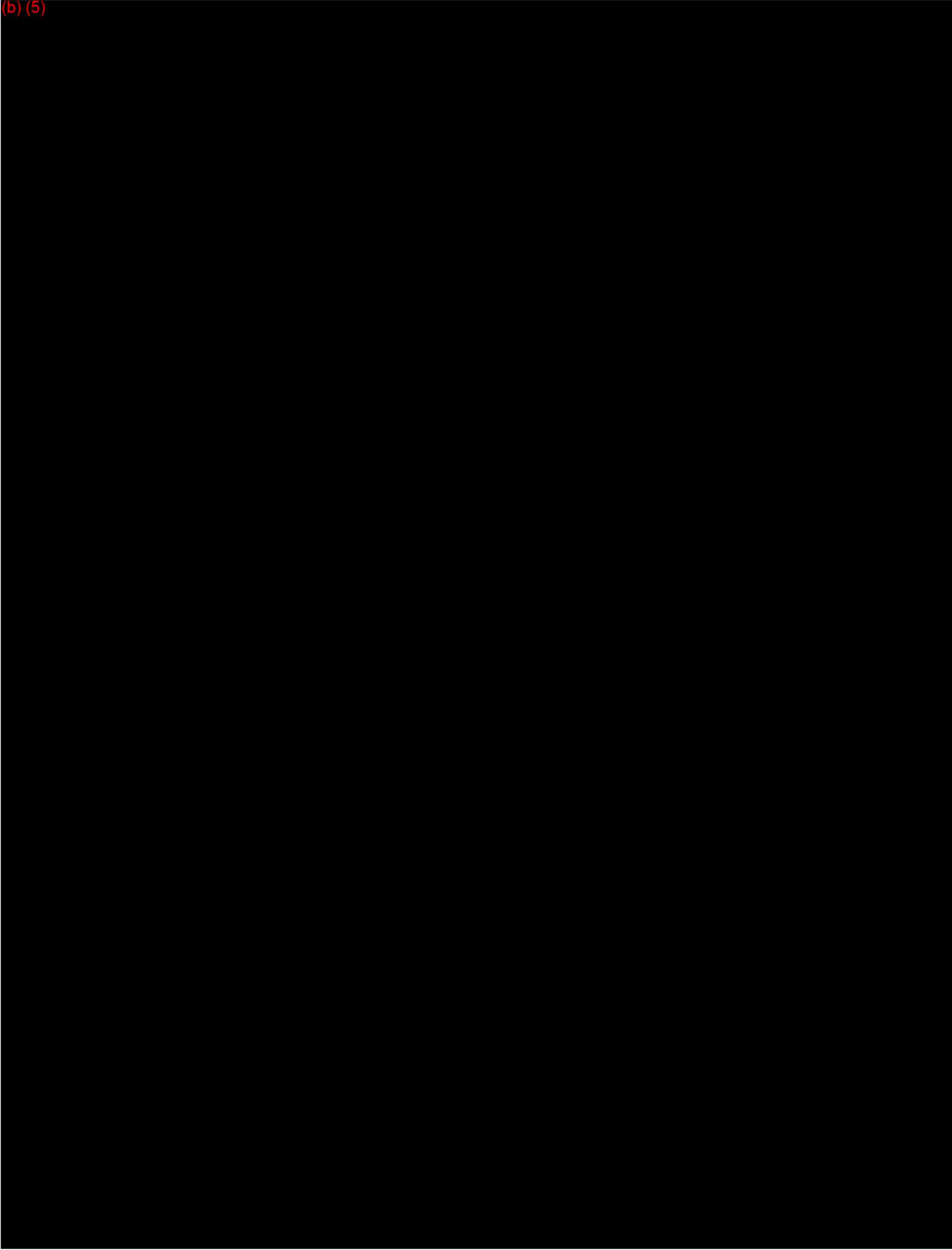
Aaron L. Szabo
Senior Counsel
Council on Environmental Quality
(b) (6) [REDACTED] (Desk)
(b) (6) [REDACTED] (Cell)
(b) (6) [REDACTED]

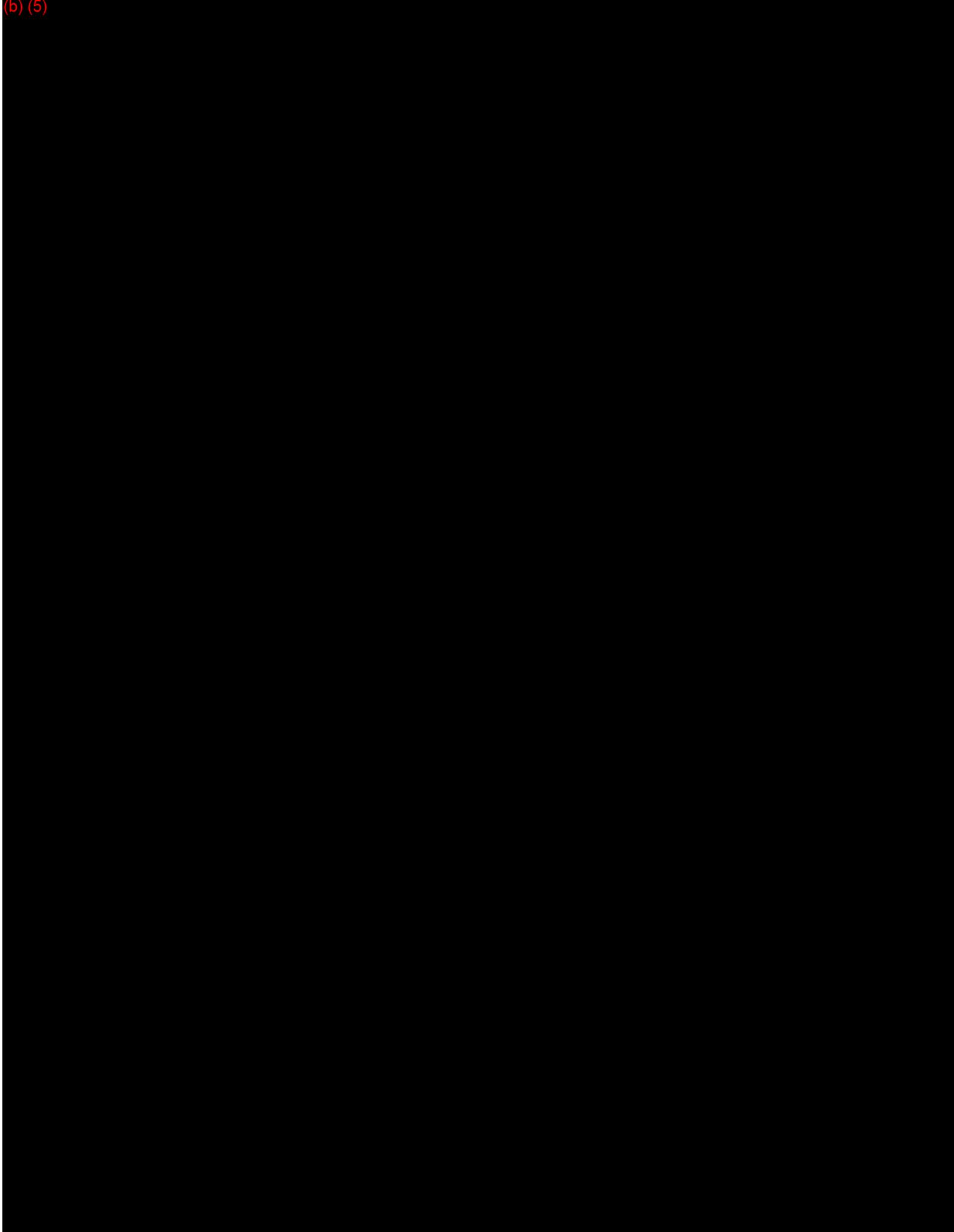


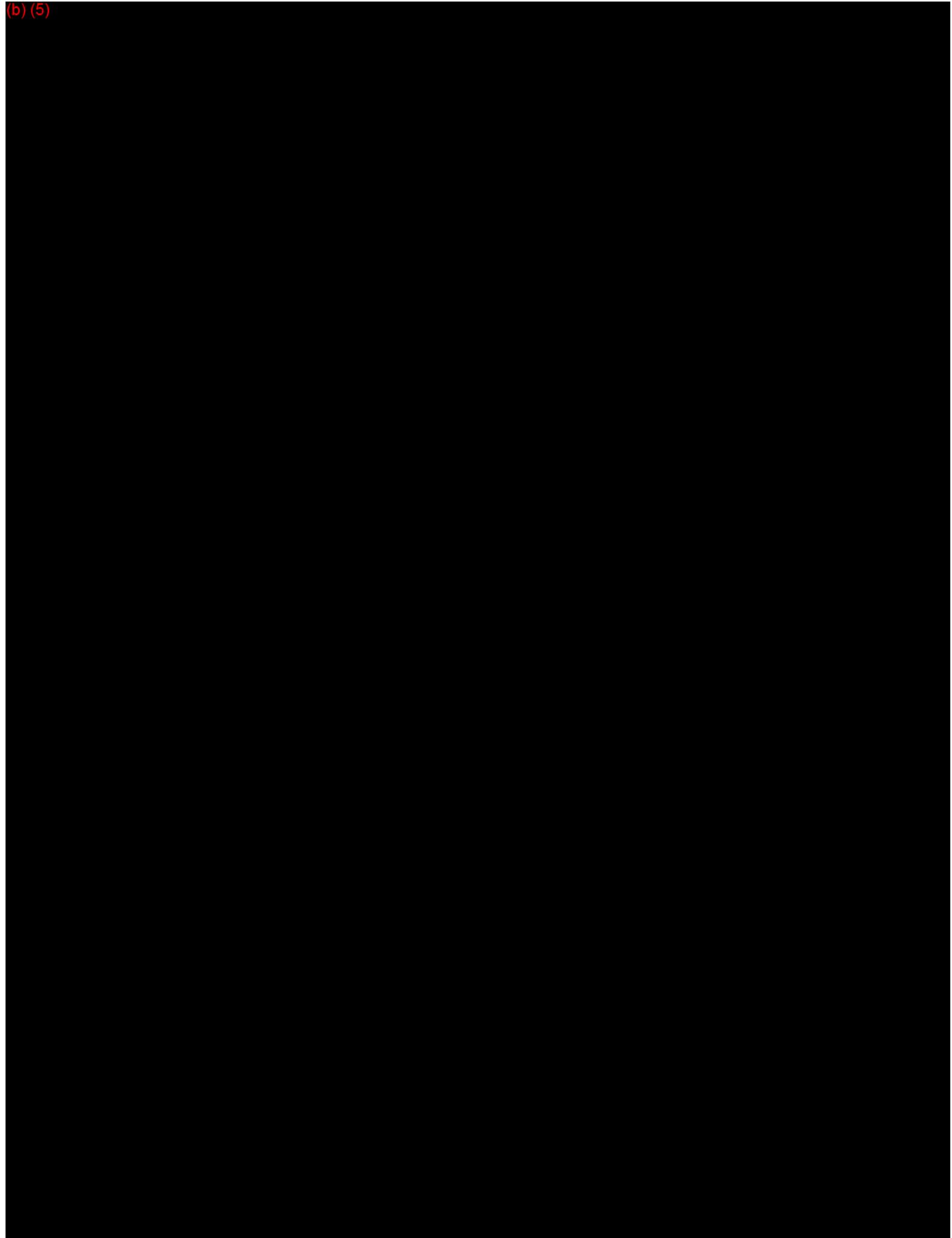


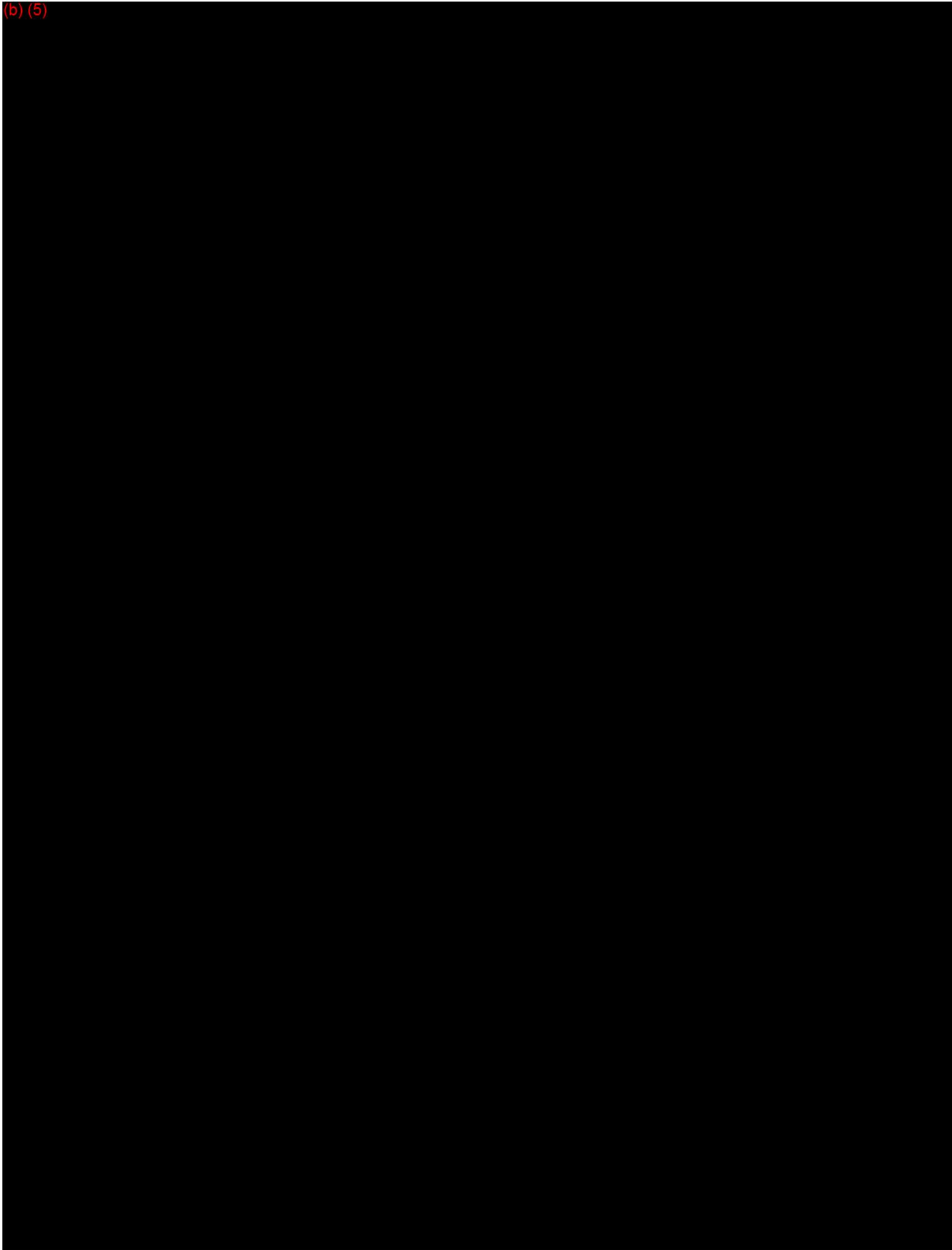


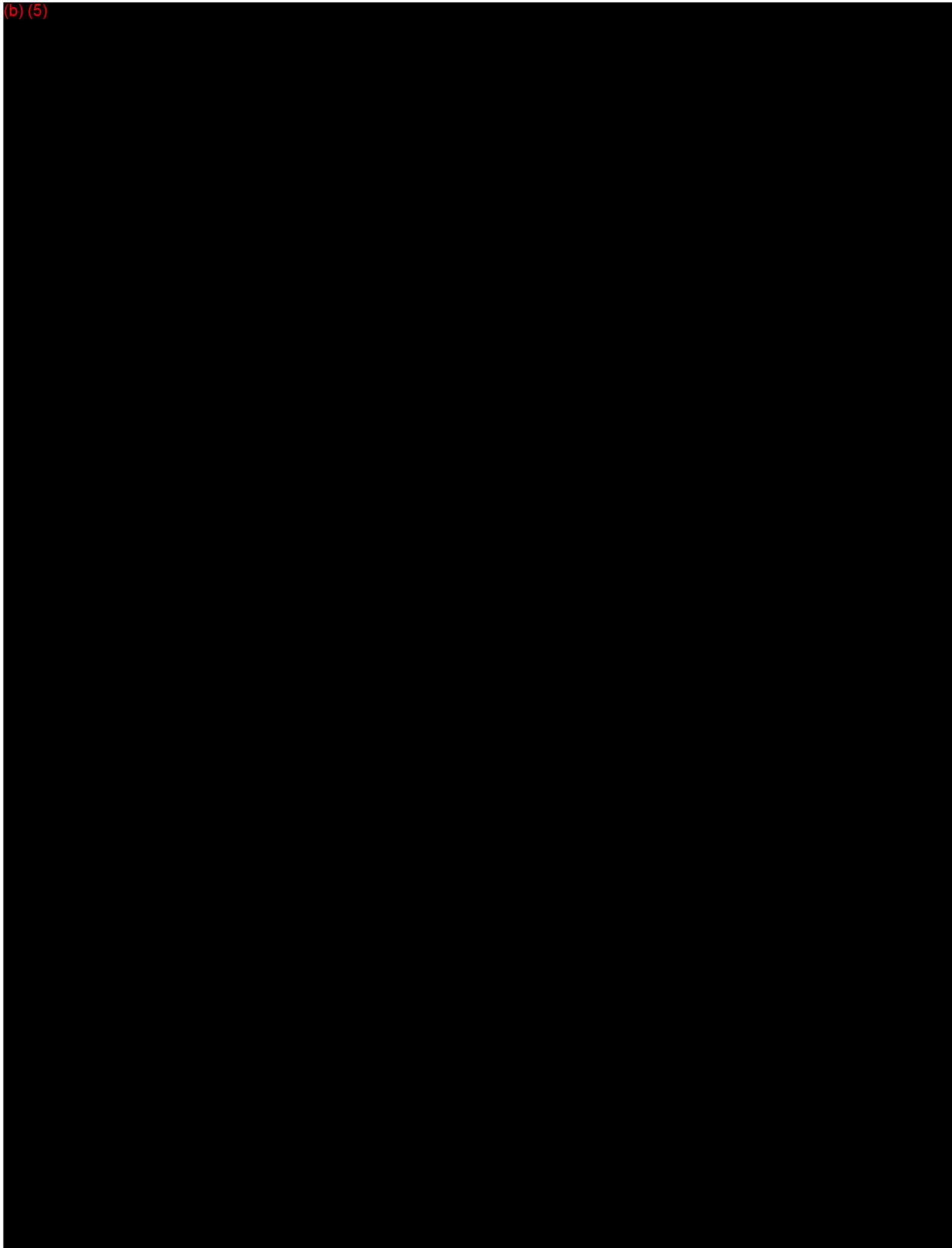


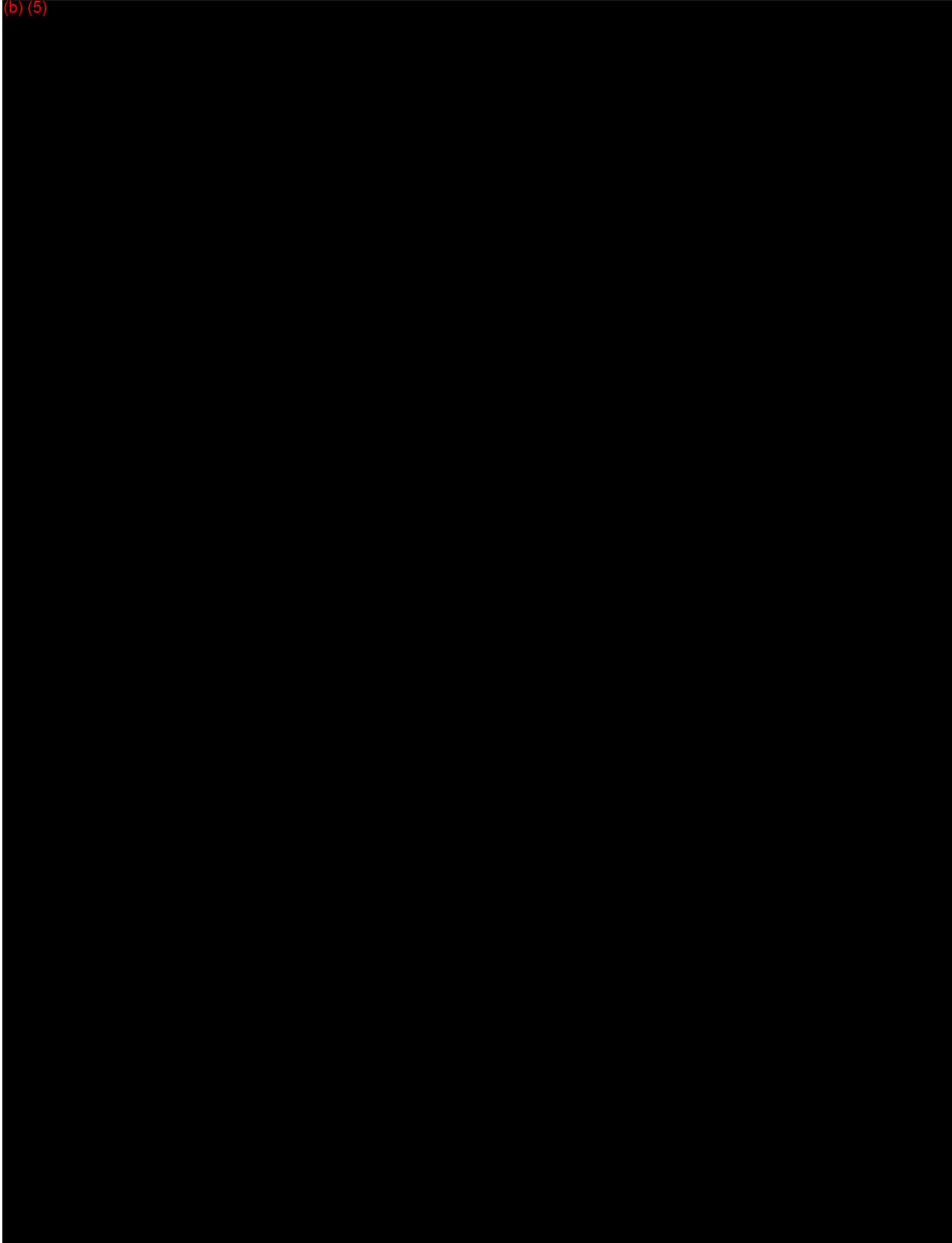


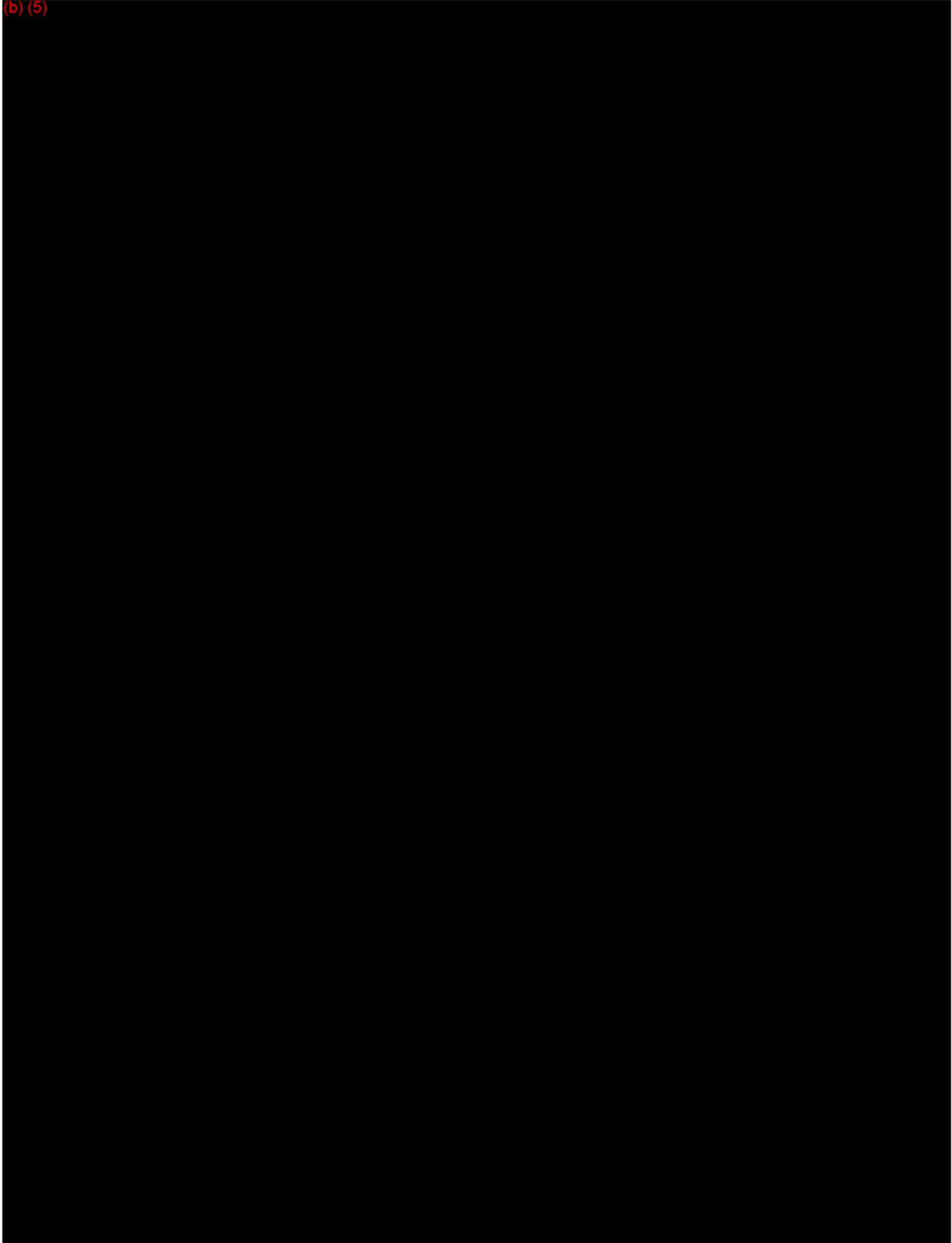


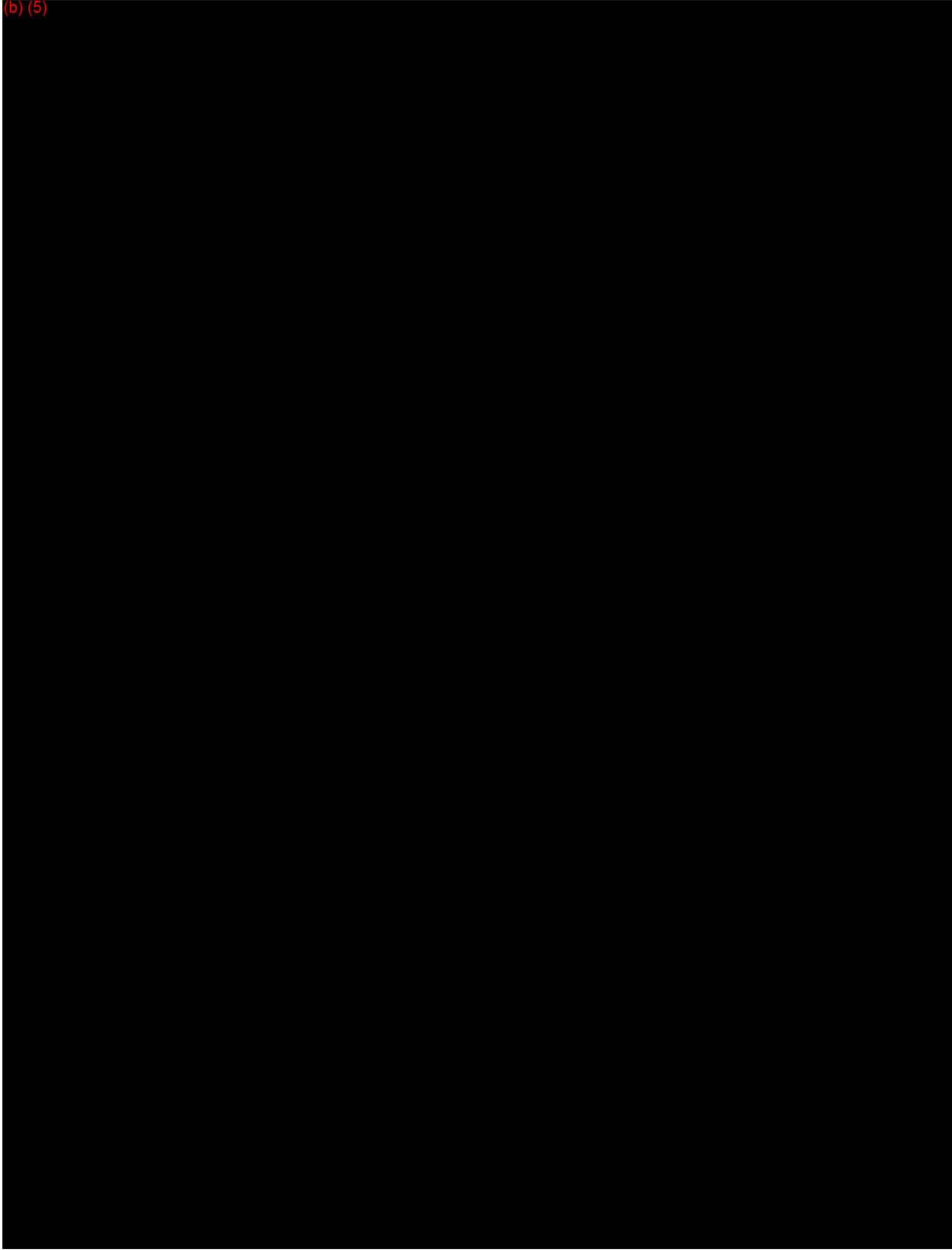


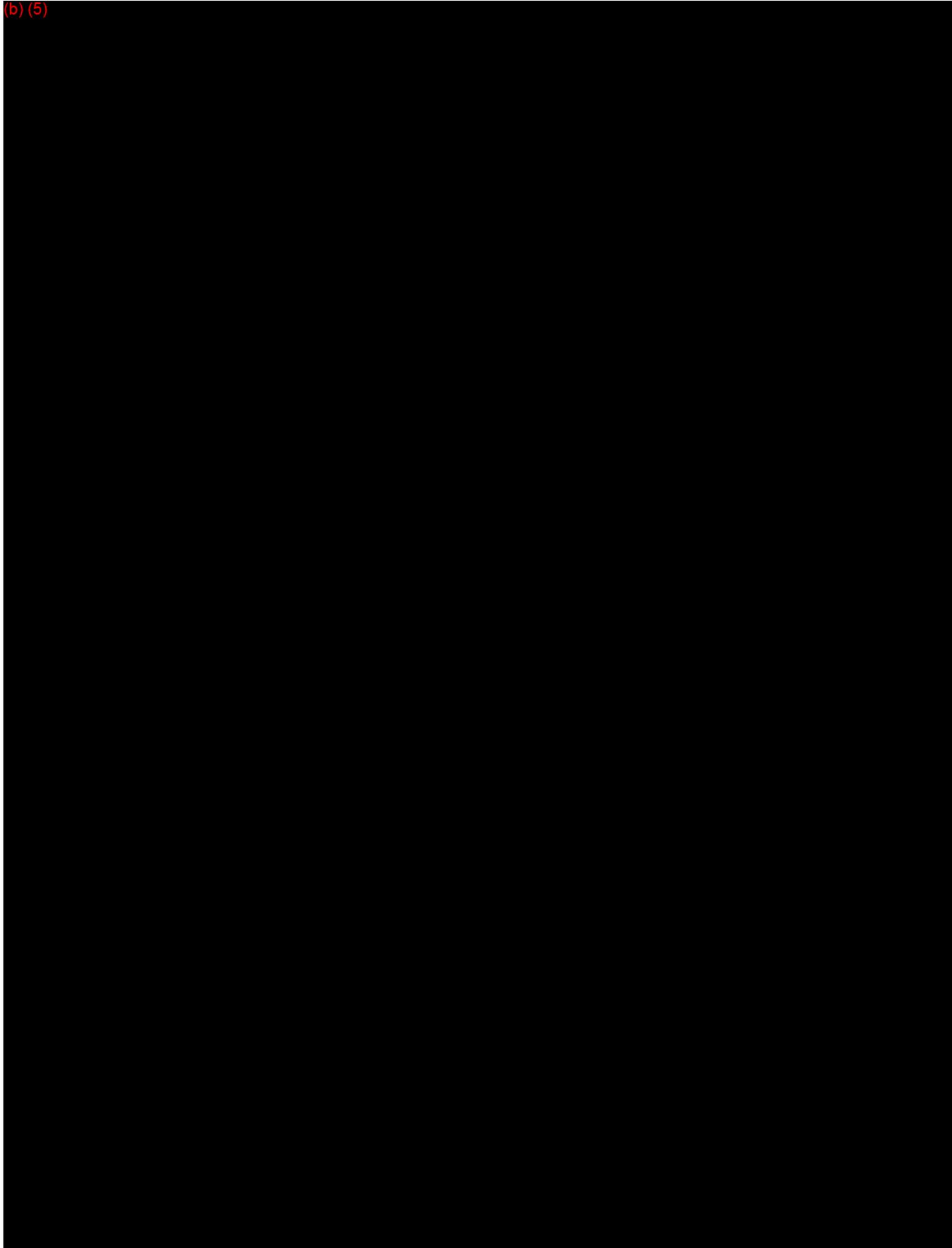


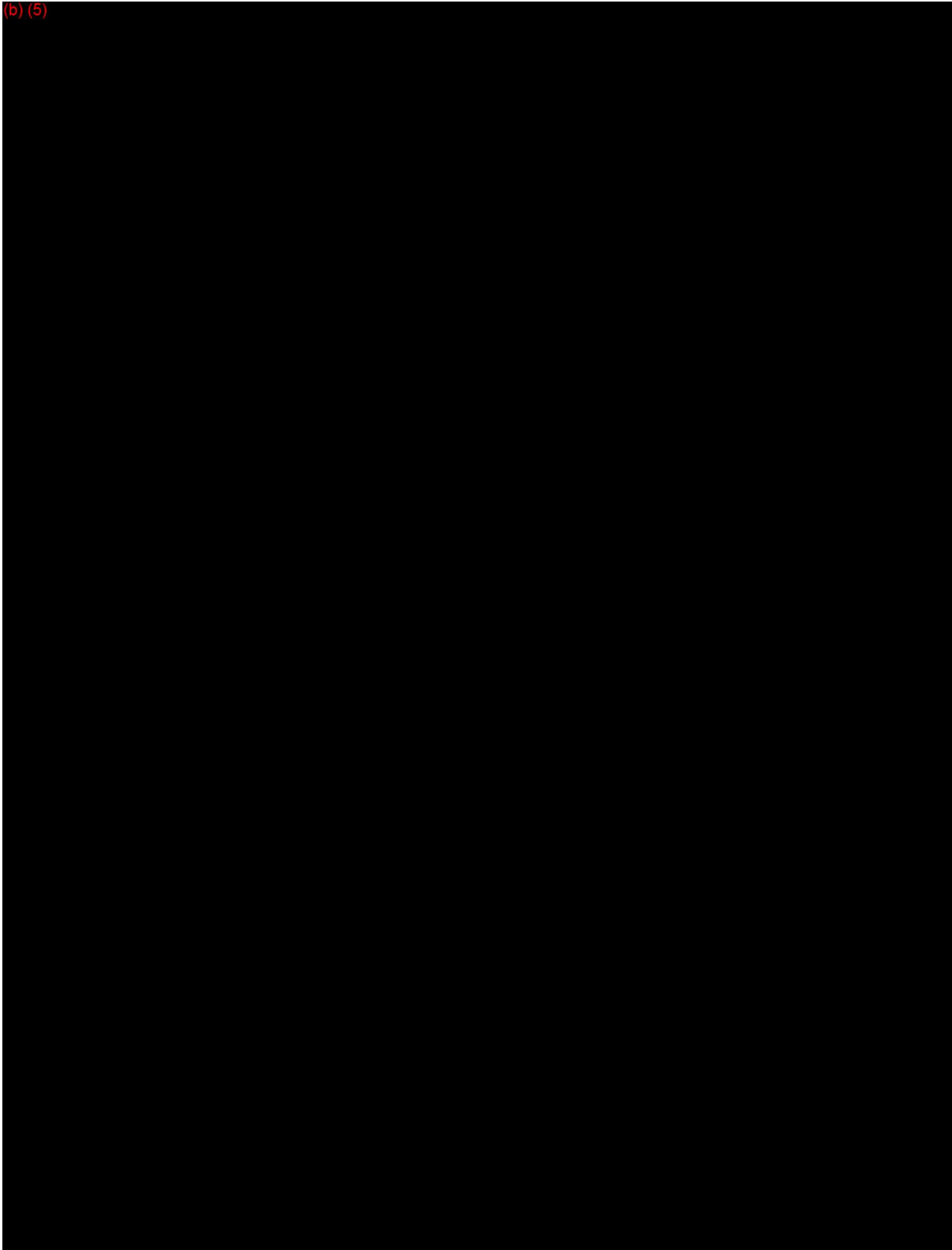














[3225-F8]

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]

RE: ANPRM - will you send a clean version?

From: "Szabo, Aaron L. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=f93a8d1dd2b4420ca81e53ff8199b780-sz">
To: "Whiteman, Chad S. EOP/OMB" <(b) (6)>
Date: Wed, 20 Jun 2018 13:04:35 -0400
Attachments
: CEQ NEPA ANPRM_ROCISVersion.docx (45.33 kB)

See attached

From: Whiteman, Chad S. EOP/OMB
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To: Szabo, Aaron L. EOP/CEQ <(b) (6)>
Subject: RE: ANPRM - will you send a clean version?

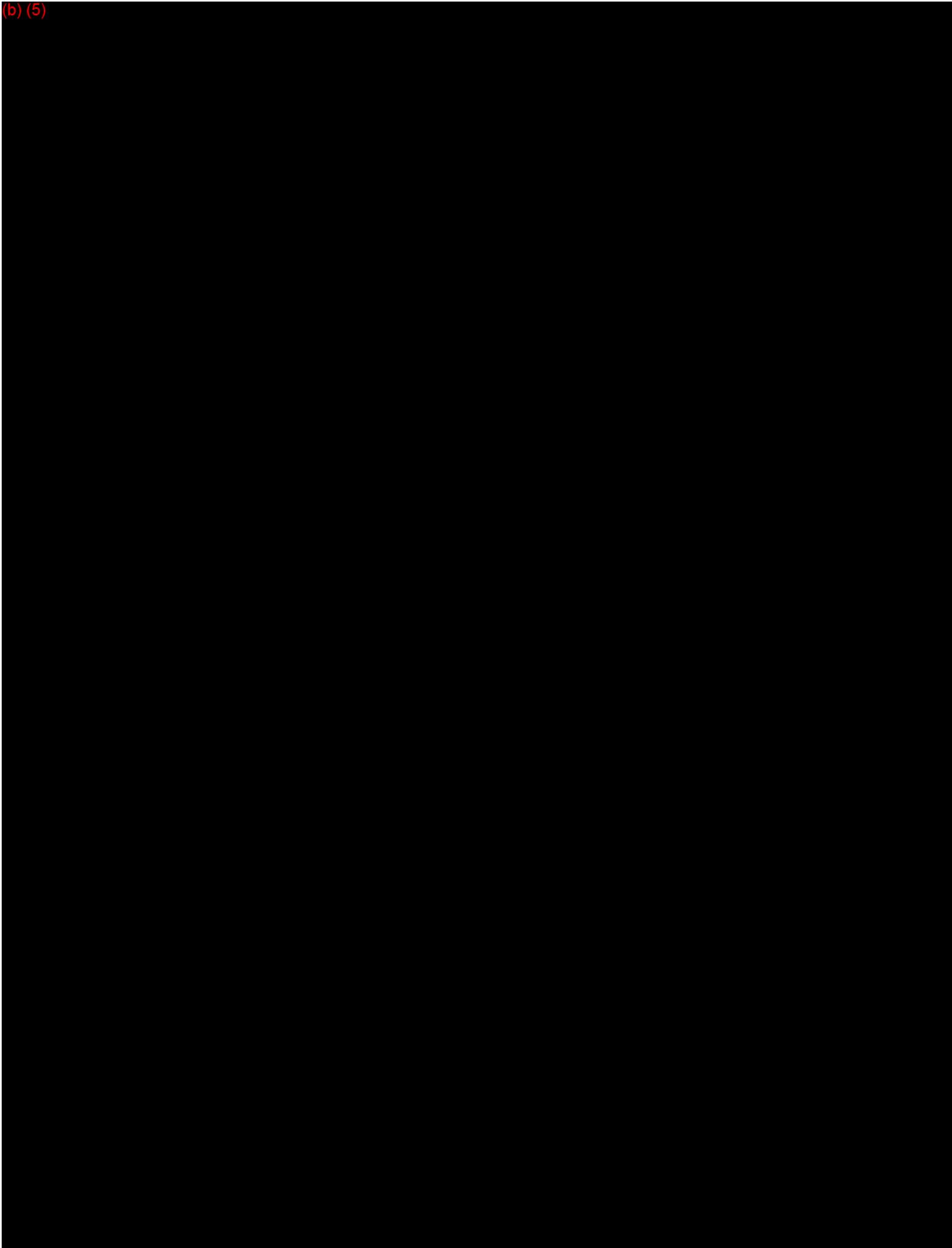
Will you send me the clean version please? I will upload to ROCIS.

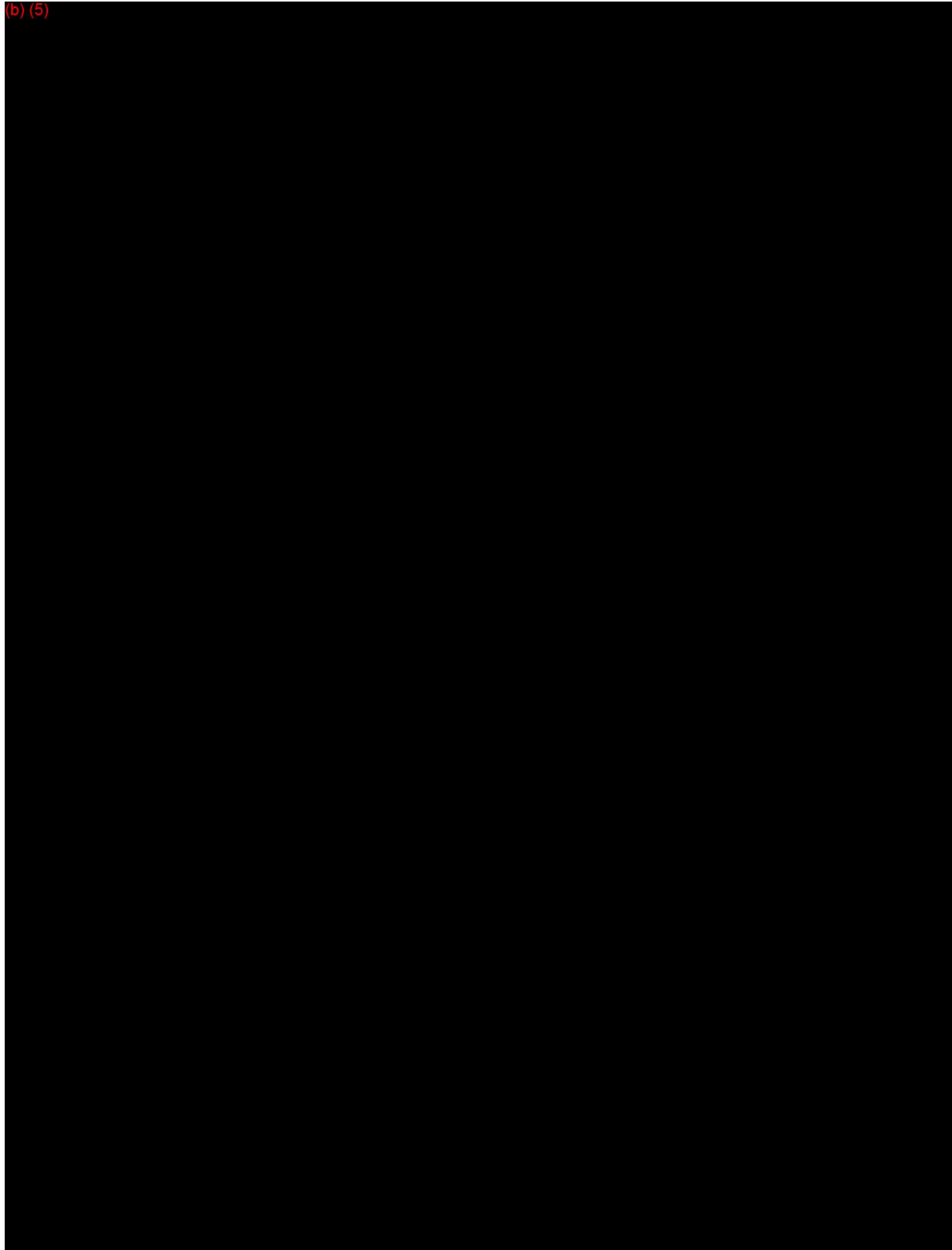
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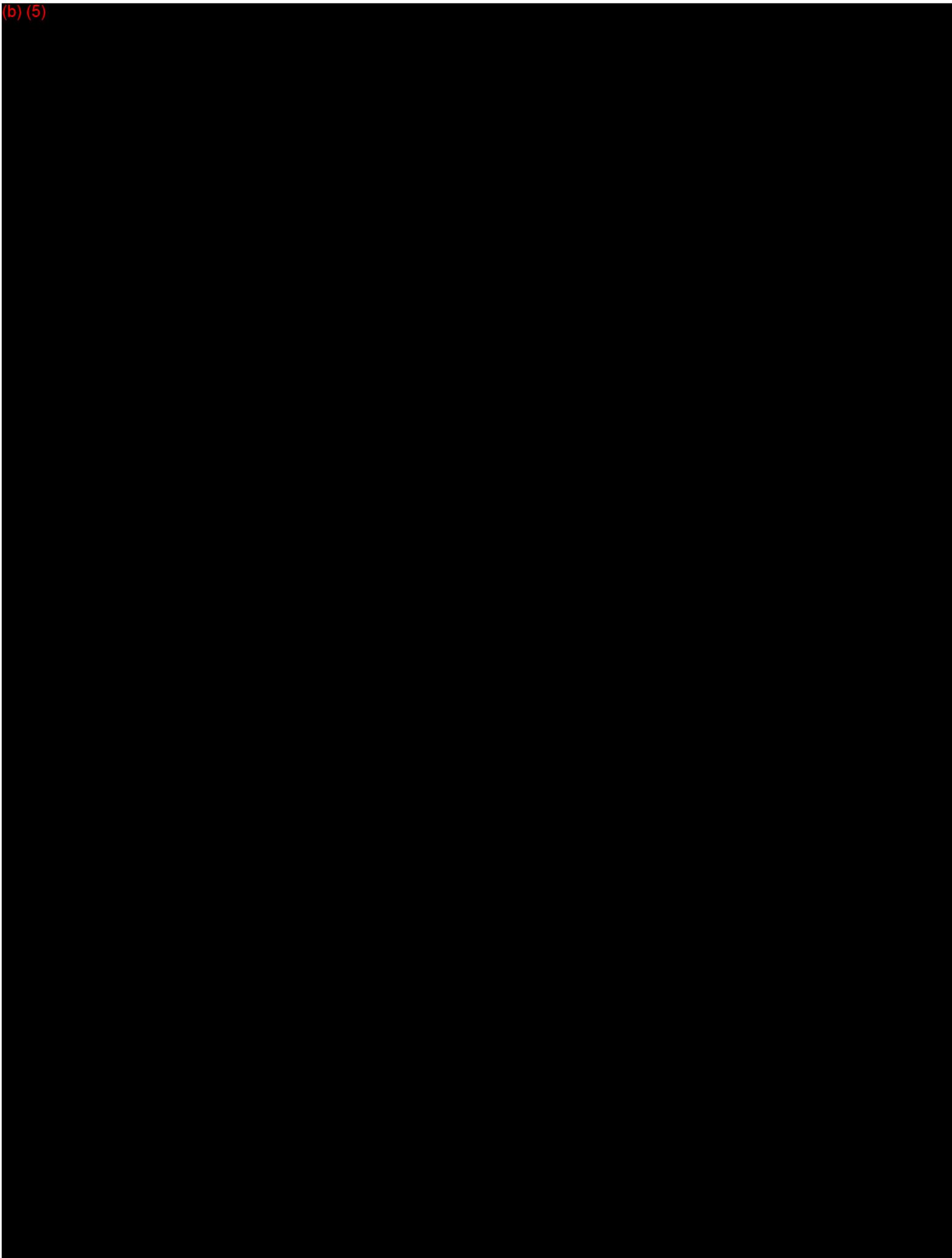
(b) (5)
(b) (5) Tried to call to follow up.

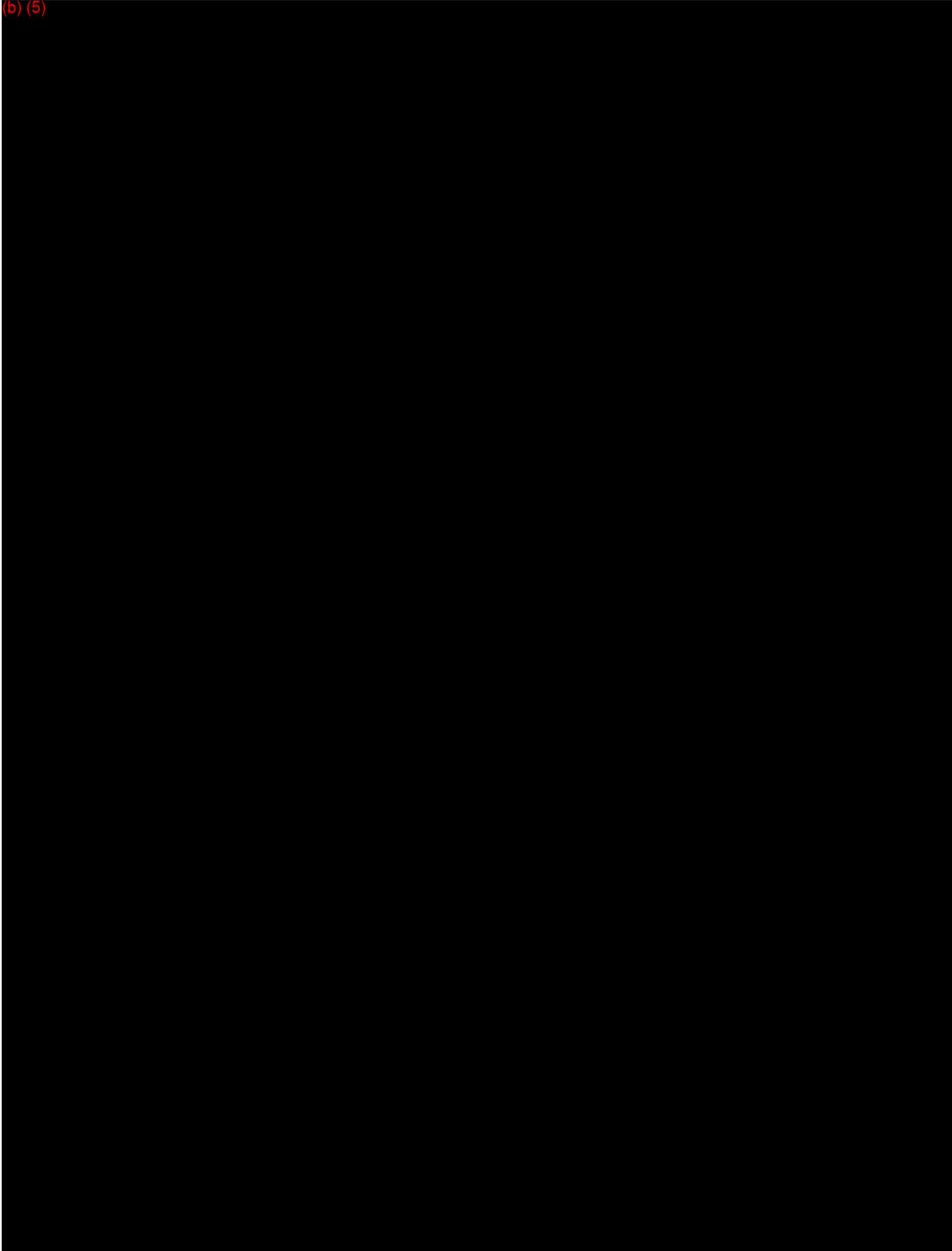
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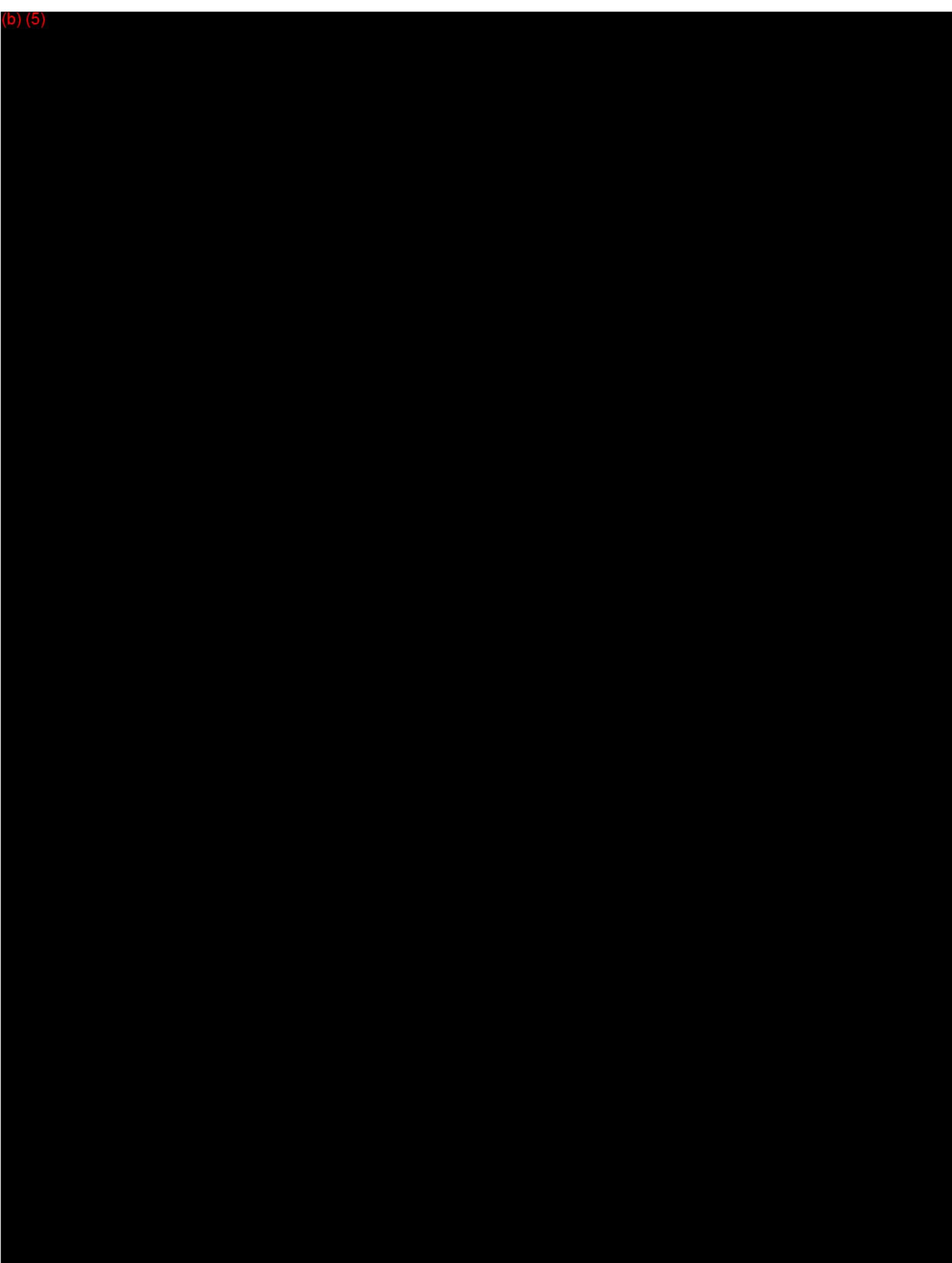
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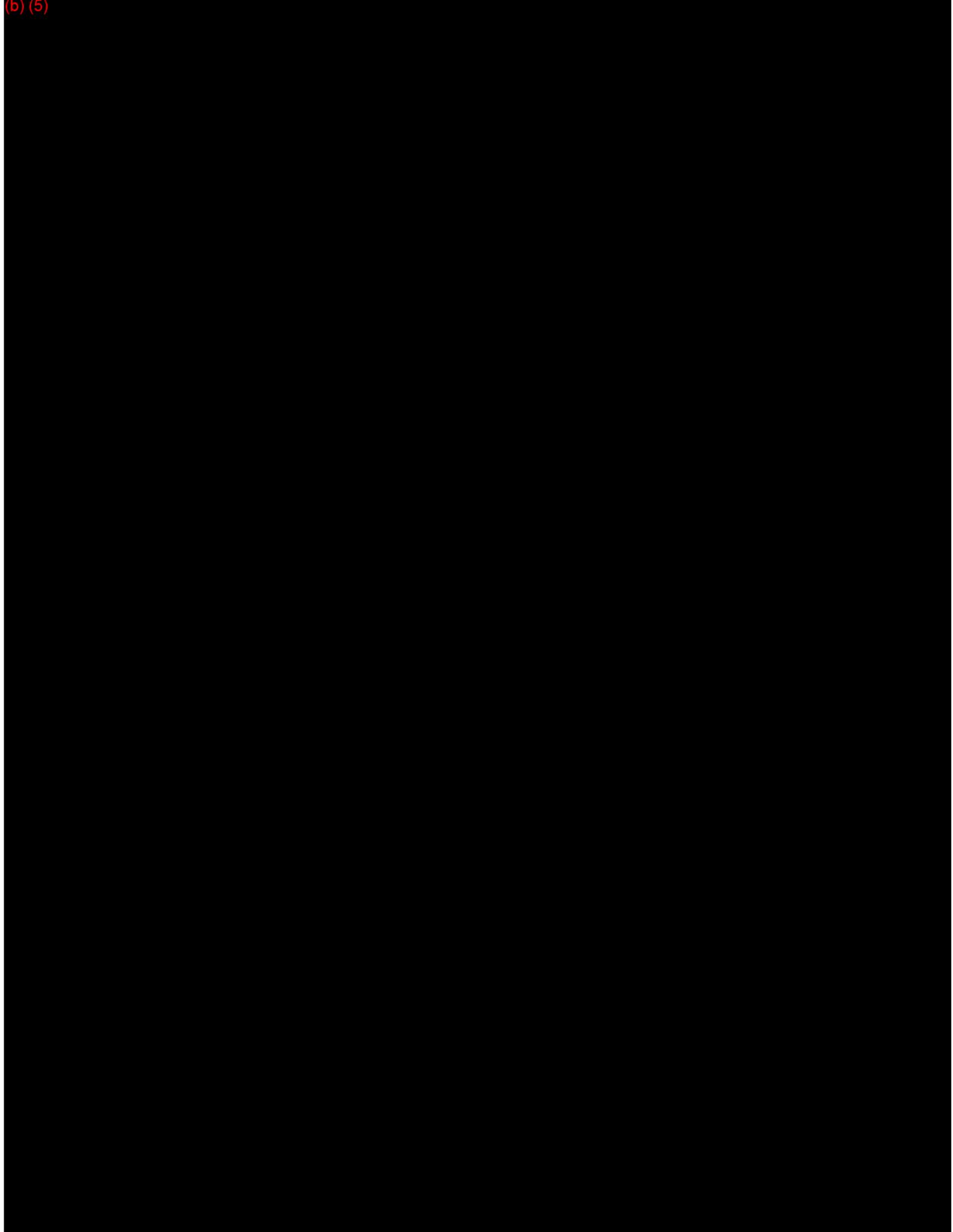


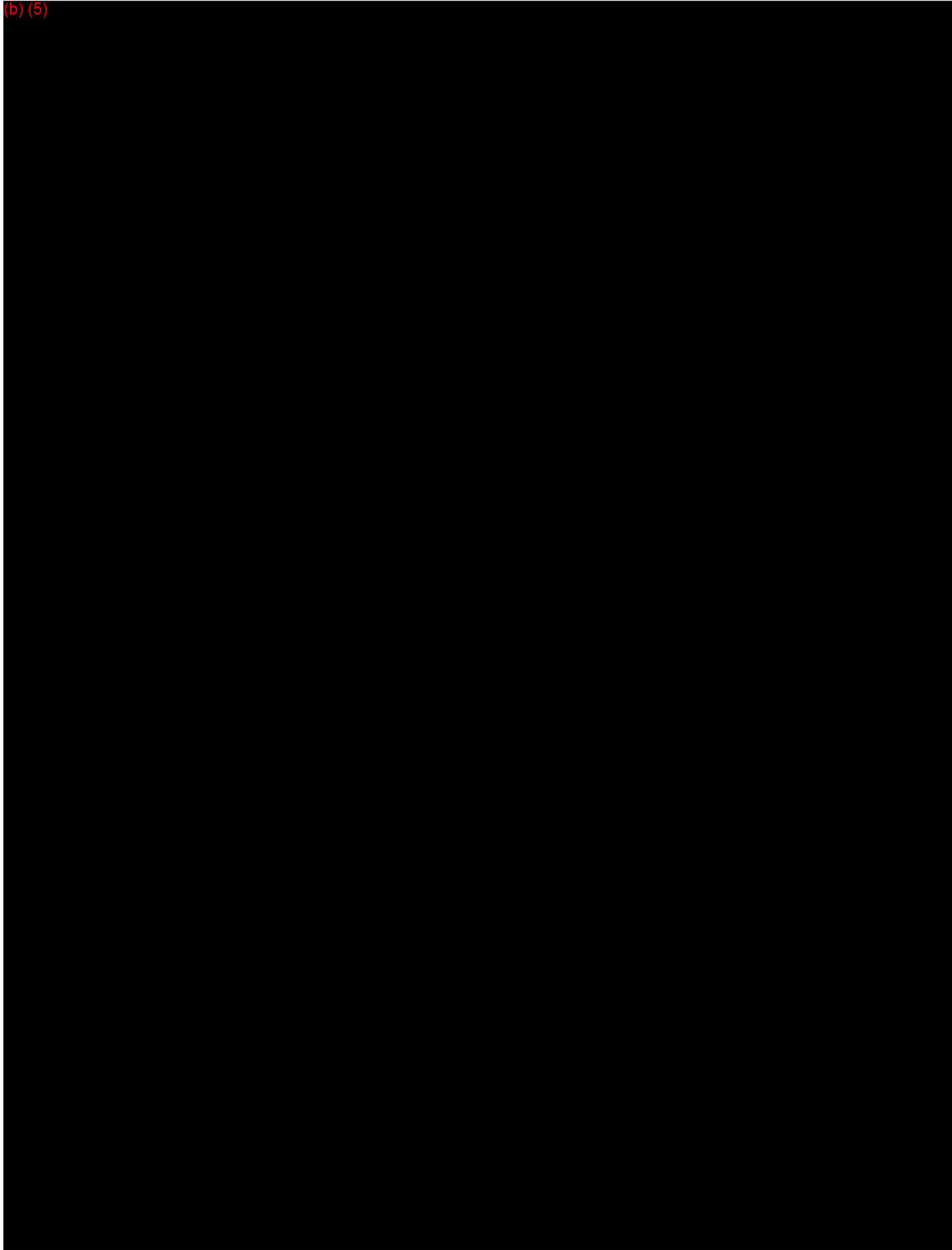


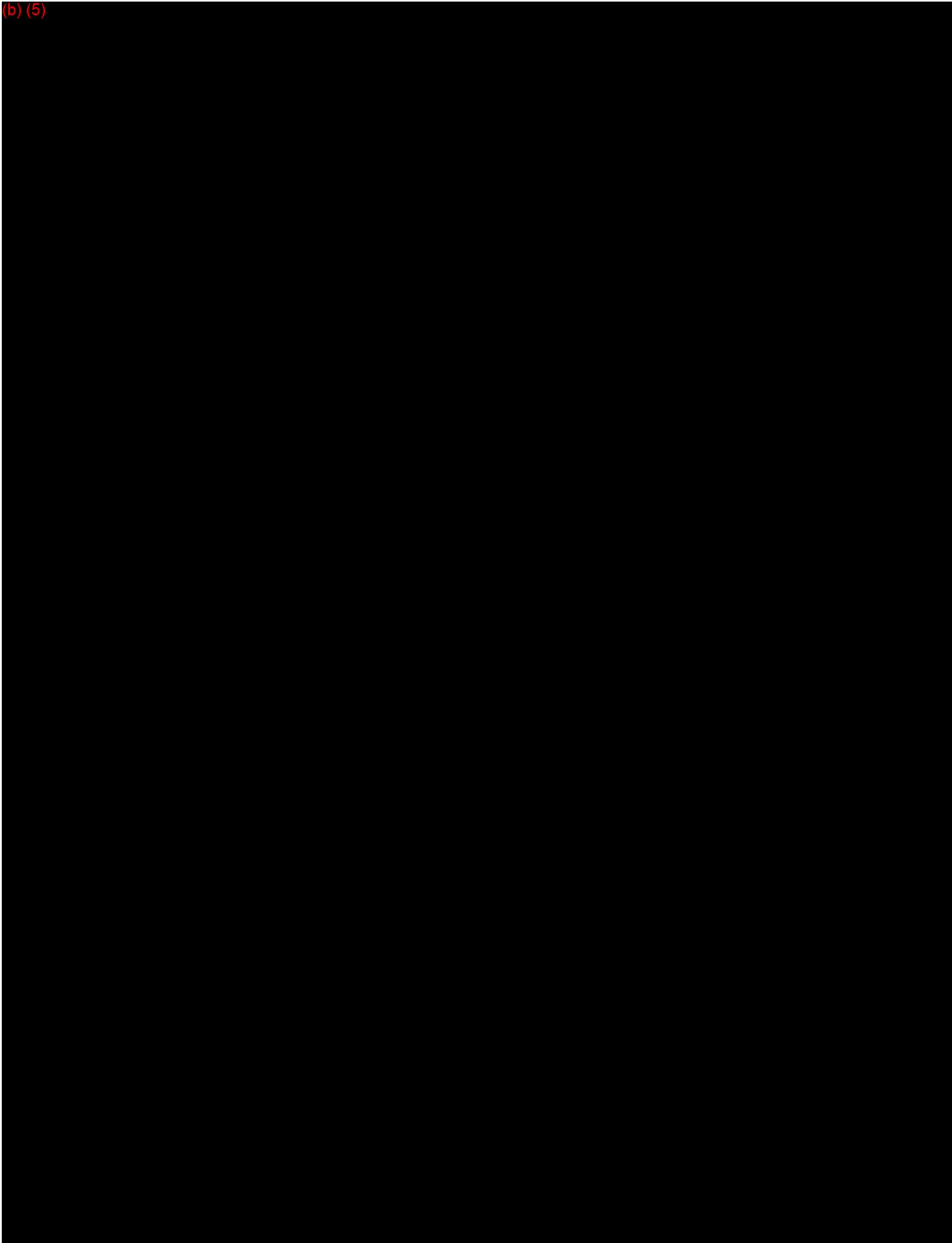


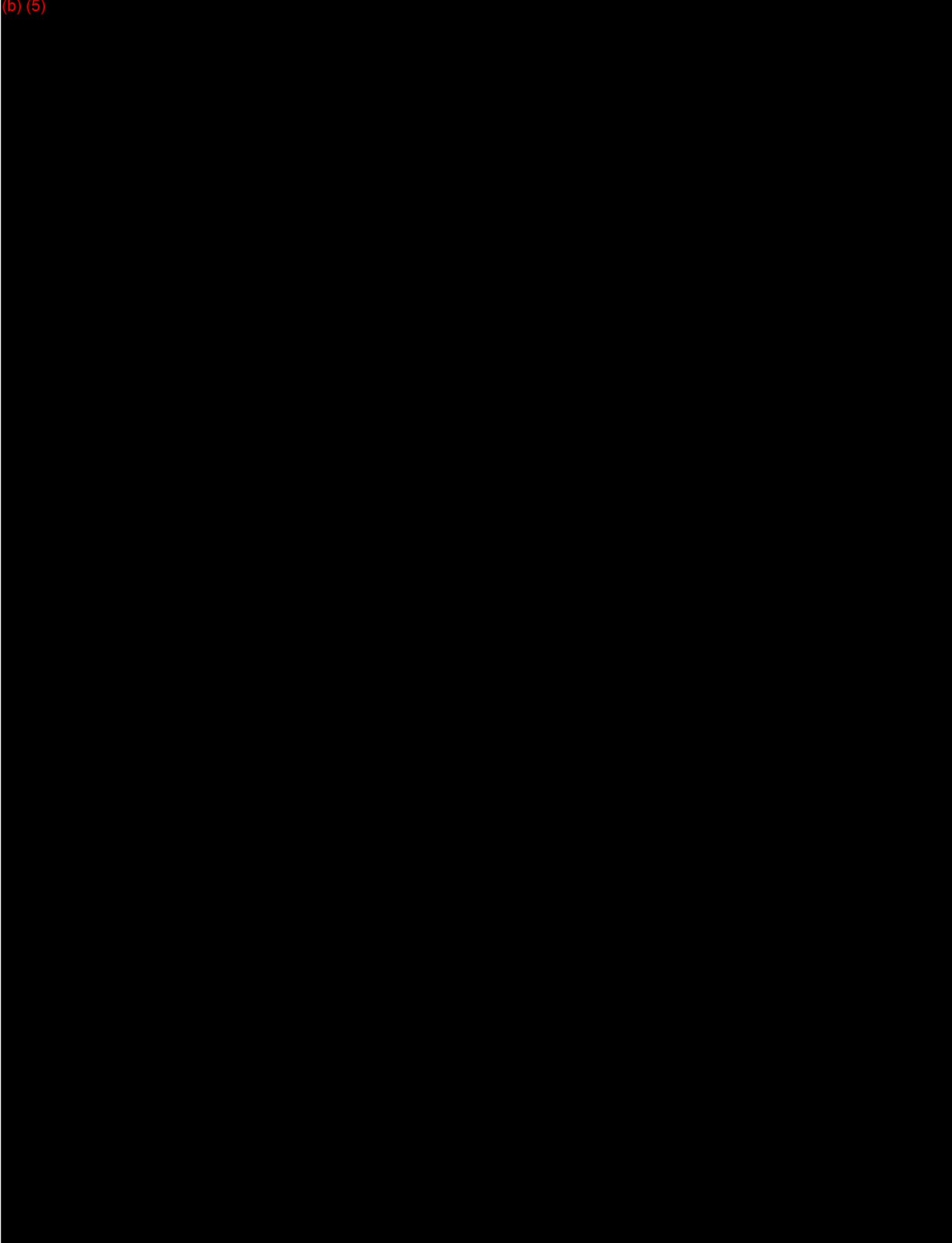


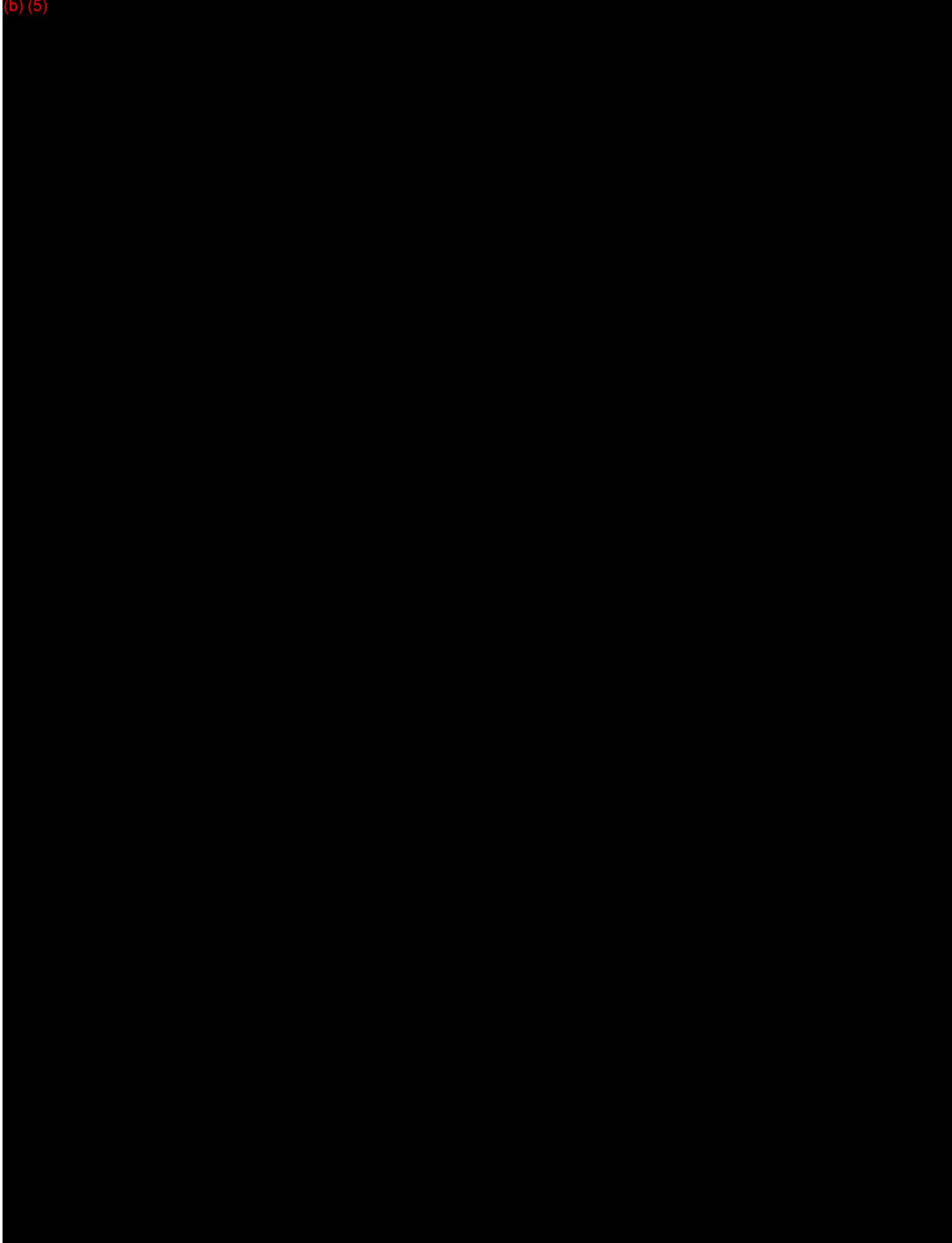


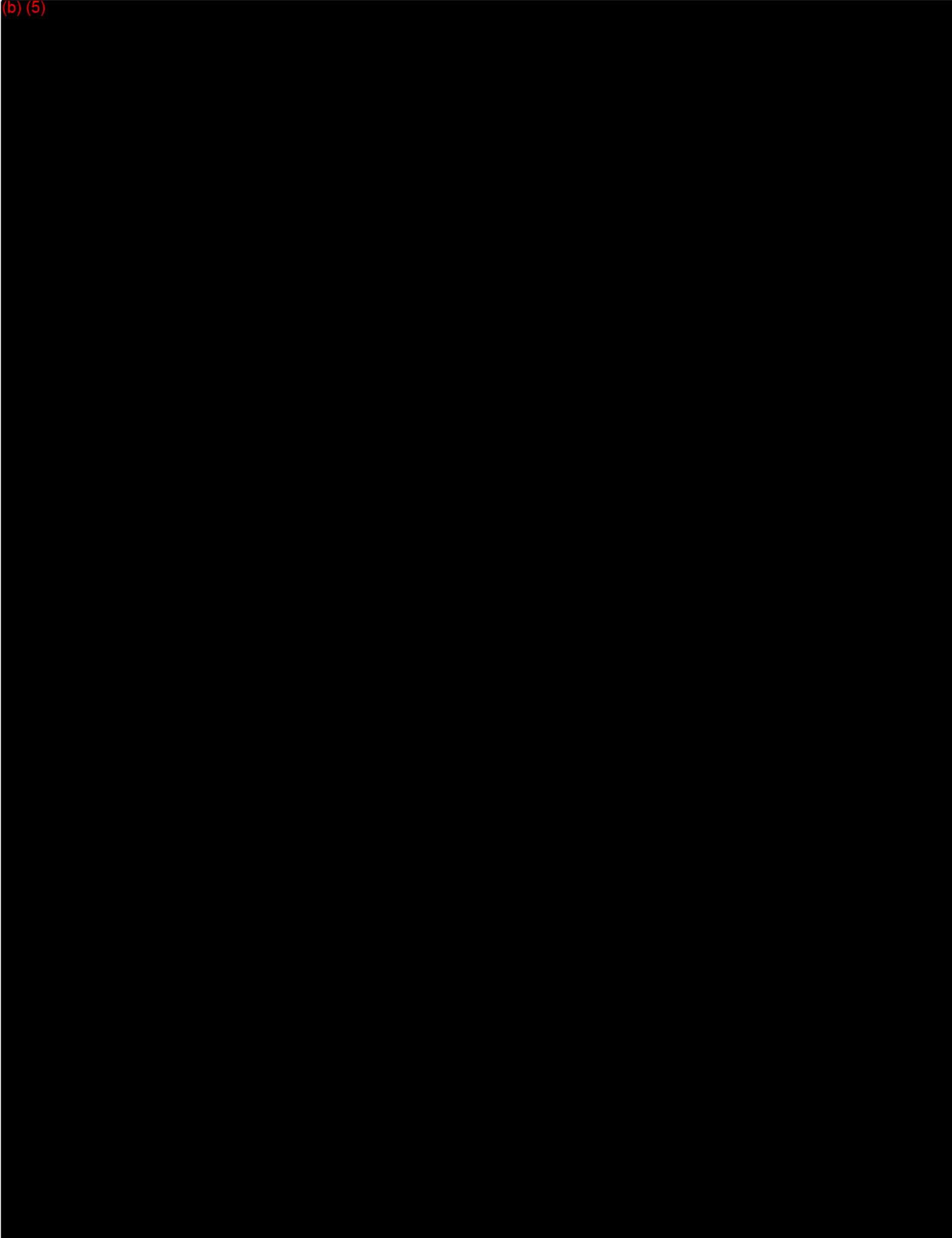


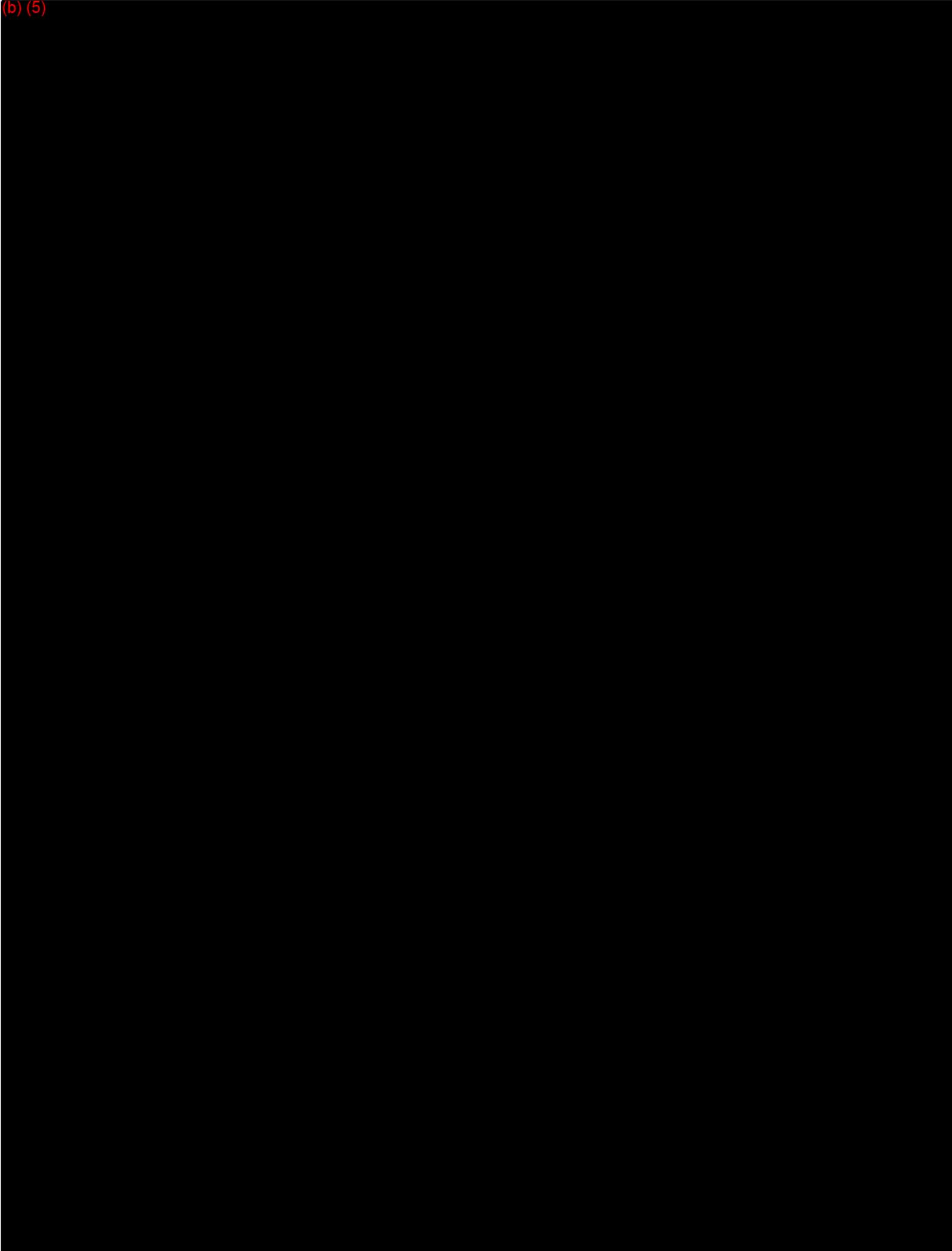


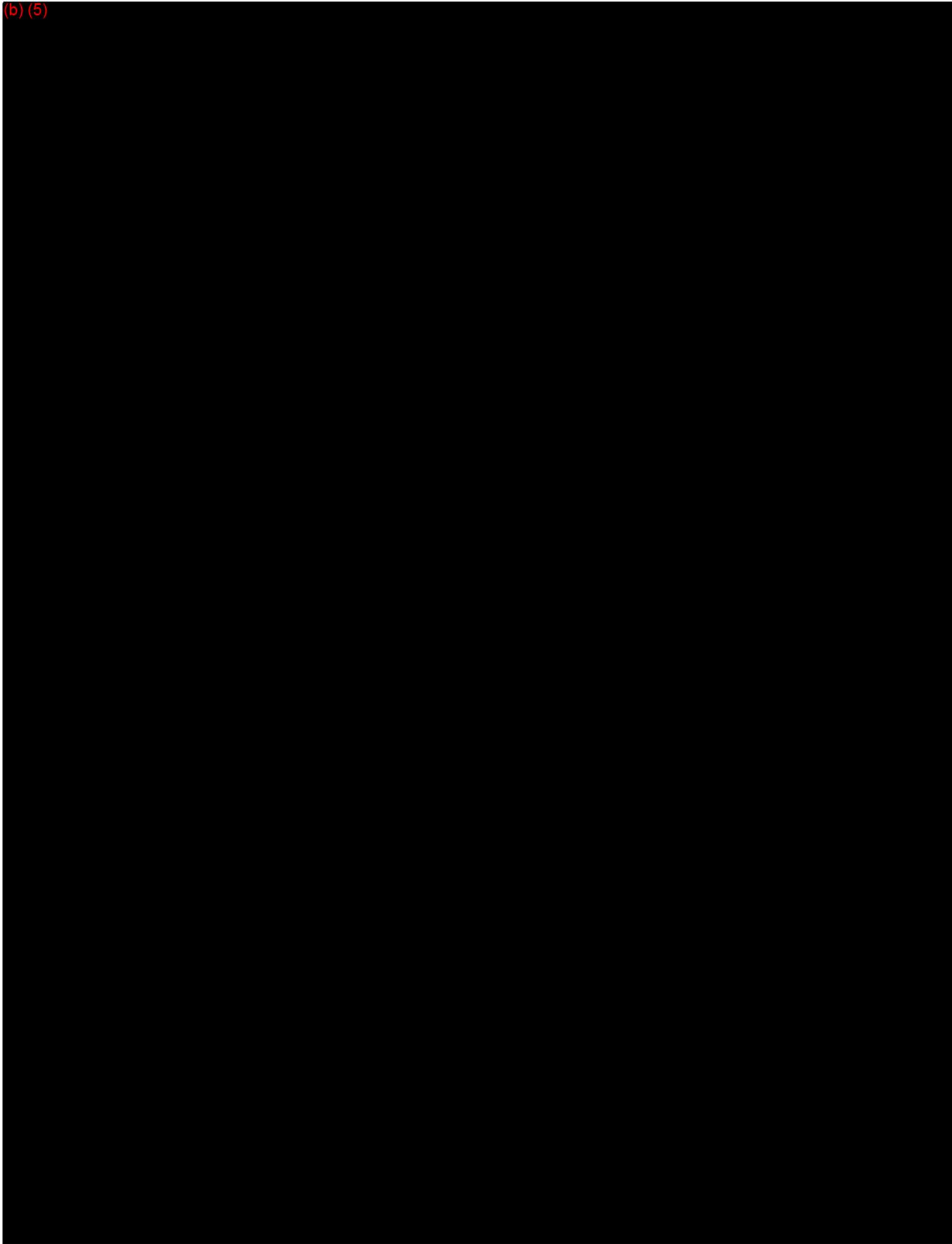


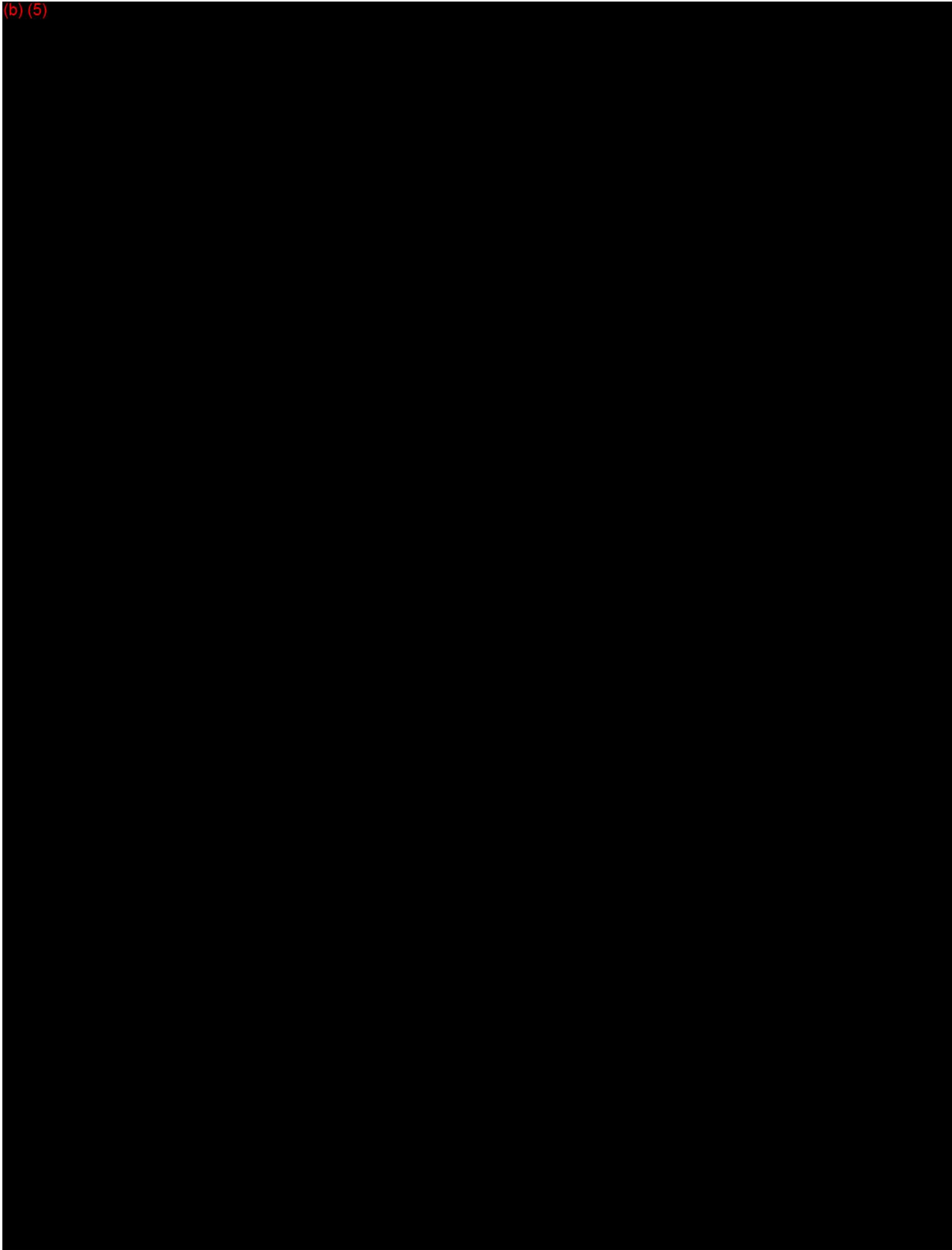


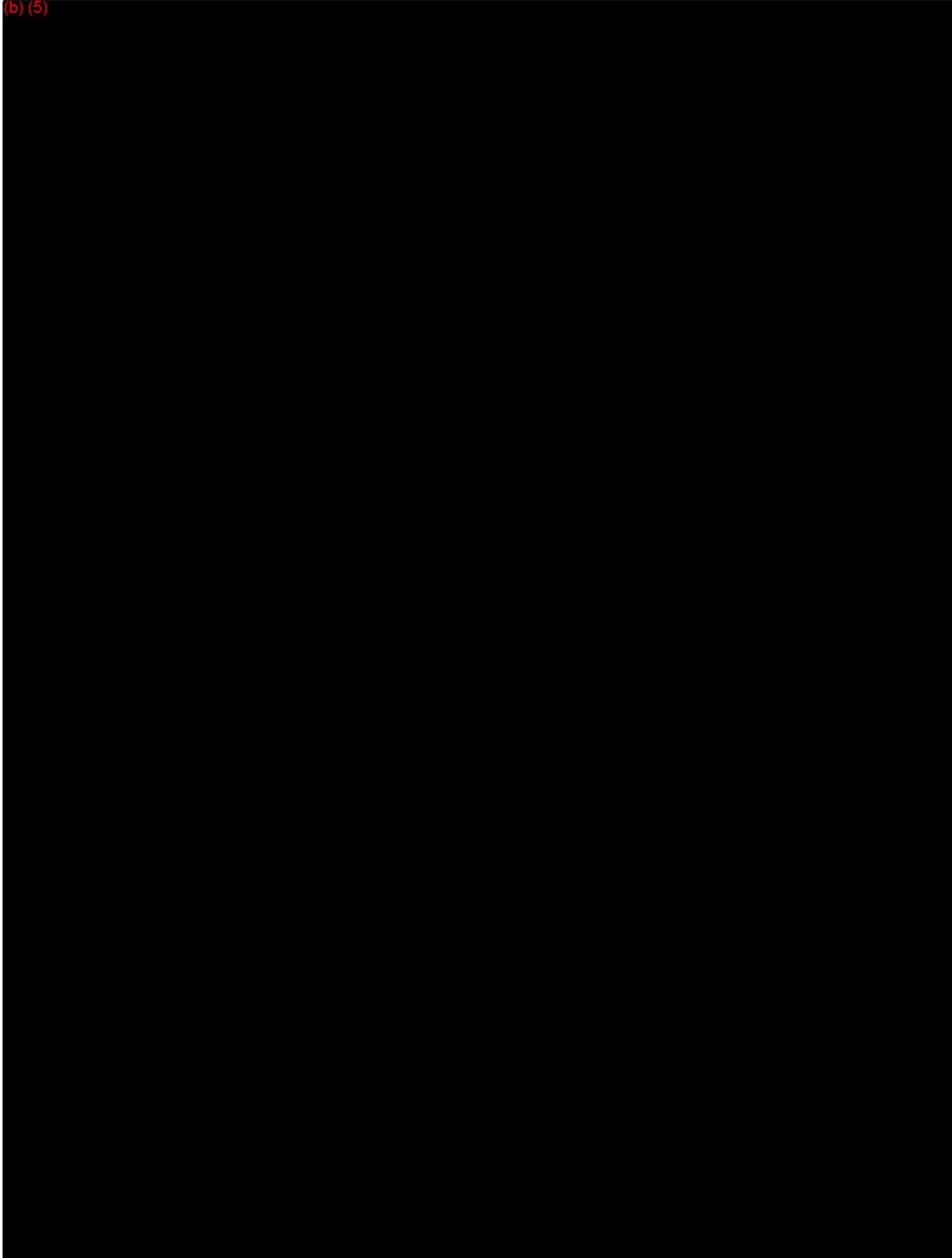


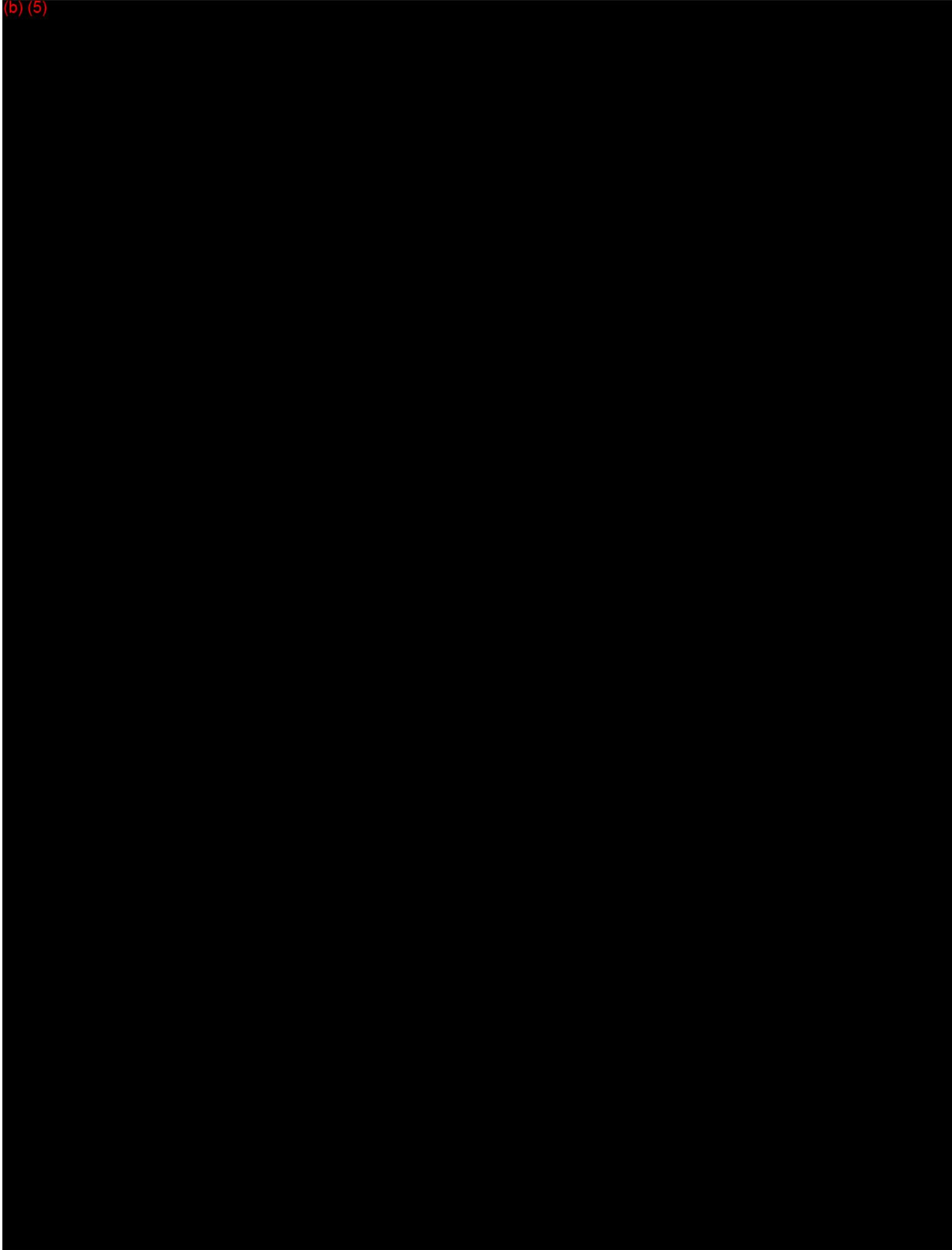


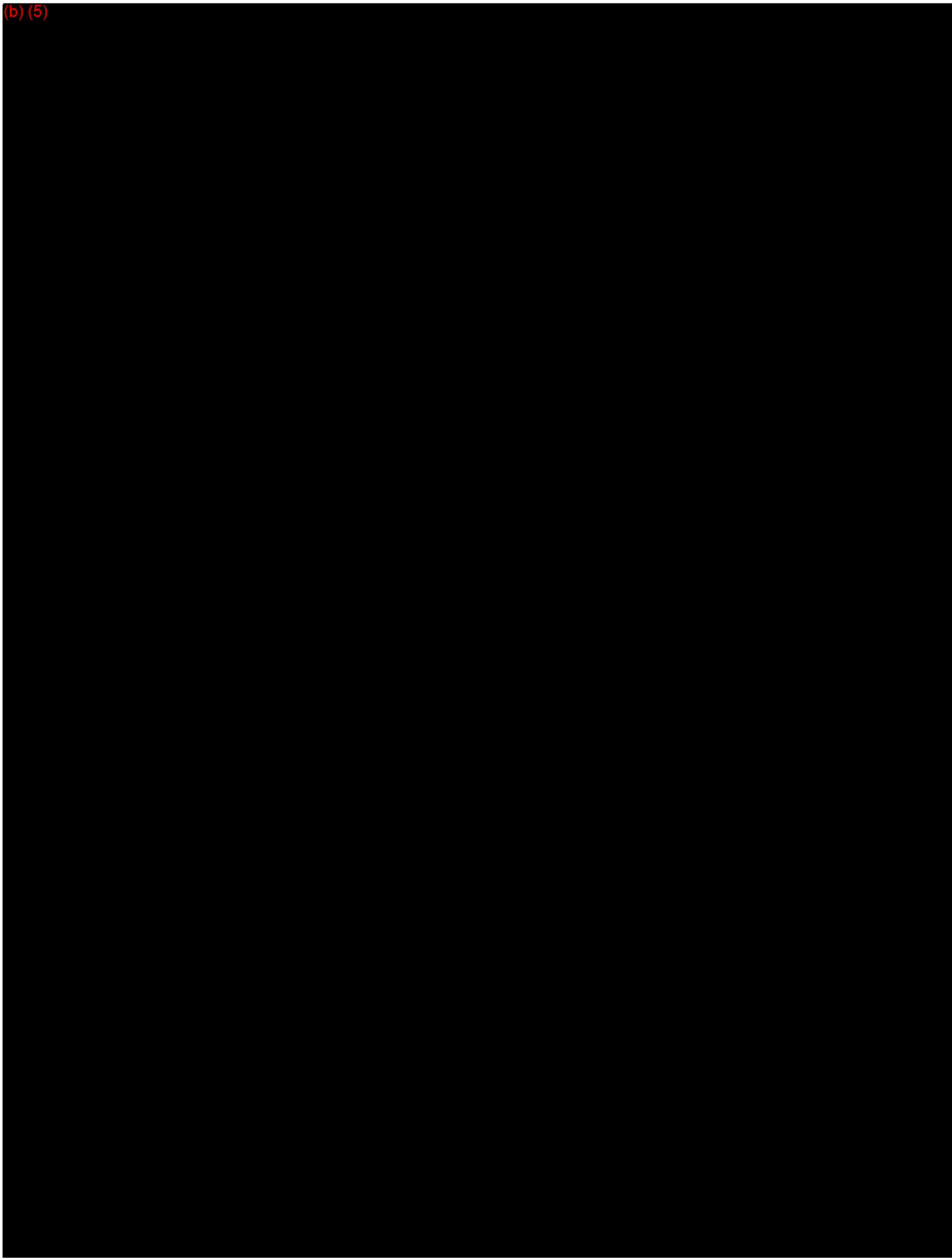


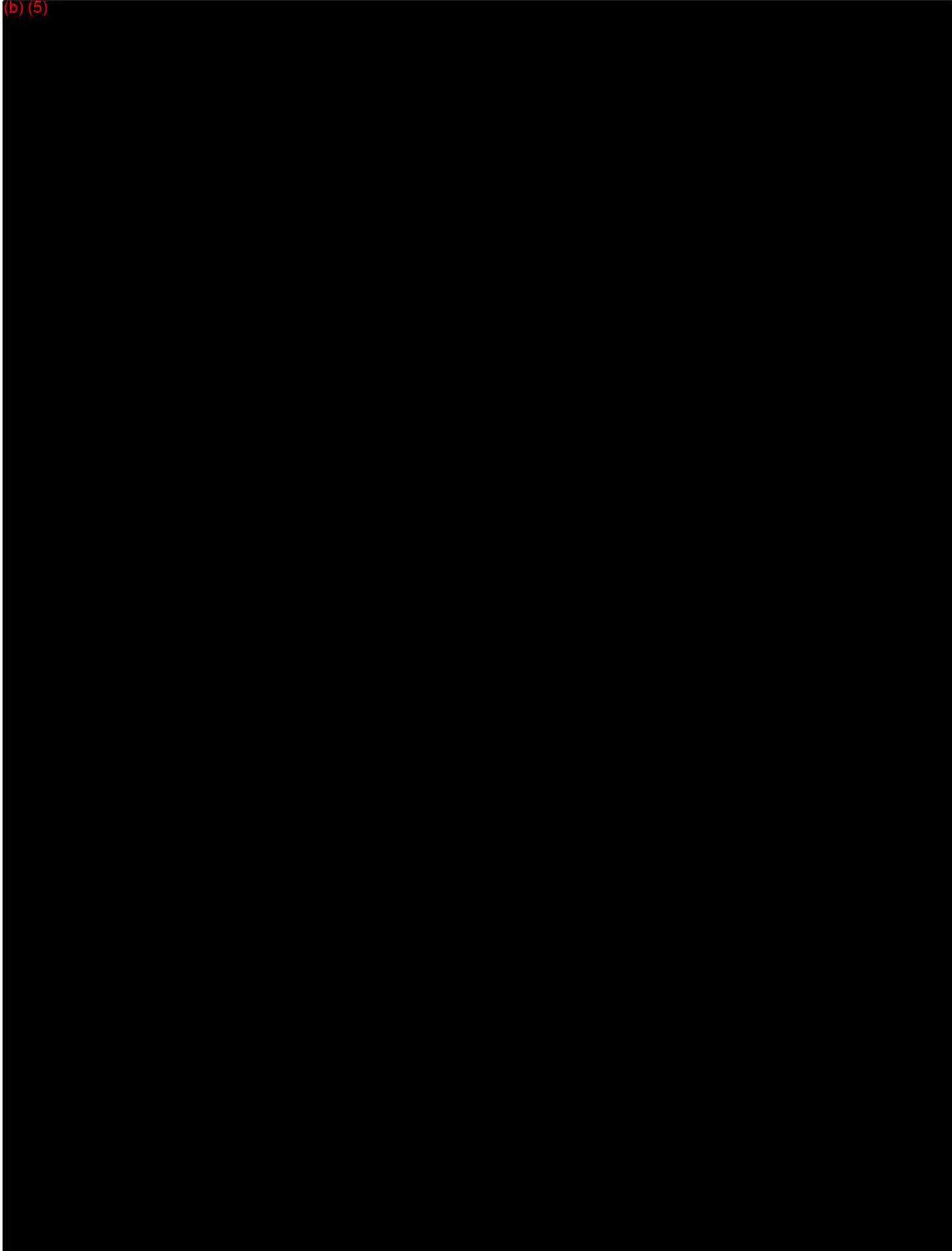


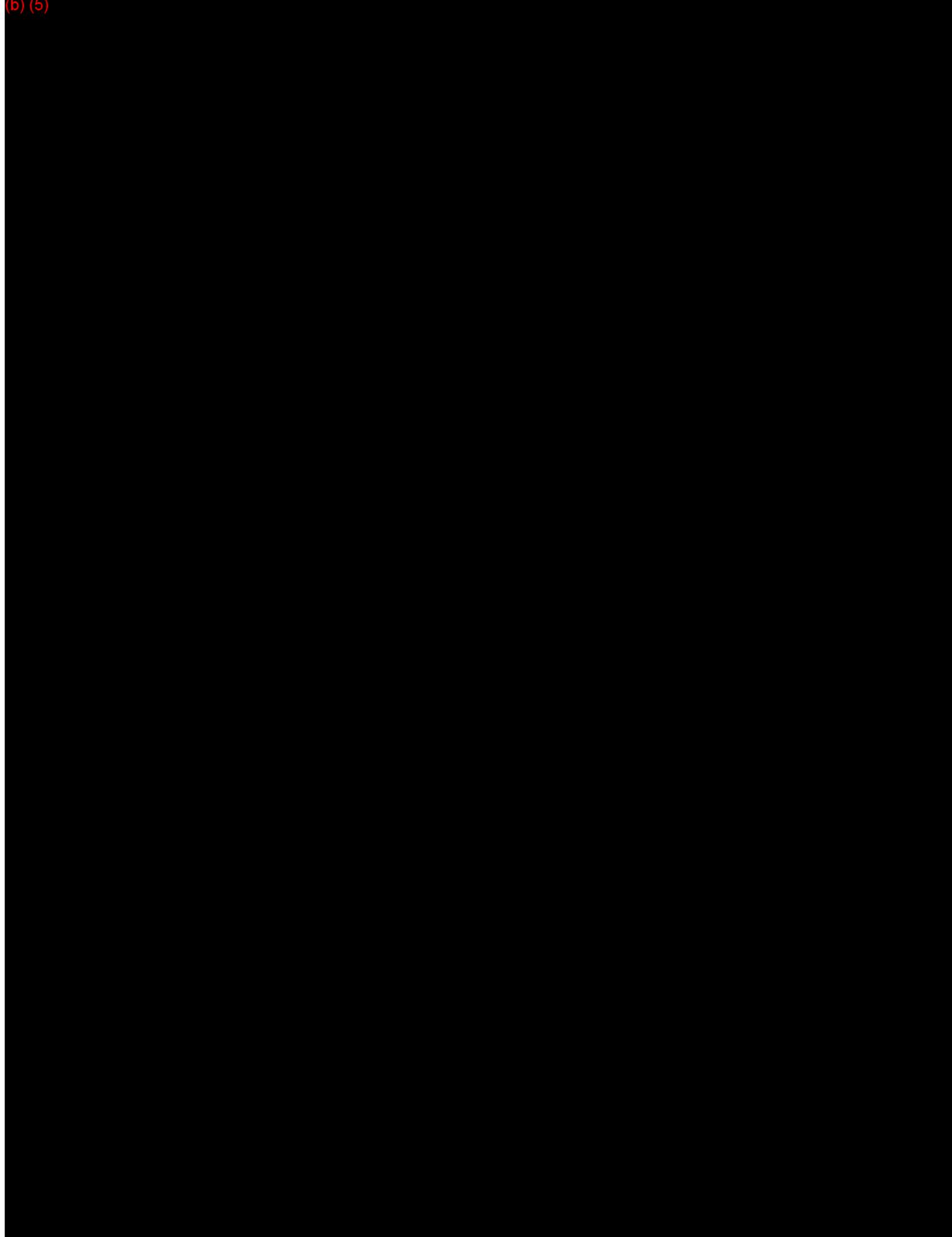


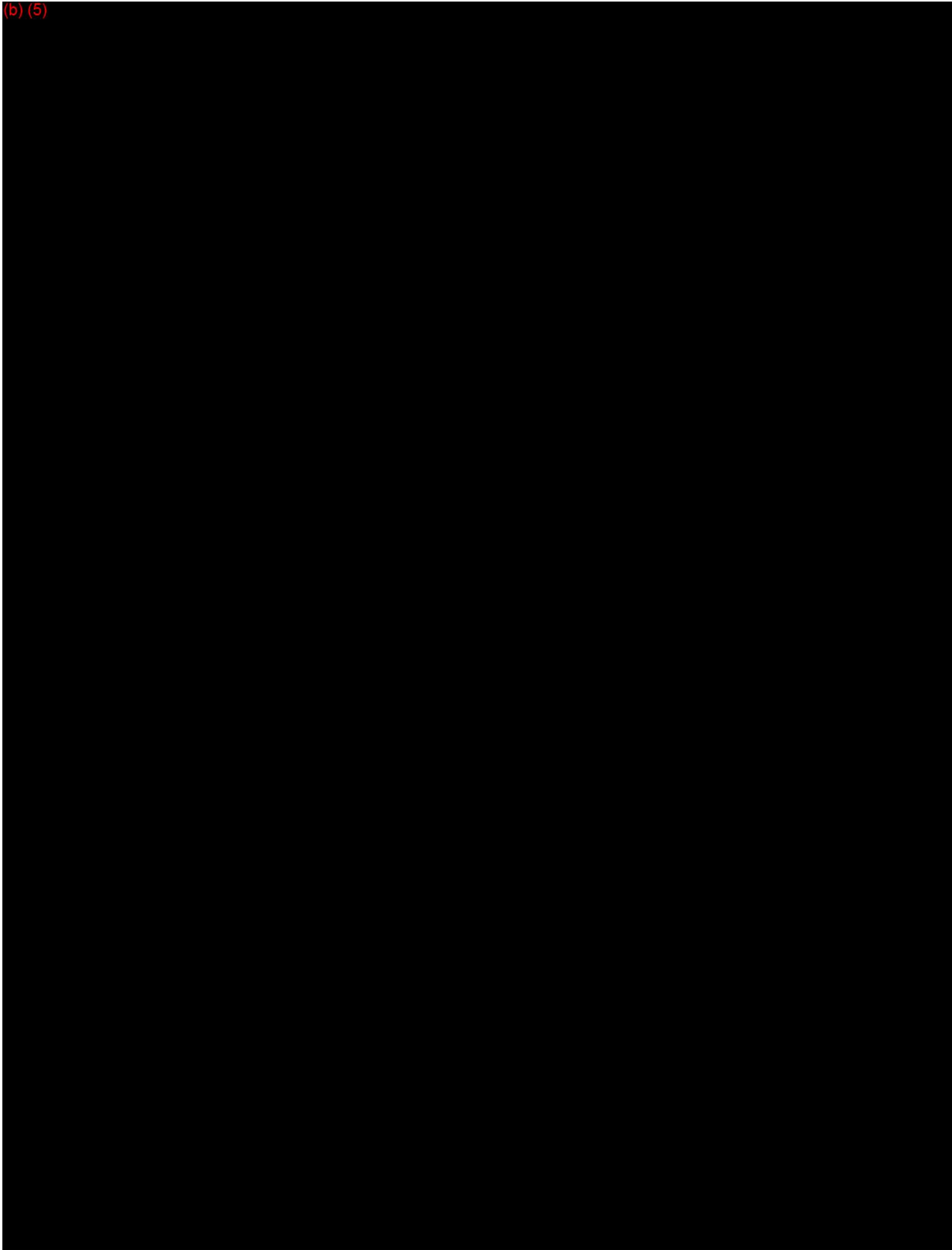


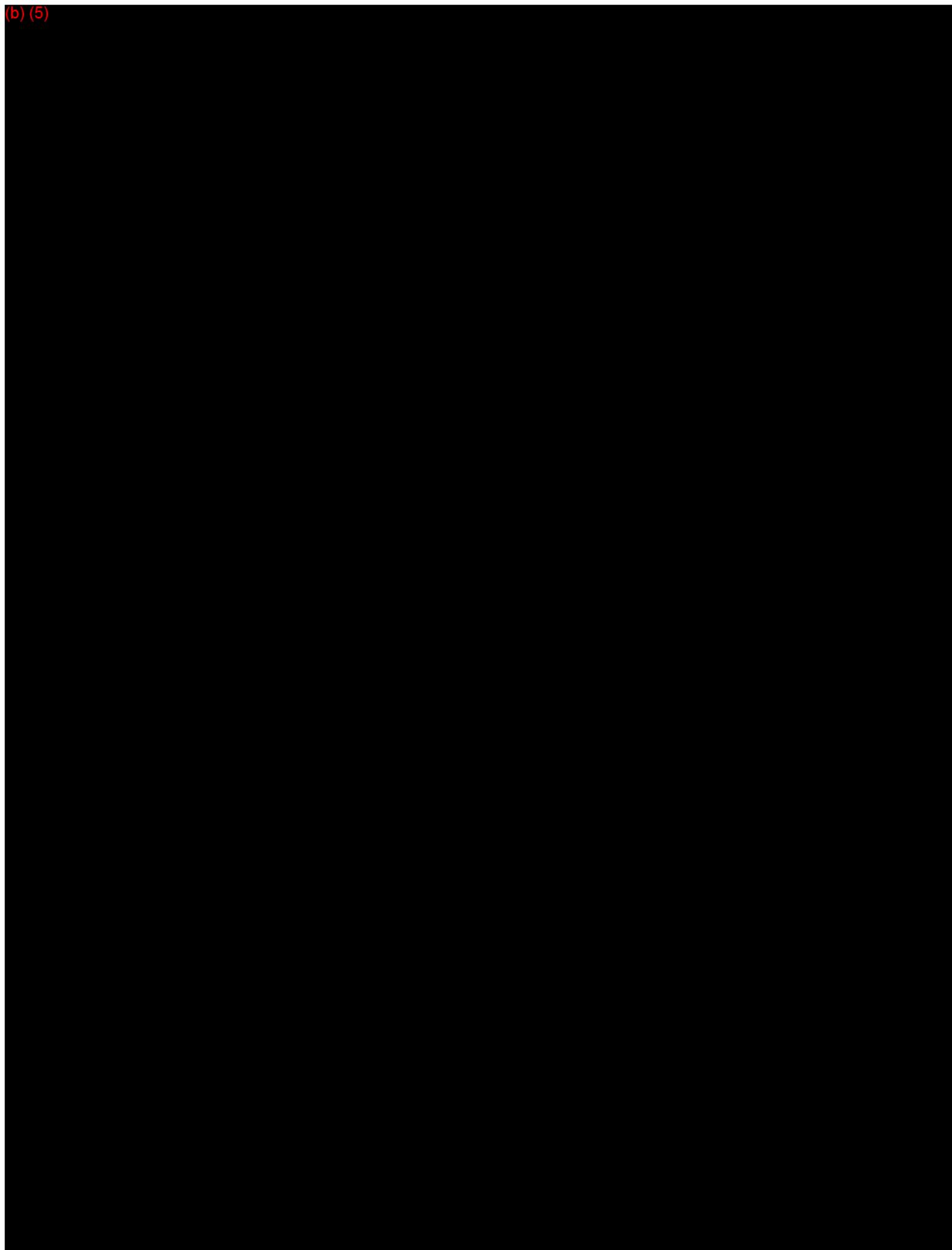


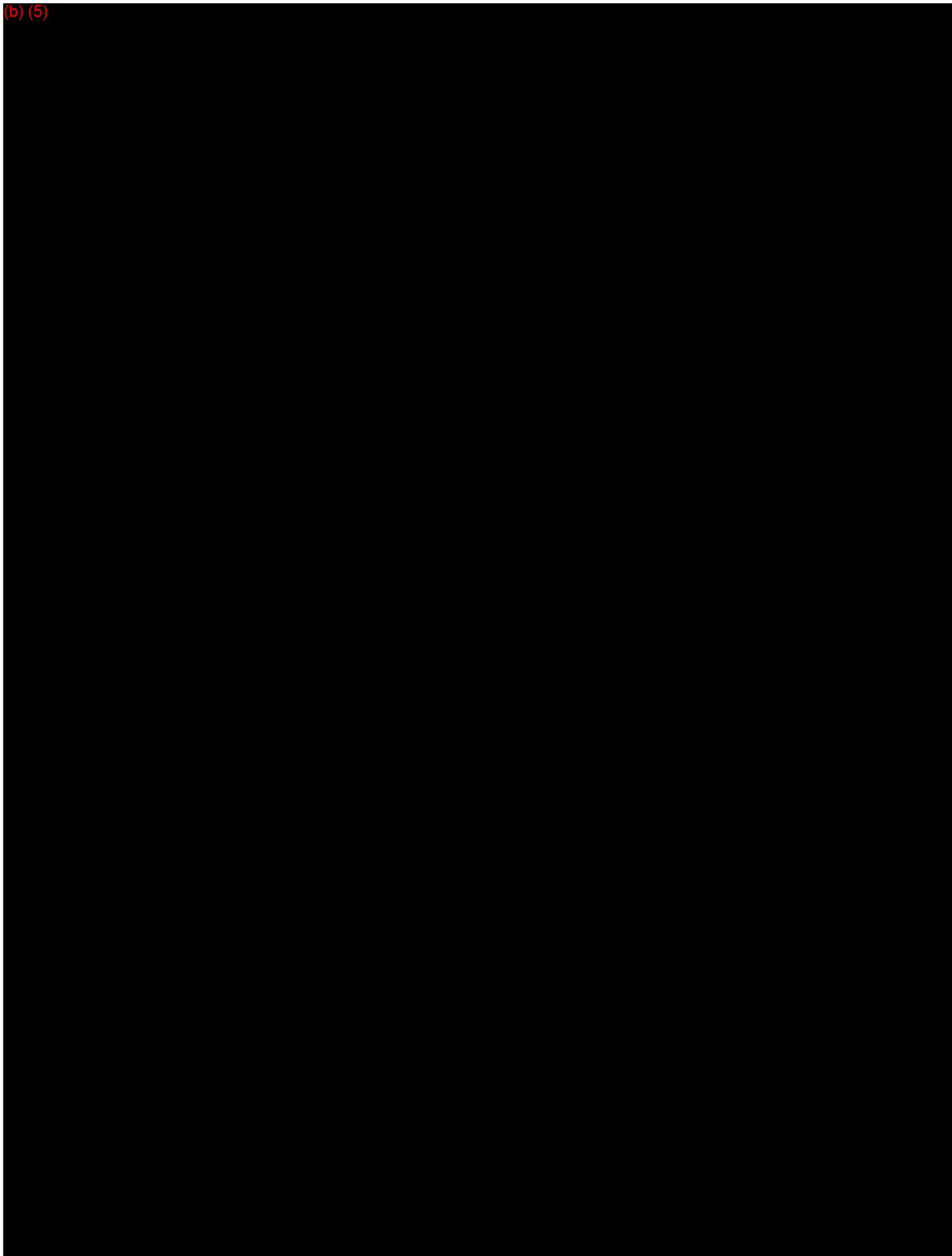


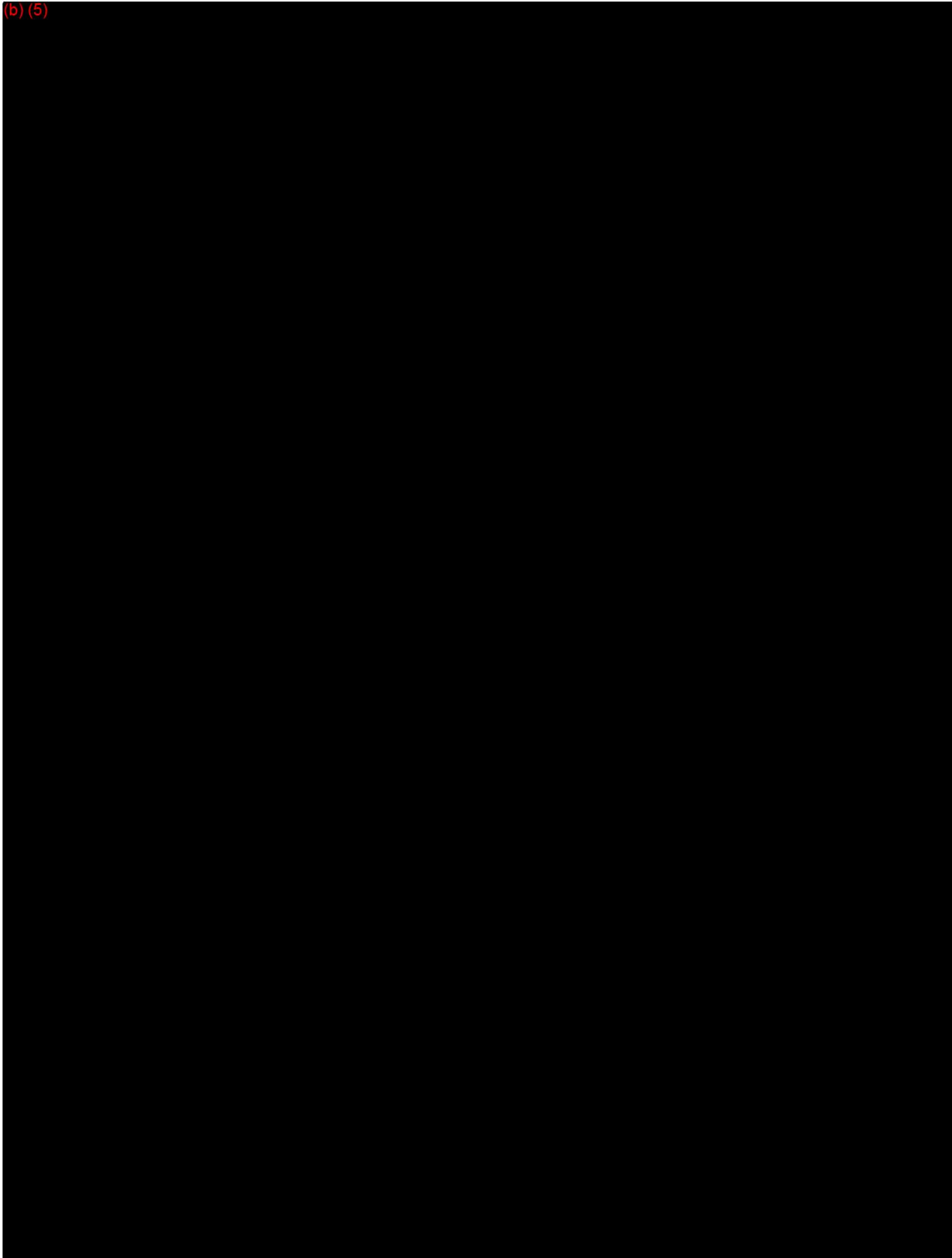


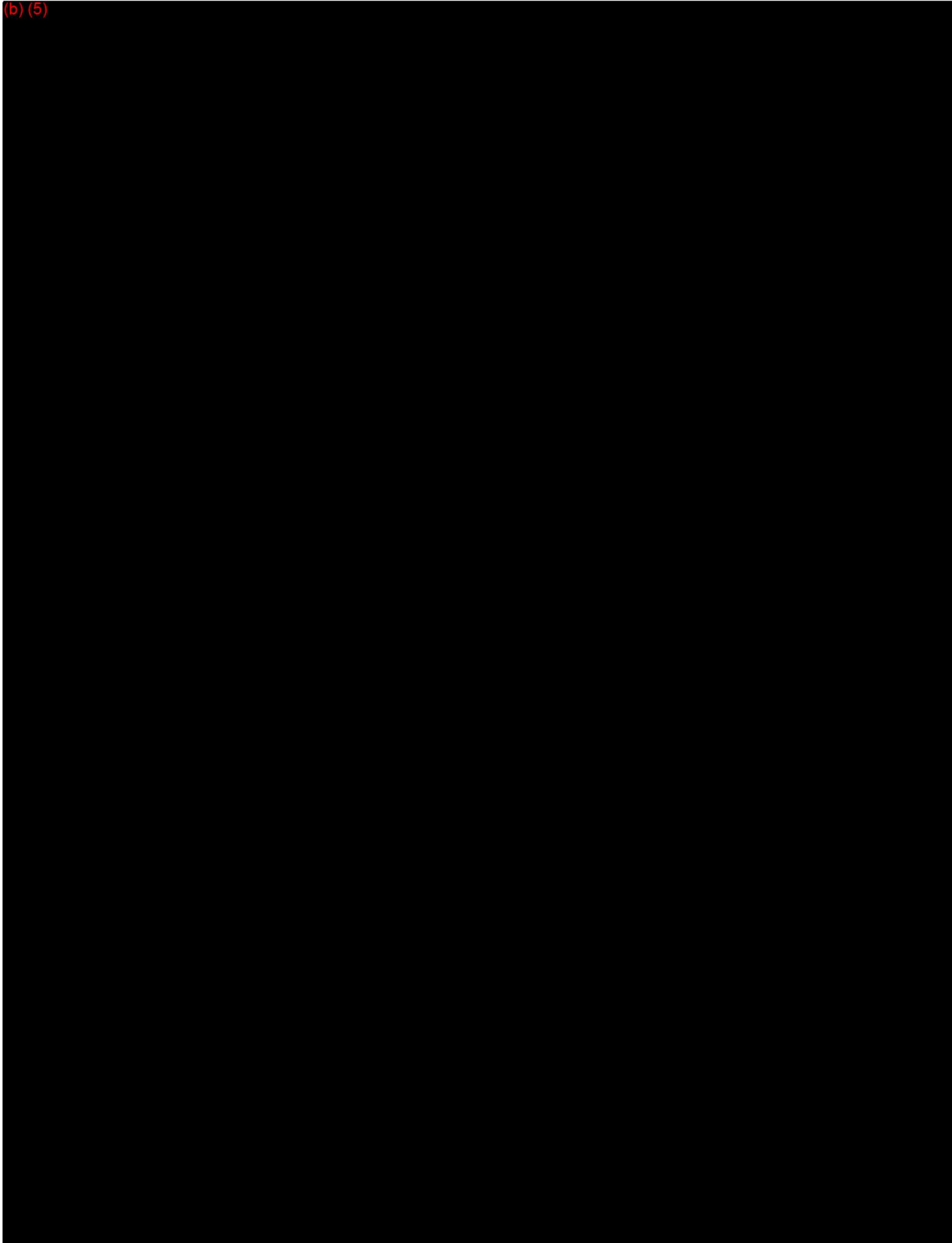


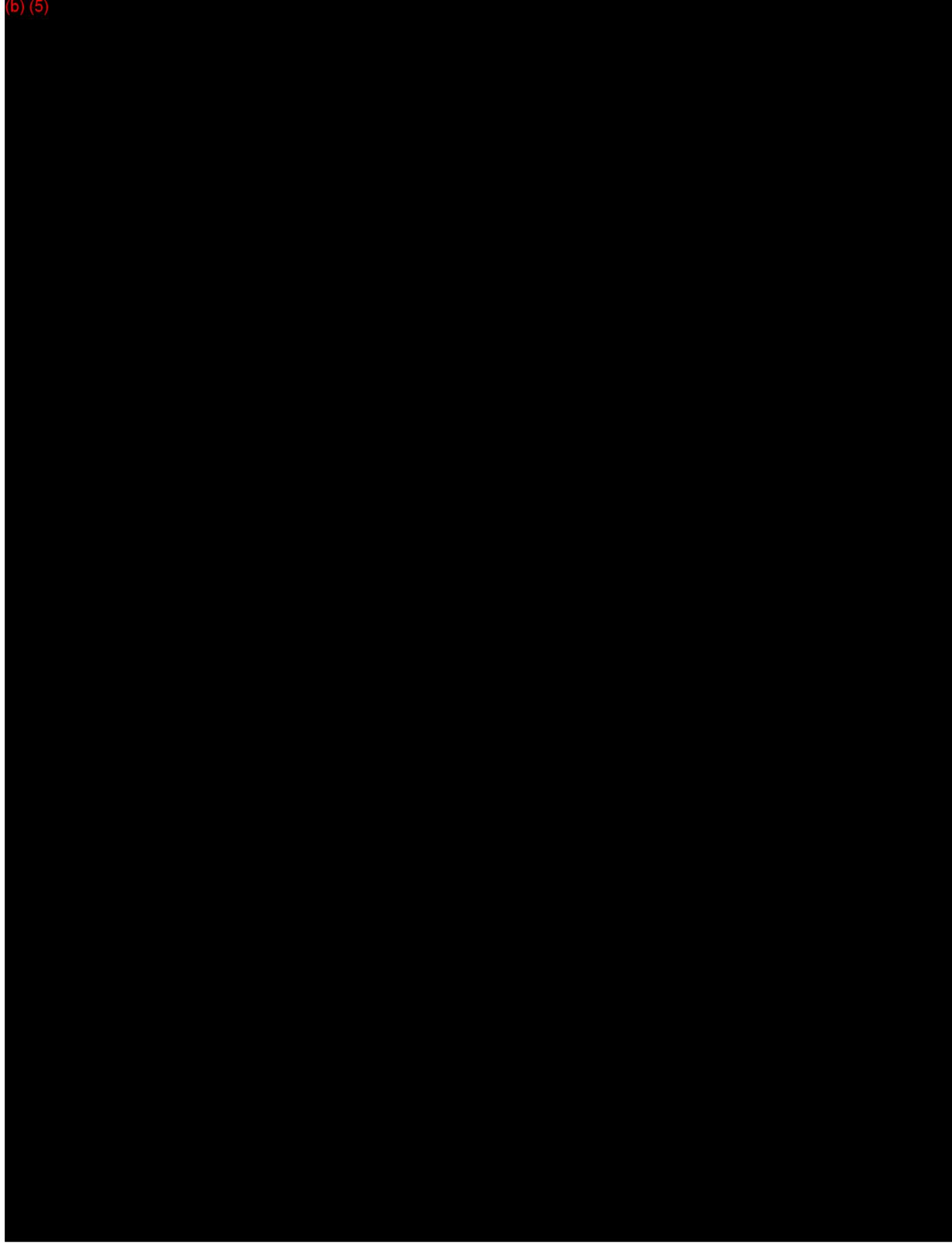


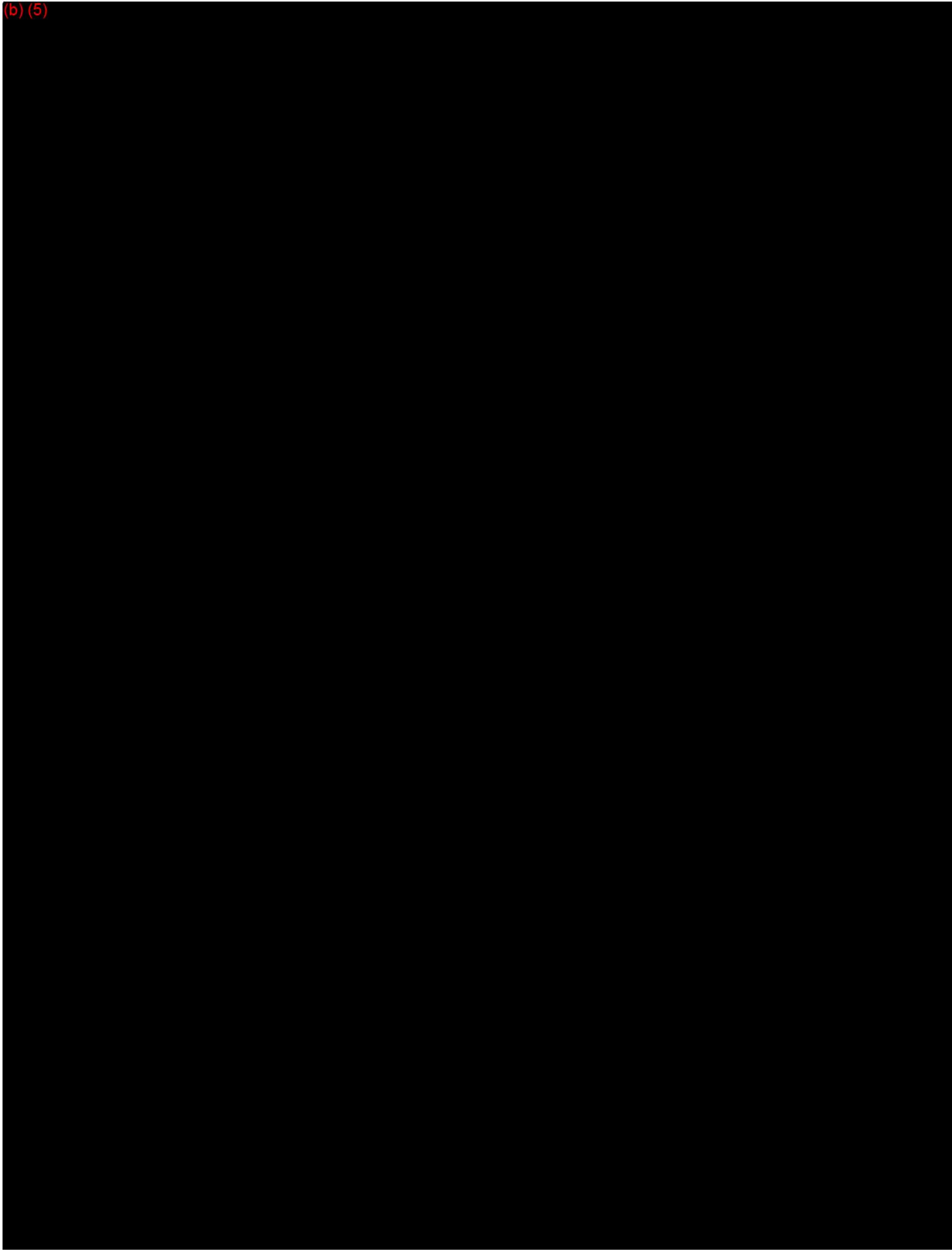


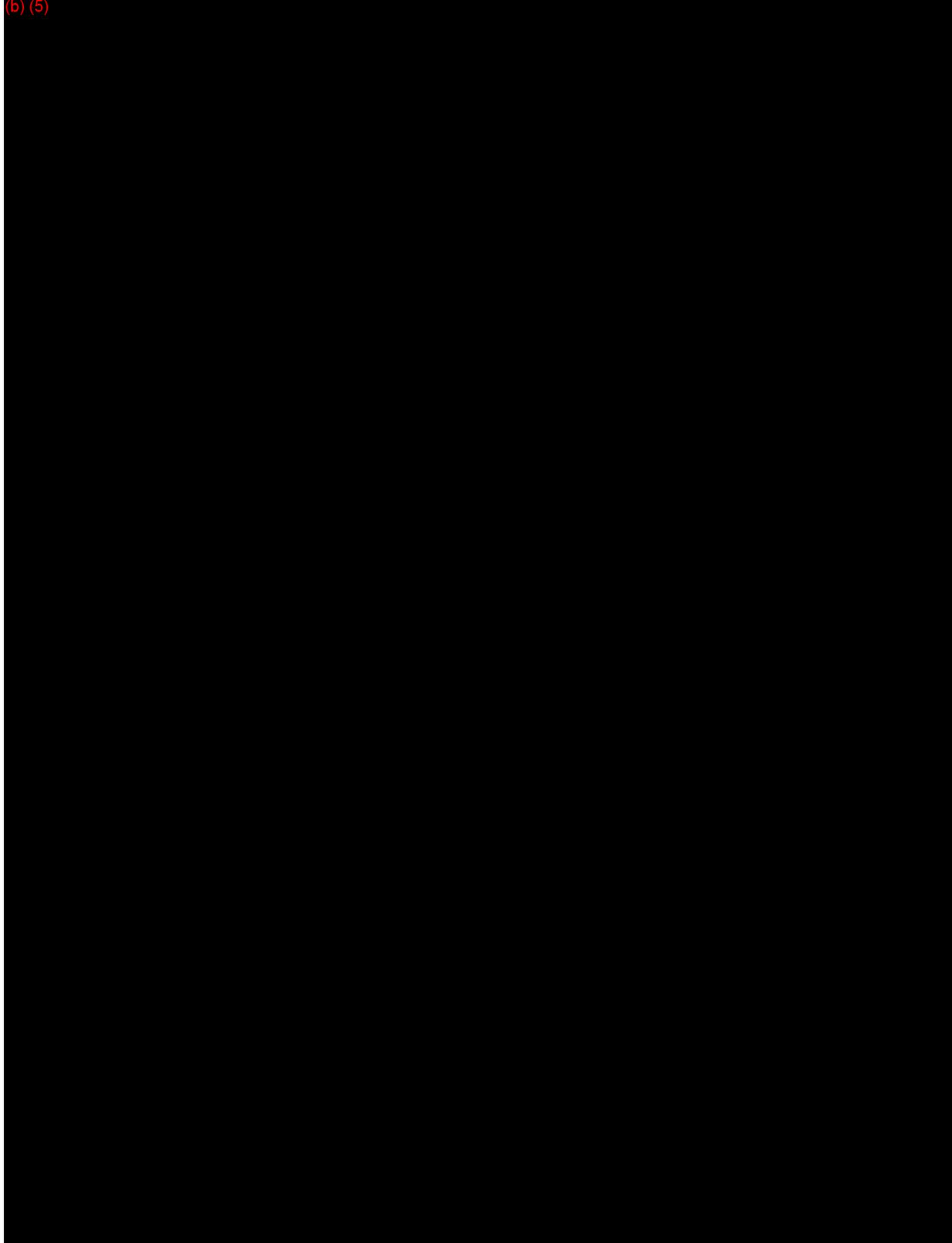


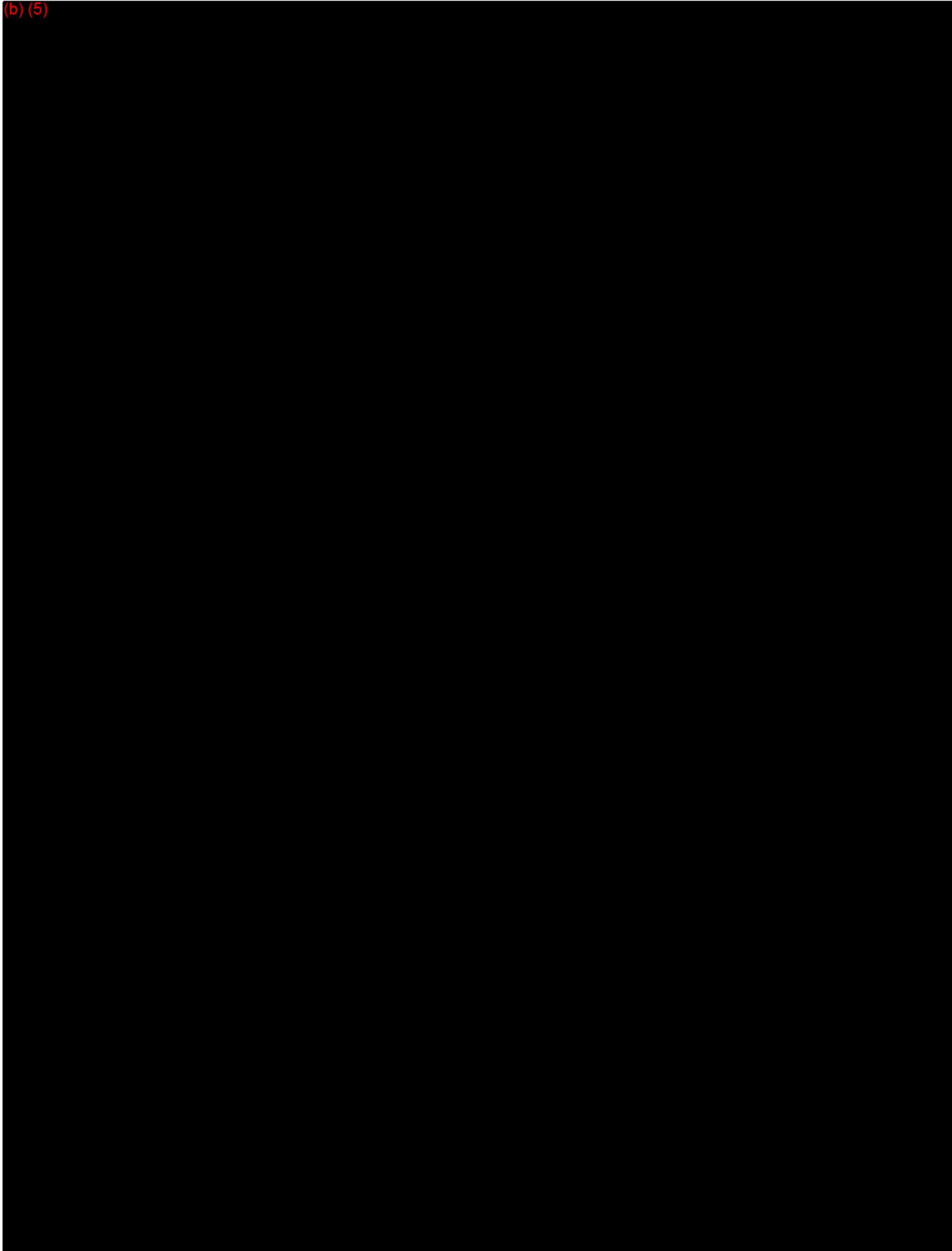


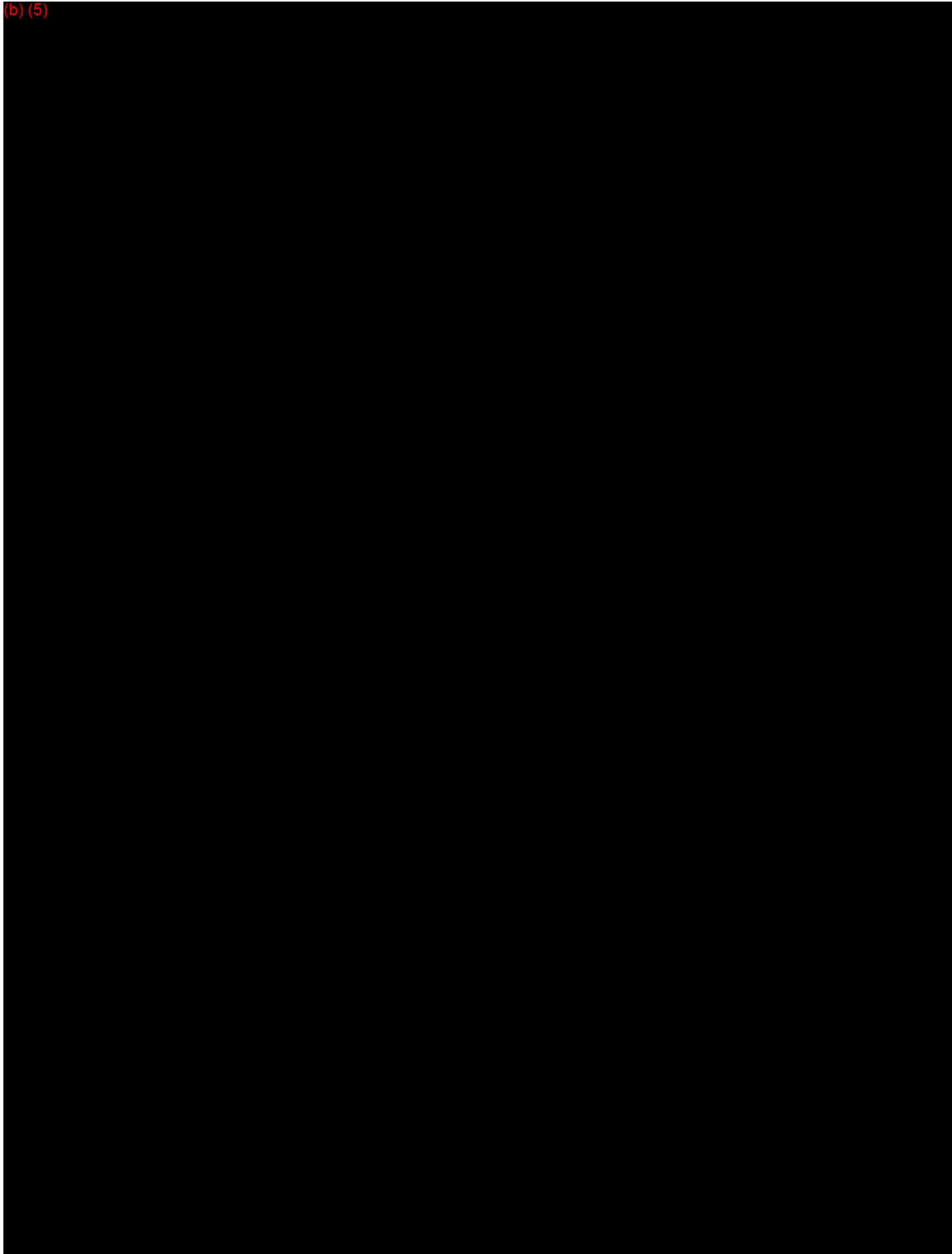


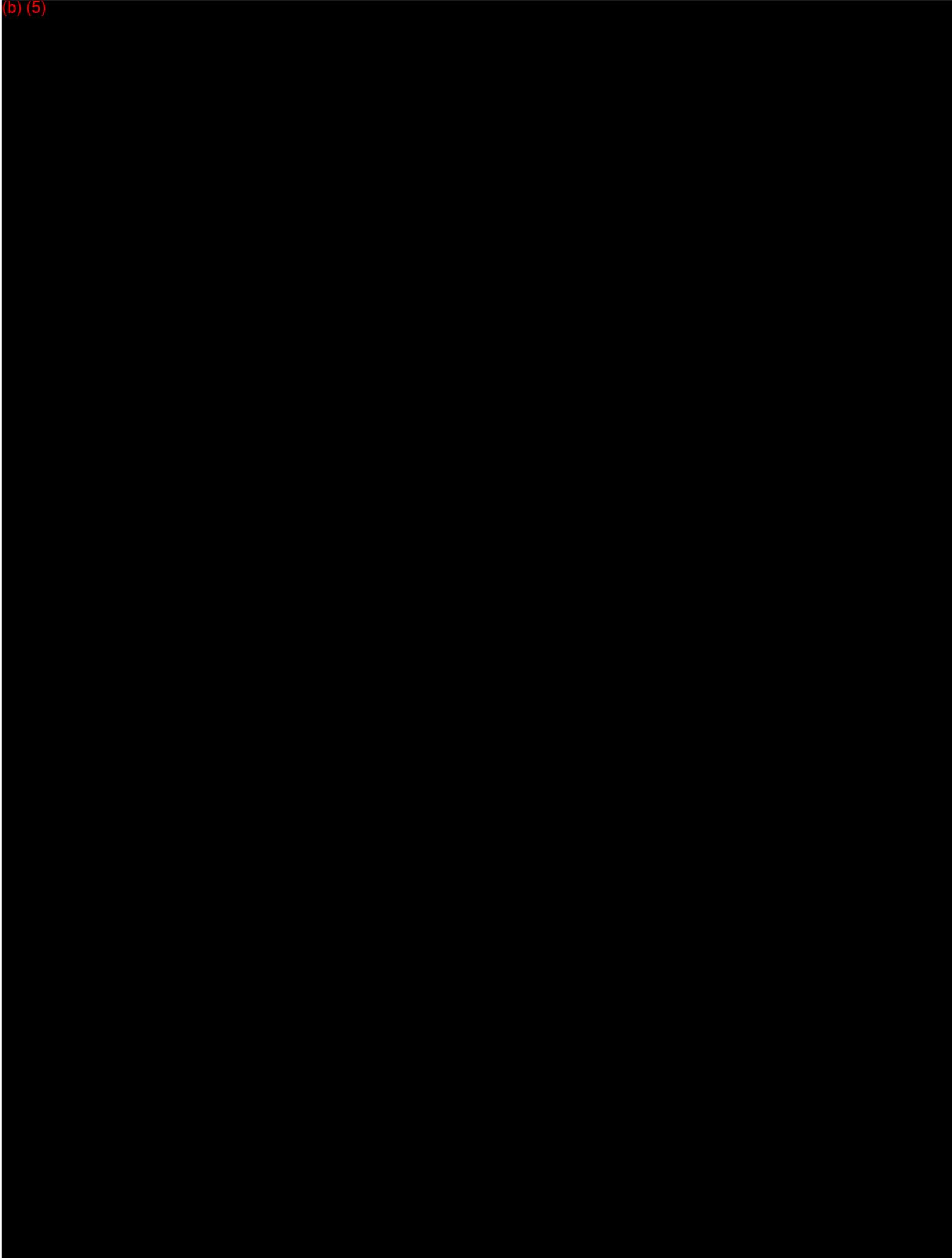


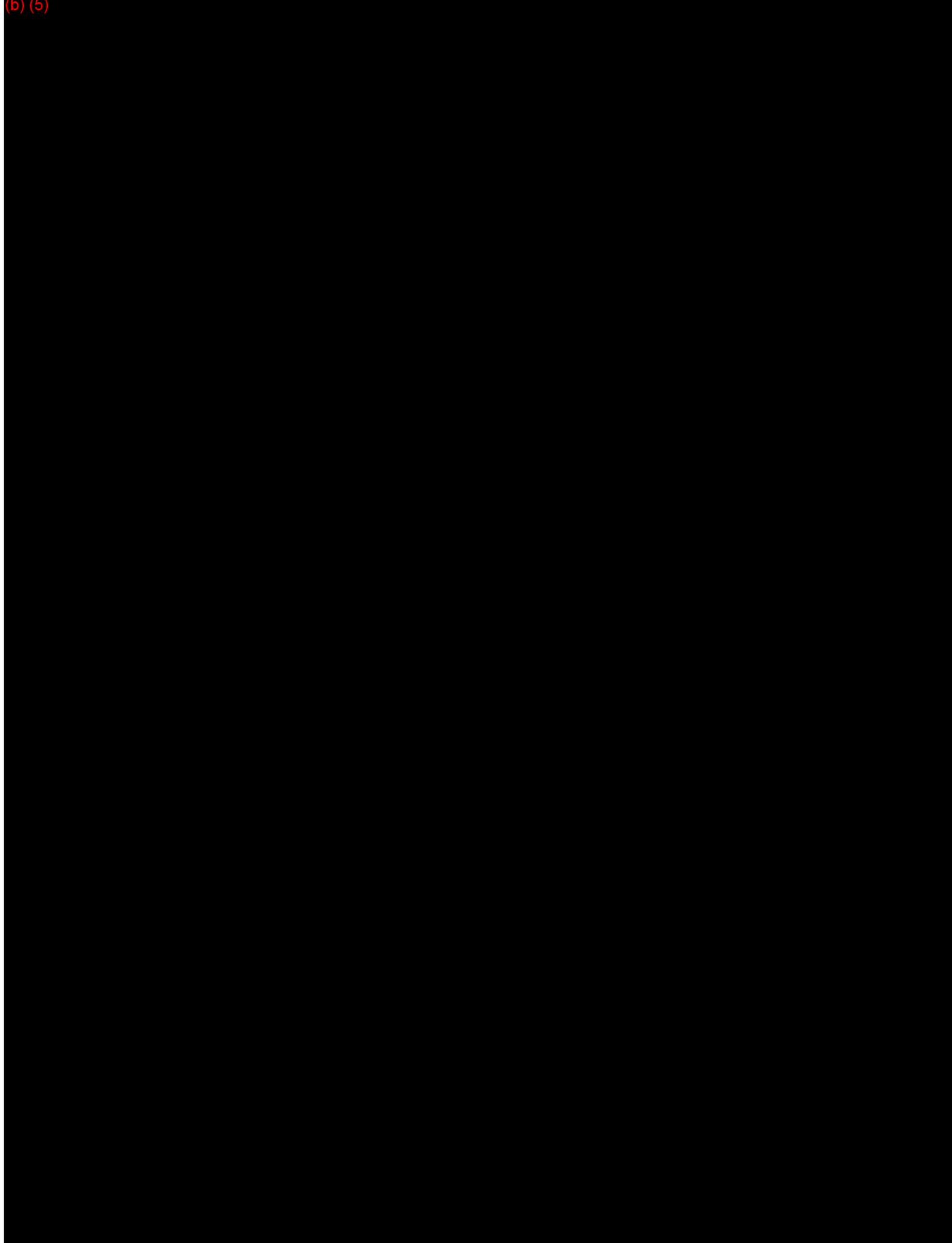


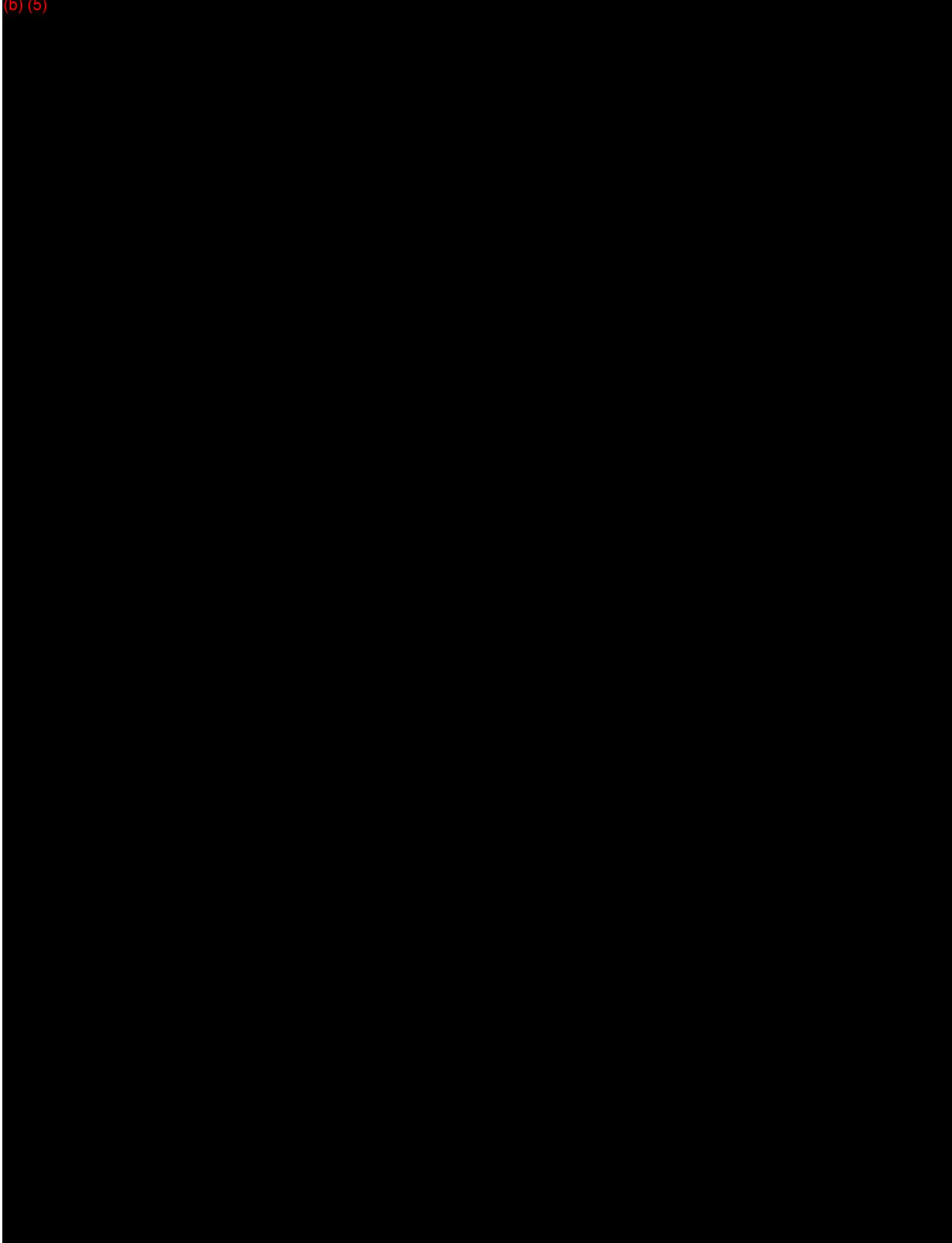


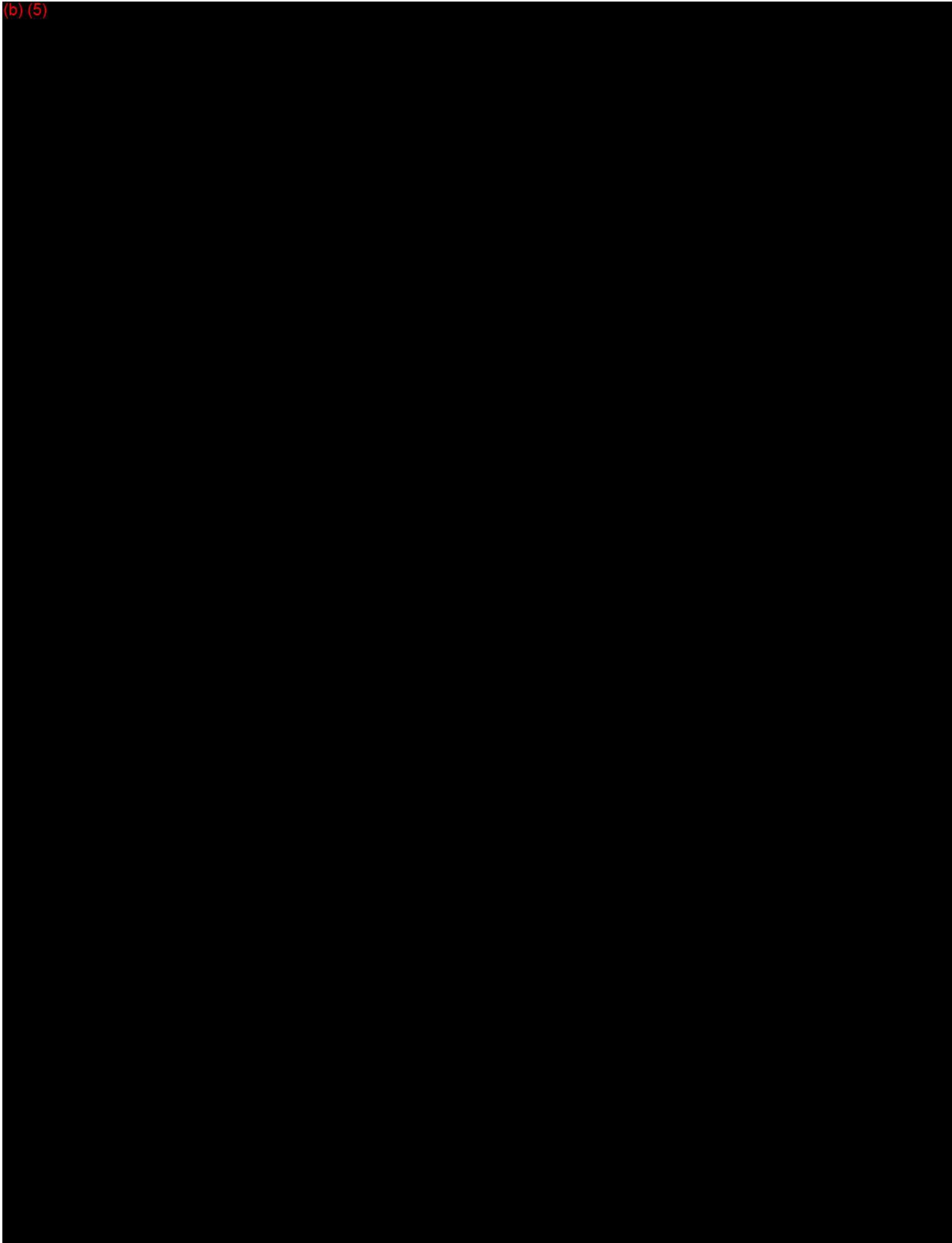


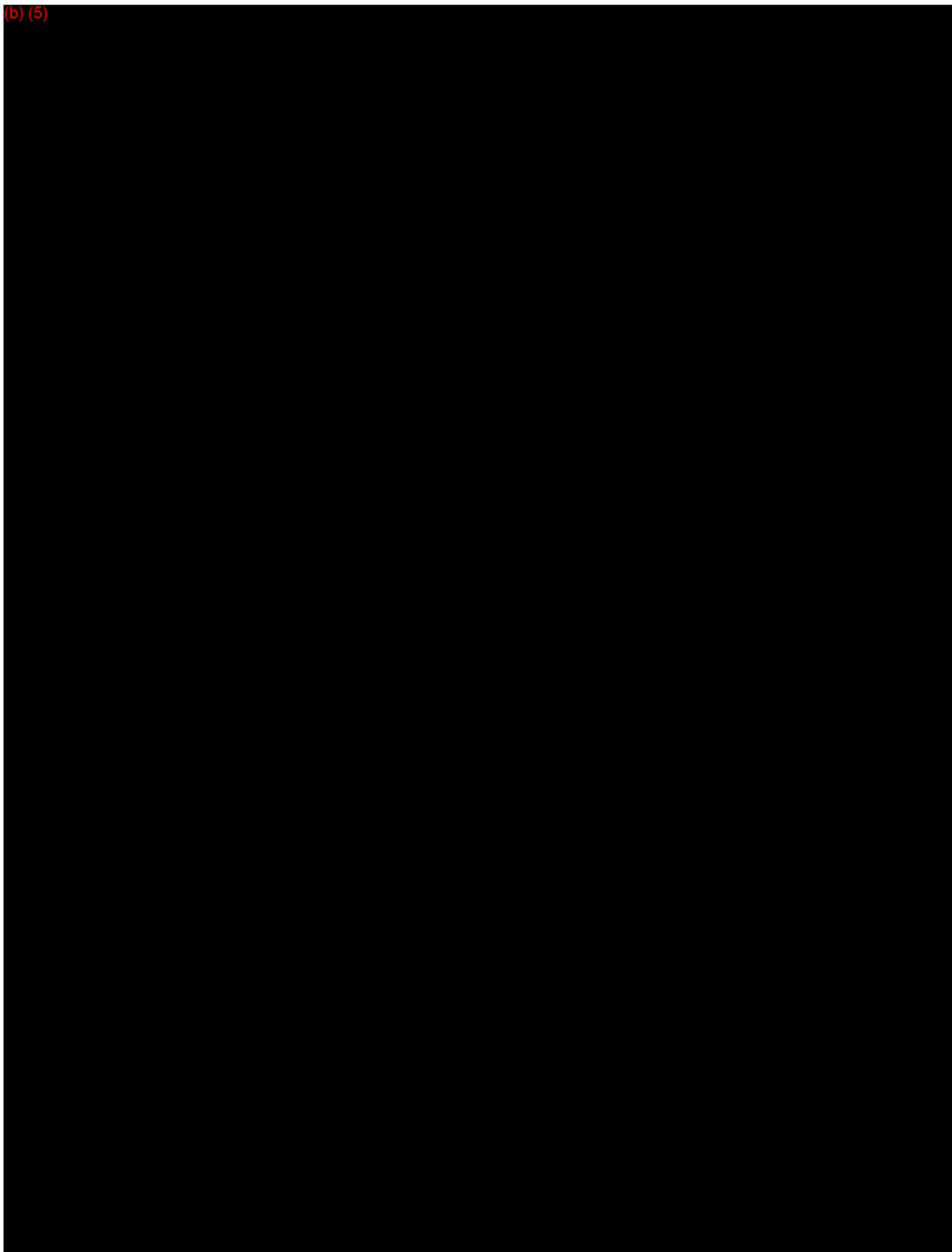


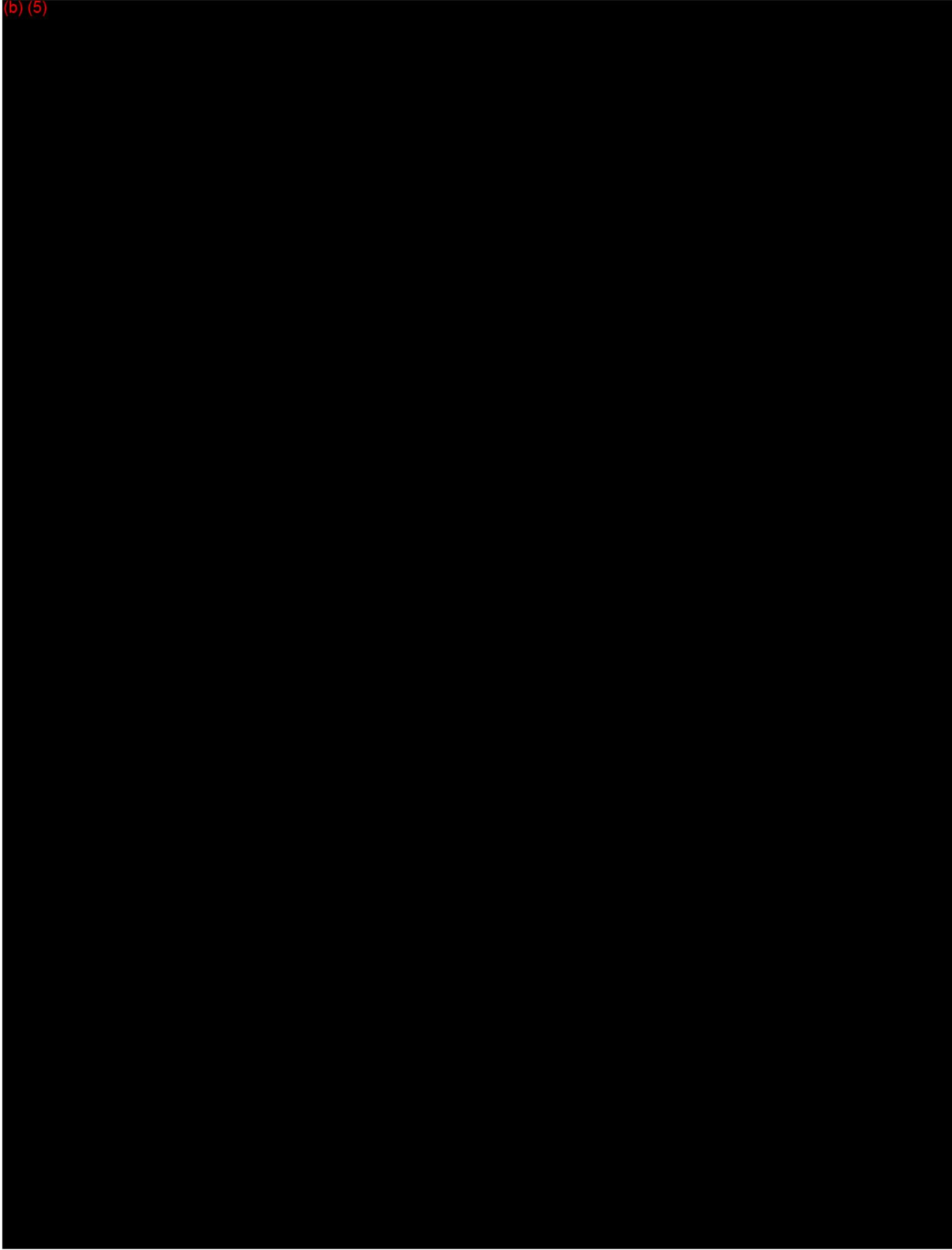


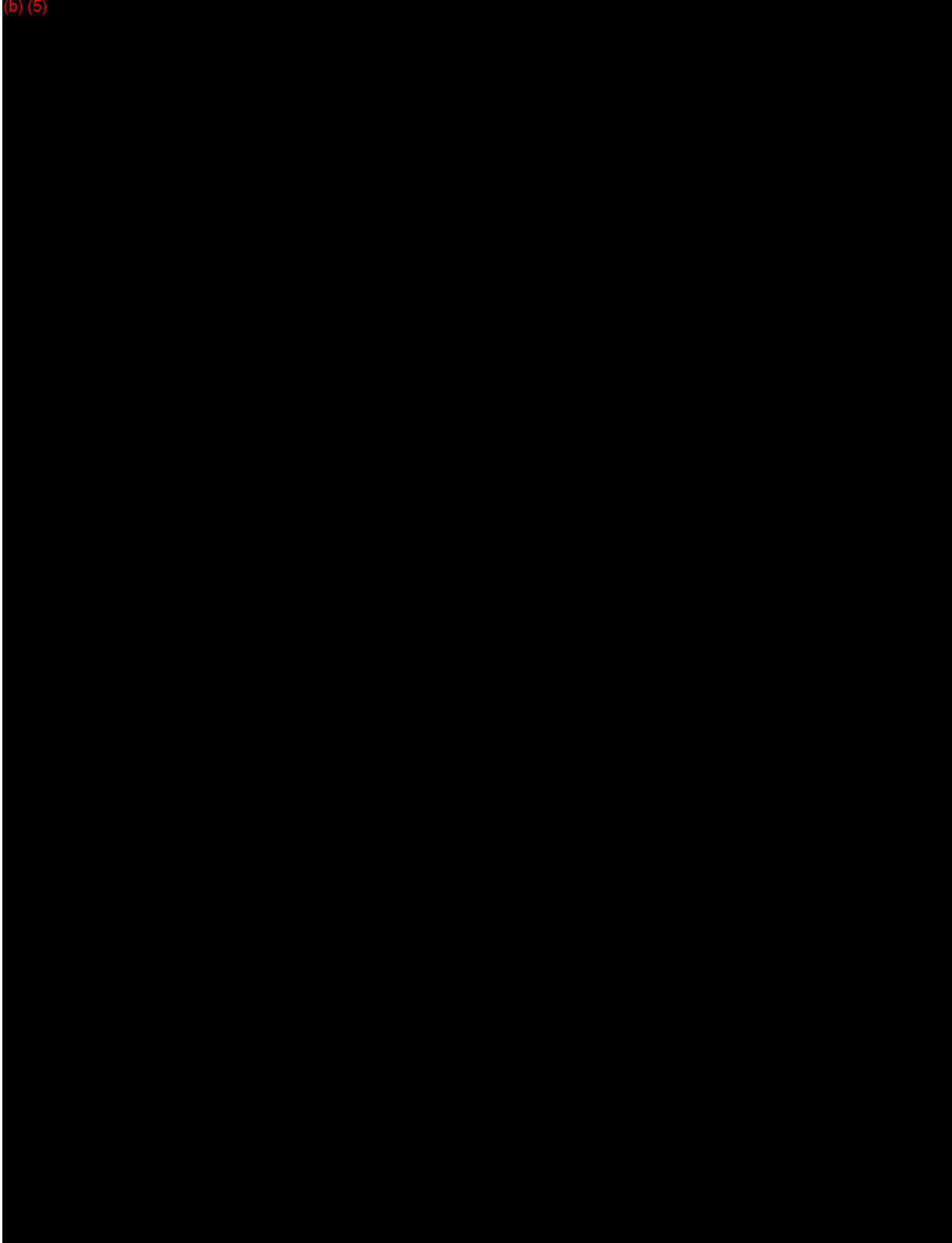














Council on Environmental Quality Requests Public Comment on Potential Revisions to Update National Environment Policy Act Regulations

On June 15, 2018, the Council on Environmental Quality (CEQ) 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.

Background:

- On August 15, 2017, President Trump issued [Executive Order 13807](#) which directed CEQ to develop an initial list of actions it would take to enhance and modernize the Federal environmental review and authorization process.
- In its [initial list of actions](#) published in the *Federal Register* on September 14, 2017, CEQ stated that it intended to review its 1978 regulations implementing the procedural requirements of the National Environmental Policy Act (NEPA) in order to identify potential updates and clarifications to those regulations.
- Over the past four decades, CEQ has issued numerous guidance documents but has amended its NEPA regulations substantively only once in 1986. Given the length of time since those regulations were issued, CEQ has determined it appropriate to solicit public comment on potential revisions to update the regulations.

Request for Public Comment:

- CEQ requests comment on potential revisions to update and clarify CEQ’s NEPA regulations. Comments should be submitted on or before July 20, 2018. To comment, go to <https://www.regulations.gov> and follow the online instructions for submitting comments to Docket ID No. CEQ-2018-0001.
- Through a series of 20 questions, CEQ is requesting comments on provisions of the regulations related to the NEPA process and the scope of NEPA review.

Next Steps:

- Following the conclusion of the public comment period, CEQ will review the comments before taking any potential further action.

CEQ NEPA ANOPR

From "Schneider, Daniel J. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdl)/cn=recipients/cn=70576341fcb44ab780c5f4d1ca218647-sc">

To: "Love, Kelly A. EOP/WHO" <(b) (6)>

Date: Wed, 02 May 2018 12:29:45 -0400

Hey Kelly,

We're sending over an Advance Notice of Proposed Rulemaking for NEPA regulations to OIRA today that will post on RegInfo.gov tomorrow. Just wanted to give you a heads up. In the event you get any inquiries, please feel free to direct them to me.

The ANOPR essentially requests comments on potential revisions to update and clarify CEQ NEPA regulations. While CEQ has issued memoranda and guidance documents over the years, it has only amended its regulations once. CEQ believes it's time to solicit public comment and consider updating the implementation regulations. Additionally, the ANOPR is in response to POTUS' Executive Order 13807 which directed CEQ to develop an initial list of actions to modernize the federal environmental review and authorization process.

Let me know if you have any questions,

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

Re: [EXTERNAL] Comment from CEQ?

From: "Love, Kelly A. EOP/WHO" <(b) (6)>

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

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

Date: Mon, 07 May 2018 15:25:08 -0400

Thanks all! Dan, I just couldn't remember your last name and am out of the office today so it wasn't populating on my phone.

Sent from my iPhone

On May 7, 2018, at 3:23 PM, Neumayr, Mary B. EOP/CEQ <(b) (6)> wrote:

Nick: Yes, it is Dan and I understand you both have connected. Thanks, Mary

Mary B. Neumayr
Chief of Staff, Council on Environmental Quality
(b) (6) (office), (b) (6) (cell)
(b) (6)

From: Nick Sobczyk <nsobczyk@eenews.net>

Sent: Monday, May 7, 2018 3:13 PM

To: Love, Kelly A. EOP/WHO <(b) (6)> Neumayr, Mary B. EOP/CEQ <(b) (6)>

Subject: RE: [EXTERNAL] Comment from CEQ?

Hi Mary and Kelly,

It's Dan Schneider, correct? I pinged him about half an hour ago after getting his email from the public phone line but am still waiting to hear back. But I'd appreciate if you could pass along my email in case it got lost in his inbox or didn't go through.

Thanks!

Nick

From: Love, Kelly A. EOP/WHO [[\(mailto:\(b\) \(6\)\)](mailto:(b) (6))]

Sent: Monday, May 07, 2018 3:08 PM

To: Nick Sobczyk <nsobczyk@eenews.net>; Neumayr, Mary B. EOP/CEQ <(b) (6)>

Subject: Re: [EXTERNAL] Comment from CEQ?

Mary, could you connect Nick with the new press person? Thanks!

Sent from my iPhone

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Hope all is well. Do you handle press inquiries for CEQ? If not, can you direct me to the person who does?

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 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
Office: 202-446-0437
Cell: (b) (6)
[@nick_sobczyk](https://twitter.com/nick_sobczyk)

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

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To: "Love, Kelly A. EOP/WHO" (b) (6) "Neumayr, Mary B. EOP/CEQ" <(b) (6)>
Date: Mon, 07 May 2018 15:31:03 -0400

No problem! Happy to help.

From: Love, Kelly A. EOP/WHO
Sent: Monday, May 7, 2018 3:25 PM
To: Neumayr, Mary B. EOP/CEQ <(b) (6)>
Cc: Schneider, Daniel J. EOP/CEQ <(b) (6)>
Subject: Re: [EXTERNAL] Comment from CEQ?

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E&E News reporter
nsobczyk@eenews.net
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[@nick_sobczyk](https://twitter.com/nick_sobczyk)

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>>www.eenews.net<< | [@EENewsUpdates](https://twitter.com/EENewsUpdates)
Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM

RE: [EXTERNAL] Comment from CEQ?

From: "Neumayr, Mary B. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=4e618ec0a8d749c29c9f64889897f4bb-ne">

To: Nick Sobczyk <nsobczyk@eenews.net>, "Love, Kelly A. EOP/WHO" <(b) (6)>

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

Date: Mon, 07 May 2018 15:22:59 -0400

Nick: Yes, it is Dan and I understand you both have connected. Thanks, Mary

Mary B. Neumayr
Chief of Staff, Council on Environmental Quality
(b) (6) (office), (b) (6) (cell)
(b) (6)

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

RE: [EXTERNAL] Comment from CEQ?

From: Nick Sobczyk <nsobczyk@eenews.net>
To: "Love, Kelly A. EOP/WHO" (b) (6) "Neumayr, Mary B. EOP/CEQ"
<(b) (6)>
Date: Mon, 07 May 2018 15:12:55 -0400

Hi Mary and Kelly,

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

Agenda for Meeting

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

To: "Francis J. EOP/WHO Brooke (b) (6) [REDACTED]" <(b) (6) [REDACTED]>

Date: Tue, 12 Jun 2018 12:37:03 -0400

Attachments : Agenda.docx (12.8 kB); Agenda_DetailedVersion.docx (13.49 kB)

Francis,

(b) (5) [REDACTED]

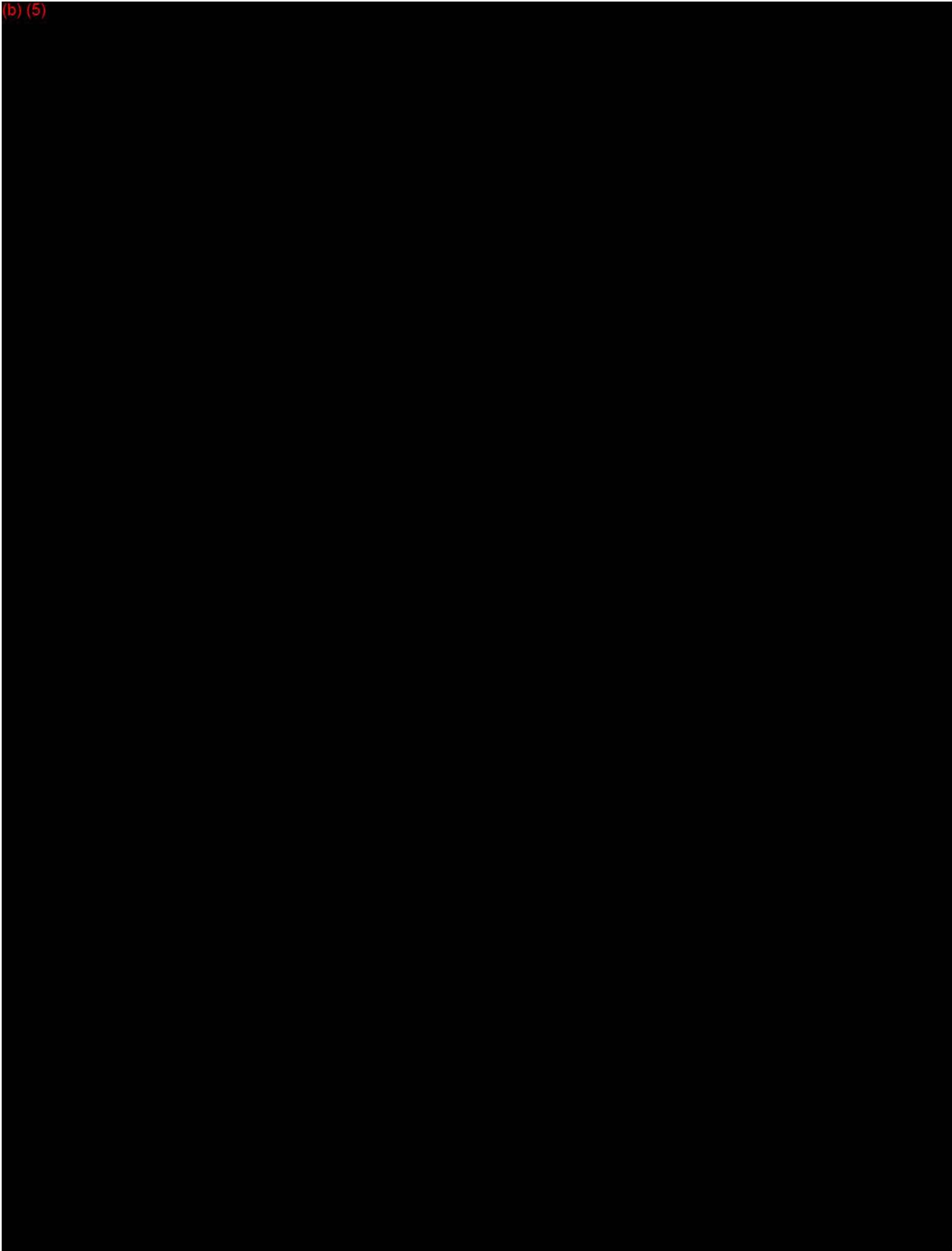
Let me know if you have any questions.

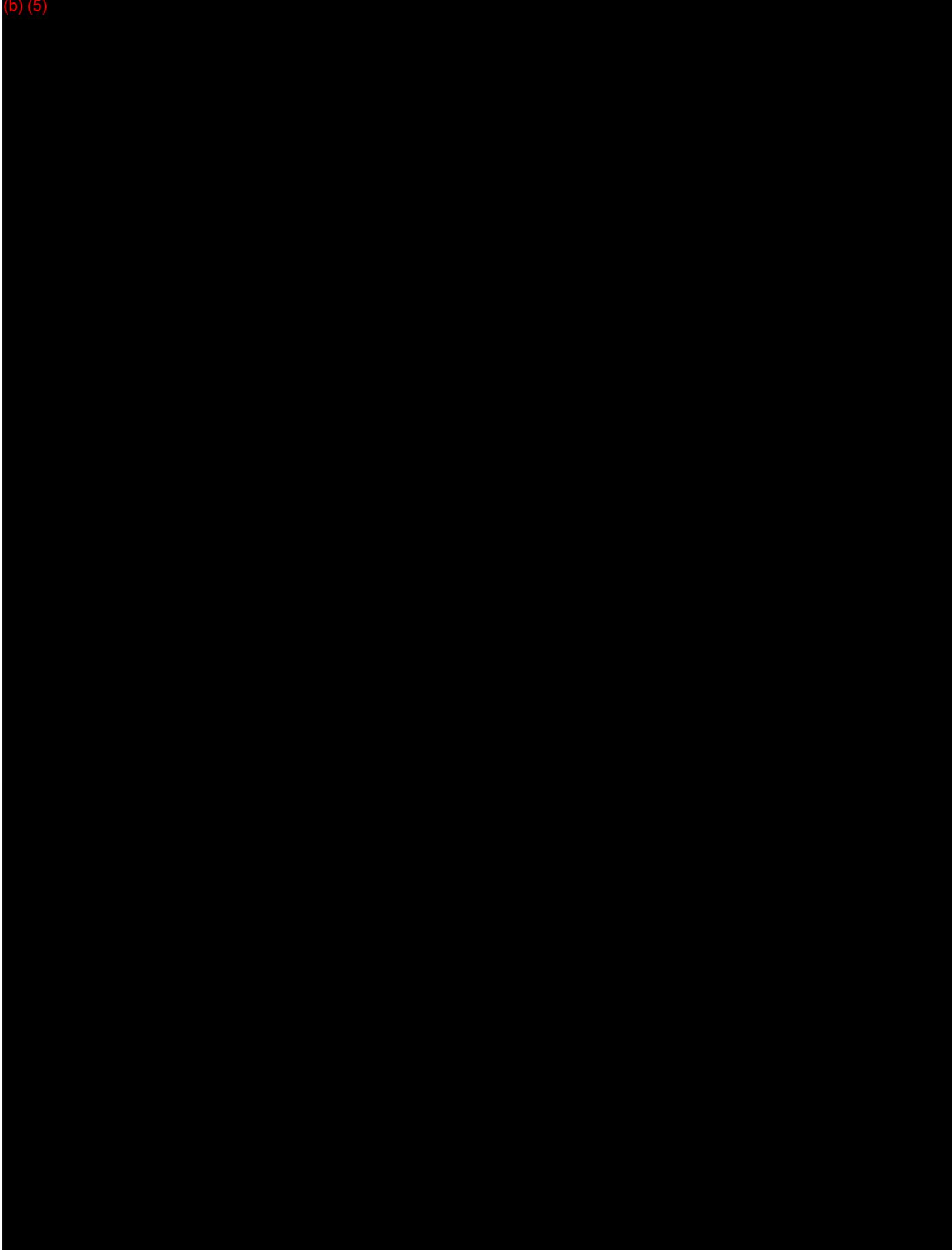
Aaron L. Szabo
Senior Counsel
Council on Environmental Quality

(b) (6) [REDACTED] (Desk)

(b) (6) [REDACTED] (Cell)

(b) (6) [REDACTED]





Draft ANPRM

From: "Boling, Ted A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=eae5b047f871428b9b46baf8afd1176a-bo">

"Neumayr, Mary B. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=4e618ec0a8d749c29c9f64889897f4bb-ne">, **To:** "Seale, Viktoria Z. EOP/CEQ" <(b) (6)> "Szabo, Aaron L. EOP/CEQ" <(b) (6)> "Loyola, Mario A. EOP/CEQ" <(b) (6)> "Drummond, Michael R. EOP/CEQ" <(b) (6)>

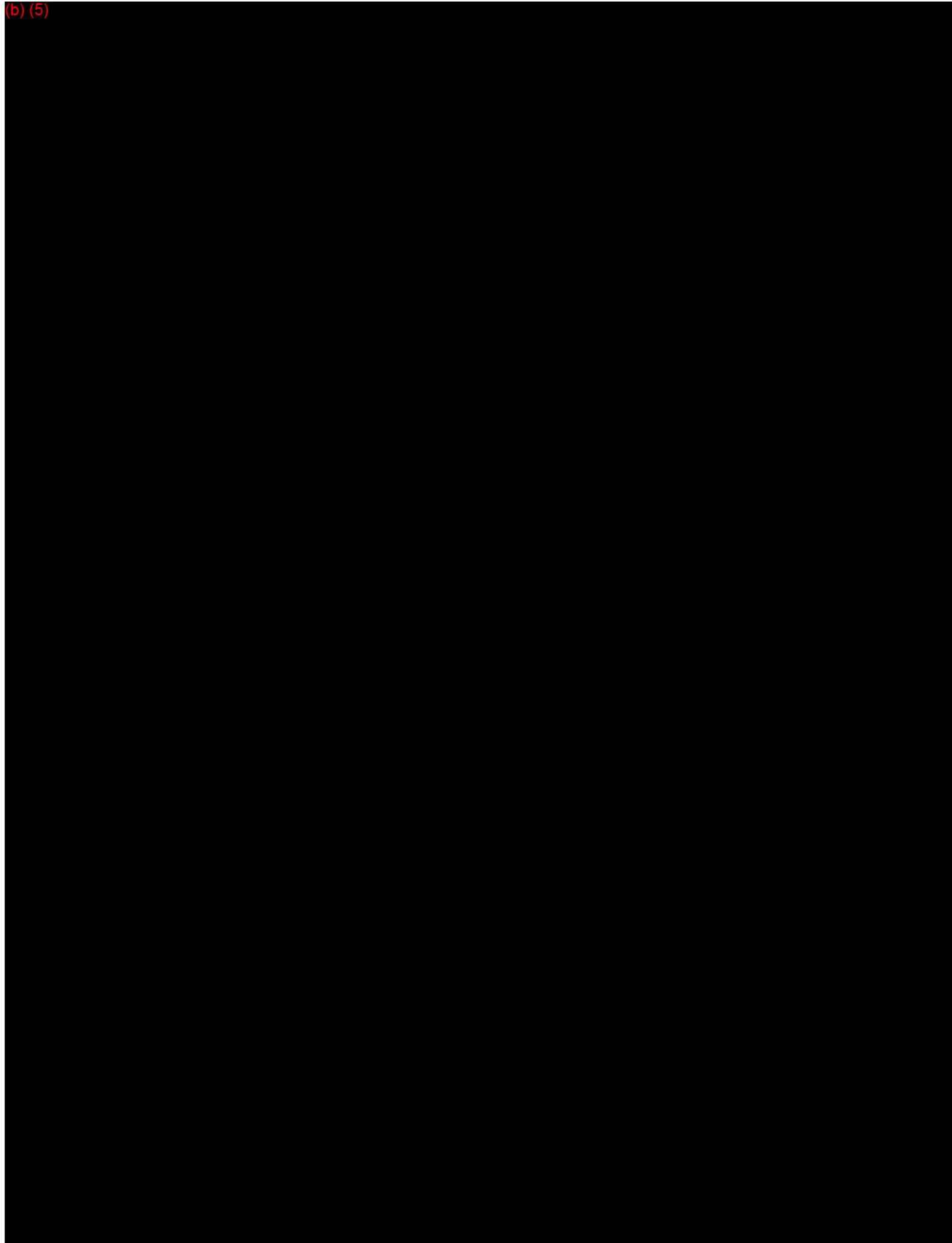
Date: Wed, 07 Mar 2018 06:51:41 -0500

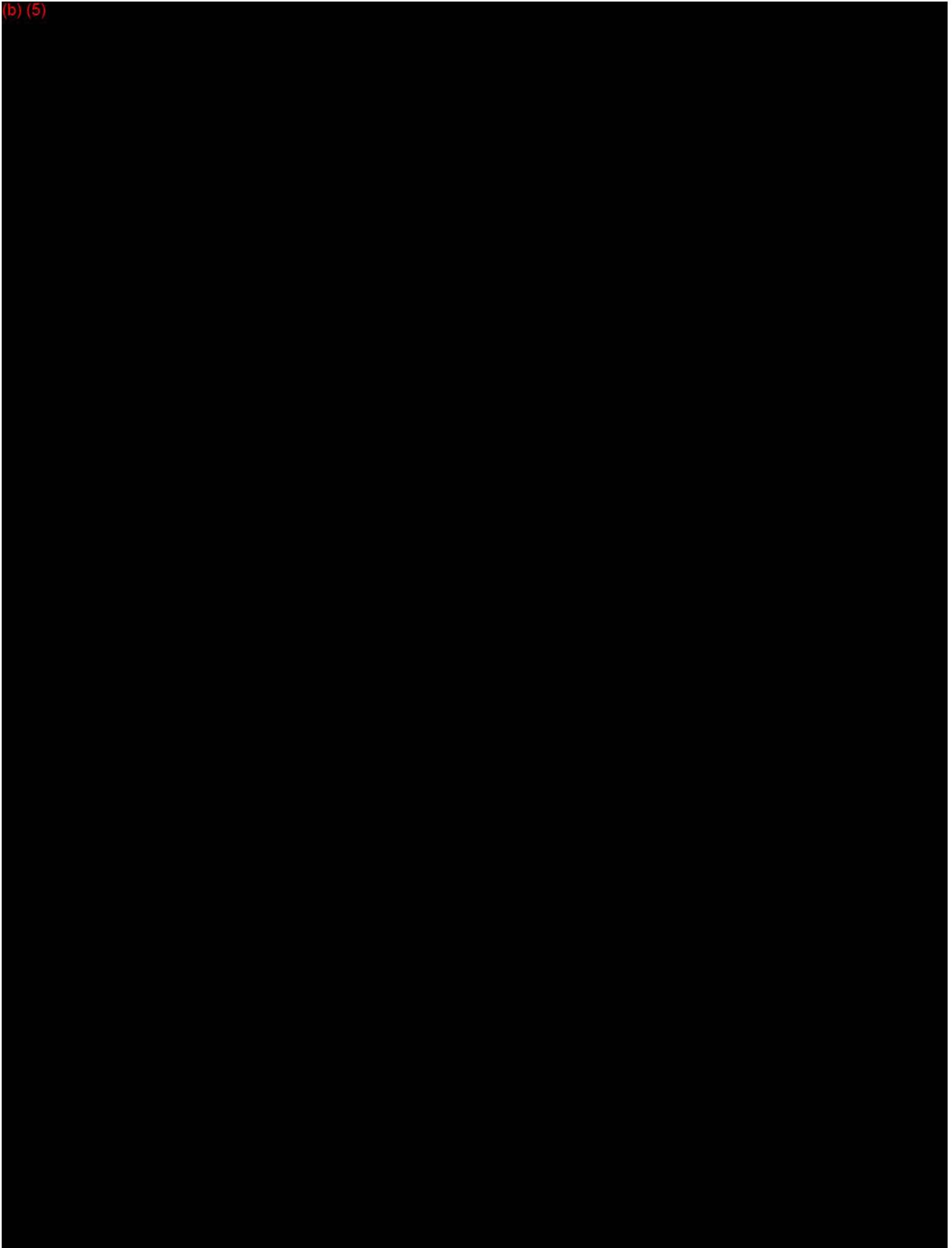
Attachments
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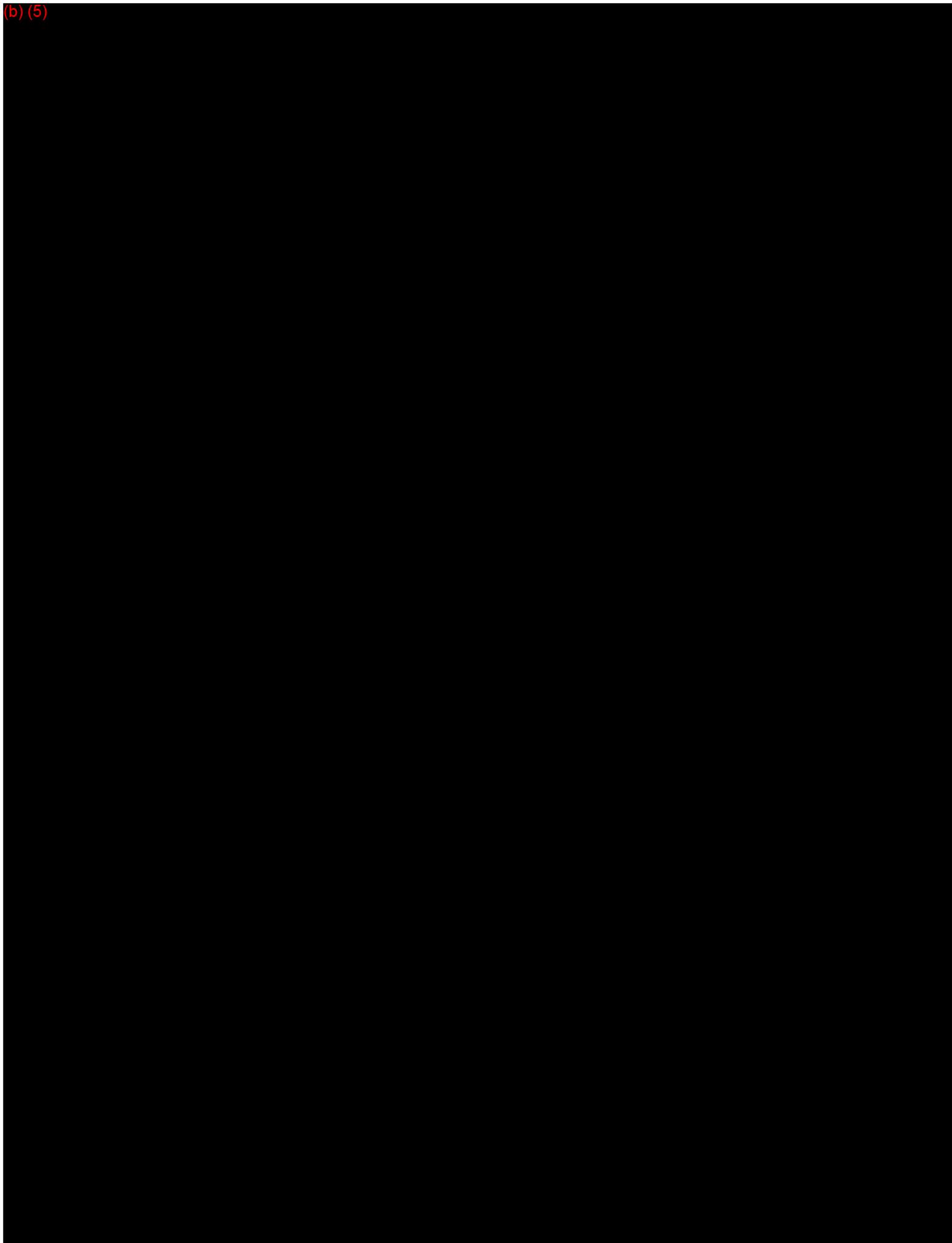
Attached is my current draft. (b) (5)
[Redacted]
[Redacted]
[Redacted]

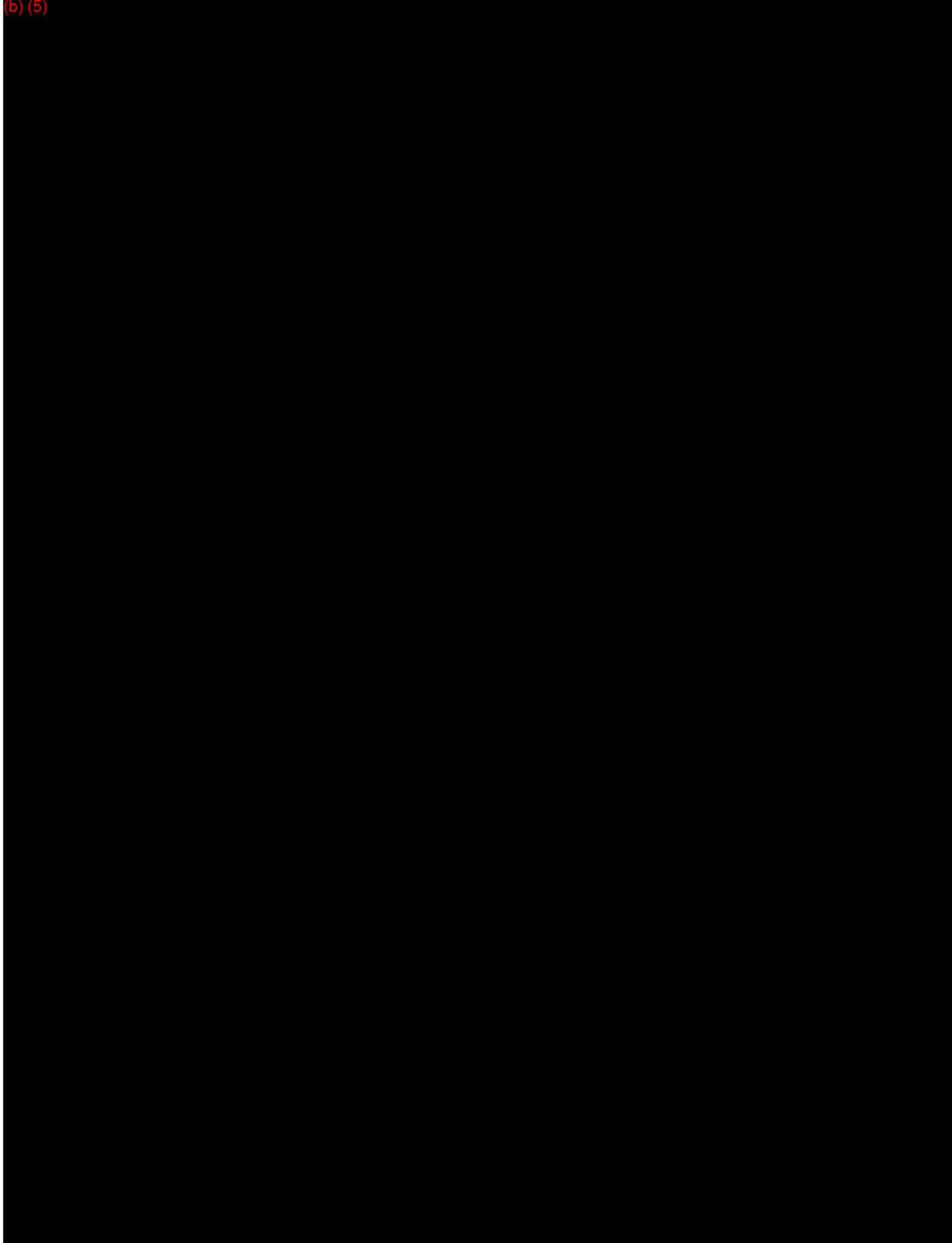
Comments?

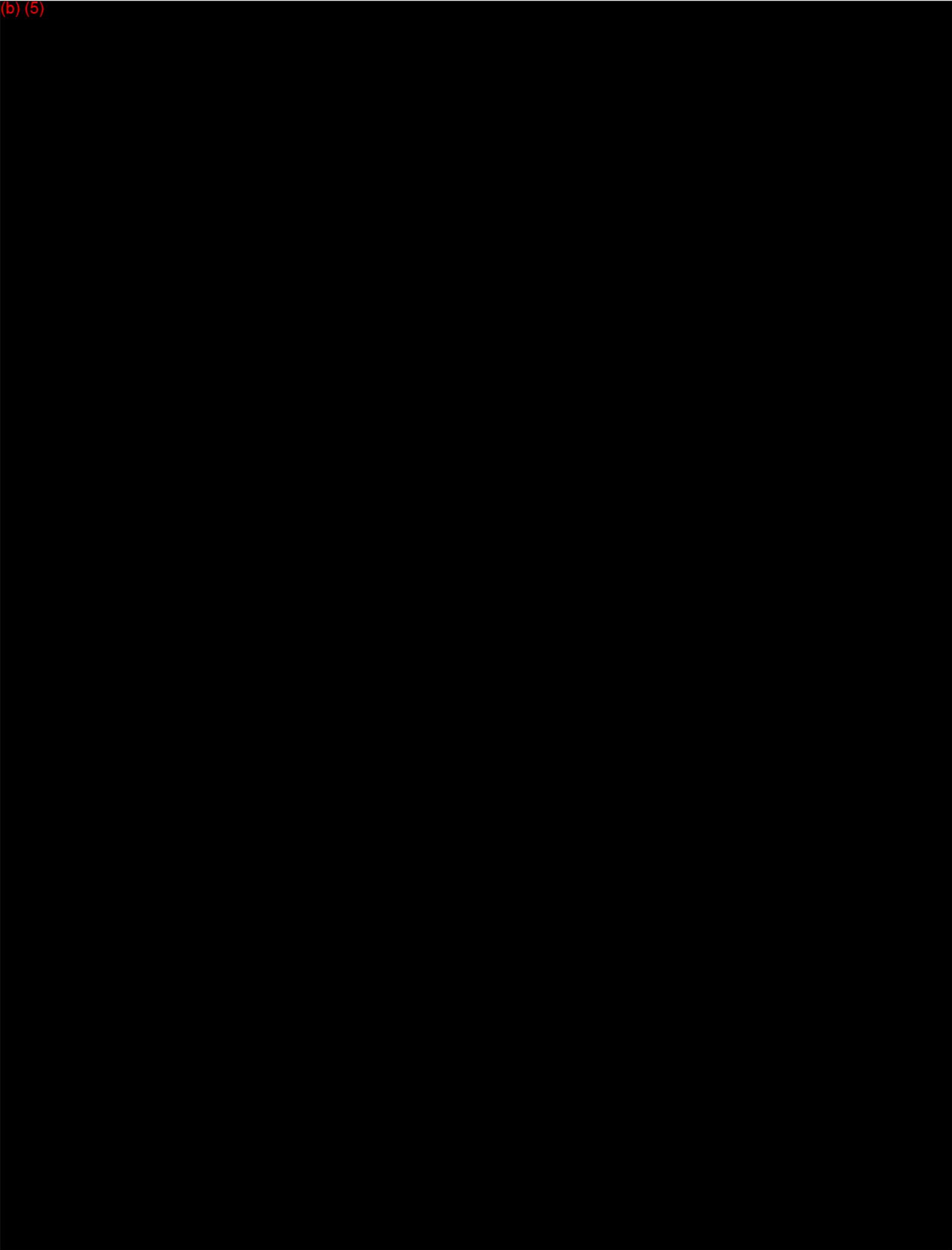
Edward A. Boling
Associate Director for the
National Environmental Policy Act
Council on Environmental Quality
730 Jackson Place
Washington, DC 20503

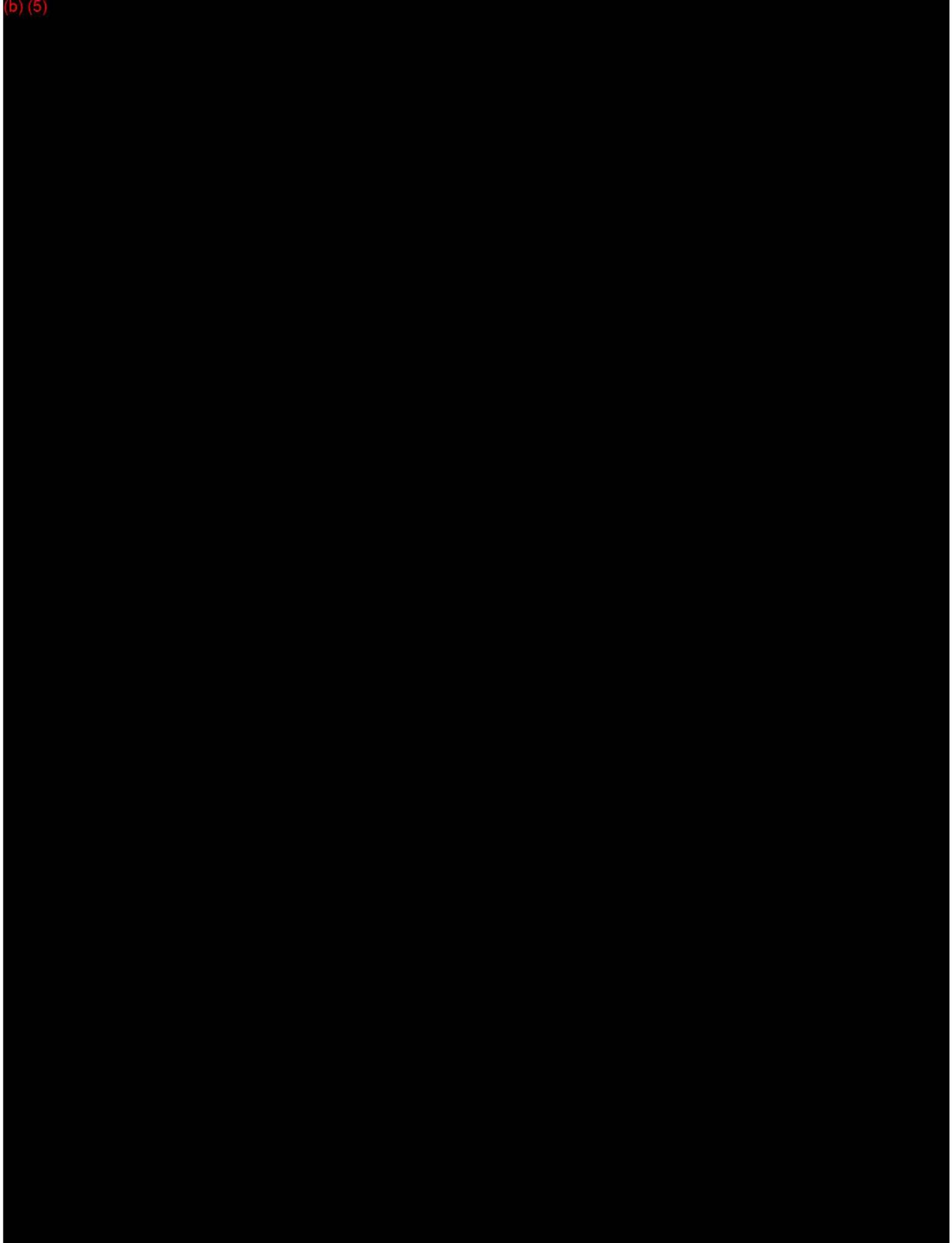






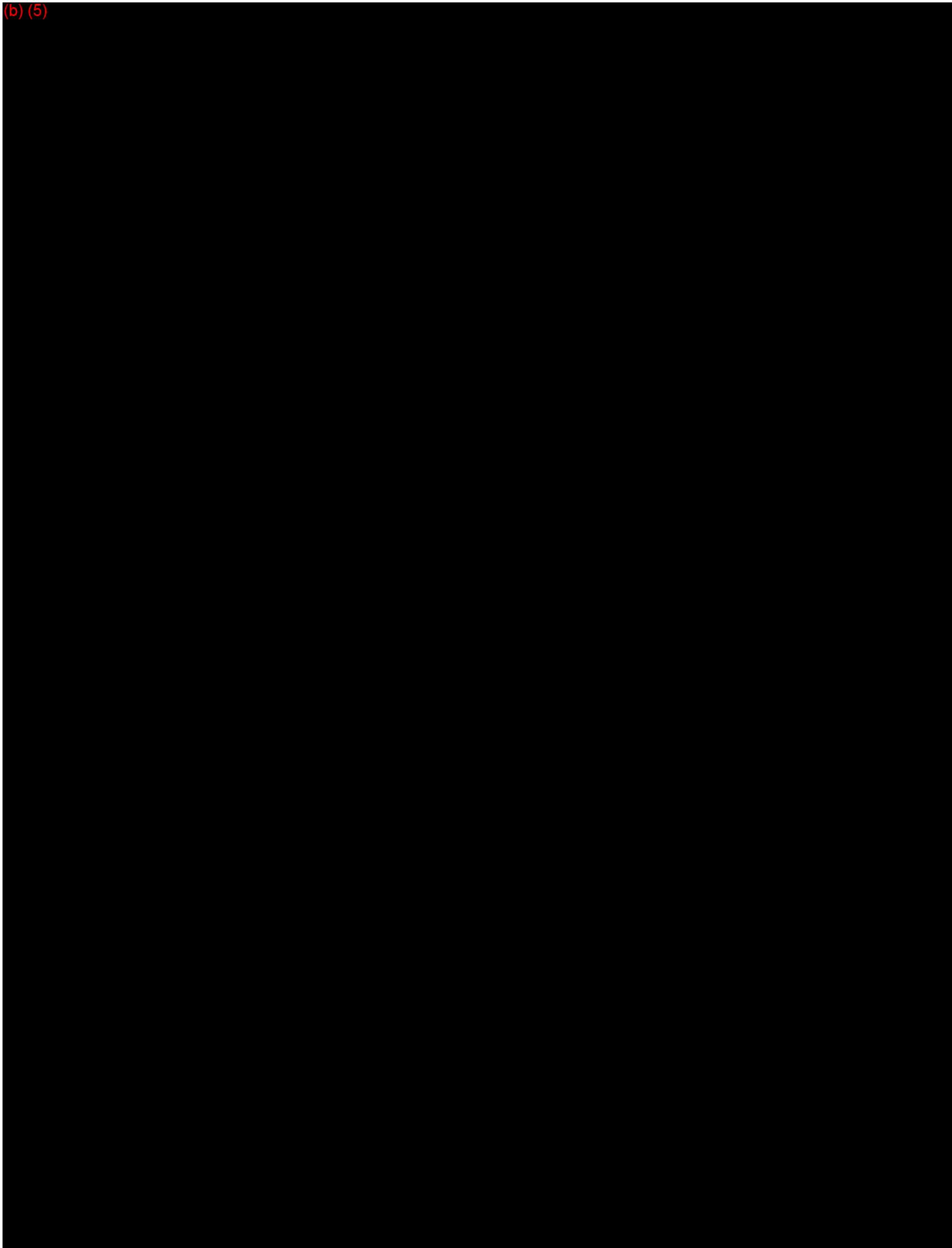


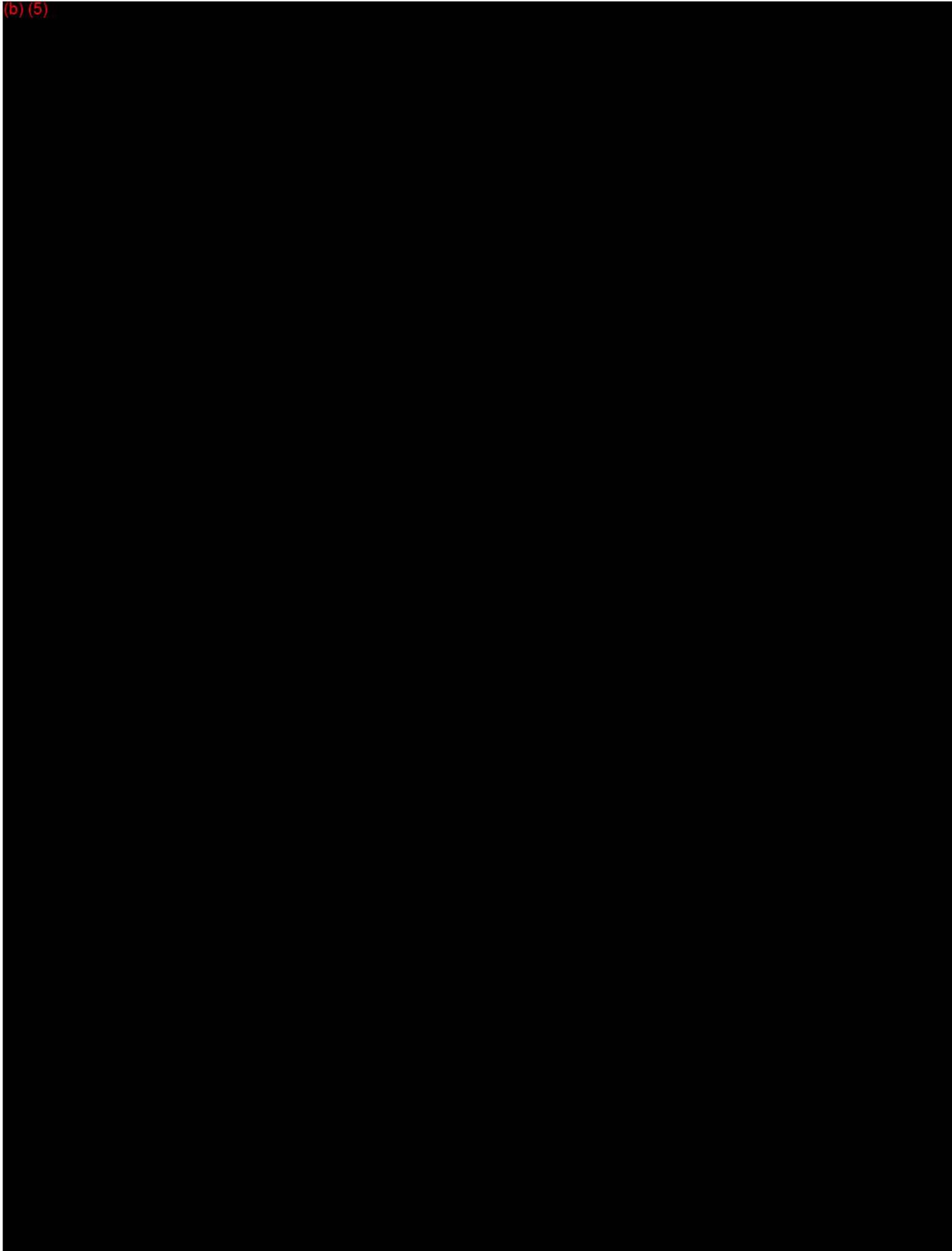


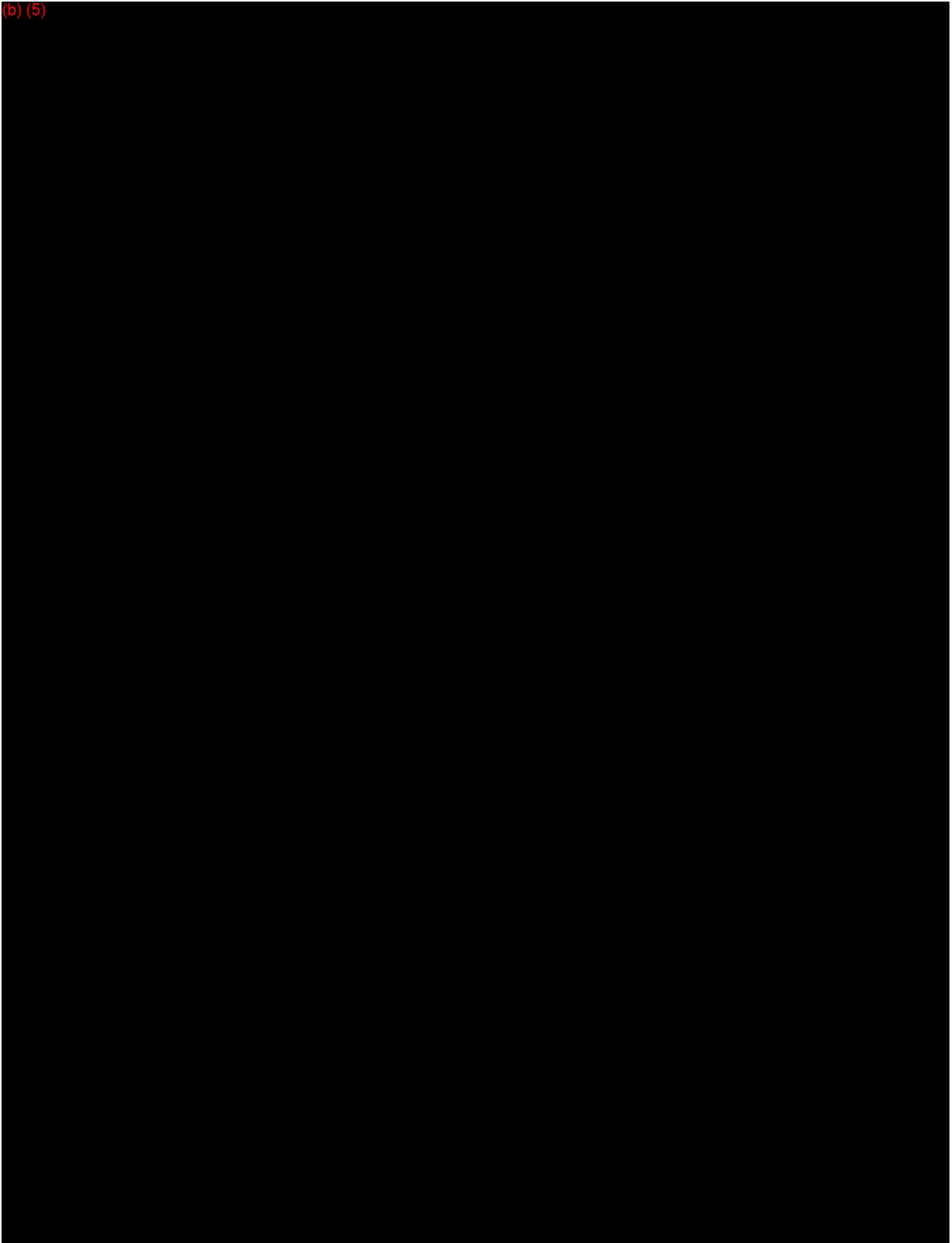












Fwd: EO 12866 Call on CEQ NEPA Procedural Provisions

Prerule

Where: Dial-In: (b) (6) Code: (b) (6)

When: Fri Jun 08 09:00:00 2018 (America/New_York)

Until: Fri Jun 08 10:00:00 2018 (America/New_York)

Organiser: "Whiteman, Chad S. EOP/OMB" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=1eab5b65831b4f7fb65d73703504e13e-wh">

Required Attendee: sfgaugush@fs.fed.us

Sent from my iPhone

Begin forwarded message:

From: "Whiteman, Chad S. EOP/OMB" (b) (6)

Date: June 7, 2018 at 6:10:41 PM EDT

To: "Szabo, Aaron L. EOP/CEQ" <(b) (6)> "Boling, Ted A. EOP/CEQ" <(b) (6)>, "Drummond, Michael R. EOP/CEQ" <(b) (6)>, "Barnett, Steven W. EOP/CEQ" <(b) (6)>, "Sharp, Thomas L. EOP/CEQ" <(b) (6)> "Gignoux, Caroline M. EOP/CEQ (Intern)" <(b) (6)> "Smith, Katherine R. EOP/CEQ" <(b) (6)>

Cc: "Bolen, Brittany" <bolen.brittany@epa.gov>, "Justin Schwab" <schwab.justin@epa.gov>

Subject: FW: EO 12866 Call on CEQ NEPA Procedural Provisions Prerule

All, In order to work through the comments in an expedited manner, (b) (5)

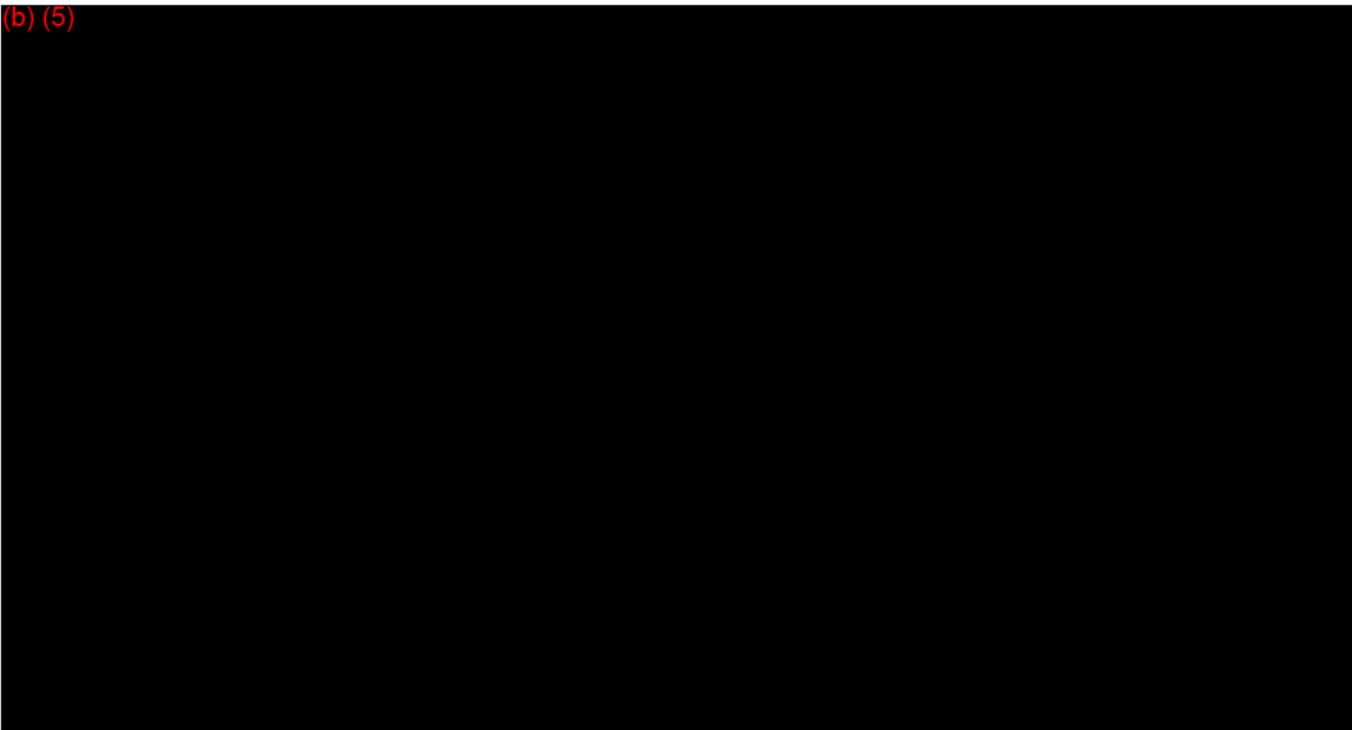
[Redacted]

Chad

(b) (5)

[Redacted]

(b) (5)



RE: Updates to NEPA.gov

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

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

"Alexander, Lillian" <lillian.alexander@hq.doe.gov>, "Boling, Ted A. EOP/CEQ"

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

<(b) (6)> "Adams, John (AU) (CONTR)"

<john.adams@hq.doe.gov>

Date: Mon, 18 Jun 2018 13:52:48 -0400

This information is not for public release before Wednesday, until after I confirm the highlighted dates and that the notice is accessible in regulations.gov. Thanks!

1. If the banner is to be an image, we need the image to enable us having time to manipulate it;

Not an image.

2. If the banner is to link to content, we need the content or URL identified;

See 4 below.

3. If the banner is not going to contain an image, it will be a simple blue background. Please confirm;

Blue would be fine.

4. The content or 2 sentences to be used in the banner.

CEQ is considering updating its NEPA implementing regulations and solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process. See the Advance Notice of Proposed Rulemaking and related materials [here](#). [Link to <https://ceq.doe.gov/laws-regulations/regulations.html>.]

5. For the Regulations web page, we need the Heading you want to use, the 3 sentences of text to be entered and the 2 hyperlinks referenced on the web page.

On the CEQ NEPA Implementing Procedures page: <https://ceq.doe.gov/laws-regulations/regulations.html>, after the **Current Regulations:** heading, create new heading "**Proposed Rulemaking:**" and insert:

Advance Notice of Proposed Rulemaking (20 June 2018). CEQ is considering updating its NEPA implementing regulations and solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process. Submit comments, identified by docket ID number CEQ-2018-0001, through the Federal

eRulemaking portal, <https://www.regulations.gov>. Comments should be submitted on or before **July 20, 2018**.

From: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>
Sent: Monday, June 18, 2018 1:23 PM
To: Mansoor, Yardena M. EOP/CEQ <(b) (6)>
Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ <(b) (6)> Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Subject: RE: Updates to NEPA.gov

Good Afternoon, Yardena:

I checked with John, and if you provide us with the following by COB today, Tuesday, June 18th, he anticipates that he can have these changes completed by tomorrow, COB, Tuesday, June 19, 2018:

1. If the banner is to be an image, we need the image to enable us having time to manipulate it;
2. If the banner is to link to content, we need the content or URL identified;
3. If the banner is not going to contain an image, it will be a simple blue background. Please confirm;
4. The content or 2 sentences to be used in the banner.
5. For the Regulations web page, we need the Heading you want to use, the 3 sentences of text to be entered and the 2 hyperlinks referenced on the web page.

*Thank you,
Marian*

*Marian A. Carter
AU Web Support Team Manager
Highland Technology Services, Inc., Contractor
Office of Environment, Health, Safety and Security
(301) 903-3494 - Office
marian.carter@hq.doe.gov*

The business of life is the acquisition of memories...

From: Mansoor, Yardena M. EOP/CEQ [mailto:(b) (6)]
Sent: Monday, June 18, 2018 12:31 PM
To: Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Cc: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>; Alexander, Lillian

<Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ <(b) (6)>

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

Subject: Updates to NEPA.gov

Later this week: The time-sensitive updates I mentioned last week will be requested early Wednesday morning, when a CEQ Federal Register notice is expected to be published. The Wednesday changes will include:

- Adding a banner (two sentences) on the nepa.gov home page.
- Adding a heading, three sentences of text, and two links on the **CEQ NEPA Implementing Procedures** page: ><https://ceq.doe.gov/laws-regulations/regulations.html><.

Follow-up: Please let me know if you have any questions on the request I sent Friday at 1:37, on the NEPA Practice page (revising and alphabetizing the tab entries, new land page and file for "Agency Jurisdiction and Expertise.")

New requests:

At >https://ceq.doe.gov/laws-regulations/nepa_legislative_history.html<, please replace the following links with the corresponding attachments (filenames in parenthesis):

[Congressional White Paper on a National Policy for the Environment](#) (CongressWhitePaper.pdf)

[House of Representatives Report on NEPA](#) (House of Representatives Report on NEPA.pdf)

[Senate Report on NEPA](#) (Senate Report on NEPA.pdf)

[Conference Report](#) (Conference Report on NEPA.pdf)

At >https://ceq.doe.gov/laws-regulations/agency_implementing_procedures.html<, please replace the linked file the corrected file attached.

Thanks, in advance, for your help.

Yardena Mansoor
Deputy Associate Director for NEPA
Council on Environmental Quality

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

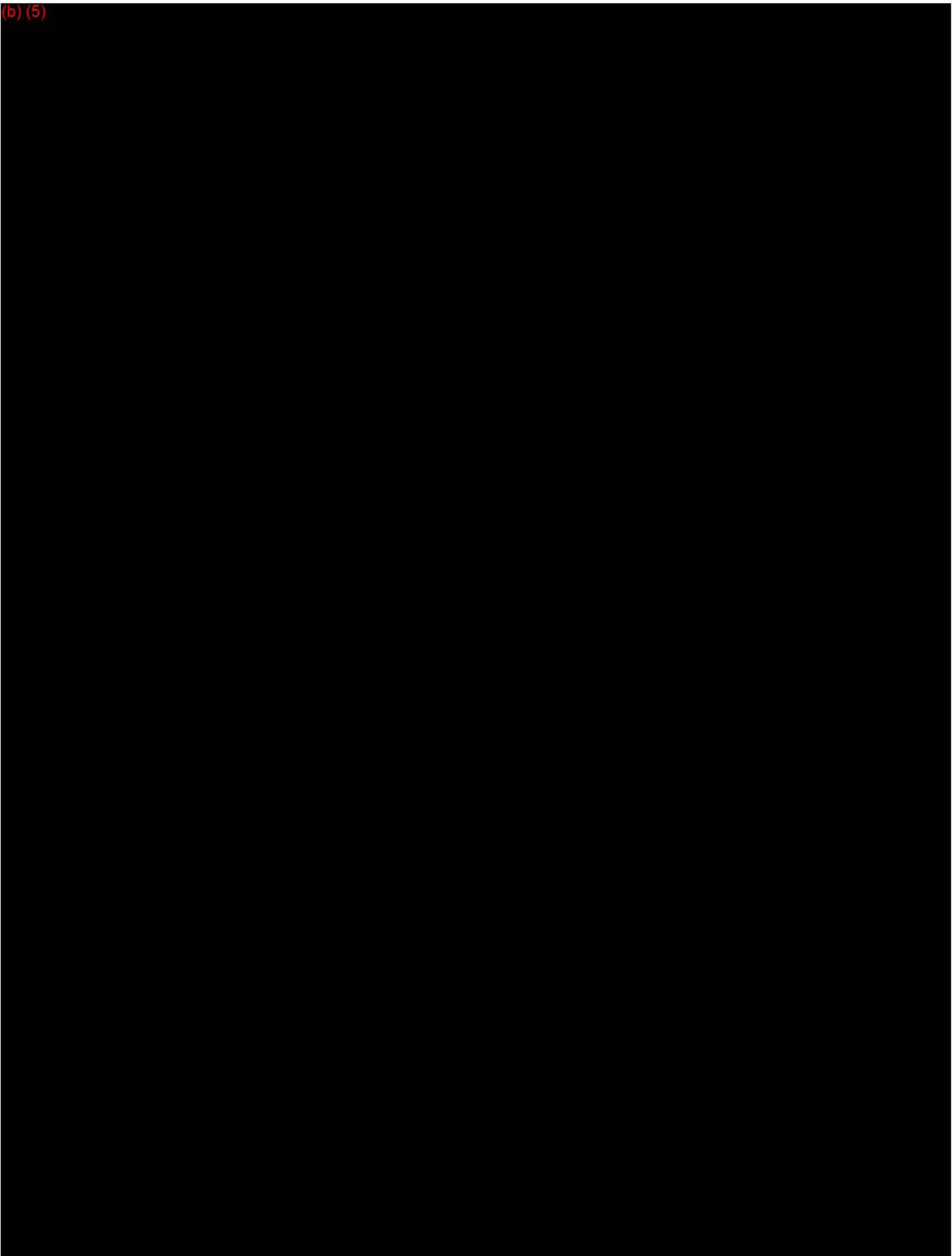
Draft Herrgott Testimony

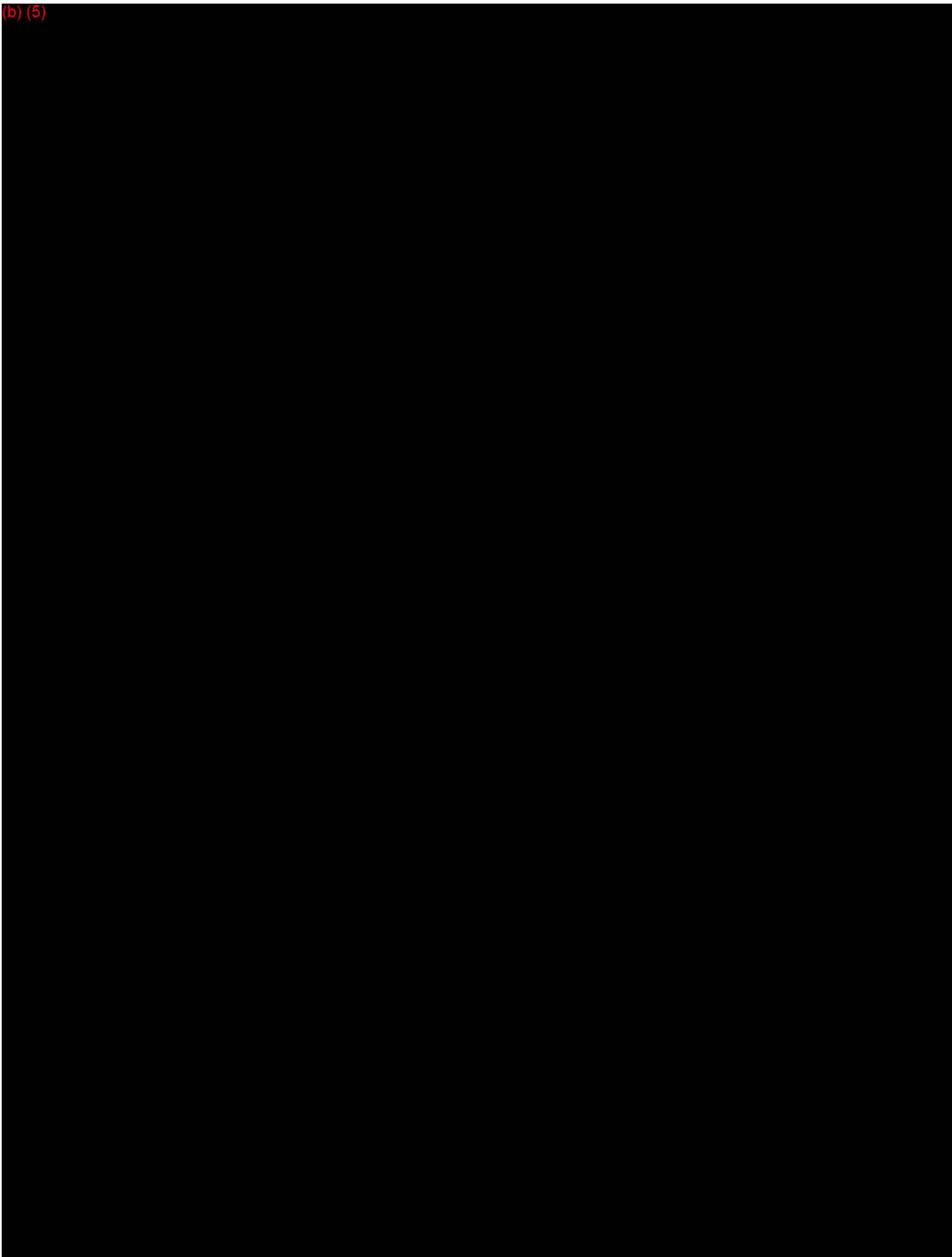
From: "Barnett, Steven W. EOP/CEQ" <(b) (6)>
To: "Herrgott, Alex H. EOP/CEQ" <(b) (6)>
"Drummond, Michael R. EOP/CEQ" (b) (6)
Cc: "Vandegrift, Scott F. EOP/CEQ" <(b) (6)> "Osterhues,
Marlys A. EOP/CEQ" <(b) (6)>
Date: Mon, 18 Jun 2018 17:44:49 -0400
Attachments Herrgott Testimony.6.27 Roundtable Senate SWBDRAFT.6.18.18.docx (37.41 kB);
: Herrgott Testimony CLEAN COPY.6.18.18.docx (32.48 kB)

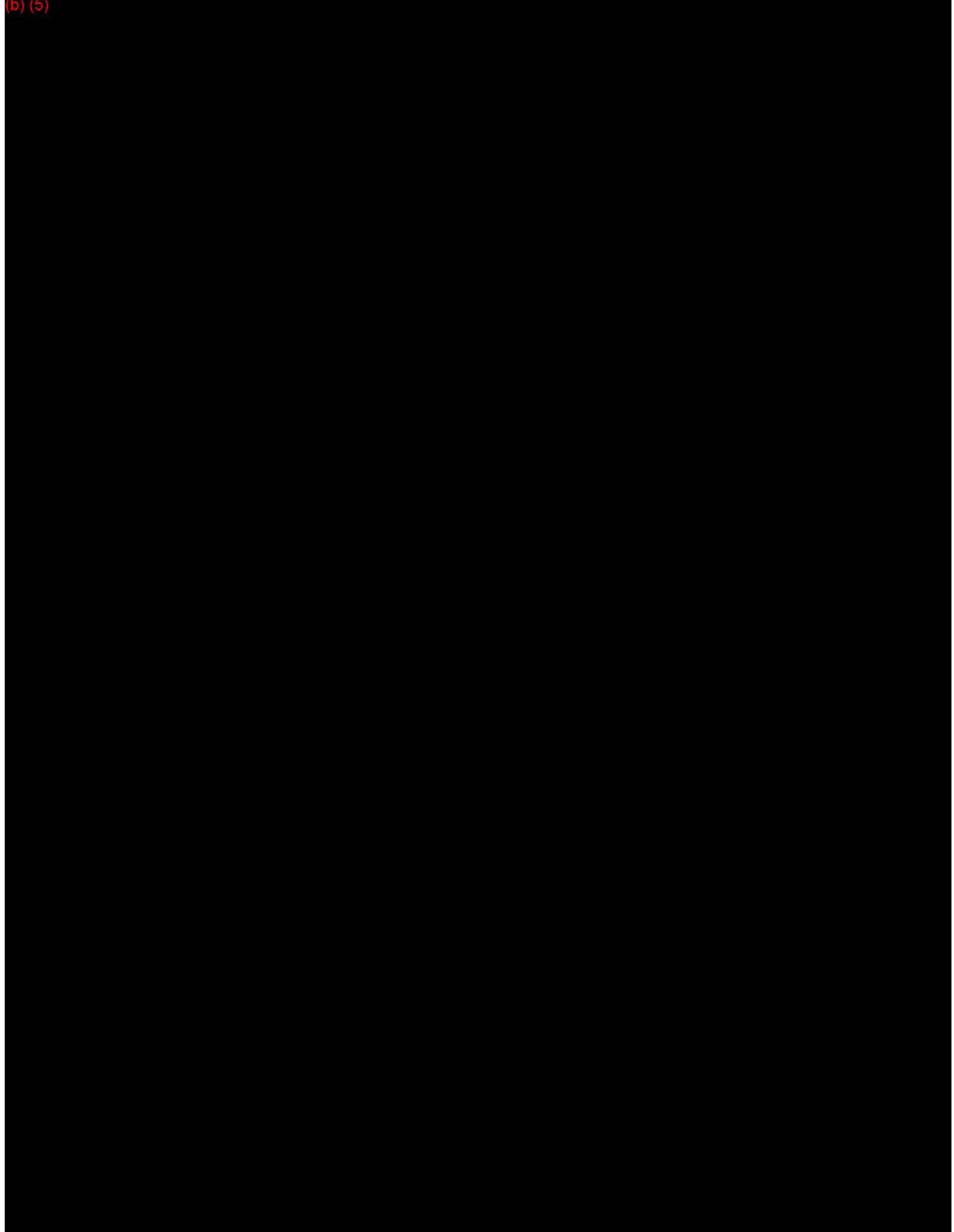
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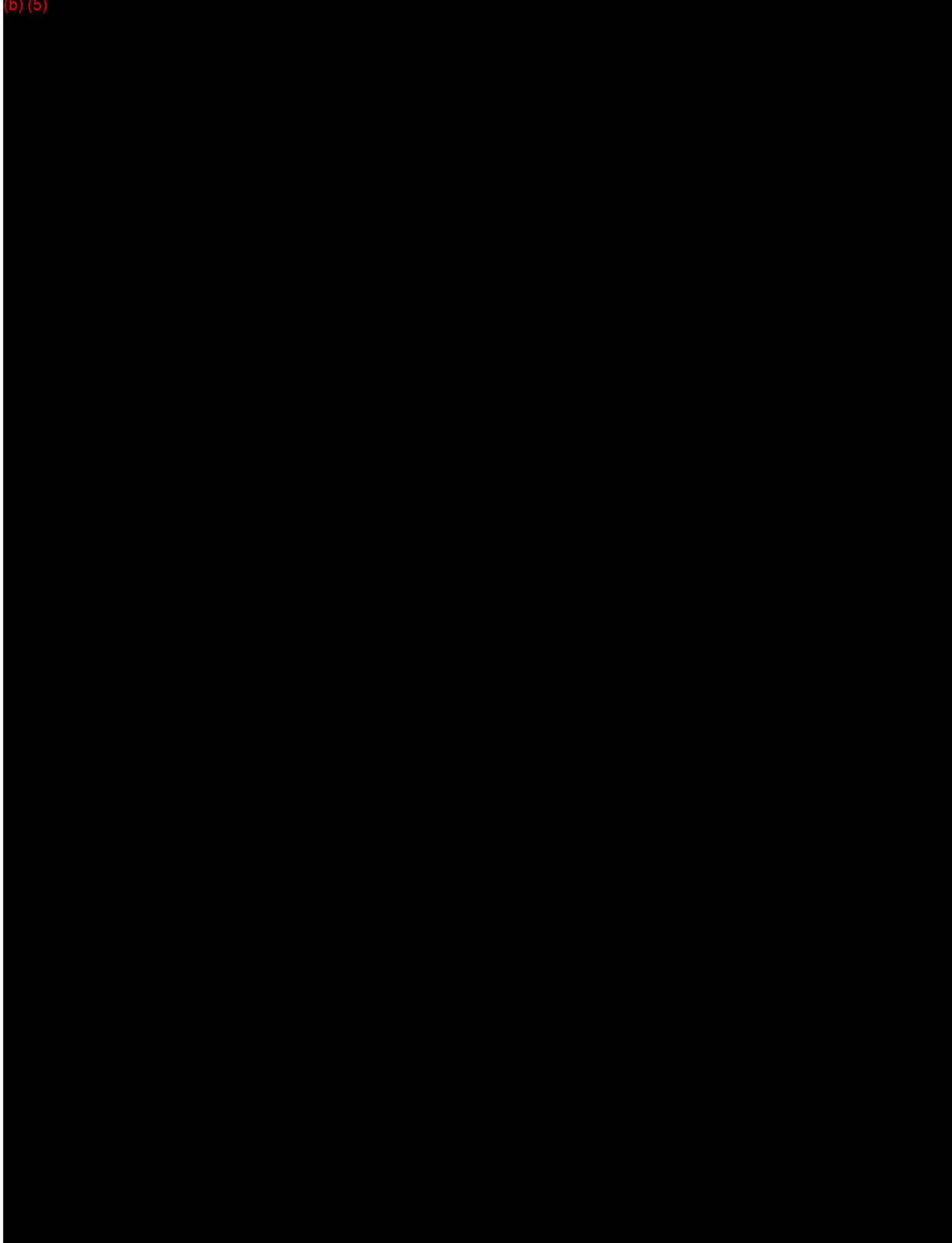
Please find attached a red line and clean copy of your draft testimony.

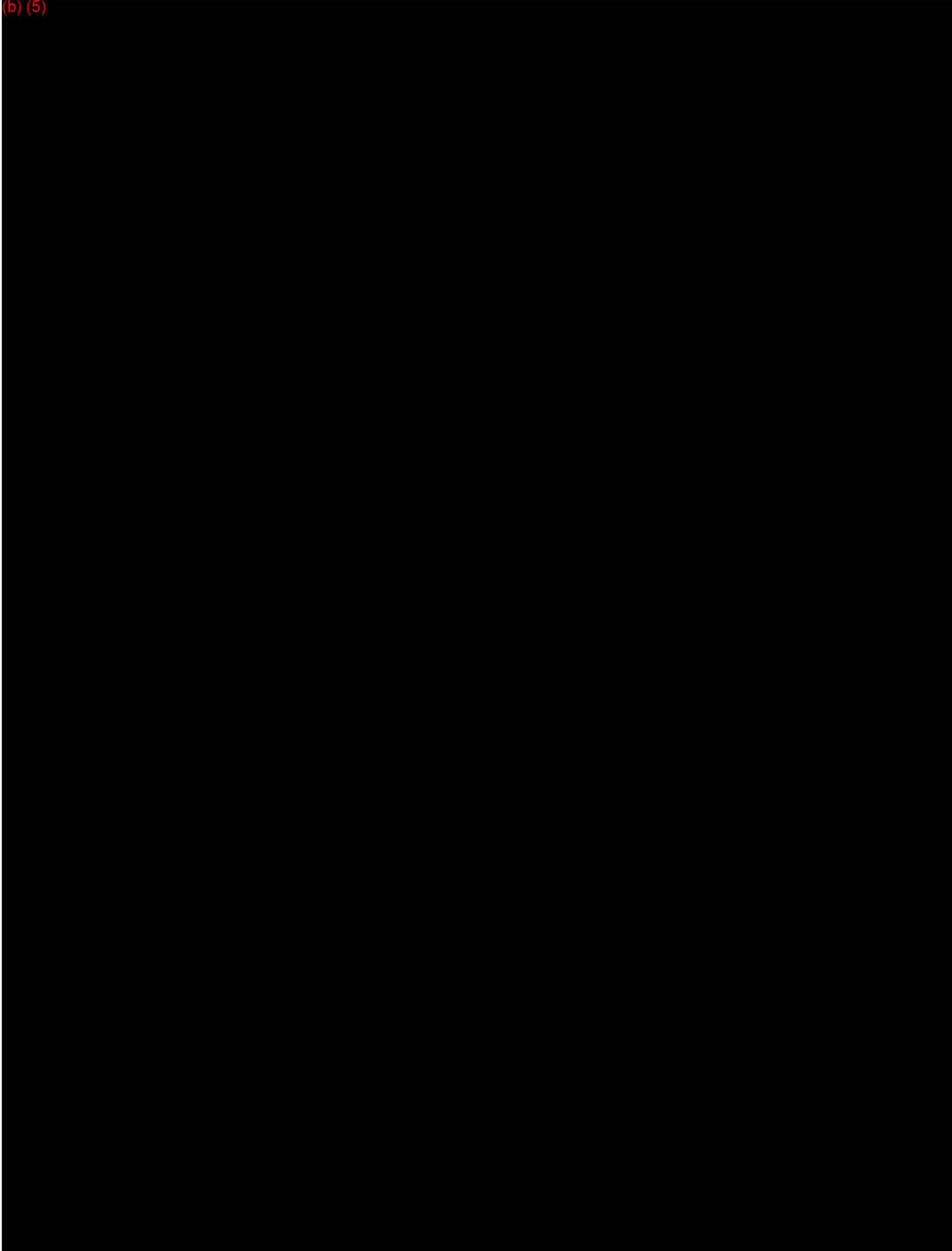
Steven

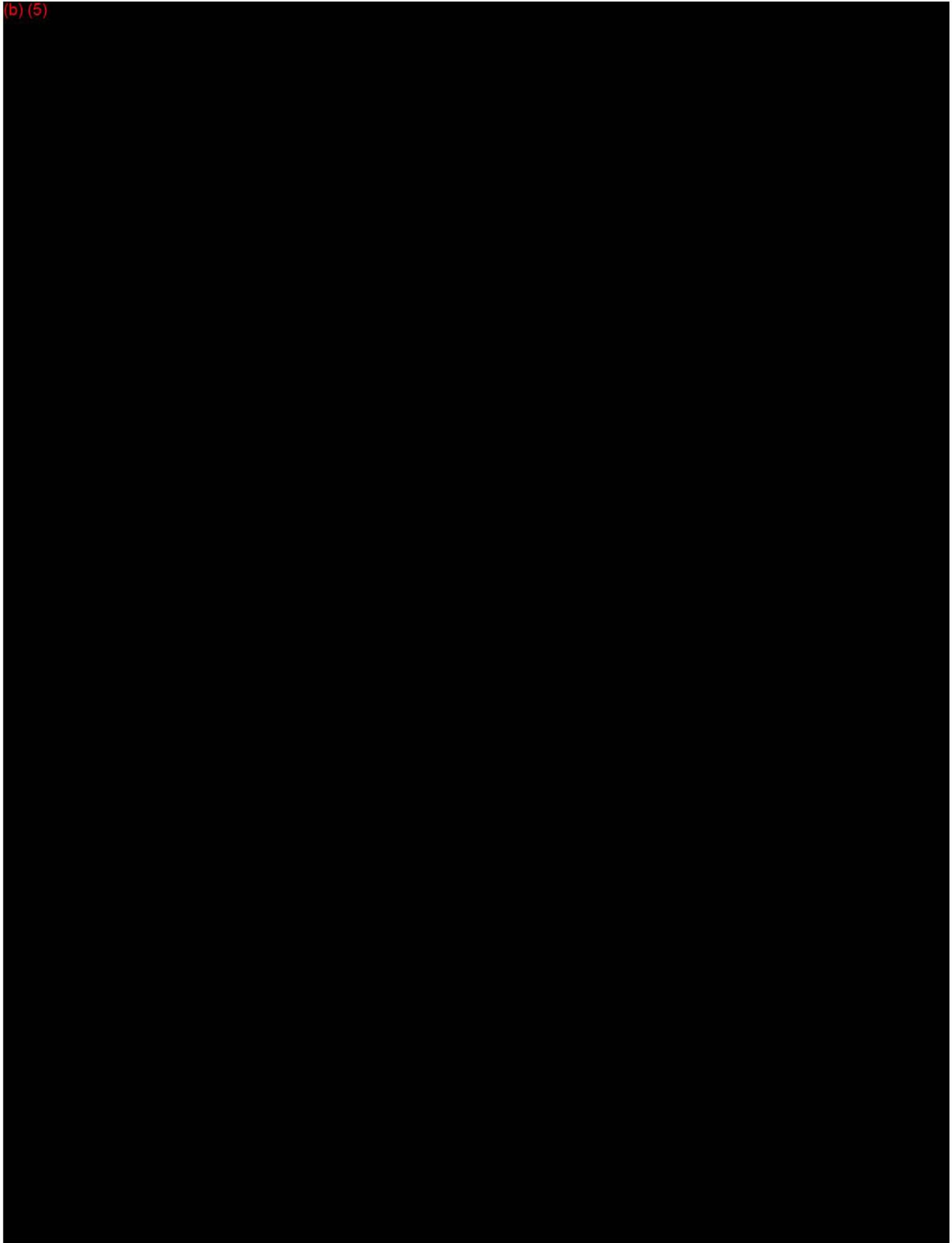


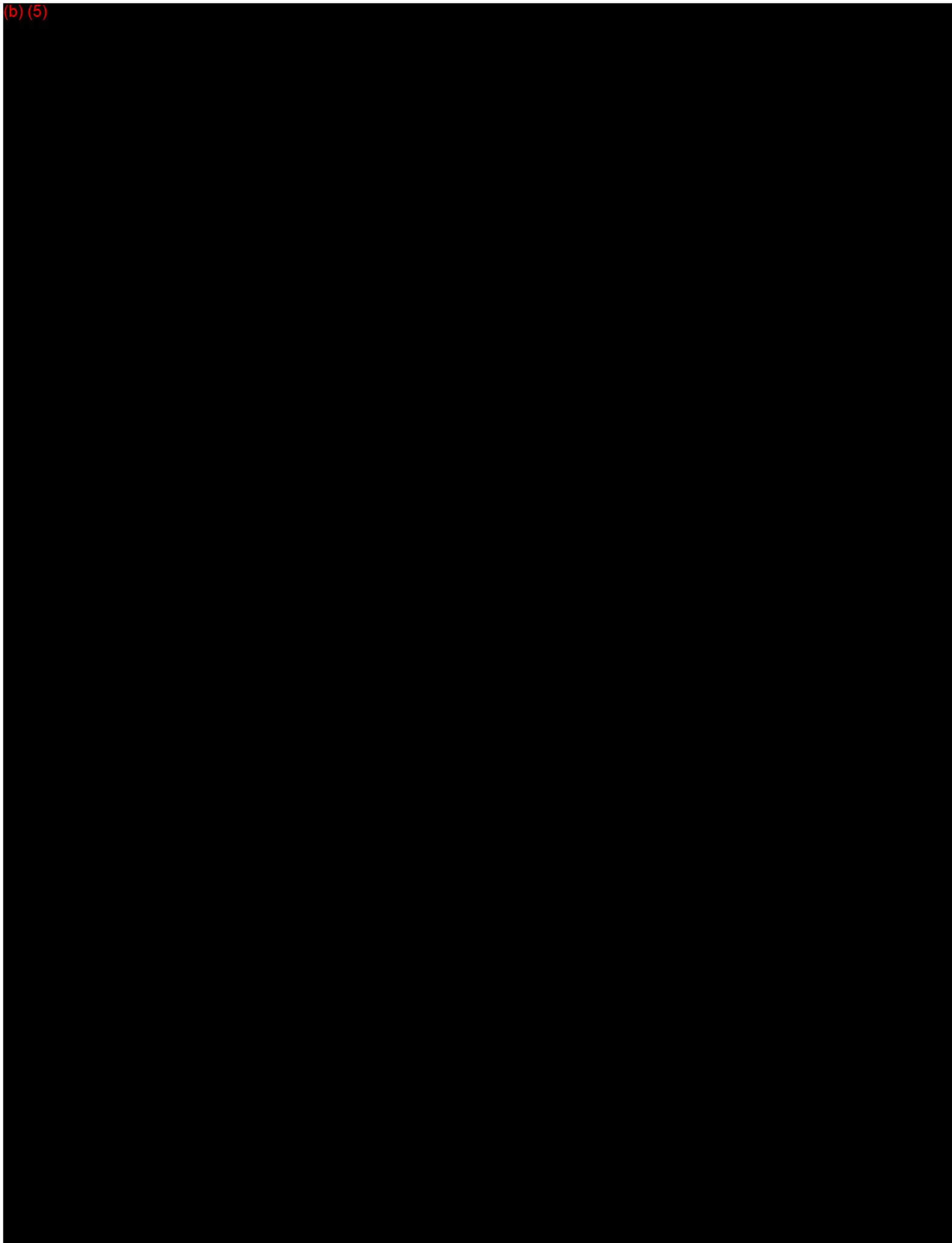












Draft Herrgott Testimony

From: "Osterhues, Marlys A. EOP/CEQ" <(b) (6)>

To: Karen Hanley - Y <karen.hanley@gsa.gov>, Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>

Cc: "Herrgott, Alex H. EOP/CEQ" <(b) (6)> "Pettigrew, Theresa L. EOP/CEQ" <(b) (6)> "Barnett, Steven W. EOP/CEQ" <(b) (6)>

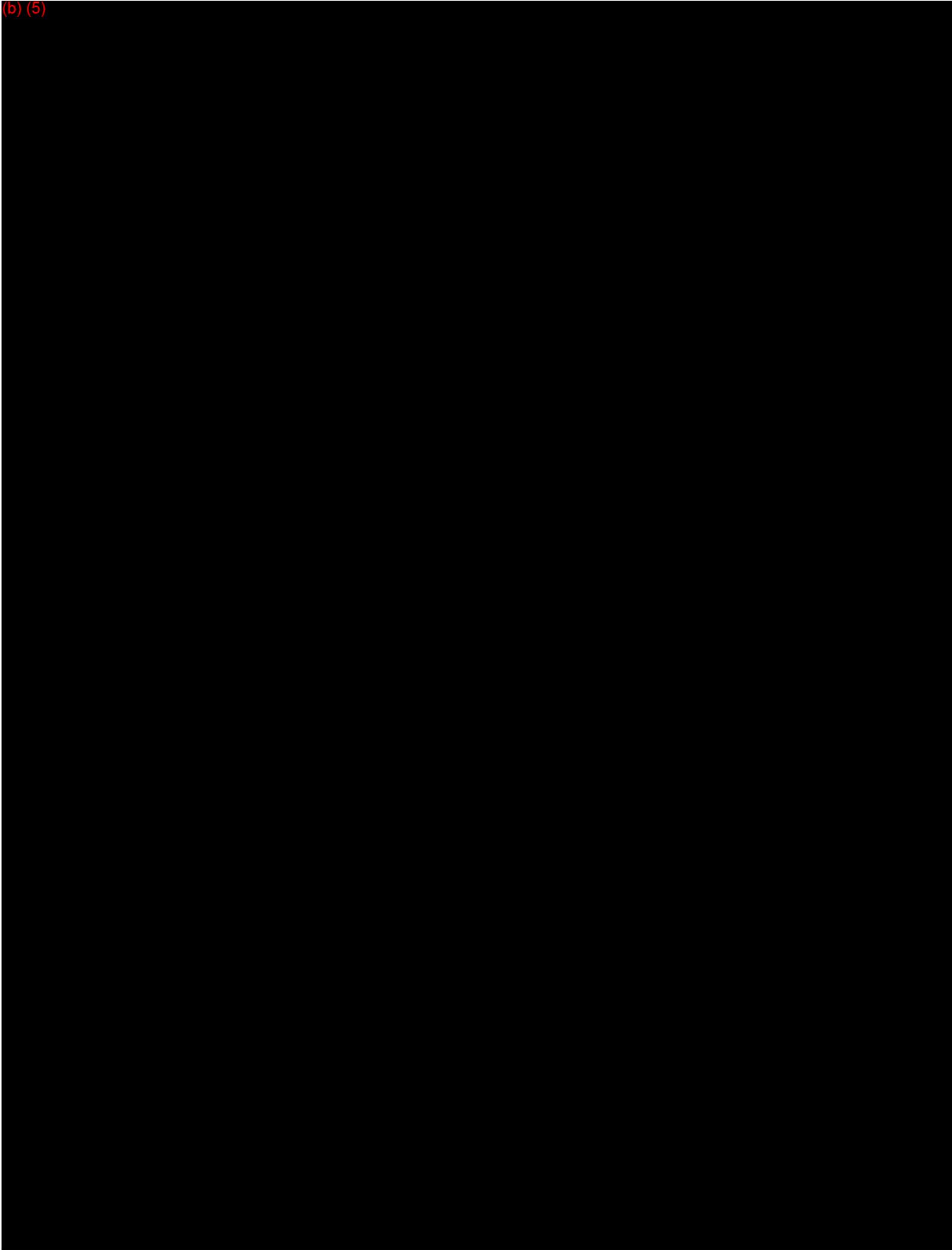
Date: Tue, 19 Jun 2018 17:32:04 -0400

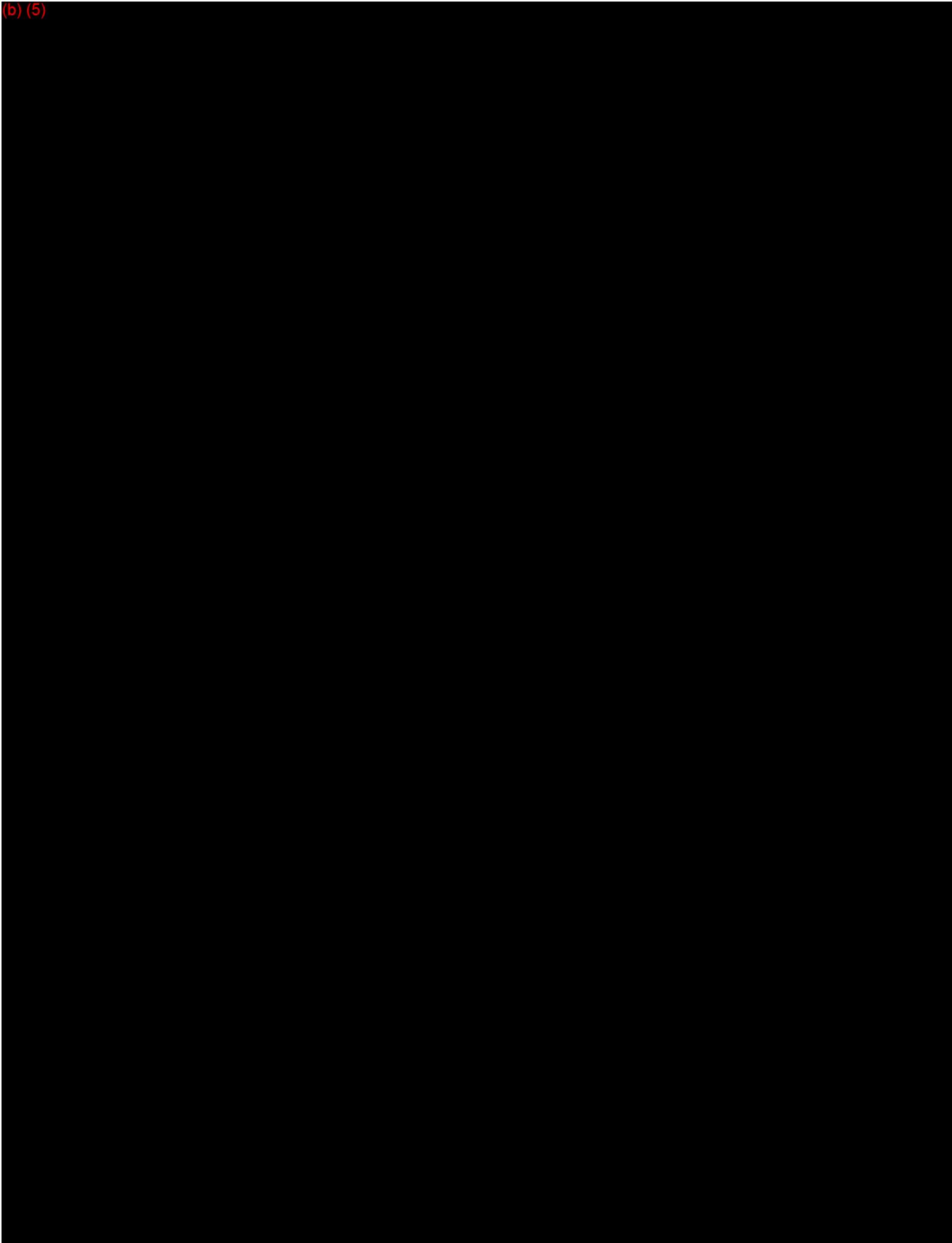
Attachments
: Herrgott Testimony 6.27 Roundtable Senate FINAL DS V2 CLEAN.DOCX (29.55 kB)

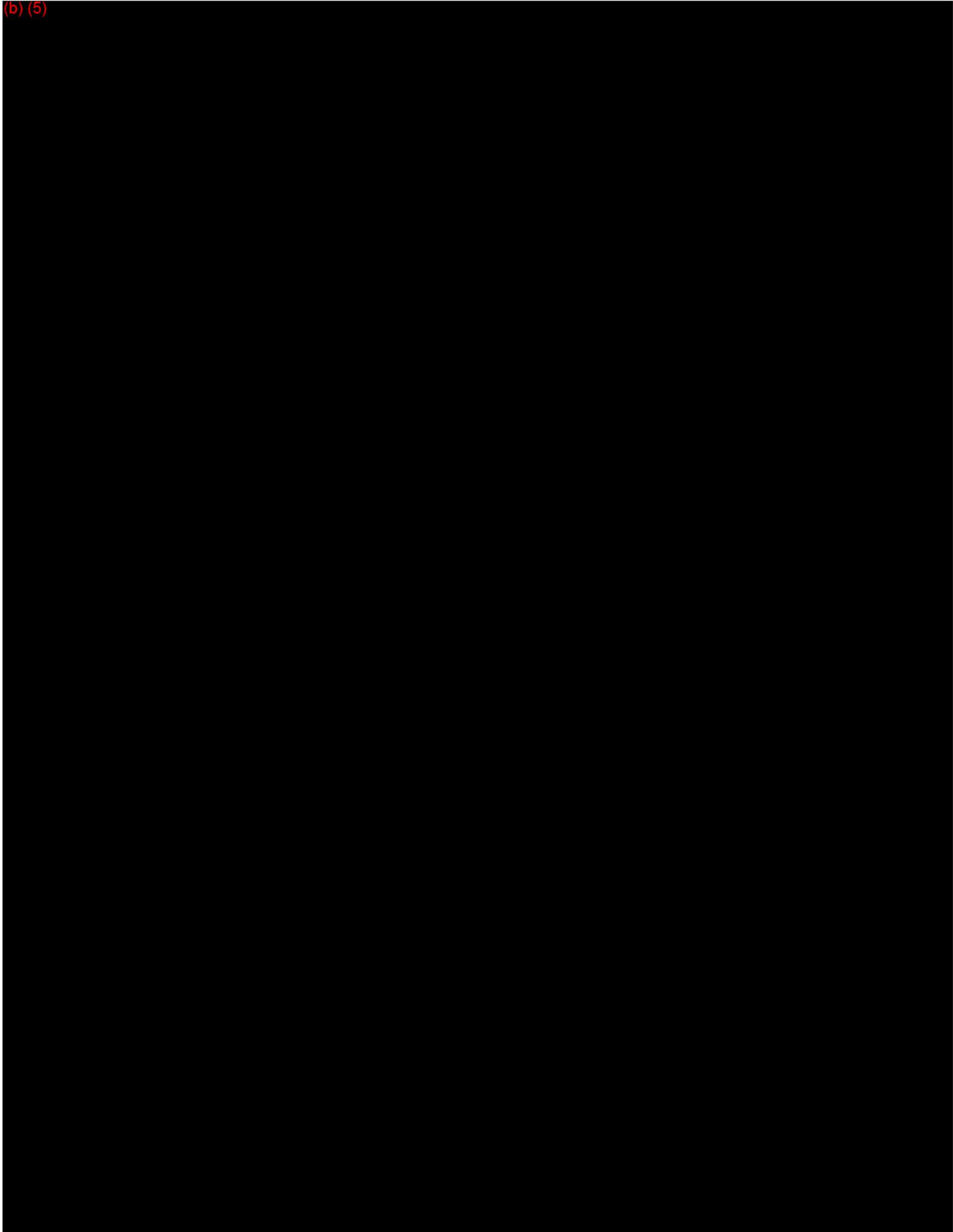
Angie and Karen –

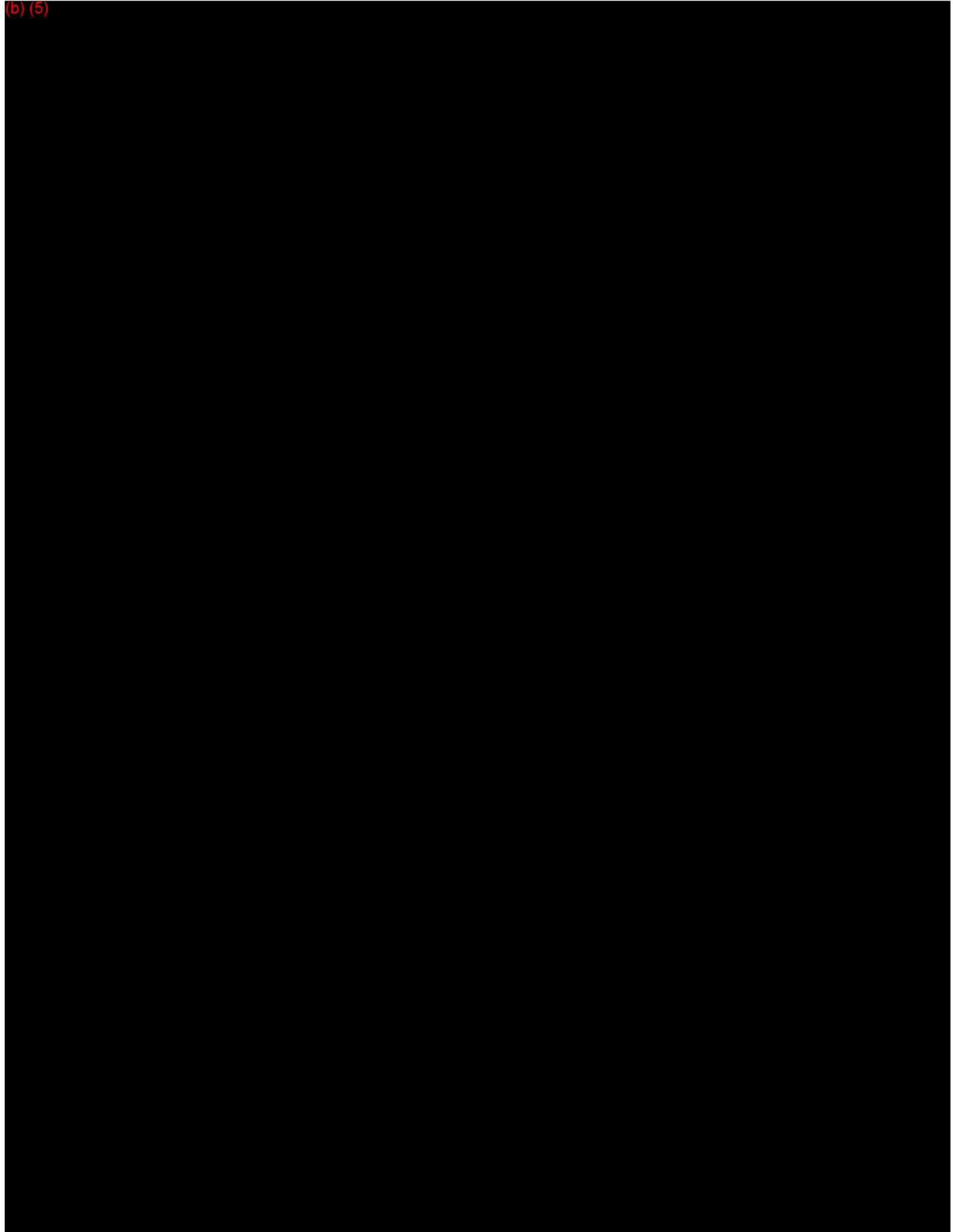
Attached is Alex's statement for next week's Roundtable. Please confirm that you will submit your and Alex's statements together for review/coordination with OMB. Let's touch base tomorrow morning.

Thanks - Marlys









RE: Draft Herrgott Testimony

From: "Pettigrew, Theresa L. EOP/CEQ" <(b) (6)>
To: "Herrgott, Alex H. EOP/CEQ" <(b) (6)>
Cc: "Osterhues, Marlys A. EOP/CEQ" <(b) (6)>
Date: Tue, 19 Jun 2018 09:41:10 -0400
Attachments: Herrgott Testimony TLP edits.6.18.18.docx (35.56 kB)

Here are some edits. Nothing too big. Thanks.

From: Herrgott, Alex H. EOP/CEQ
Sent: Monday, June 18, 2018 8:38 PM
To: Pettigrew, Theresa L. EOP/CEQ <(b) (6)>
Subject: Fwd: Draft Herrgott Testimony

Take a look at this one

Sent from my iPhone

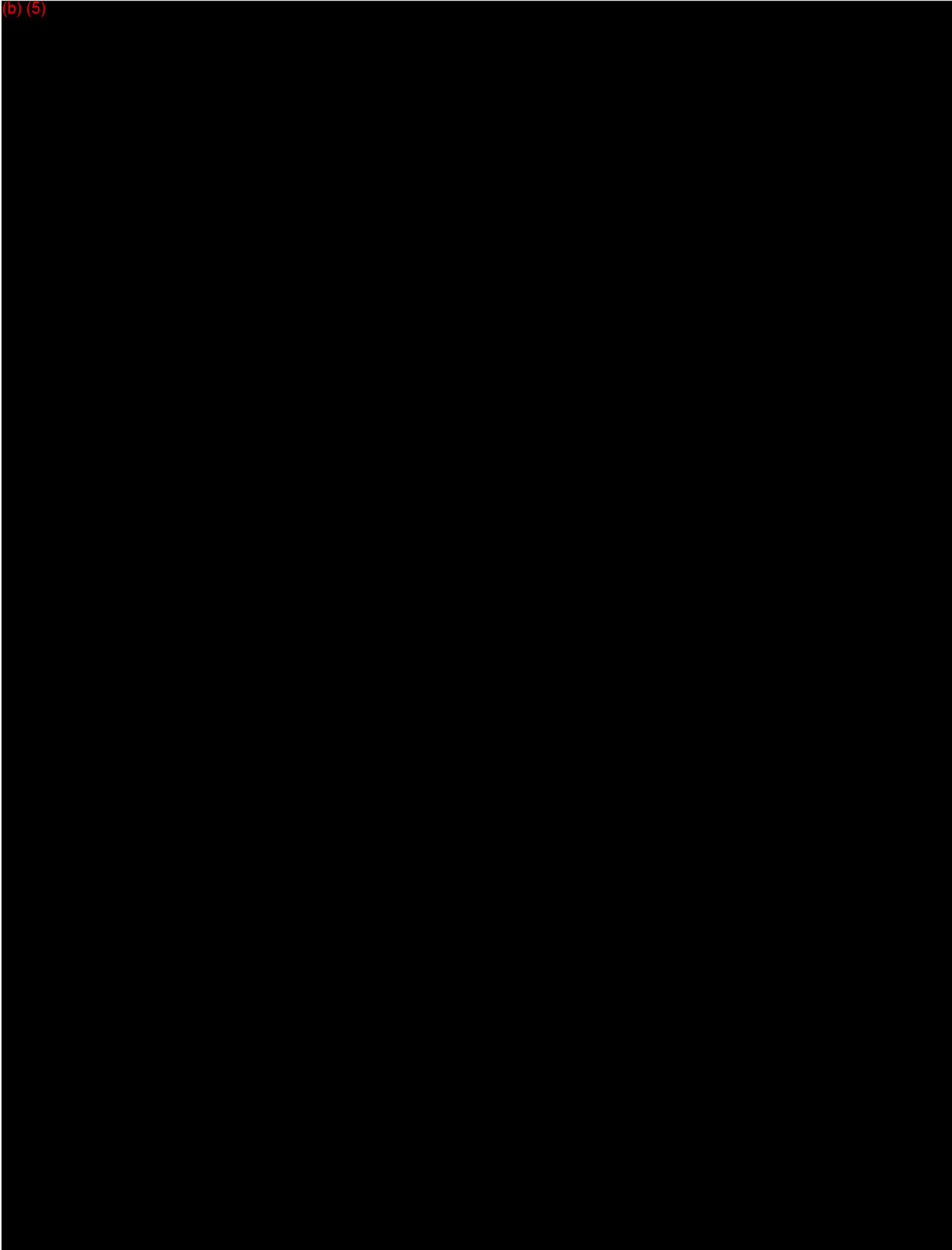
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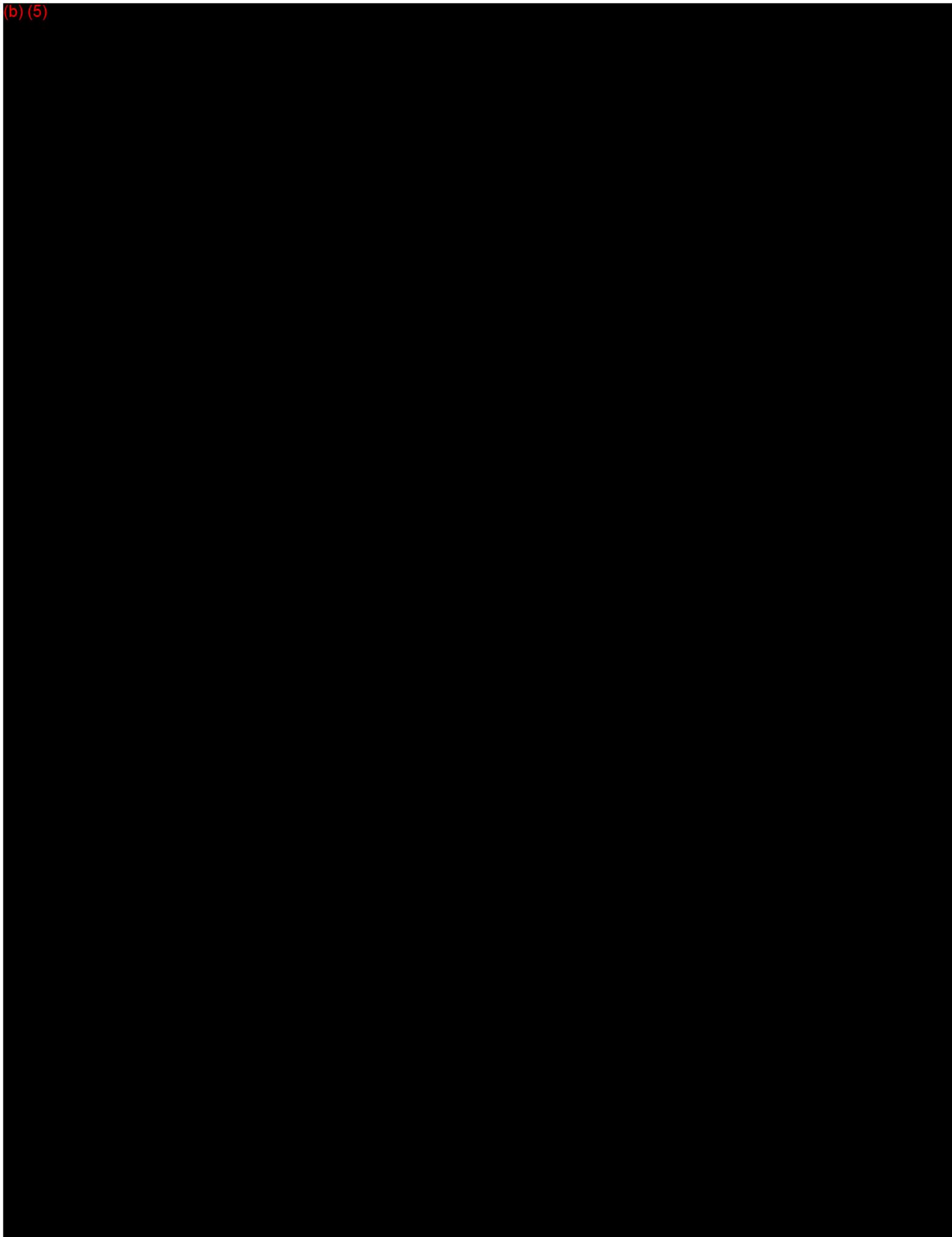
From: "Barnett, Steven W. EOP/CEQ" <(b) (6)>
Date: June 18, 2018 at 5:44:49 PM EDT
To: "Herrgott, Alex H. EOP/CEQ" <(b) (6)>
Cc: "Drummond, Michael R. EOP/CEQ" <(b) (6)> "Vandegrift, Scott F. EOP/CEQ" <(b) (6)> "Osterhues, Marlys A. EOP/CEQ" <(b) (6)>
Subject: Draft Herrgott Testimony

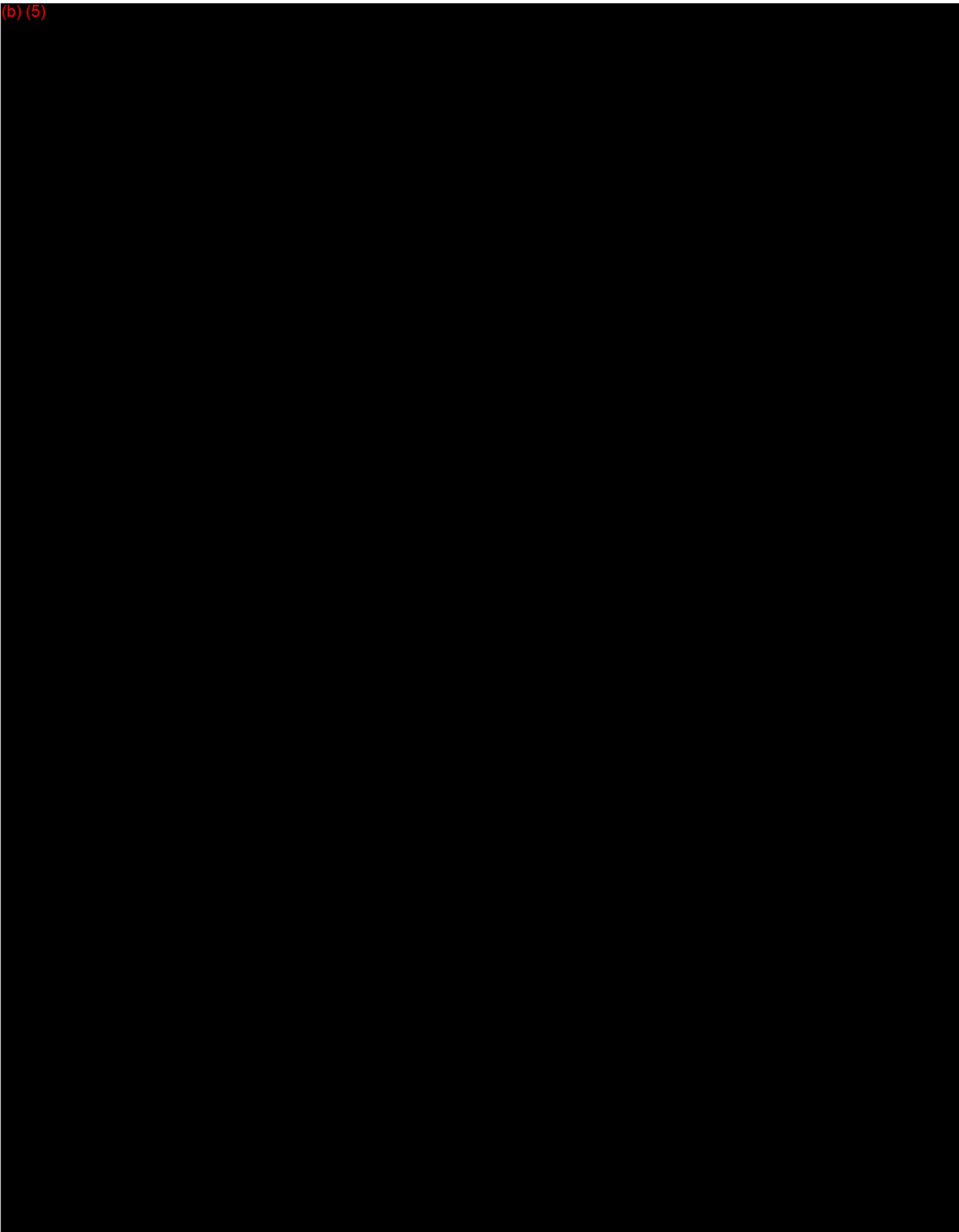
Alex,

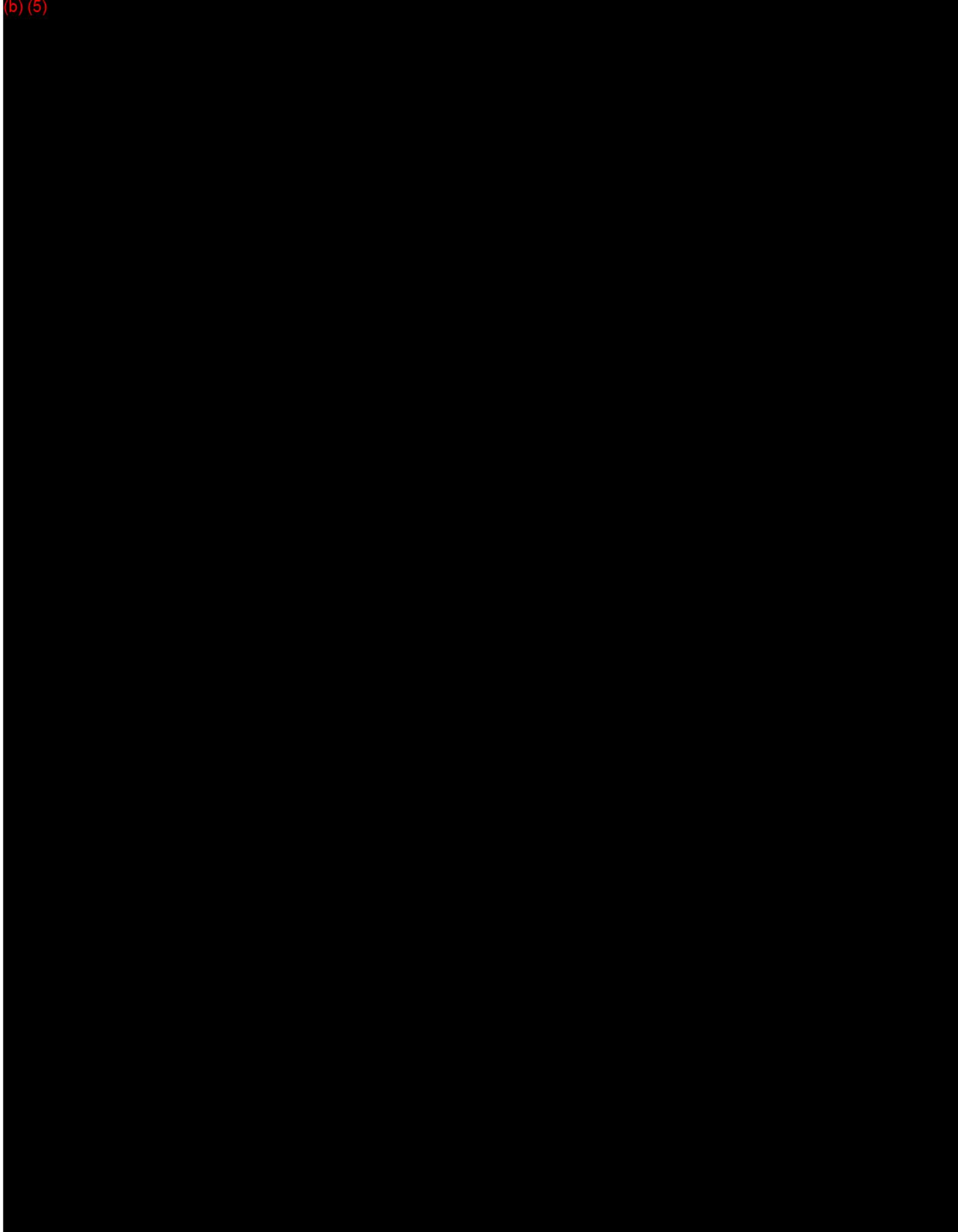
Please find attached a red line and clean copy of your draft testimony.

Steven









Fwd: Draft Congressional Statements for Review by COB

Thursday 6/21

From: Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>

Karen Hanley - Y <karen.hanley@fpisc.gov>, "Osterhues, Marlys A. EOP/CEQ"
<(b) (6)> "Herrgott, Alex H. EOP/CEQ"
<(b) (6)> "Drummond, Michael R. EOP/CEQ"
<(b) (6)> "Pettigrew, Theresa L. EOP/CEQ"
<(b) (6)> "Barnett, Steven W. EOP/CEQ"

To: <(b) (6)> Amber Levofsky - Y <amber.levofsky@gsa.gov>, Janet Pflieger - Y <janet.pflieger@fpisc.gov>, Kavita Vaidyanathan - AY-DETAILEE <kavita.vaidyanathan@gsa.gov>, "Schneider, Daniel J. EOP/CEQ"
<(b) (6)> "Smith, Katherine R. EOP/CEQ"
<(b) (6)>

Date: Wed, 20 Jun 2018 18:33:03 -0400

Attachments Colamaria Statement 6.27 Roundtable Senate FINAL DRAFT_6.20.DOCX (31.47
: kB); Herrgott Statement 6.27 Roundtable Senate FINAL DRAFT_6.20.DOCX (33.25
: kB); 2018-06-27 Portman and McCaskill Roundtable Invitation to Colamaria.pdf (1.75
: MB)

Done. Will forward comments when/if they come in.

Angela F. Colamaria

Acting Executive Director
Office of the Executive Director (FPISC-OED)
Federal Permitting Improvement Steering Council
angela.colamaria@fpisc.gov
202.705.1639
1800 F St. NW
Washington, DC 20405

----- Forwarded message -----

From: Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>
Date: Wed, Jun 20, 2018 at 6:29 PM
Subject: Draft Congressional Statements for Review by COB Thursday 6/21
To: Blythe Semmer <bsemmer@achp.gov>, robyn.s.colosimo.civ@mail.mil, Stacey.E.Brown@usace.army.mil, Lauren.B.Diaz@usace.army.mil, Myrna.I.Lopez-Ortiz@usace.army.mil, Jennifer.A.Moyer@usace.army.mil, Amy.S.Klein@usace.army.mil, Tammy.Conforti@usace.army.mil, robert.w.mcrae@usace.army.mil, Richard.L.Darden@usace.army.mil, "Gaffneysmith, Margaret E CIV (US)" <Meg.e.gaffney-smith@usace.army.mil>, Shelly.H.Sugarman@uscg.mil, matthew.s.robertson2@uscg.mil, brian.dunn@uscg.mil, matthew.fountain@wdc.usda.gov, lauren.cusick@wdc.usda.gov, Rebeckah.Adcock@osec.usda.gov,

Angie

Angela F. Colamaria

Acting Executive Director

Office of the Executive Director (FPISC-OED)

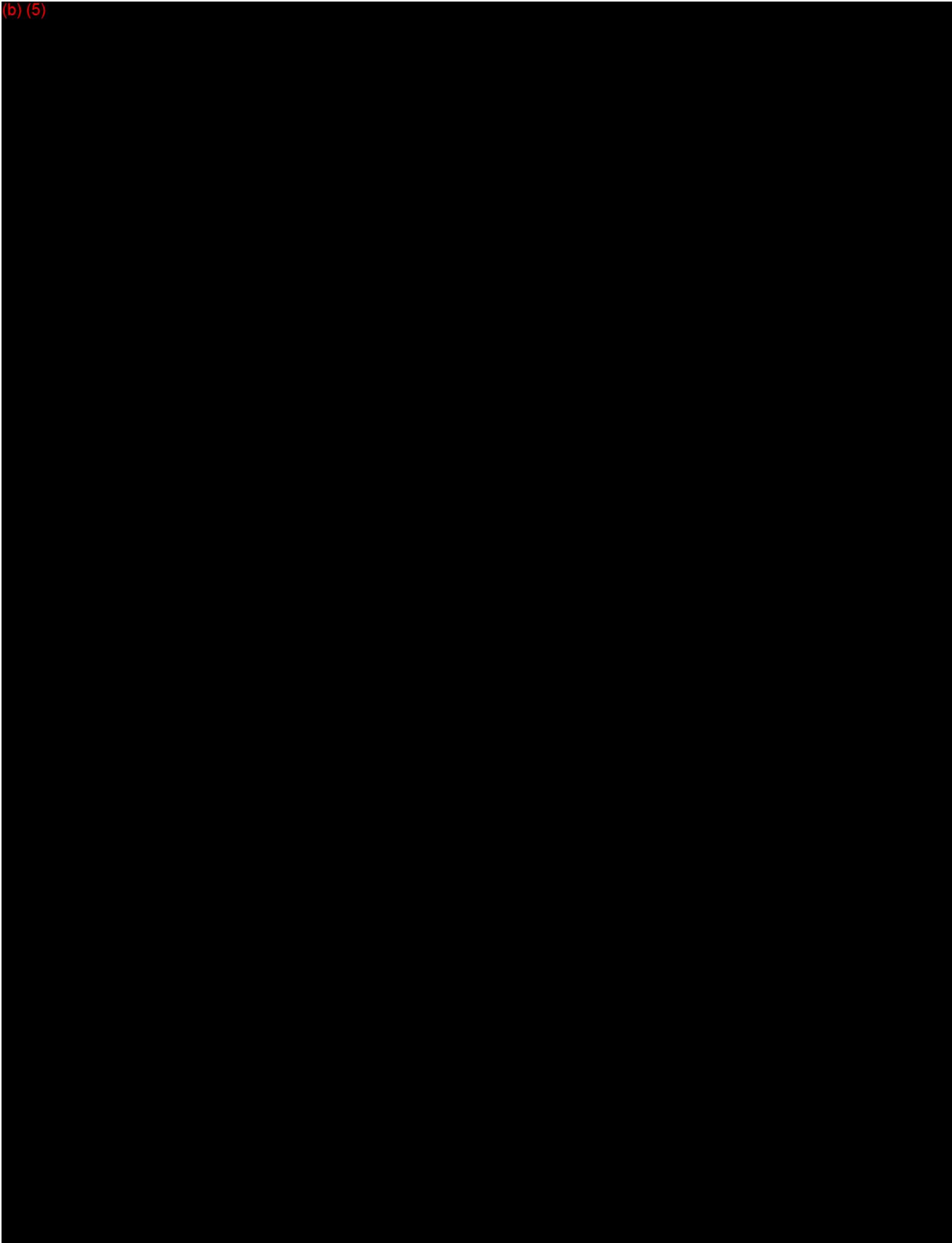
Federal Permitting Improvement Steering Council

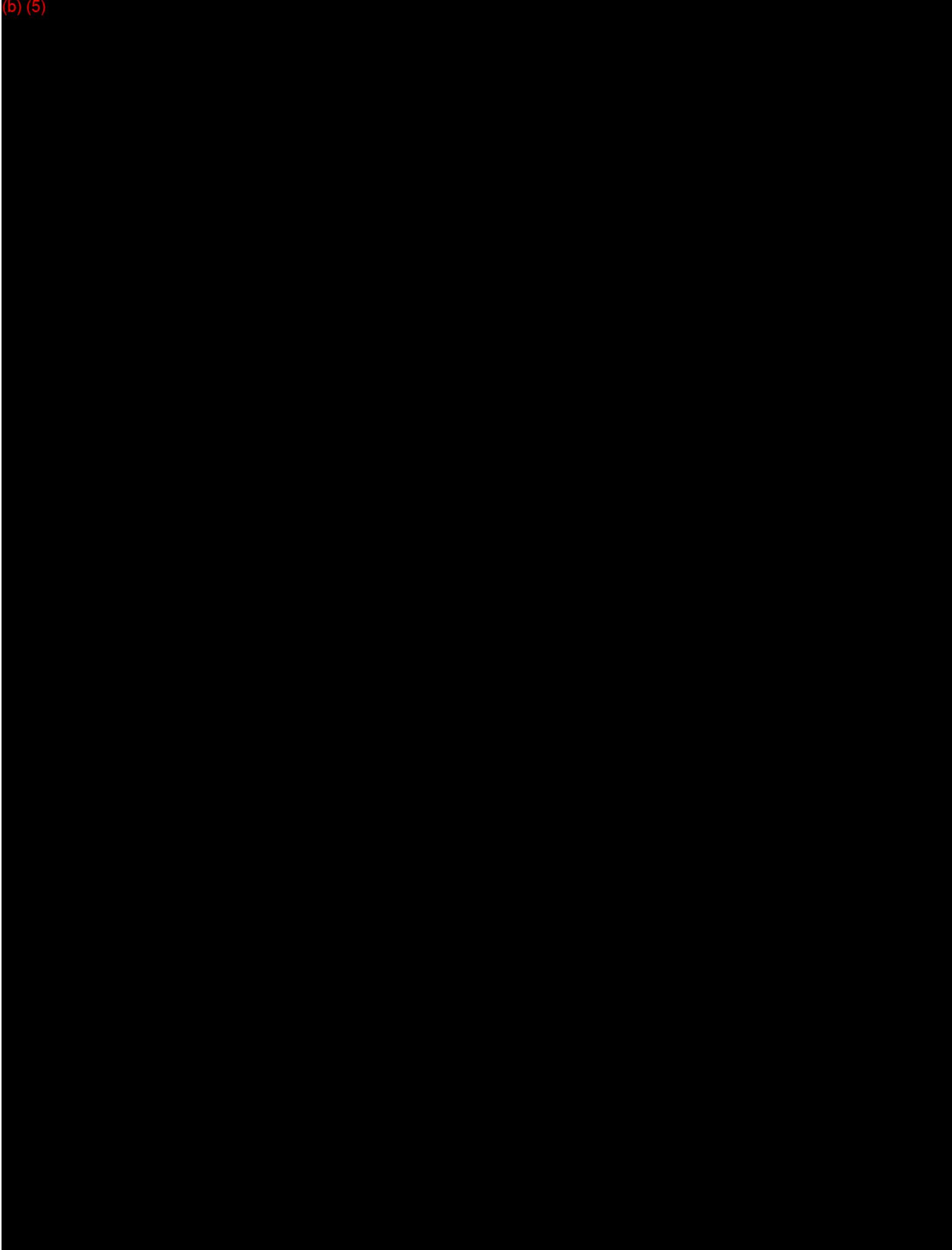
angela.colamaria@fpisc.gov

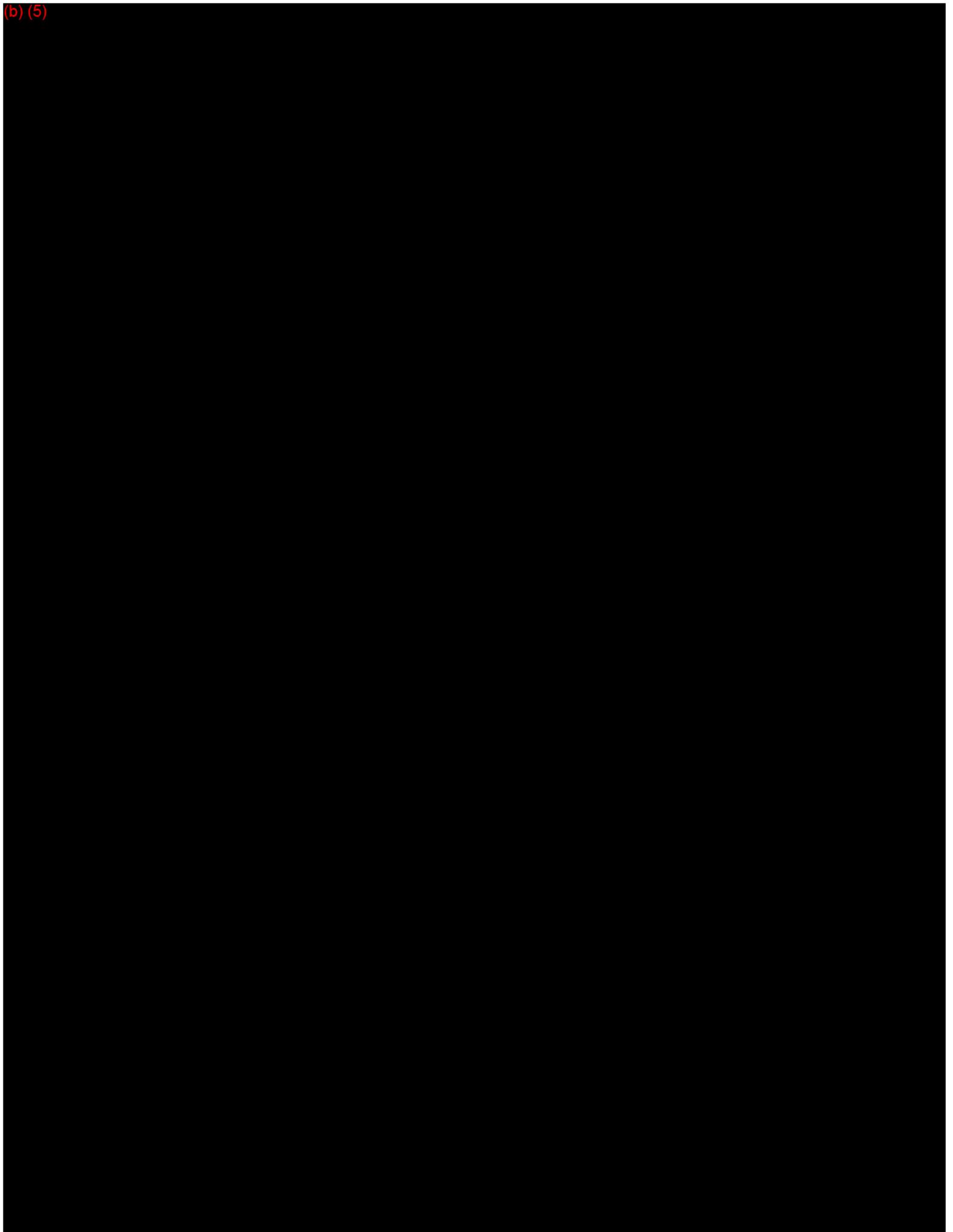
202.705.1639

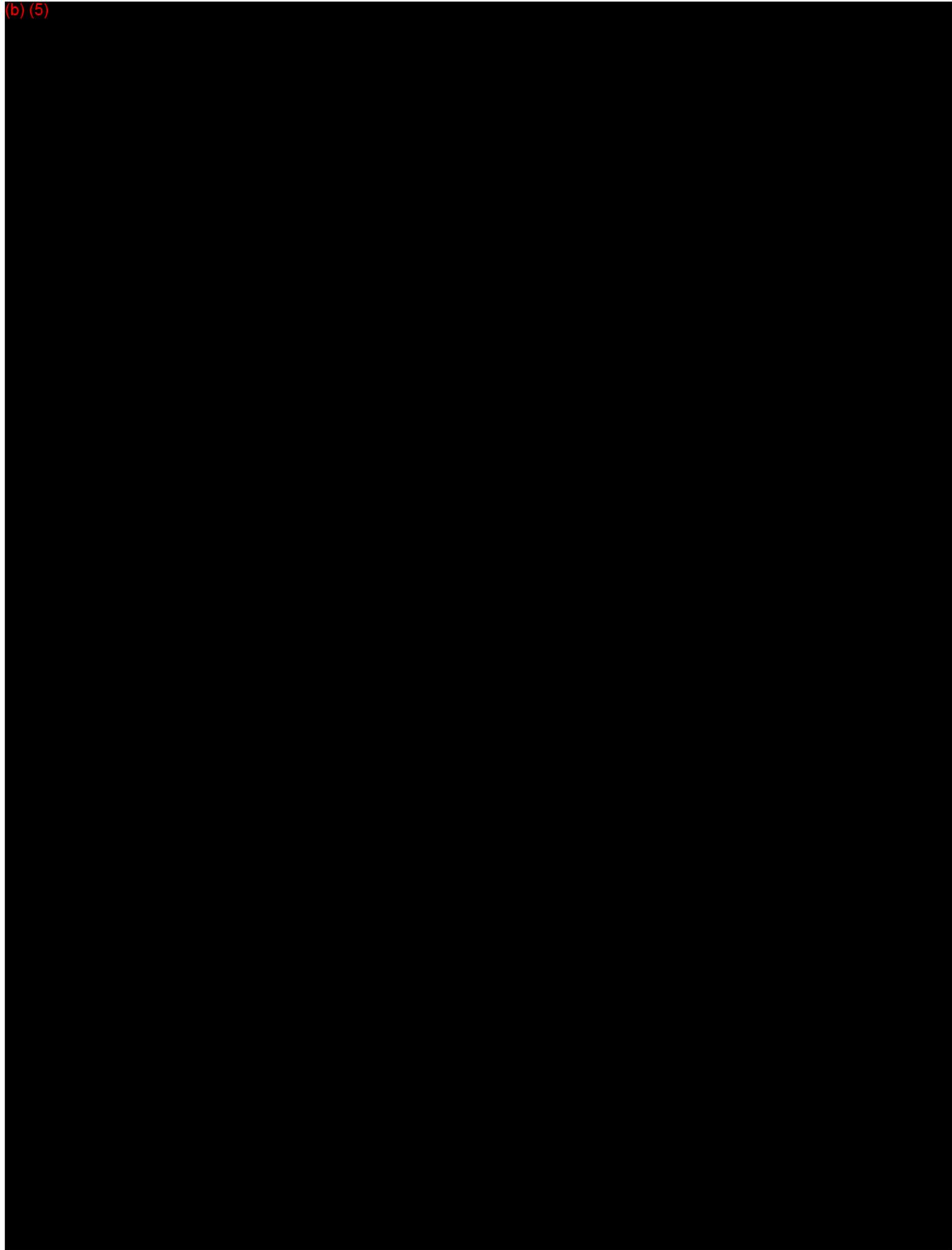
1800 F St. NW

Washington, DC 20405









Draft Congressional Statements for Review by COB Thursday

6/21

From: Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>

Blythe Semmer <bsemmer@achp.gov>, robyn.s.colosimo.civ@mail.mil, stacey.e.brown@usace.army.mil, lauren.b.diaz@usace.army.mil, myrna.i.lopez-ortiz@usace.army.mil, jennifer.a.moyer@usace.army.mil, amy.s.klein@usace.army.mil, tammy.conforti@usace.army.mil, robert.w.mcrae@usace.army.mil, richard.l.darden@usace.army.mil, "Gaffneysmith, Margaret E CIV (US)" <meg.e.gaffney-smith@usace.army.mil>, shelly.h.sugarman@uscg.mil, matthew.s.robertson2@uscg.mil, brian.dunn@uscg.mil, matthew.fountain@wdc.usda.gov, lauren.cusick@wdc.usda.gov, rebeckah.adcock@osec.usda.gov, brooke.appleton@osec.usda.gov, rwoodruff@fs.fed.us, gsmith08@fs.fed.us, sarah.koeppel@hq.dhs.gov, jennifer.hass@hq.dhs.gov, ronald.e.tickler4.civ@mail.mil, steven.j.sample4.civ@mail.mil, terry.l.bowers14.civ@mail.mil, "Pauley, Melissa" <melissa.pauley@hq.doe.gov>, Erika Vaughan <erika_vaughan@ios.doi.gov>, joshua.kaplowitz@sol.doi.gov, frankie_green@fws.gov, craig_aubrey@fws.gov, lvehmas@usbr.gov, cperry@usbr.gov, ccunningham@usbr.gov, acoykendall@usbr.gov, "Edwards, Michael" <michael_b_edwards@nps.gov>, sfusilie@blm.gov, charles.norfleet@boem.gov, fmarcell@blm.gov, "Thatcher, Ben" <ben_thatcher@fws.gov>, olivia_ferriter@ios.doi.gov, gerald.solomon@dot.gov, colleen.vaughn@dot.gov, tomiak.robert@epa.gov, tyler.tom@epa.gov, herbert.rachel@epa.gov, kohler.amanda@epa.gov, kornylak.vera@epa.gov, knight.kelly@epa.gov, "Gentile, Laura" <gentile.laura@epa.gov>, rose.bob@epa.gov, john.katz@ferc.gov, magdalene.suter@ferc.gov, heather.e.campbell@ferc.gov, brandon.cherry@ferc.gov, ryan.hansen@ferc.gov, rachel.mcnamara@ferc.gov, andrew.bernick@ferc.gov, joanne.wachholder@ferc.gov, nelson.a.rivera@hud.gov, danielle.l.schopp@hud.gov, "Burkhart, Lawrence" <lawrence.burkhart@nrc.gov>, donna.williams@nrc.gov, "Erwin, Kenneth" <kenneth.erwin@nrc.gov>, "Kugler, Andrew" <andrew.kugler@nrc.gov>, maureen.wylie@nrc.gov, ben.ficks@nrc.gov, russell.allwein@nrc.gov, "Kratchman, Jessica" <jessica.kratchman@nrc.gov>, "Kim, Grace" <grace.kim@nrc.gov>, Eric MacMillan <eric.macmillan@noaa.gov>, Michelle Lennox - NOAA Federal <michelle.lennox@noaa.gov>, katherine.renshaw@noaa.gov, Helen Chabot - NOAA Federal

To:

<helen.chabot@noaa.gov>, peter.mcveigh@usdoj.gov

"Hazelgren, Mark H. EOP/OMB" <(b) (6)> "Stein, Nora H. EOP/OMB" <(b) (6)> "Montoni, Joe E. EOP/OMB" <(b) (6)> "Burnett, Ben D. EOP/OMB" <(b) (6)> "Roach, Emma K. EOP/OMB" <(b) (6)> "Hagan, Michael B. EOP/OMB" <(b) (6)> "Whitman, Katie B. EOP/OMB" <(b) (6)> "Krauss, Lori A. EOP/OMB" <(b) (6)> "Buenvenida, Pearl A. EOP/OMB" <(b) (6)> "Nelson, Kimberly P. EOP/OMB" <(b) (6)> "Korovesis, Andrea G. EOP/OMB" <(b) (6)> "Grossman, Andrea L. EOP/OMB" <(b) (6)> "Miller, Kimberly A. EOP/OMB" <(b) (6)> "Hester, David G. EOP/OMB" <(b) (6)> "Reed, Meagan E. EOP/OMB" <(b) (6)> "Crutchfield, Craig C. EOP/OMB" <(b) (6)> "Brown, Dustin S. EOP/OMB" <(b) (6)> "Bussow, Mark A. EOP/OMB" <(b) (6)> "Colamaria, Angela F. EOP/OMB" <(b) (6)> "Hathaway, Kyle W. EOP/OMB" <(b) (6)> "Nusraty, Tim H. EOP/OMB" <(b) (6)> "Boling, Ted A. EOP/CEQ" <(b) (6)> "Drummond, Michael R. EOP/CEQ" <(b) (6)> "Herrgott, Alex H. EOP/CEQ" <(b) (6)> "Colyar, Kelly T. EOP/OMB" <(b) (6)> Kelly Alexander - AY-Detailee <kelly.alexander@gsa.gov>, "Abrams, Andrew D. EOP/OMB" <(b) (6)> "Dorjets, Vlad EOP/OMB" <(b) (6)> Karen Hanley - Y <karen.hanley@gsa.gov>, Janet Pfleeger - Y <janet.pfleeger@gsa.gov>, Amber Levofsky - Y <amber.levofsky@gsa.gov>, "Yi, David Y. EOP/OMB" <(b) (6)> Blake Fox - AY-C <blake.fox@gsa.gov>, Robert Noecker - AY-C <robert.noecker@gsa.gov>, Meghan Edwards - AY-C <meghan.edwards@gsa.gov>, Kendra Wilson - AY-C <kendra.wilson@gsa.gov>, "Connolly, David C. EOP/OMB" <(b) (6)> "Gamache, Christopher D. EOP/OMB" <(b) (6)> "Fischietto, Mary S. EOP/OMB"

Cc:

<(b) (6)> "Berger, Joseph J. EOP/OMB"
<(b) (6)> "Lallemant, Chad A. EOP/OMB"
<(b) (6)> Jerri Marr - AY-D <jerri.marr@gsa.gov>, Kavita Vaidyanathan - AY-DETAILEE <kavita.vaidyanathan@gsa.gov>, Ross Pilotte <ross.pilotte@gsa.gov>, Robert Lane - AY-C <robert.lane@gsa.gov>, Robert Hillkirk - AY-C <scott.hillkirk@gsa.gov>, Nikhil Bhandari - AY-C <nikhil.bhandari@gsa.gov>, Nusrat Khan - AY-C <emma.khan@gsa.gov>, Kelsey Owens - YD-D <kelsey.owens@gsa.gov>, "Falk Curtin, Edna T. EOP/OMB"
<(b) (6)> <(b) (6)>, "McDonald, Michael Harkins Christine A. EOP/OMB" <(b) (6)> "Nafziger, Jephtha E. EOP/OMB" <(b) (6)> "Howe, Andrew P. EOP/OMB"
<(b) (6)>

Date: Wed, 20 Jun 2018 18:29:02 -0400

Attachments Colamaria Statement 6.27 Roundtable Senate FINAL DRAFT_6.20.DOCX (31.47
: kB); Herrgott Statement 6.27 Roundtable Senate FINAL DRAFT_6.20.DOCX (33.25
: kB); 2018-06-27 Portman and McCaskill Roundtable Invitation to Colamaria.pdf (1.75
MB)

Hi all,

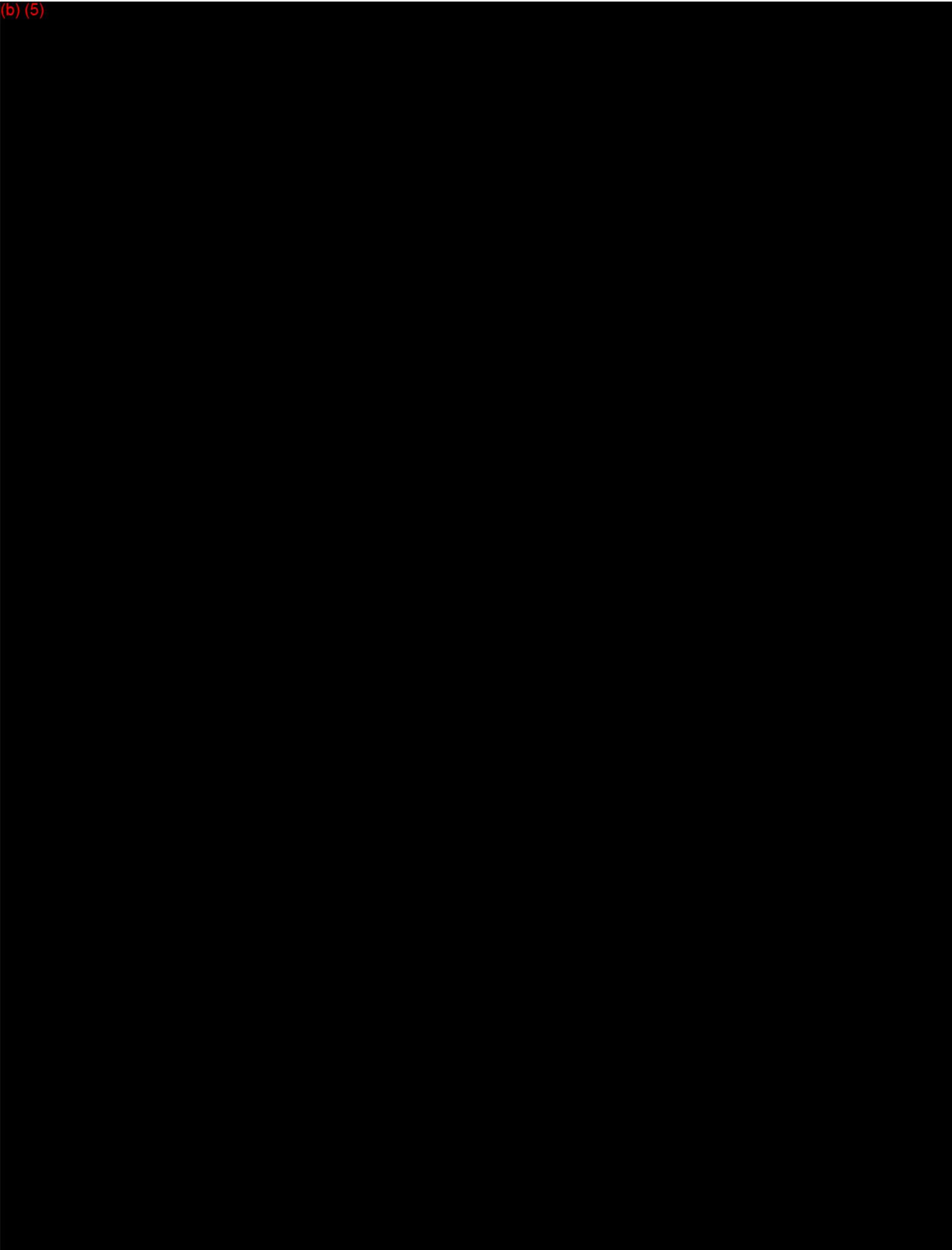
FPISC and CEQ have been asked to participate in a Senate roundtable on infrastructure permitting on June 27 (invite from HSGAC Committee is attached). This is not a formal hearing, but it will be open to the press and written statements will be posted online.

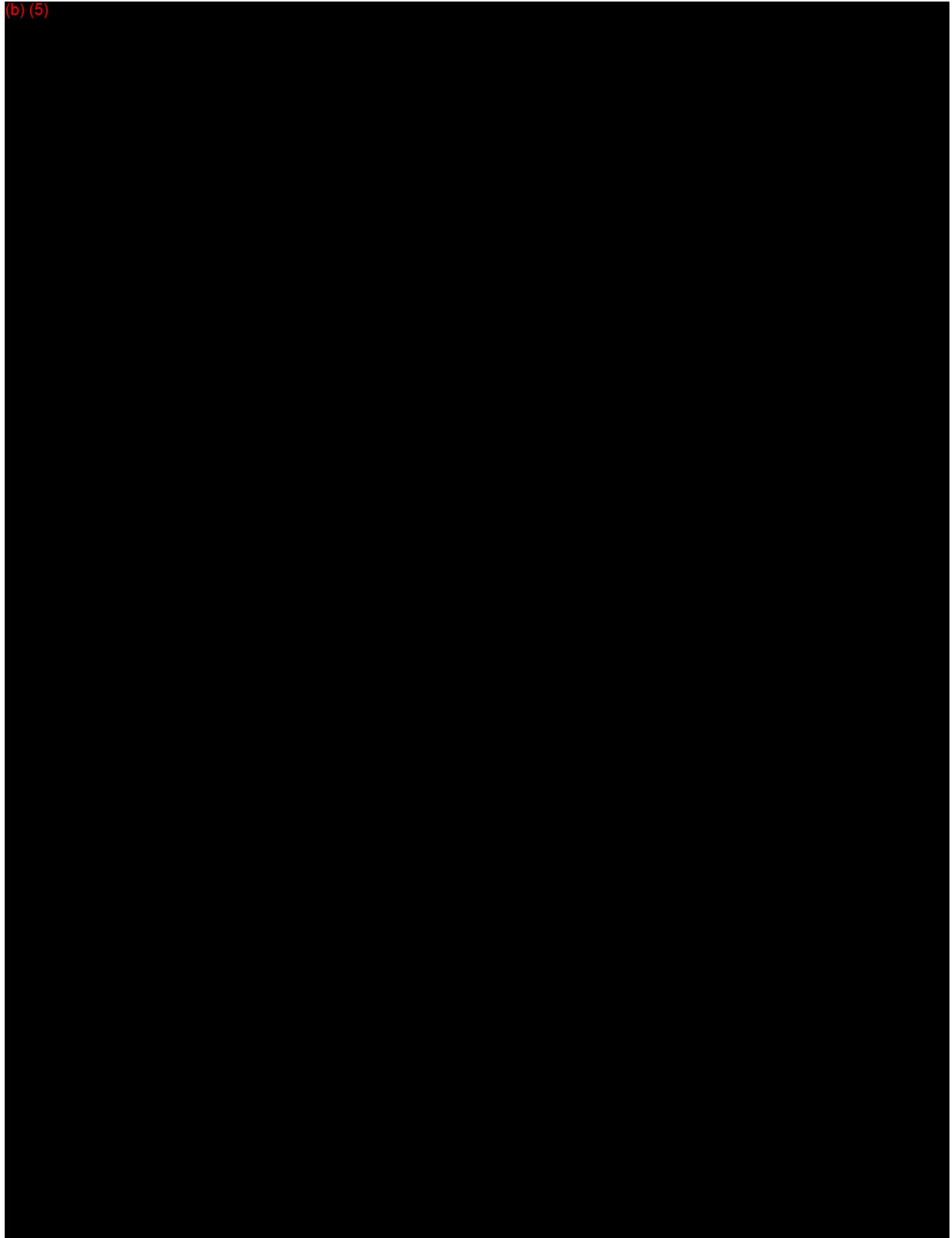
I've attached the draft written statements for FPISC and CEQ. We need to submit the written statements ahead of time so *please provide any edits to both documents by COB Thursday 6/21/18 (tomorrow)*.

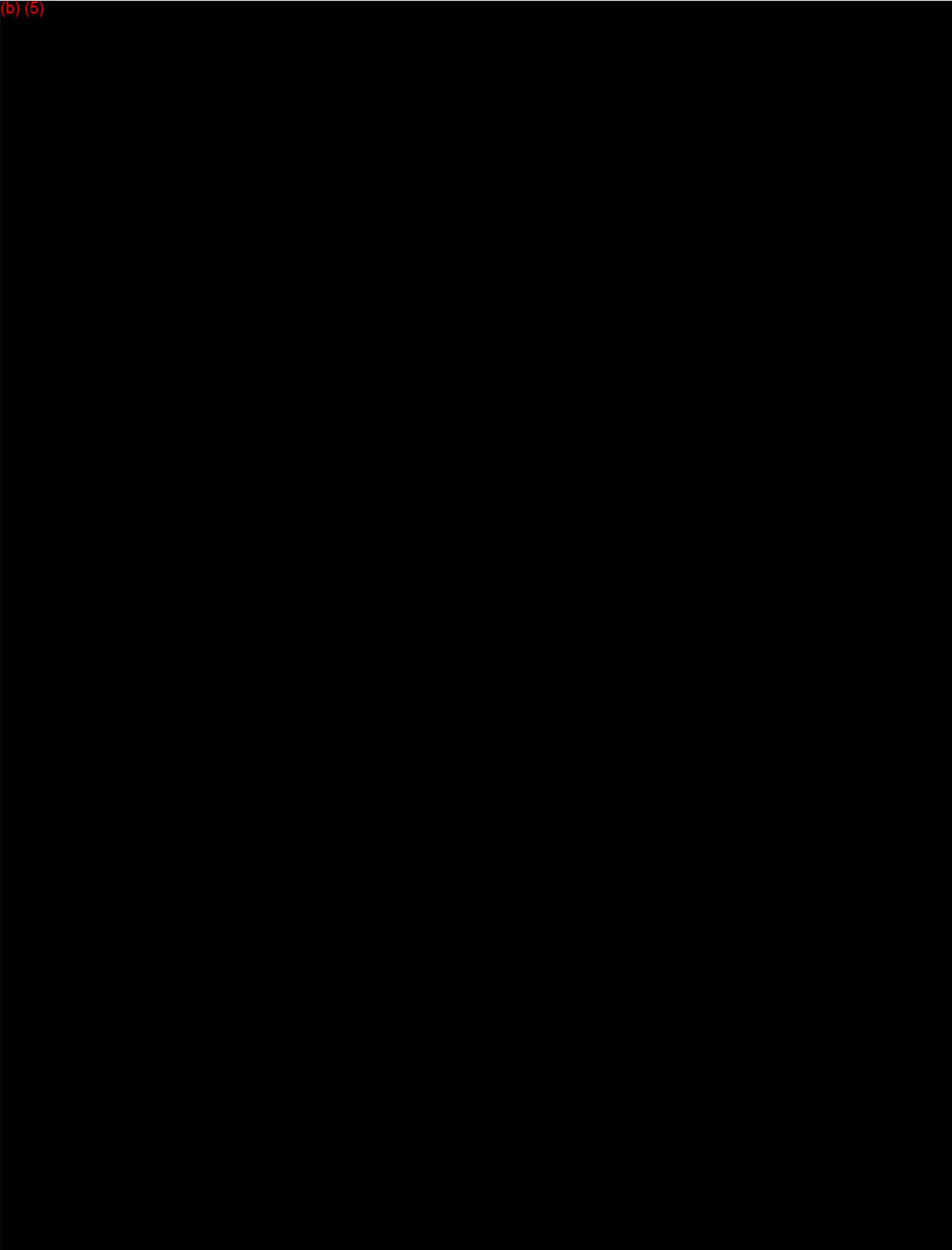
We don't have an official list of participants, but it is our understanding that HSGAC staff have also asked representatives from the RC Byrd and Mid-Barataria projects, the Chamber of Commerce, and Center for American Progress.

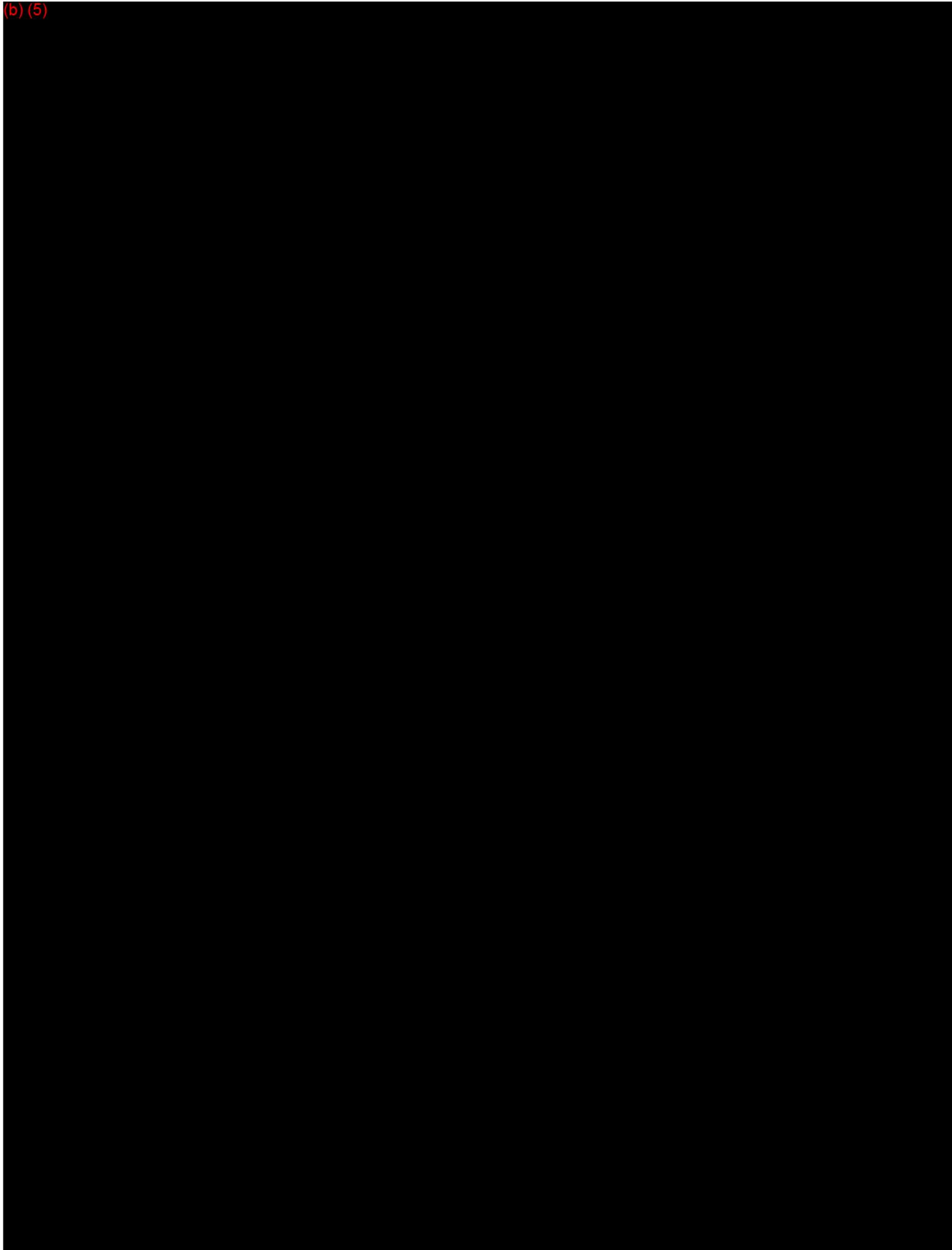
Angie

Angela F. Colamaria
Acting Executive Director
Office of the Executive Director (FPISC-OED)
Federal Permitting Improvement Steering Council
angela.colamaria@fpisc.gov
202.705.1639
1800 F St. NW
Washington, DC 20405









RE: Updates to NEPA.gov - APPROVAL NEEDED FOR BANNER

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

To: "Carter, Marian (CONTR)" <marian.carter@hq.doe.gov>, "Boling, Ted A. EOP/CEQ" <(b) (6)>

Cc: "Alexander, Lillian" <lillian.alexander@hq.doe.gov>, "Drummond, Michael R. EOP/CEQ" <(b) (6)>, "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>

Date: Wed, 20 Jun 2018 11:10:39 -0400

Marian,

Update has been completed.

From: Carter, Marian (CONTR)
Sent: Wednesday, June 20, 2018 11:03 AM
To: Boling, Ted A. EOP/CEQ <(b) (6)>
Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Drummond, Michael R. EOP/CEQ <(b) (6)>; Mansoor, Yardena M. EOP/CEQ <(b) (6)>; Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Subject: RE: Updates to NEPA.gov - APPROVAL NEEDED FOR BANNER

Great. We will proceed 😊

From: Boling, Ted A. EOP/CEQ [[mailto:\(b\) \(6\)](mailto:(b) (6))]
Sent: Wednesday, June 20, 2018 11:02 AM
To: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>
Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Drummond, Michael R. EOP/CEQ <(b) (6)>; Mansoor, Yardena M. EOP/CEQ <(b) (6)>; Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Subject: RE: Updates to NEPA.gov - APPROVAL NEEDED FOR BANNER

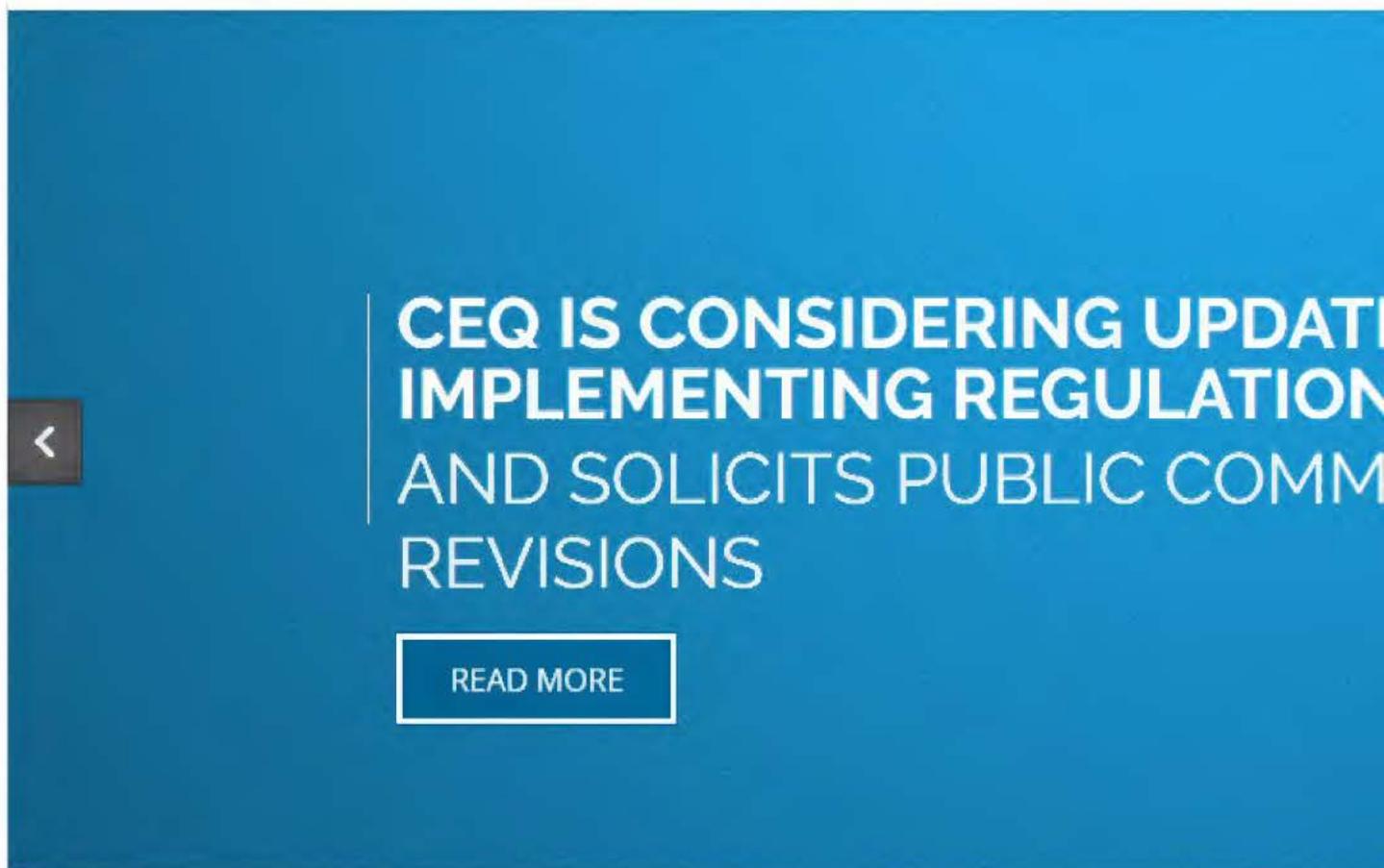
That looks great!
Thank you!

From: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>
Sent: Wednesday, June 20, 2018 10:12 AM
To: Boling, Ted A. EOP/CEQ <(b) (6)>
Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Drummond, Michael R. EOP/CEQ

<(b) (6)> Mansoor, Yardena M. EOP/CEQ
<(b) (6)> Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Subject: RE: Updates to NEPA.gov - APPROVAL NEEDED FOR BANNER

Good Morning, Ted:

John was able to manipulate the image to the following display. If you like it, he will proceed with including it in the web site update.



From: Boling, Ted A. EOP/CEQ [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Wednesday, June 20, 2018 8:57 AM
To: Mansoor, Yardena M. EOP/CEQ <(b) (6)> Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Cc: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>; Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Drummond, Michael R. EOP/CEQ <(b) (6)>
Subject: RE: Updates to NEPA.gov

If we can add a photo to the banner, here's one of Denali from NPS.gov

From: Mansoor, Yardena M. EOP/CEQ
Sent: Wednesday, June 20, 2018 8:48 AM
To: Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Cc: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>; Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ <(b) (6)>
Drummond, Michael R. EOP/CEQ <(b) (6)>
Subject: RE: Updates to NEPA.gov

On the CEQ NEPA Implementing Procedures page: >><https://ceq.doe.gov/laws-regulations/regulations.html><<, after the **Current Regulations:** heading, create new heading "**Proposed Rulemaking:**" and insert:

Proposed Rulemaking:

Advance Notice of Proposed Rulemaking [link to >><https://www.gpo.gov/fdsys/pkg/FR-2018-06-20/pdf/2018-13246.pdf><<] (20 June 2018). CEQ is considering updating its NEPA implementing regulations and solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process. Submit comments, identified by docket ID number CEQ-2018-0001, through the Federal eRulemaking portal, >><https://www.regulations.gov><<. Comments should be submitted on or before July 20, 2018.

From: Mansoor, Yardena M. EOP/CEQ
Sent: Monday, June 18, 2018 1:53 PM
To: 'Carter, Marian (CONTR)' <Marian.Carter@hq.doe.gov>
Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ <(b) (6)>
Drummond, Michael R. EOP/CEQ <(b) (6)>
Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Subject: RE: Updates to NEPA.gov

This information is not for public release before Wednesday, until after I confirm the highlighted dates and that the notice is accessible in regulations.gov. Thanks!

1. If the banner is to be an image, we need the image to enable us having time to manipulate it;
Not an image.
2. If the banner is to link to content, we need the content or URL identified;
See 4 below.
3. If the banner is not going to contain an image, it will be a simple blue background. Please confirm;
Blue would be fine.
4. The content or 2 sentences to be used in the banner.
CEQ is considering updating its NEPA implementing regulations and solicits public comment on potential revisions to update the regulations and ensure a more efficient,

timely, and effective NEPA process. See the Advance Notice of Proposed Rulemaking and related materials [here](#). [Link to <https://ceq.doe.gov/laws-regulations/regulations.html>.]

5. For the Regulations web page, we need the Heading you want to use, the 3 sentences of text to be entered and the 2 hyperlinks referenced on the web page.

On the CEQ NEPA Implementing Procedures page: <https://ceq.doe.gov/laws-regulations/regulations.html>, after the **Current Regulations:** heading, create new heading "**Proposed Rulemaking:**" and insert:

Advance Notice of Proposed Rulemaking (20 June 2018). CEQ is considering updating its NEPA implementing regulations and solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process. Submit comments, identified by docket ID number CEQ-2018-0001, through the Federal eRulemaking portal, <https://www.regulations.gov>. Comments should be submitted on or before **July 20, 2018**.

From: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>
Sent: Monday, June 18, 2018 1:23 PM
To: Mansoor, Yardena M. EOP/CEQ <(b) (6)>
Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ <(b) (6)> Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Subject: RE: Updates to NEPA.gov

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AU Web Support Team Manager
Highland Technology Services, Inc., Contractor
Office of Environment, Health, Safety and Security
(301) 903-3494 - Office
marian.carter@hq.doe.gov*

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Thanks, in advance, for your help.

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

RE: Updates to NEPA.gov - APPROVAL NEEDED FOR BANNER

From: "Boling, Ted A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=eae5b047f871428b9b46baf8afd1176a-bo">
To: "Carter, Marian (CONTR)" <marian.carter@hq.doe.gov>
"Alexander, Lillian" <lillian.alexander@hq.doe.gov>, "Drummond, Michael R. EOP/CEQ"
Cc: <(b) (6)> "Mansoor, Yardena M. EOP/CEQ"
<(b) (6)> "Adams, John (AU) (CONTR)"
<john.adams@hq.doe.gov>
Date: Wed, 20 Jun 2018 11:01:48 -0400

That looks great!
Thank you!

From: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>
Sent: Wednesday, June 20, 2018 10:12 AM
To: Boling, Ted A. EOP/CEQ <(b) (6)>
Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Drummond, Michael R. EOP/CEQ
<(b) (6)> Mansoor, Yardena M. EOP/CEQ
<(b) (6)> Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Subject: RE: Updates to NEPA.gov - APPROVAL NEEDED FOR BANNER

Good Morning, Ted:

John was able to manipulate the image to the following display. If you like it, he will proceed with including it in the web site update.



CEQ IS CONSIDERING UPDATES IMPLEMENTING REGULATION AND SOLICITS PUBLIC COMMENT REVISIONS

READ MORE

From: Boling, Ted A. EOP/CEQ [mailto:(b) (6)]
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To: Mansoor, Yarden M. EOP/CEQ <(b) (6)> Adams, John (AU) (CONTR)
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Cc: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>; Alexander, Lillian
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<(b) (6)>
Subject: RE: Updates to NEPA.gov

If we can add a photo to the banner, here's one of Denali from NPS.gov

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

RE: Updates to NEPA.gov

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

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

Date: Wed, 20 Jun 2018 09:44:17 -0400

Good morning Yardena,

This request has been completed

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Sent: Wednesday, June 20, 2018 9:12 AM
To: Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
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Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ

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

<(b) (6)> Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>

Subject: RE: Updates to NEPA.gov

Good Afternoon, Yardena:

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4. The content or 2 sentences to be used in the banner.
5. For the Regulations web page, we need the Heading you want to use, the 3 sentences of text to be entered and the 2 hyperlinks referenced on the web page.

*Thank you,
Marian*

*Marian A. Carter
AU Web Support Team Manager
Highland Technology Services, Inc., Contractor
Office of Environment, Health, Safety and Security
(301) 903-3494 - Office
marian.carter@hq.doe.gov*

The business of life is the acquisition of memories...

From: Mansoor, Yarden M. EOP/CEQ [[\(b\) \(6\)](mailto:(b) (6))]
Sent: Monday, June 18, 2018 12:31 PM
To: Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Cc: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>; Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ <(b) (6)>
Drummond, Michael R. EOP/CEQ <(b) (6)>
Subject: Updates to NEPA.gov

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- Adding a banner (two sentences) on the nepa.gov home page.
- Adding a heading, three sentences of text, and two links on the **CEQ NEPA Implementing Procedures** page: >><https://ceq.doe.gov/laws-regulations/regulations.html><<.

Follow-up: Please let me know if you have any questions on the request I sent Friday at 1:37, on the NEPA Practice page (revising and alphabetizing the tab entries, new land page and file for "Agency Jurisdiction and Expertise.")

New requests:

At >>https://ceq.doe.gov/laws-regulations/nepa_legislative_history.html<<, please replace the following links with the corresponding attachments (filenames in parenthesis):

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[House of Representatives Report on NEPA](#) (House of Representatives Report on NEPA.pdf)

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At https://ceq.doe.gov/laws-regulations/agency_implementing_procedures.html, please replace the linked file the corrected file attached.

Thanks, in advance, for your help.

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

RE: Updates to NEPA.gov

From: "Boling, Ted A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlf)/cn=recipients/cn=eae5b047f871428b9b46baf8afd1176a-bo">

To: "Mansoor, Yardena M. EOP/CEQ" <(b) (6)> "Adams, John (AU) (CONTR)" <john.adams@hq.doe.gov>

Cc: "Carter, Marian (CONTR)" <marian.carter@hq.doe.gov>, "Alexander, Lillian" <lillian.alexander@hq.doe.gov>, "Drummond, Michael R. EOP/CEQ" <(b) (6)>

Date: Wed, 20 Jun 2018 08:57:25 -0400

Attachments
: 04ECDEA3-1DD8-B71B-0BDA5C475ED2013F-large.jpg (55.14 kB)

If we can add a photo to the banner, here's one of Denali from NPS.gov

From: Mansoor, Yardena M. EOP/CEQ
Sent: Wednesday, June 20, 2018 8:48 AM
To: Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>
Cc: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>; Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ <(b) (6)>
Drummond, Michael R. EOP/CEQ <(b) (6)>
Subject: RE: Updates to NEPA.gov

On the CEQ NEPA Implementing Procedures page: <https://ceq.doe.gov/laws-regulations/regulations.html>, after the **Current Regulations:** heading, create new heading "**Proposed Rulemaking:**" and insert:

Proposed Rulemaking:

Advance Notice of Proposed Rulemaking [link to <https://www.gpo.gov/fdsys/pkg/FR-2018-06-20/pdf/2018-13246.pdf>] (20 June 2018). CEQ is considering updating its NEPA implementing regulations and solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective NEPA process. Submit comments, identified by docket ID number CEQ-2018-0001, through the Federal eRulemaking portal, <https://www.regulations.gov>. Comments should be submitted on or before July 20, 2018.

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<(b) (6)> Drummond, Michael R. EOP/CEQ
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Subject: RE: Updates to NEPA.gov

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Sent: Monday, June 18, 2018 1:23 PM
To: Mansoor, Yardena M. EOP/CEQ <(b) (6)>
Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ
<(b) (6)> Drummond, Michael R. EOP/CEQ
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Cc: Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>; Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ <(b) (6)>
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RE: Updates to NEPA.gov

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Cc: <(b) (6)> "Drummond, Michael R. EOP/CEQ"
<(b) (6)>
Date: Wed, 20 Jun 2018 08:53:59 -0400

Good morning Yardena,

I just want to confirm we can go ahead and publish the update now correct?

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Yardena Mansoor
Deputy Associate Director for NEPA
Council on Environmental Quality

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

FW: LRM [CMB-115-184] DUE 06/22 @ 2:00 PM GSA and CEQ Oversight Testimonies on Infrastructure Permitting

From: "Rusnak, Allison B. EOP/CEA" <(b) (6)>
To: "Herrgott, Alex H. EOP/CEQ" <(b) (6)> "Osterhues,
Marlys A. EOP/CEQ" <(b) (6)>
Date: Thu, 21 Jun 2018 16:02:20 -0400
Attachments Herrgott Statement 6.27 Roundtable Senate FINAL DRAFT_6.20.edits.docx (28.62
: kB)

Passing on directly..Think these types of inclusions are important for Alex to include since he is the Administration witness at the roundtable.

From: Bronack, Candice M. EOP/OMB
Sent: Thursday, June 21, 2018 1:51 PM
To: 'AGRICULTURE' <usdaleg@obpa.usda.gov>; DL-CEQ-LRM <(b) (6)>; 'DEFENSE' <(b) (6)>; 'ENERGY' <Energy.GC33@hq.doe.gov>; 'EPA' <epalrm@epamail.epa.gov>; 'INTERIOR' <ocl@ios.doi.gov>; 'JUSTICE' <justice.lrm@usdoj.gov>; 'TRANSPORTATION' <dot.legislation@dot.gov>; 'DHS' <DHSOGCLegislation@HQ.DHS.GOV>; 'ARMY CORPS ENG' <cecc-leg@hq02.usace.army.mil>; 'COMMERCE' <clrm@doc.gov>; 'HUD' <HUDLRM@hud.gov>; 'LABOR' <dol-sol-leg@dol.gov>; 'VA' <ogcvalrm@va.gov>; 'llo@nrc.gov' <llo@nrc.gov>; 'GSA' <ca.legislation@gsa.gov>
Cc: Kraninger, Kathleen L. EOP/OMB <(b) (6)> Marten, Lexi N. EOP/OMB <(b) (6)> Abrams, Andrew D. EOP/OMB <(b) (6)> Connolly, David C. EOP/OMB <(b) (6)> Skidmore, Ben J. EOP/OMB <(b) (6)> Donatelli, Angela M. EOP/OMB <(b) (6)> Nelson, Kimberly P. EOP/OMB <(b) (6)> Korovesis, Andrea G. EOP/OMB <(b) (6)> Grossman, Andrea L. EOP/OMB <(b) (6)> Pasquantino, John C. EOP/OMB <(b) (6)> Colyar, Kelly T. EOP/OMB <(b) (6)> Krauss, Lori A. EOP/OMB <(b) (6)> Dorjets, Vlad EOP/OMB <(b) (6)> Lucas, Adrienne E. EOP/OMB <(b) (6)> Stein, Nora H. EOP/OMB <(b) (6)> Hazelgren, Mark H. EOP/OMB <(b) (6)> Dankert, Charles M. EOP/OMB <(b) (6)> Montoni, Joe E. EOP/OMB <(b) (6)> Burnett, Ben D. EOP/OMB <(b) (6)> Roach, Emma K. EOP/OMB <(b) (6)> Hagan, Michael B. EOP/OMB <(b) (6)> Whitman, Katie B. EOP/OMB <(b) (6)> Krauss, Lori A. EOP/OMB <(b) (6)> Buenvenida, Pearl A. EOP/OMB <(b) (6)> Miller, Kimberly A. EOP/OMB <(b) (6)>

<(b) (6)> Reed, Meagan E. EOP/OMB <(b) (6)>
Hester, David G. EOP/OMB <(b) (6)> Crutchfield, Craig C. EOP/OMB
<(b) (6)> Roach, Emma K. EOP/OMB <(b) (6)>
Brown, Dustin S. EOP/OMB <(b) (6)> Yi, David Y. EOP/OMB
<(b) (6)> Bussow, Mark A. EOP/OMB <(b) (6)> Falk Curtin,
Edna T. EOP/OMB <(b) (6)> McDonald, Christine A. EOP/OMB
<(b) (6)> Dick, John H. EOP/OMB <(b) (6)>
Nafziger, Jephtha E. EOP/OMB <(b) (6)> Howe, Andrew P. EOP/OMB
<(b) (6)> Gamache, Christopher D. EOP/OMB
<(b) (6)> Fischietto, Mary S. EOP/OMB
<(b) (6)> Berger, Joseph J. EOP/OMB <(b) (6)>
Lallemand, Chad A. EOP/OMB <(b) (6)> Nusraty, Tim H. EOP/OMB
<(b) (6)> Curtis, Tyler T. EOP/OMB <(b) (6)>
Hathaway, Kyle W. EOP/OMB <(b) (6)> Walsh, Heather V. EOP/OMB
<(b) (6)> Jain, Varun M. EOP/OMB <(b) (6)> Seehra,
Jasmeet K. EOP/OMB <(b) (6)> Hunt, Alex T. EOP/OMB
<(b) (6)> Blum, Mathew C. EOP/OMB <(b) (6)>
Field, Lesley A. EOP/OMB <(b) (6)> Pica, Karen A. EOP/OMB
<(b) (6)> DL-WHO-WHGC-LRM <(b) (6)> <(b) (6)>
LRM <(b) (6)> 'DL-OSTP-LRM' <(b) (6)> DL-CEA-LRM <(b) (6)>
<(b) (6)> Rusnak, Allison B. EOP/CEA <(b) (6)> Warren, Peter N.
EOP/OMB <(b) (6)> Carr, Kerrie L. EOP/OMB <(b) (6)>
Patel, Neal A. EOP/OMB <(b) (6)> Slemrod, Jonathan A. EOP/OMB
<(b) (6)> Ventura, Alexandra EOP/OMB
<(b) (6)> Vaeth, Matt J. EOP/OMB <(b) (6)>

Subject: LRM [CMB-115-184] DUE 06/22 @ 2:00 PM GSA and CEQ Oversight Testimonies on Infrastructure Permitting

DEADLINE: 2:00 PM Friday, June 22, 2018

Attached are (2) statements of the Federal Permitting Improvement Steering Council (FPISC) and CEQ for a roundtable on infrastructure permitting on June 27 before the Senate Homeland Security and Government Affairs Committee. This is not a formal hearing, but it will be open to the press and written statements will be posted online. Please review these statements and send any comments by the deadline above. Thanks.

LRM ID: CMB-115-184
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

LEGISLATIVE REFERRAL MEMORANDUM
Thursday, June 21, 2018

TO: Legislative Liaison Officer - See Distribution

FROM: Ventura, Alexandra (for) Assistant Director for Legislative Reference
SUBJECT: LRM [CMB-115-184] DUE 06/22 @ 2:00 PM GSA and CEQ Statements on Infrastructure

Permitting

OMB CONTACT: **Candice Bronack**

E-Mail: (b) (6)

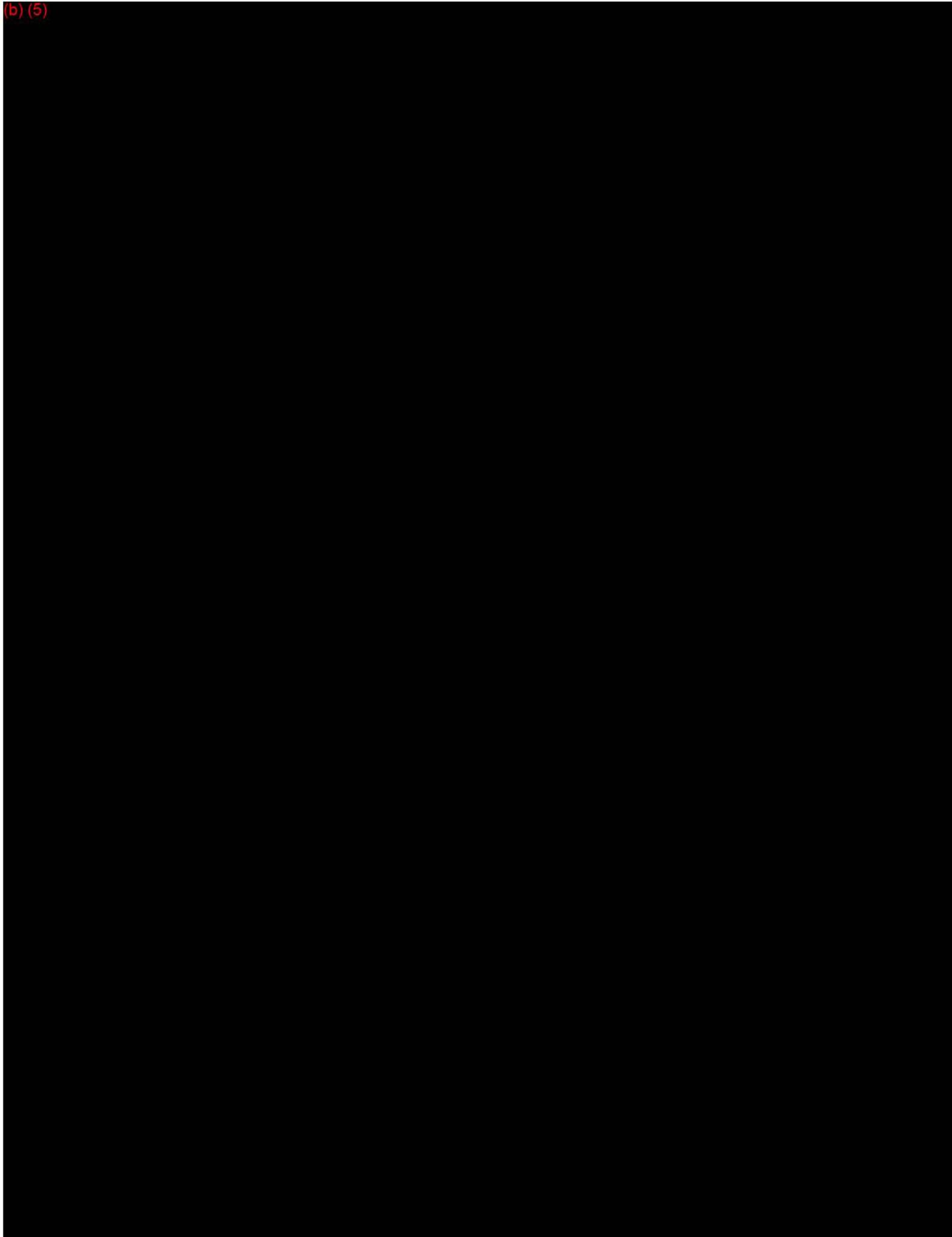
PHONE: (b) (6)

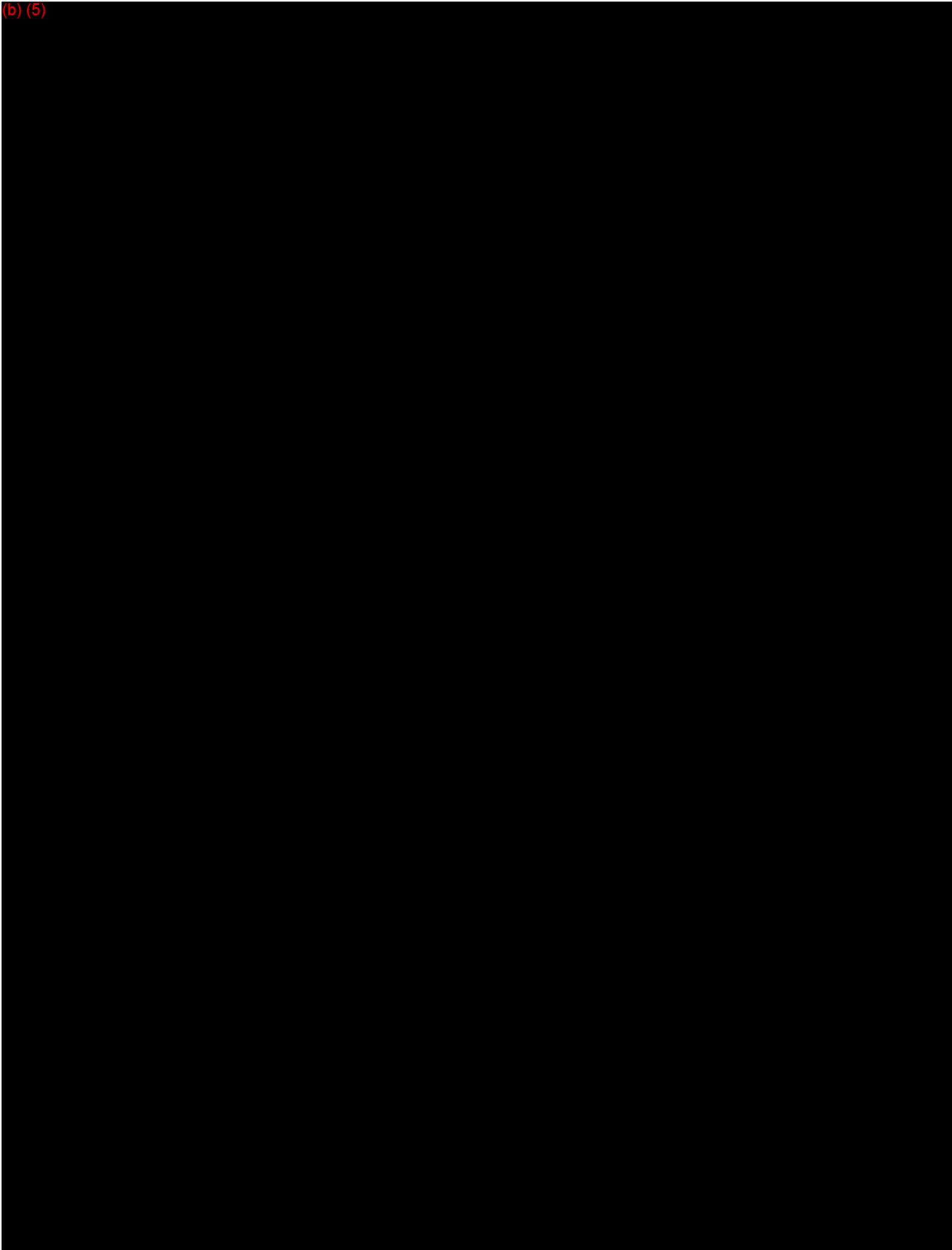
FAX: **(202) 395-3109**

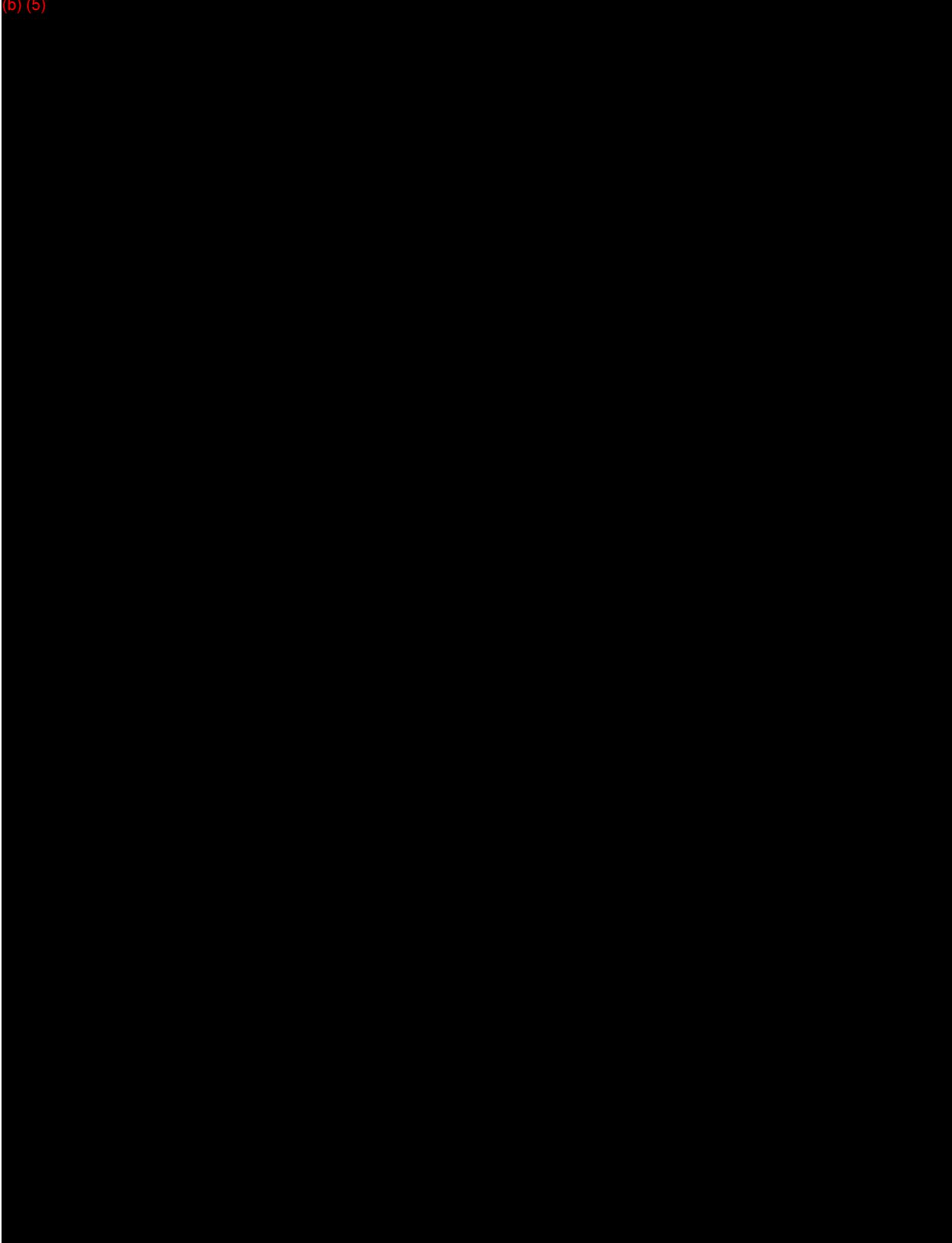
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. By the deadline above, please reply by e-mail or telephone, using the OMB Contact information above.

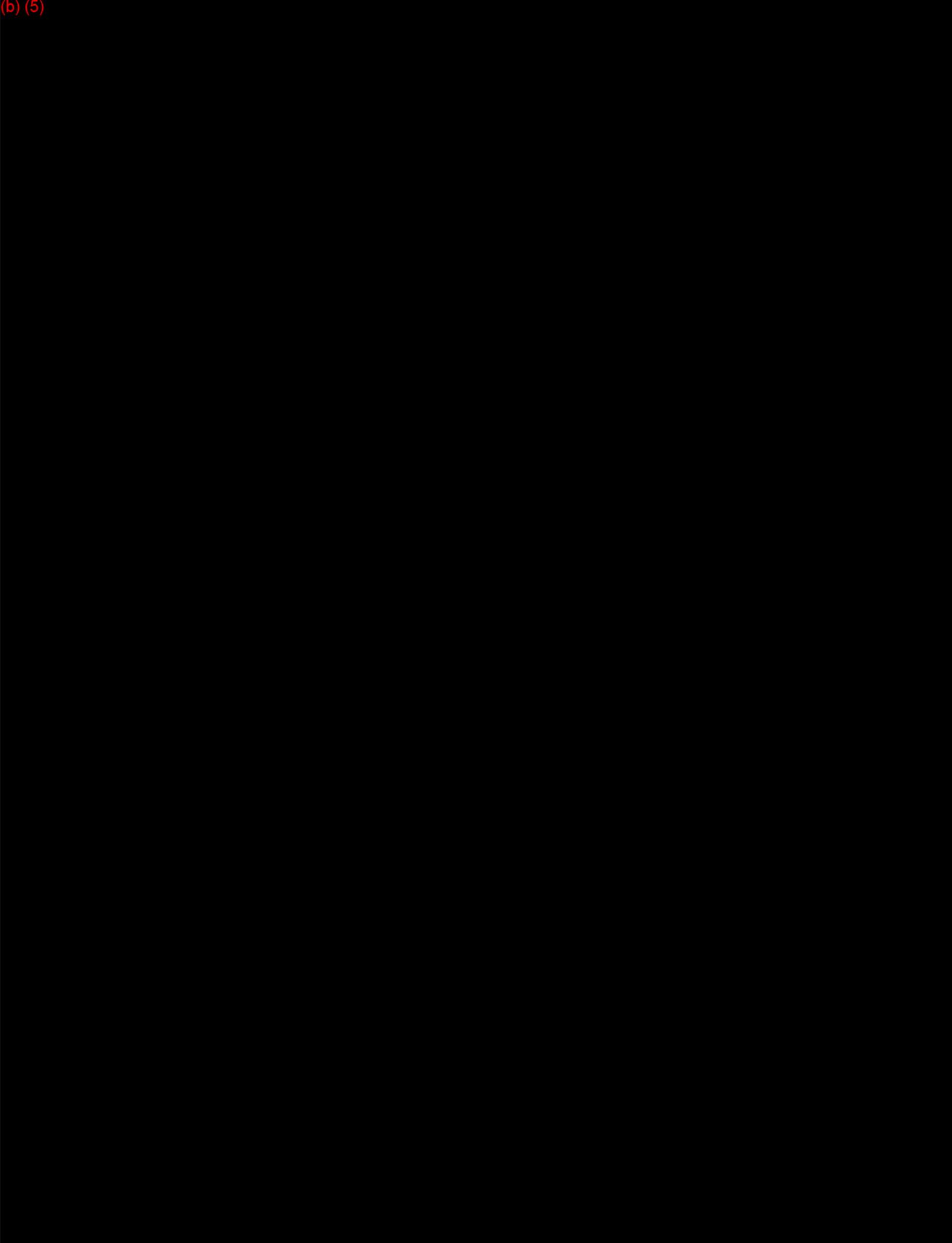
Please advise us if this item will affect direct spending or receipts for the purposes of the Statutory Pay-as-You-Go Act of 2010.

Thank you.









Final version of Alex's Roundtable Statement

From: "Osterhues, Marlys A. EOP/CEQ" <(b) (6)>
To: "Neumayr, Mary B. EOP/CEQ" <(b) (6)>
"Herrgott, Alex H. EOP/CEQ" <(b) (6)> "Schneider,
Daniel J. EOP/CEQ" <(b) (6)> "Pettigrew, Theresa L.
EOP/CEQ" <(b) (6)> "Barnett, Steven W. EOP/CEQ"
Cc: <(b) (6)> "Sharp, Thomas L. EOP/CEQ"
<(b) (6)> "Smith, Katherine R. EOP/CEQ"
<(b) (6)> "Vandegrift, Scott F. EOP/CEQ"
<(b) (6)> "Seale, Viktoria Z. EOP/CEQ"
<(b) (6)>
Date: Fri, 22 Jun 2018 16:36:12 -0400

Attachments

Herrgott Statement 6.27 Roundtable Senate FINAL_CLEAN.docx (27.19 kB)

Good evening Mary –

Attached is a clean version of Alex's statement for the Roundtable.

Thank you - Marlys

STATEMENT OF
ALEXANDER HERRGOTT
ASSOCIATE DIRECTOR FOR INFRASTRUCTURE
COUNCIL ON ENVIRONMENTAL QUALITY
BEFORE THE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

June 27, 2018

Senator Portman, Ranking Member McCaskill, and Members of the Committee, thank you for the invitation to this roundtable discussion on the federal permitting process for major infrastructure projects. We appreciate this Committee's willingness to have a meaningful dialogue on this topic as we work toward a shared goal of reducing permitting delays and providing the American people the modernized infrastructure they undoubtedly need.

As many of you know, a major cause of delay has been too many decision makers without effective cross agency communication and coordination. Multiple federal agencies oversee potentially dozens of federal statutes that project sponsors must navigate before beginning construction on a major infrastructure project. Over time, this has created a redundant and often inconsistent federal permitting process. Too often, these processes do not share a single framework or time frame. For example, a highway project could have as many as 10 different federal agencies involved in 16 different permitting decisions, in addition to the state, local, and tribal agencies with separate permitting and approval processes.

The result is a federal permitting process that often takes too long, increases costs, and creates uncertainty. We are actively working to address these challenges while ensuring environmental protection. With process enhancements and a common-sense, harmonized approach among federal agencies, infrastructure projects will move through the environmental review permitting process more efficiently. Federal agency coordination is imperative to long-term process reforms throughout these agencies.

Executive Order 13807

On August 15, 2017, President Trump signed Executive Order 13807 implementing a policy of "One Federal Decision." Under One Federal Decision, federal agencies will administer the National Environmental Policy Act (NEPA) so that a single Environmental Impact Statement (EIS) and a single Record of Decision (ROD) are prepared for all reviewing agencies, and all applicable permitting decision processes will be conducted concurrently with the NEPA process to ensure that the necessary permitting decisions can be made within 90 days of the ROD. One Federal Decision also provides that federal agencies will seek to complete the environmental

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review process within an average of 2 years of the publication of a Notice of Intent to prepare an EIS. As a result of One Federal Decision, the federal environmental review and permitting process will be streamlined, more transparent, and predictable.

One Federal Decision builds on the statutory authorities provided in the Fixing America's Surface Transportation Act (FAST Act) to streamline permitting and provides a framework to further improve efficient coordination between federal agencies. The FAST-41 process, established in Title 41 of the FAST Act, provides a range of tools for large and complex infrastructure projects to navigate the federal environmental review and authorization process. In brief, FAST-41 established project-specific procedures that may be applicable or available to agencies and project sponsors in meeting permitting and review obligations. One Federal Decision broadly impacts how agencies conduct and coordinate environmental reviews while preserving each agency's statutory authority, independence, and ability to comply with NEPA and related statutes, like FAST-41.

Memorandum of Understanding

On April 9, 2018, President Trump announced that the following 12 federal agencies signed a One Federal Decision Memorandum of Understanding (MOU): Department of the Interior (Interior), Department of Agriculture (USDA), Department of Housing and Urban Development, Department of Commerce, Department of Transportation, Department of Energy (DOE), United States Army Corps of Engineers, Department of Homeland Security, Environmental Protection Agency (EPA), Federal Energy Regulatory Commission (FERC), Advisory Council on Historic Preservation, and the Federal Permitting Improvement Steering Council (FPISC). Under the MOU, these agencies committed to following the President's One Federal Decision framework. In doing so, the agencies agreed to implement an unprecedented level of coordination and collaboration in conducting their environmental reviews of major infrastructure projects.

The Council on Environmental Quality (CEQ), in coordination with other components of the White House, has convened a federal interagency working group to develop the framework under which agencies will implement One Federal Decision. This framework establishes the standard operating procedures for how agencies process environmental reviews from beginning to end. The agencies will work together to identify the appropriate level of analysis needed to conduct the necessary environmental reviews, synchronize the public engagement, and complete other procedural steps to ensure that all necessary decisions can be made within the timelines established by Executive Order 13807.

Agency Action

To date, agencies have been taking steps to advance One Federal Decision principles, starting first with normalizing regular interagency working group meetings and collaboration between agencies and CEQ to improve interagency coordination and the quality of environmental analysis. Since the agencies signed the MOU, CEQ and agency leadership have engaged in numerous meetings on agency streamlining efforts to identify and implement policy, process, and regulatory changes that include:

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- The Federal Highway Administration signed an agreement with the United States Fish and Wildlife Service, the Army Corps of Engineers, EPA, United States Coast Guard, and National Oceanic and Atmospheric Administration (NOAA), committing to working together to achieve the goals of Executive Order 13807. These agencies collaboratively developed a chart coordinating each agency's processes;
- Interior issued Secretarial Order 3355 and additional guidance that advance the department's NEPA-streamlining efforts within Executive Order 13807;
- The Army Corps of Engineers issued Section 408 policy changes adopting other agencies' NEPA documents and issued a policy memorandum operationalizing "risk-informed decision making" to improve coordination and risk management across disciplines;
- USDA, FERC, DOE, and EPA are improving internal clearance processes along with increasing agency capacity for projects with dedicated staff assignments;
- USDA, the Army Corps of Engineers, NOAA Fisheries and the United States Fish and Wildlife Service are expanding the use of time-saving programmatic consultation processes; and
- Agencies will be issuing directives and conducting training at all levels of their organizations, from headquarters to field offices, on timetables and plans to implement the One Federal Decision policy nationwide.

Agency Accountability

The Office of Management and Budget is developing a performance accountability system and appropriate performance metrics to ensure that agencies are implementing One Federal Decision, including the adherence to lead federal agency permitting timetables. The Administration plans to consider agency performance during budget formulation, and agency delays from the permitting timetable may be quantified. Key agency personnel also will have accountability and performance criteria added to their performance plans to measure their effectiveness in processing project permits.

Regulatory Reforms

Following the direction laid out in Executive Order 13807, CEQ published an initial list of actions in the *Federal Register* on September 14, 2017, outlining its plans to enhance and modernize the federal environmental review and authorization process. Last fall, CEQ announced its intent to review its 1978 regulations implementing the procedural requirements of NEPA to identify potential updates and clarifications to those regulations. Just last week, CEQ published in the *Federal Register* for public comment an Advance Notice of Proposed Rulemaking titled, "Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act."

Through improved agency coordination, increased transparency and accountability and timely decision making, we can improve our infrastructure permitting process and get projects completed and to the market faster for the benefit of the American people.

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While CEQ is focused on the development of a better process for all infrastructure project permitting, the Federal Permitting Improvement Steering Council is focused on overcoming obstacles on a project-by-project basis. My colleague, Angela Colamaria, the acting Executive Director of the Permitting Council, will expand further on the implementation of FAST-41 and FPISC's role in streamlining the federal permitting process.

Thank you again for the opportunity to participate in today's discussion.

[APG]

RE: 6/27 meeting request - CEO of EDF Renewables

From: "Green, Mary A. EOP/CEQ" <(b) (6)>
To: "Drummond, Michael R. EOP/CEQ" <(b) (6)> "Boling, Ted A. EOP/CEQ" <(b) (6)>
Date: Fri, 22 Jun 2018 12:38:14 -0400

Thanks Miichael

From: Drummond, Michael R. EOP/CEQ
Sent: Friday, June 22, 2018 10:35 AM
To: Green, Mary A. EOP/CEQ <(b) (6)> Boling, Ted A. EOP/CEQ <(b) (6)>
Subject: RE: 6/27 meeting request - CEO of EDF Renewables

Thank you Mary, I will inquire with Mary and others on how to proceed and will respond to Elizabeth.

From: Green, Mary A. EOP/CEQ
Sent: Friday, June 22, 2018 10:11 AM
To: Boling, Ted A. EOP/CEQ <(b) (6)>
Cc: Drummond, Michael R. EOP/CEQ <(b) (6)>
Subject: FW: 6/27 meeting request - CEO of EDF Renewables

Wasn't sure who to route-out this request; therefore, I am starting with you (NEPA). Please advise.
Mary

From: Moeller, Elizabeth V. <elizabeth.moeller@pillsburylaw.com>
Sent: Thursday, June 21, 2018 4:33 PM
To: Green, Mary A. EOP/CEQ <(b) (6)>
Subject: [EXTERNAL] 6/27 meeting request - CEO of EDF Renewables

Dear Ms. Green,

Thank you for your time yesterday – just before we saw the release of the Advance Notice of Proposed Rulemaking on NEPA!

I am following up on behalf of EDF Renewables which is a market leading independent power producer and service provider in the U.S. with projects throughout the United States and headquarters in San Diego.

EDF Renewables' President and CEO, Tristan Grimbert, will be in DC on Wednesday, June 26th and is hoping that leaders at CEQ will have time for a short visit to discuss NEPA and national energy and environmental policy.

Would a short visit on Wednesday, June 27th at, perhaps at 11:30 be convenient for schedules?

EDF Renewables delivers grid-scale power: wind (onshore and offshore), solar photovoltaic, and storage projects; distributed solutions: solar, solar+storage, EV charging and energy management; and asset optimization: technical, operational, and commercial skills to maximize performance of generating projects. EDF Renewables' North American portfolio consists of 10 GW of developed projects and 10 GW under service contracts.

Please let me know if you need any additional information. Many thanks in advance.

Kind regards,
Elizabeth

Elizabeth Vella Moeller | Partner | Public Policy Group Leader
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1200 Seventeenth Street NW | Washington, DC 20036-3006
t 202.663.9159 | f 202.663.8007 | m (b) (6)
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PALM BEACH SACRAMENTO SAN DIEGO SAN DIEGO NORTH COUNTY
SAN FRANCISCO SHANGHAI SILICON VALLEY TOKYO WASHINGTON, DC



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FW: 6/27 meeting request - CEO of EDF Renewables

From: "Green, Mary A. EOP/CEQ" <(b) (6)>
To: "Boling, Ted A. EOP/CEQ" <(b) (6)>
Cc: "Drummond, Michael R. EOP/CEQ" <(b) (6)>
Date: Fri, 22 Jun 2018 10:11:00 -0400
Attachments: Palen Profile 11-2017 v5.pdf (356.04 kB); 10102017_Final Report.pdf (137.58 kB)

Wasn't sure who to route-out this request; therefore, I am starting with you (NEPA). Please advise.
Mary

From: Moeller, Elizabeth V. <elizabeth.moeller@pillsburylaw.com>
Sent: Thursday, June 21, 2018 4:33 PM
To: Green, Mary A. EOP/CEQ <(b) (6)>
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[EXTERNAL] Shipley Group - Podcast

From: Jeffrey Stewart <jeff.stewart@shipleygroup.com>

To: "Boling, Ted A. EOP/CEQ" <(b) (6)>

Date: Mon, 02 Jul 2018 10:50:46 -0400

Ted,

The Shipley Group has created a podcast called "The NEPA Project" to educate and assist NEPA Professionals. Our most recent episode was with Joe Carbone and Rhey Solomon discussing President Trump's EO on infrastructure projects. To follow-up on this episode, we are interested in facilitating an episode with you to help CEQ connect with our NEPA learning community on your current efforts to identify potential revisions to update the CEQ regulations to ensure a more efficient, timely, and effective NEPA process that is consistent with NEPA. This would be an opportunity to highlight some of the 20 questions CEQ has posed in the advance notice of proposed rulemaking. With comments due by the 20th of this month, it would be helpful for the NEPA learning community to engage on this topic soon. Hearing from you would likely stimulate comments on the questions CEQ is asking. The podcast episode would be facilitated by one or two of our instructors as a dialogue with you. Our objective is to assist CEQ and the many NEPA practitioners in providing a productive dialogue on changes needed to make the NEPA process more efficient, timely, and effective.

You would have complete editorial rights prior to releasing the episode.

Let us know if you are interested in participating.

Thanks,

Jeff Stewart
The Shipley Group, Inc.
Phone: 888-270-2157
jeff.stewart@shipleygroup.com
Website: www.shipleygroup.com

FW: Comment - CEQ-2018-001

From: "Drummond, Michael R. EOP/CEQ" <(b) (6)>
"Szabo, Aaron L. EOP/CEQ" <(b) (6)> "Seale, Viktoria Z.
To: EOP/CEQ" <(b) (6)> "Neumayr, Mary B. EOP/CEQ"
<(b) (6)>
Cc: "Mansoor, Yardena M. EOP/CEQ" <(b) (6)> "Smith,
Katherine R. EOP/CEQ" <(b) (6)>
Date: Tue, 03 Jul 2018 15:10:34 -0400
Attachments Final State AG Letter Requesting Extension of Time to Comment on Advance..._.pdf
: (1.24 MB)

FYI -- We received the attached this afternoon from the AGs offices of WA, MD, MA, NJ, NY, and OR requesting a 60-day extension of the comment period.

From: Kealy, Tricia (ATG) <TriciaK@ATG.WA.GOV>
Sent: Tuesday, July 3, 2018 2:44 PM
To: FN-CEQ-NEPA <(b) (6)> ksmith@ceq.eop.gov
Cc: Janke, Aurora (ATG) <AuroraJ@ATG.WA.GOV>
Subject: Comment - CEQ-2018-001

Greetings,

Attached please find a letter Re: Advance Notice of Proposed Rulemaking – Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 83 Fed. Reg. 28591 (June 20, 2018) Docket ID No. CEQ-2018-001 from Attorneys General of Washington, Maryland, Massachusetts, New Jersey, New York, and Oregon. This was submitted today on regulations.gov.

Thank you,
Tricia Kealy
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**ATTORNEYS GENERAL OF WASHINGTON, MARYLAND, MASSACHUSETTS,
NEW JERSEY, NEW YORK, AND OREGON**

July 3, 2018

BY EMAIL AND REGULATIONS.GOV

Mary B. Neumayr, Chief of Staff
Council on Environmental Quality
730 Jackson Place NW
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ksmith@ceq.eop.gov

Re: Advance Notice of Proposed Rulemaking – Update to the Regulations for
Implementing the Procedural Provisions of the National Environmental Policy
Act, 83 Fed. Reg. 28591 (June 20, 2018)
Docket ID No. CEQ-2018-0001

Dear Chief of Staff Neumayr:

The undersigned State Attorneys General write to express our concern about the Council on Environmental Quality's (CEQ) advance notice of proposed rulemaking regarding updates to the regulations implementing the National Environmental Policy Act (NEPA). For the following reasons, we ask that you extend the public comment period from 30 days to 90 days to provide a sufficient opportunity for states, the public, and other stakeholders to comment on this significant proposal to revise regulations that have long served to protect the environment and public health.

NEPA is one of our nation's bedrock environmental laws. The CEQ's implementing regulations provide the guiding principles for administering NEPA across the entire federal government. Nearly every major federal action from the approval of significant energy and infrastructure projects to key decisions concerning the administration of federal public lands requires compliance with the NEPA process. We are concerned that amendments to CEQ's regulations may result in profound changes on the depth and quality of federal agencies' consideration of the environmental and public health impacts of major federal actions—many of which are of significant interest to our states' residents and have lasting impacts on our states' natural resources and economies. In addition, many states, including Maryland, Massachusetts, New York, and Washington, have adopted their own environmental review laws that often must be administered in conjunction with the NEPA process. Our states thus have a strong interest in ensuring that any revisions to CEQ's NEPA regulations continue to require, consistent with NEPA, that federal agencies always take a "hard look" at the environmental and public health consequences of major federal actions.

As stated in the advance notice, CEQ's NEPA regulations have been revised extremely infrequently, and therefore a compressed timeline for consideration of such revisions is unwarranted and unwise. CEQ's NEPA regulations are fundamental to the daily functioning of numerous agencies and any revisions to these regulations must be carefully and deliberately calibrated. A wealth of scholarship and practical experience can be brought to bear on the need for and prudence of any revisions, and we believe that only a truly deliberative and public process will produce revised regulations that are consistent with NEPA's structure and purpose.

Given the significant impacts that revisions to CEQ's NEPA regulations could have on states and the public, the broad scope of the advance notice, and the long history of the federal government's use of the regulations under review, we ask that you extend the comment period by 60 days to provide a meaningful amount of time for states, the public, and other stakeholders to adequately respond to the advance notice. The current 30-day comment period does not provide the affected public adequate opportunity to participate in the rulemaking and comment on the proposal as required by the Administrative Procedure Act, 5 U.S.C. § 553(c). Under section 2(b) of Executive Order 13,563, a standard comment period should be at least 60 days, but the significance of this proposal to change longstanding and far-reaching NEPA regulations demands additional time to ensure an opportunity for meaningful public involvement in the review process.

We therefore request that CEQ extend the comment period by 60 days, to September 18, 2018. We also request that CEQ hold several public hearings on the proposal in different regions of the country during the comment period.

We appreciate your consideration of this important matter.

Respectfully submitted,

FOR THE STATE OF WASHINGTON

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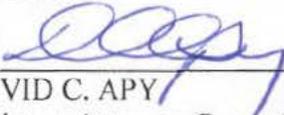
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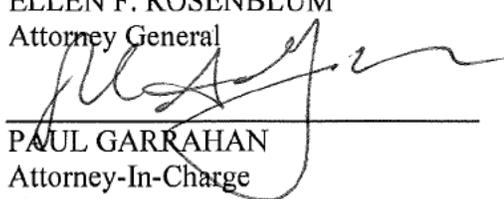


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RE: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

From: "Tejada, Matthew" <tejada.matthew@epa.gov>
:
To: "Freeman, Denise" <denise.freeman@hq.doe.gov>, "Boling, Ted A. EOP/CEQ" <(b) (6)>, "Ruhl, Suzi" <ruhl.suzi@epa.gov>
Cc: "Walter, Simone" <walter.simone@epa.gov>, "Buzzelle, Stanley" <buzzelle.stanley@epa.gov>
Date: Thu, 05 Jul 2018 12:34:45 -0400

Thanks for sending this around Denise. Ted or Denise – what are we doing to distribute this to the public? If there is already approved listserv announcements etc., then that (I believe) will make it much easier for us to push out through our OEJ listserv (which I would like to do).

Thanks,

Matthew

Matthew Tejada
Director - Office of Environmental Justice
Environmental Protection Agency
202-564-8047

Stay in the know about all things EJ at EPA by subscribing to our email listserv [here](#).

From: Freeman, Denise [mailto:Denise.Freeman@hq.doe.gov]
Sent: Thursday, July 05, 2018 12:26 PM
To: dennis.ogden@gsa.gov; 'Elizabeth.E.Nelson@aphis.usda.gov' <Elizabeth.E.Nelson@aphis.usda.gov>; 'jsmalls@fs.fed.us' <jsmalls@fs.fed.us>; 'Michelle.L.Gray@aphis.usda.gov' <Michelle.L.Gray@aphis.usda.gov>; 'David.A.Bergsten@aphis.usda.gov' <David.A.Bergsten@aphis.usda.gov>; 'Wendy.F.Hall@aphis.usda.gov' <Wendy.F.Hall@aphis.usda.gov>; 'Caitlin.Gregg@ogc.usda.gov' <Caitlin.Gregg@ogc.usda.gov>; 'peggy.wade@wdc.usda.gov' <peggy.wade@wdc.usda.gov>; Kelsey Owens <kelsey.owens@wdc.usda.gov>; Costner, Brian <Brian.Costner@hq.doe.gov>; Miller, Steven (GC) <STEVEN.MILLER@hq.doe.gov>; nkeller@doc.gov; 'JRoberson@doc.gov' <JRoberson@doc.gov>; Everett.Bole@foh.hhs.gov; 'Kristen.Beckhorn@fda.hhs.gov' <Kristen.Beckhorn@fda.hhs.gov>; 'meghan.kelley@dot.gov' <meghan.kelley@dot.gov>; 'Sarah.Carrino@fema.dhs.gov' <Sarah.Carrino@fema.dhs.gov>; 'jennifer.hass@hq.dhs.gov' <jennifer.hass@hq.dhs.gov>; James.M.Potter@hud.gov; 'Barbara.R.Britton@hud.gov' <Barbara.R.Britton@hud.gov>; 'Sunaree.K.Marshall@hud.gov' <Sunaree.K.Marshall@hud.gov>; 'Danielle.L.Schopp@hud.gov' <Danielle.L.Schopp@hud.gov>;

'Joseph.A.Baietti@hud.gov' <Joseph.A.Baietti@hud.gov>; 'cheryl_kelly@ios.doi.gov' <cheryl_kelly@ios.doi.gov>; 'rebrown@usbr.gov' <rebrown@usbr.gov>; 'hzarin@blm.gov' <hzarin@blm.gov>; RWinthro@blm.gov; 'ccunningham@usbr.gov' <ccunningham@usbr.gov>; 'Doug_Wetmore@nps.gov' <Doug_Wetmore@nps.gov>; 'iris_maska@fws.gov' <iris_maska@fws.gov>; 'Collins, Brian M. (ENRD)' <Brian.M.Collins@usdoj.gov>; 'Douglas, Joshua (CRT)' <Joshua.Douglas@usdoj.gov>; 'Marvin, Barbara (ENRD)' <Barbara.Marvin@usdoj.gov>; daria.neal@usdoj.gov; 'HassellMD@state.gov' <HassellMD@state.gov>; 'Harold.Peaks@dot.gov' <Harold.Peaks@dot.gov>; 'carolyn.nelson@dot.gov' <carolyn.nelson@dot.gov>; 'amy.coyle@dot.gov' <amy.coyle@dot.gov>; 'Krystyna.bednarczyk@dot.gov' <Krystyna.bednarczyk@dot.gov>; 'antoinette.quagliata@dot.gov' <antoinette.quagliata@dot.gov>; (b) (6) Edward Boling
<(b) (6)> 'Drummond, Michael R. EOP/CEQ'
<(b) (6)> Ruhl, Suzi <Ruhl.Suzi@epa.gov>; Buzzelle, Stanley <Buzzelle.Stanley@epa.gov>; Tejada, Matthew <Tejada.Matthew@epa.gov>; Roemele, Julie <Roemele.Julie@epa.gov>; Lee, Charles <Lee.Charles@epa.gov>; Walter, Simone <walter.simone@epa.gov>; Allen, Dana <Allen.Dana@epa.gov>; Okorn, Barbara <Okorn.Barbara@epa.gov>; Knorr, Michele <knorr.michele@epa.gov>; Musumeci, Grace <Musumeci.Grace@epa.gov>; Kajumba, Ntale <Kajumba.Ntale@epa.gov>; Rudnick, Barbara <Rudnick.Barbara@epa.gov>; Harris, Reggie <HARRIS.REGGIE@EPA.GOV>; Poole, Elizabeth <Poole.Elizabeth@epa.gov>; Jones, Kim A <Jones.Kima@epa.gov>; Kelly, ThomasP <Kelly.ThomasP@epa.gov>; Dawson, Shelly <Dawson.Shelly@epa.gov>; Marshall, Tom <marshall.tom@epa.gov>; Brown, Deborah <Brown.Deborah@epa.gov>; Grass, Running <Grass.Running@epa.gov>; 'Phillip.Washington@aphis.usda.gov' <Phillip.Washington@aphis.usda.gov>; Mbabaliye, Theogene <Mbabaliye.Theogene@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; 'joanne.wachholder@ferc.gov' <joanne.wachholder@ferc.gov>; 'Kelley.munoz@ferc.gov' <Kelley.munoz@ferc.gov>; 'Robin.Griffin@ferc.gov' <Robin.Griffin@ferc.gov>; 'katrina.scarpato@gsa.gov' <katrina.scarpato@gsa.gov>; 'carol.schafer@gsa.gov' <carol.schafer@gsa.gov>; 'Jeffrey.Rikhoff@nrc.gov' <Jeffrey.Rikhoff@nrc.gov>; 'Walters, Carmel I -FS' <carmeliwalters@fs.fed.us>; Peggy Wade <peggy.wade@mn.usda.gov>; Rountree, Marthea <Rountree.Marthea@epa.gov>; 'Kandilarya Barakat' <Kandilarya.Barakat@ferc.gov>; Jeff.Knishkowy@ascr.usda.gov; Nowakowski, Matt <Nowakowski.Matt@epa.gov>; 'Huber, Cynthia (ENRD)' <Cynthia.Huber@usdoj.gov>; 'christy_johnsonhughes@fws.gov' <christy_johnsonhughes@fws.gov>; 'helen.serassio@dot.gov' <helen.serassio@dot.gov>; 'elaine.baum@ferc.gov' <elaine.baum@ferc.gov>; 'hope.e.gerstler@uscg.mil' <hope.e.gerstler@uscg.mil>; 'shelly.chichester@fema.gov' <shelly.chichester@fema.gov>; 'alan.tabachnick@dot.gov' <alan.tabachnick@dot.gov>; 'sheila.ruffin@ferc.gov' <sheila.ruffin@ferc.gov>; velikonjamg@state.gov

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

Greetings IWG EJ NEPA Committee:

FYI--For those who had not seen this Federal Register Notice (Advance Notice of Proposed Rulemaking), published on 6/20/18, CEQ is considering updating its implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA). The deadline for submission of comments: **July 20, 2018.**

Best,

Denise Freeman
Cynthia Huber
Co-chairs, IWG EJ NEPA Committee

Denise Freeman
Senior Advisor
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FW: Comment - CEQ-2018-001

From: "Green, Mary A. EOP/CEQ" <(b) (6)>
To: "Neumayr, Mary B. EOP/CEQ" <(b) (6)> "Boling, Ted A. EOP/CEQ" <(b) (6)>
Cc: "Drummond, Michael R. EOP/CEQ" (b) (6)
"Mansoor, Yarden M. EOP/CEQ" <(b) (6)>
Date: Thu, 05 Jul 2018 09:42:10 -0400
Attachments Final State AG Letter Requesting Extension of Time to Comment on Advance...pdf
: (1.24 MB)

From: Janke, Aurora (ATG) <AuroraJ@ATG.WA.GOV>
Sent: Tuesday, July 3, 2018 3:38 PM
To: Green, Mary A. EOP/CEQ <(b) (6)>
Subject: FW: Comment - CEQ-2018-001

Ms. Green,

I just spoke with you on the phone concerning filing a request for an extension of time to comment on CEQ's Advance Notice of Proposed Rulemaking – Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.

We would like to ensure that Chief of Staff Neumayr receives the attached letter from several State Attorneys General requesting an extension of time to comment on the Advance Notice. However, the email to ksmith@ceq.eop.gov, whom I understand to be Chief of Staff Neumayr's special assistant, bounced back. Could you please ensure that Chief of Staff Neumayr receives the attached letter?

Thank you for your assistance.

Best regards,

Aurora R. Janke
Special Assistant Attorney General
Counsel for Environmental Protection
Washington State Attorney General's Office
800 5th Ave Suite 2000, TB-14
Seattle, WA 98104-3188
Office: (206) 233-3391
Email: auroraj@atg.wa.gov

From: Kealy, Tricia (ATG)
Sent: Tuesday, July 3, 2018 11:44 AM
To: (b) (6); ksmith@ceq.eop.gov
Cc: Janke, Aurora (ATG) <AuroraJ@ATG.WA.GOV>
Subject: Comment - CEQ-2018-001

Greetings,

Attached please find a letter Re: Advance Notice of Proposed Rulemaking – Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 83 Fed. Reg. 28591 (June 20, 2018) Docket ID No. CEQ-2018-001 from Attorneys General of Washington, Maryland, Massachusetts, New Jersey, New York, and Oregon. This was submitted today on regulations.gov.

Thank you,
Tricia Kealy
Legal Assistant 3/Lead
Counsel for Environmental Protection
Office of the Attorney General
800 5th Ave, Suite 2000
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Phone 206-326-5494
TriciaK@atg.wa.gov

**ATTORNEYS GENERAL OF WASHINGTON, MARYLAND, MASSACHUSETTS,
NEW JERSEY, NEW YORK, AND OREGON**

July 3, 2018

BY EMAIL AND REGULATIONS.GOV

Mary B. Neumayr, Chief of Staff
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503
NEPA@ceq.eop.gov
ksmith@ceq.eop.gov

Re: Advance Notice of Proposed Rulemaking – Update to the Regulations for
Implementing the Procedural Provisions of the National Environmental Policy
Act, 83 Fed. Reg. 28591 (June 20, 2018)
Docket ID No. CEQ-2018-0001

Dear Chief of Staff Neumayr:

The undersigned State Attorneys General write to express our concern about the Council on Environmental Quality's (CEQ) advance notice of proposed rulemaking regarding updates to the regulations implementing the National Environmental Policy Act (NEPA). For the following reasons, we ask that you extend the public comment period from 30 days to 90 days to provide a sufficient opportunity for states, the public, and other stakeholders to comment on this significant proposal to revise regulations that have long served to protect the environment and public health.

NEPA is one of our nation's bedrock environmental laws. The CEQ's implementing regulations provide the guiding principles for administering NEPA across the entire federal government. Nearly every major federal action from the approval of significant energy and infrastructure projects to key decisions concerning the administration of federal public lands requires compliance with the NEPA process. We are concerned that amendments to CEQ's regulations may result in profound changes on the depth and quality of federal agencies' consideration of the environmental and public health impacts of major federal actions—many of which are of significant interest to our states' residents and have lasting impacts on our states' natural resources and economies. In addition, many states, including Maryland, Massachusetts, New York, and Washington, have adopted their own environmental review laws that often must be administered in conjunction with the NEPA process. Our states thus have a strong interest in ensuring that any revisions to CEQ's NEPA regulations continue to require, consistent with NEPA, that federal agencies always take a "hard look" at the environmental and public health consequences of major federal actions.

As stated in the advance notice, CEQ's NEPA regulations have been revised extremely infrequently, and therefore a compressed timeline for consideration of such revisions is unwarranted and unwise. CEQ's NEPA regulations are fundamental to the daily functioning of numerous agencies and any revisions to these regulations must be carefully and deliberately calibrated. A wealth of scholarship and practical experience can be brought to bear on the need for and prudence of any revisions, and we believe that only a truly deliberative and public process will produce revised regulations that are consistent with NEPA's structure and purpose.

Given the significant impacts that revisions to CEQ's NEPA regulations could have on states and the public, the broad scope of the advance notice, and the long history of the federal government's use of the regulations under review, we ask that you extend the comment period by 60 days to provide a meaningful amount of time for states, the public, and other stakeholders to adequately respond to the advance notice. The current 30-day comment period does not provide the affected public adequate opportunity to participate in the rulemaking and comment on the proposal as required by the Administrative Procedure Act, 5 U.S.C. § 553(c). Under section 2(b) of Executive Order 13,563, a standard comment period should be at least 60 days, but the significance of this proposal to change longstanding and far-reaching NEPA regulations demands additional time to ensure an opportunity for meaningful public involvement in the review process.

We therefore request that CEQ extend the comment period by 60 days, to September 18, 2018. We also request that CEQ hold several public hearings on the proposal in different regions of the country during the comment period.

We appreciate your consideration of this important matter.

Respectfully submitted,

FOR THE STATE OF WASHINGTON

ROBERT W. FERGUSON
Attorney General

By:



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AURORA R. JANKE
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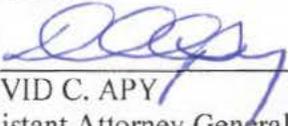
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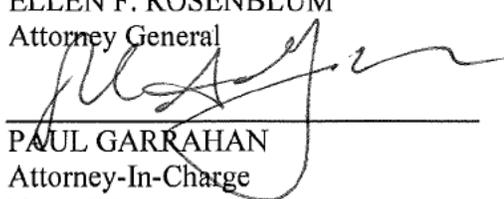


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FW: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

From: "Boling, Ted A. EOP/CEQ" <"/o=exchange organization/ou=exchange administrative group : (fydibohf23spdlt)/cn=recipients/cn=eae5b047f871428b9b46baf8afd1176a-bo">
To: "Drummond, Michael R. EOP/CEQ" <(b) (6)>
Date: Sun, 08 Jul 2018 06:52:01 -0400

Another opportunity to spread the word.

From: Tejada, Matthew <Tejada.Matthew@epa.gov>
Sent: Thursday, July 5, 2018 12:35 PM
To: Freeman, Denise <Denise.Freeman@hq.doe.gov>; Boling, Ted A. EOP/CEQ <(b) (6)> Ruhl, Suzi <Ruhl.Suzi@epa.gov>
Cc: Walter, Simone <walter.simone@epa.gov>; Buzzelle, Stanley <Buzzelle.Stanley@epa.gov>
Subject: RE: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

Thanks for sending this around Denise. Ted or Denise – what are we doing to distribute this to the public? If there is already approved listserv announcements etc., then that (I believe) will make it much easier for us to push out through our OEJ listserv (which I would like to do).

Thanks,

Matthew

Matthew Tejada
Director - Office of Environmental Justice
Environmental Protection Agency
202-564-8047

Stay in the know about all things EJ at EPA by subscribing to our email listserv [here](#).

From: Freeman, Denise [mailto:Denise.Freeman@hq.doe.gov]
Sent: Thursday, July 05, 2018 12:26 PM
To: dennis.ogden@gsa.gov; 'Elizabeth.E.Nelson@aphis.usda.gov' <Elizabeth.E.Nelson@aphis.usda.gov>; 'jsmalls@fs.fed.us' <jsmalls@fs.fed.us>; 'Michelle.L.Gray@aphis.usda.gov' <Michelle.L.Gray@aphis.usda.gov>; 'David.A.Bergsten@aphis.usda.gov' <David.A.Bergsten@aphis.usda.gov>; 'Wendy.F.Hall@aphis.usda.gov' <Wendy.F.Hall@aphis.usda.gov>; 'Caitlin.Gregg@ogc.usda.gov' <Caitlin.Gregg@ogc.usda.gov>; 'peggy.wade@wdc.usda.gov' <peggy.wade@wdc.usda.gov>; Kelsey Owens <kelsey.owens@wdc.usda.gov>; Costner, Brian <Brian.Costner@hq.doe.gov>; Miller, Steven (GC) <STEVEN.MILLER@hq.doe.gov>; nkeller@doc.gov;

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'elaine.baum@ferc.gov' <elaine.baum@ferc.gov>; 'hope.e.gerstler@uscg.mil'
<hope.e.gerstler@uscg.mil>; 'shelly.chichester@fema.gov' <shelly.chichester@fema.gov>;
'alan.tabachnick@dot.gov' <alan.tabachnick@dot.gov>; 'sheila.ruffin@ferc.gov'
<sheila.ruffin@ferc.gov>; velikonjamg@state.gov

Edward Boling

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

Greetings IWG EJ NEPA Committee:

FYI--For those who had not seen this Federal Register Notice (Advance Notice of Proposed Rulemaking), published on 6/20/18, CEQ is considering updating its implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA). The deadline for submission of comments: July 20, 2018.

Best,

Denise Freeman
Cynthia Huber
Co-chairs, IWG EJ NEPA Committee

Denise Freeman
Senior Advisor
DOE Environmental Justice Program
Office of Legacy Management
Denise.freeman@hq.doe.gov
P: 202-586-7879

Mary Background Memo

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

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

Cc: "Smith, Katherine R. EOP/CEQ" <(b) (6)>

Date: Mon, 09 Jul 2018 11:01:32 -0400

Attachments: Draft Mary Backgrounder 07-09-18.docx (115.17 kB)

For review. Attached.

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

(b) (6) (desk)

(b) (6)

www.whitehouse.gov/ceq



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Draft – Deliberative – 07/09/18

Date: July 9, 2018

Re: Backgrounder for Mary Neumayr Nomination

Background: On June 18, 2018, President Trump nominated Mary Bridget Neumayr, of Virginia, to be the Chair of the White House Council on Environmental Quality (CEQ). The following document provides a brief overview of the ongoing news surrounding Ms. Neumayr's nomination.

Overview:

Ms. Neumayr has been serving as CEQ's Chief of Staff since March 2017. Prior to joining CEQ, she served in a variety of positions with the Committee on Energy and Commerce in the U.S. House of Representatives; including as Deputy Chief Counsel, Energy and Environment (2017); Senior Counsel (2011-2017); and Counsel (2009-2010). Ms. Neumayr also served as Deputy Counsel for Environment and Nuclear Programs at the U.S. Department of Energy (2006-2009), and as Counsel to the Assistant Attorney General for the Environment and Natural Resources Divisions at the U.S. Department of Justice (2003-2006). Prior to her government service, Ms. Neumayr was in private legal practice from 1989 through 2003. She received her B.A. from Thomas Aquinas College and her J.D. from the University of California, Hastings College of Law.

White House press release on intent to nominate: <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-personnel-key-administration-posts-46/>

White House press release on formal nomination: <https://www.whitehouse.gov/presidential-actions/seventeen-nominations-one-withdrawal-sent-senate-today/>

Post-Nomination News:

06/12/2018: E&E News, *Trump nominates Mary Neumayr as CEQ head*:
<https://www.eenews.net/stories/1060084231>

- "I am pleased that the President has nominated Mary Neumayr to lead the Council on Environmental Quality," Sen. Jim Inhofe (R-Okla.) said in a statement. "We've worked well together and I appreciate her commitment to protecting the environment while also cutting duplicative and unnecessary regulations. She will play a key role in working with Congress to promote good government reforms as we work towards an infrastructure bill. I congratulate her on her nomination, and look forward to her confirmation."

06/13/2018: The Hill, *Trump taps Hill veteran for White House environment job*:
<http://thehill.com/policy/energy-environment/392038-trump-taps-hill-veteran-for-white-house-environment-job>

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- Neumayr took her post at CEQ in May 2017. Before that, she held various senior roles working for Republicans on the House Energy and Commerce Committee for eight years, including most recently as deputy chief counsel for energy and environment

06/13/2018: Inside EPA, *Trump taps acting CEQ chair for permanent role*:

<https://insideepa.com/daily-feed/trump-taps-acting-ceq-chair-permanent-role>

- Neumayr oversaw the withdrawal of the Obama administration's guidance for how to consider greenhouse gases in National Environmental Policy Act (NEPA) reviews, and is also conducting a broader rewrite of NEPA implementing rules. That effort is awaiting first-time public release as an advance notice of proposed rulemaking currently [under review](#) by the White House Office of Information & Regulatory Affairs.
- One industry lawyer who works on NEPA issues called Neumayr's nomination "very good news. She will definitely be confirmed, and she brings a great deal of background knowledge and experience in issues CEQ is dealing with now on NEPA and permit reform." The lawyer adds that she is "a careful and reasonable voice on these issues, and I think having someone like her at the helm will advance the cause of putting some of the reforms that the administration supports both into practice and codifying them with potential amendments to the regulations that are [soon to be] proposed." The lawyer stresses the difference between Neumayr and White as "night and day," with Neumayr being an "apolitical pro."
- A former CEQ official also offers praise for Neumayr's work ethic. "In her time as acting chair, Mary has built a track record of solid management of decisions and process and of treating staff well and empowering them to be effective."

06/13/2018: Politico Morning Energy: <https://www.politico.com/newsletters/morning-energy/2018/06/13/pruitt-hits-the-road-again-249986>

- **TRUMP TAPS NEUMAYR:** The White House announced that Trump plans to nominate Mary Neumayr to run his Council on Environmental Quality. Neumayr's appointment would make official her role at CEQ, where she has been the acting head since March 2017. One of her most important acts thus far at CEQ was the withdrawal of Obama-era CEQ guidance on incorporating greenhouse gas emissions into environmental reviews, Pro's Alex Guillén [reports](#).
- **Prior to her time at CEQ,** Neumayr spent eight years at the House Energy and Commerce Committee as deputy chief counsel, and during the George W. Bush administration worked as deputy general counsel for environment and nuclear programs at the Energy Department and as a counsel to the assistant attorney general for the Justice Department's Energy and Natural Resources Division. She helped author a Supreme Court [brief](#) in 2011 for Republican lawmakers arguing that the courts should leave climate change policy to the legislative and executive branches. In that case, *AEP v. Connecticut*, the high court unanimously [backed up EPA's authority](#) under the Clean Air Act to regulate greenhouse gases.

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06/13/2018: New York Times, *Trump tires again to fill a top environmental job*:
<https://www.nytimes.com/2018/06/13/climate/could-earths-ice-sheets-collapse.html>

- Brett Hartl, director of government affairs at the Center for Biological Diversity, an environmental group, criticized Ms. Neumayr as “instrumental” in Republican efforts to roll back clean air protections during her time on Capitol Hill. He called her appointment “very bad news for human health and the health of the environment.”
- Representative Rob Bishop of Utah, the Republican chairman of the House Committee on Natural Resources, noted Ms. Neumayr’s experience. He said it would be key in handling looming issues like overhauling the National Environmental Policy Act, which spells out the review process for major federal projects. He called Ms. Neumayr a “superb choice.”

06/14/2018: The Washington Post, *Trump tries more middle-of-the-road pick for top White House environment post*: https://www.washingtonpost.com/news/energy-environment/wp/2018/06/13/trump-tries-a-more-middle-of-the-road-pick-for-top-white-house-environment-post/?utm_term=.5443f5d1d879

- Sen. John Barrasso (R-Wyo.) said in a statement Wednesday that Neumayr will “make a strong leader at the Council on Environmental Quality,” given her experience at the White House and on Capitol Hill.
- Michael Catanzaro, who served as special assistant to the president for domestic energy and environmental policy before rejoining the D.C.-based consulting group CGCN this spring, said in an email Wednesday that “Neumayr is a consummate professional, who possesses outstanding legal skills and exceptional knowledge of environmental policy. She has been and will continue to be a tremendous asset to CEQ, the President, and the country.”
- “The thing about Mary is that you can work with her and talk with her and have a cordial professional conversation,” said one of the staffers.

06/14/2018: E&E News, *Even some greens like Trump’s pick for CEQ*:
<https://www.eenews.net/climatewire/2018/06/14/stories/1060084471>

- “She is a good selection for the administration to oversee CEQ and certainly a stark contrast with the conscious outlier and extreme figure that they initially selected,” said John Walke, clean air director with the Natural Resources Defense Council. “She always made a point of coming down to the witness table after the hearing to thank me for my testimony, which doesn’t always happen — especially for those whose bosses don’t always take the same position of NRDC,” Walke said. “I think she will do her job well. She is not a bomb thrower, and she is not someone who governs through sound bites and shrill press releases.”
- “I think she combines the best of being a true believer — a good, solid pro-business Republican — with just being very, very knowledgeable about how the executive and

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legislative branches implement the laws and deal with the laws," said Jim Barnette, a partner at Steptoe & Johnson LLP who worked with Neumayr when he was Energy and Commerce Committee general counsel until 2012.

- "She's one of the most conscientious, hardworking and thoughtful energy policy staffers in D.C. with deep experience in a wide range of law and policy," said Maryam Brown, vice president of federal affairs with Sempra Energy. Brown and Neumayr worked together on the Energy and Commerce Committee before Brown moved onto then-House Speaker John Boehner's (R-Ohio) staff, where they kept in contact on energy and environment legislation.

06/14/2018: E&E News, *No 'alarm sirens' over second CEQ pick – Carper:*

<https://www.eenews.net/eedaily/2018/06/14/stories/1060084439>

- Sen. Tom Carper (D-Del.), who urged the White House to abandon efforts to confirm Trump's first pick to lead CEQ, Kathleen Hartnett White, said yesterday he did not personally know Mary Neumayr but had been told by staff members who have worked with her that "alarm sirens don't go off". I look forward to meeting with her to learn her views on a range of issues," Carper told E&E News of Neumayr, who has been leading CEQ as its chief of staff since joining in March of 2017.
- Rep. John Shimkus (R-Ill.), a senior member of the Energy and Commerce panel, praised Neumayr yesterday. "In my dealings with her she was respectful, hardworking, diligent and I think would be a good choice," he told E&E News.
- Neumayr was also praised by Stephen Brown, a lobbyist with energy giant Andeavor, who called her "one of the most principled, hard-working and intelligent people I know in the energy/environmental space. Her work in particular on the Clear Air Act issues at the House E&C Committee was unparalleled and I have no doubt that her efforts to bring some sanity to [the National Environmental Policy Act] and related permitting topics will be top notch," Brown wrote in an email.

06/14/2018: Chemical and Engineering News, *White House picks environmental advisor:*

<https://cen.acs.org/environment/White-House-picks-environmental-adviser/96/i25>

- Neumayr is a much less controversial pick to lead CEQ and likely to win Senate confirmation.

06/19/2018: E&E News, *Greens gird for fight as White House starts NEPA overhaul:*

<https://www.eenews.net/greenwire/stories/1060085087/search?keyword=Mary+neumayr>

- There is also a wild card in the process that could help both the agency and industry groups hoping to get the rewrite done quickly: President Trump's nomination of veteran Capitol Hill staffer Mary Neumayr to lead CEQ. She appears to be a more popular nominee than Kathleen Hartnett White, Trump's last pick to lead the agency.

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- "I thought it was a very positive step for people who are interested in seeing this rulemaking come to fruition," Wagner said. "She is very well versed in these rules, very well versed in her background and knowledge of process."

06/25/2018: E&E News, Panel sets first permitting hearing since CEQ nomination:

<https://www.eenews.net/eedaily/stories/1060086257/search?keyword=Mary+neumayr>

- First, President Trump last week nominated Mary Neumayr as chairwoman of the White House Council on Environmental Quality. The council, which oversees permitting regulations under the National Environmental Policy Act, has lacked a permanent director. Trump's original pick, Kathleen Hartnett White, withdrew her name from consideration after it became clear she would not pass the Senate.

07/03/2018: E&E News, *Trove of emails reveals constellation of climate aides*:

<https://www.eenews.net/climatewire/stories/1060087535/search?keyword=Mary+neumayr>

- Two others at the meeting have been elevated to new roles, leaving their old slots empty. They are Francis Brooke, who left Pence's office to take Catanzaro's position, and Mary Neumayr, who has been nominated to lead the Council on Environmental Quality after serving as its de facto head.

Pre-Nomination News:

02/01/2018: E&E News, *Who's who in Trump's infrastructure initiative*:

<https://www.eenews.net/stories/1060072527>

- CEQ chief of staff Neumayr is also being eyed as a pivotal player in Trump's bid to speed NEPA reviews.
- "If they're going to spend money on infrastructure, the only way they're going to be able to do it is if they streamline the NEPA permitting process," said Myron Ebell, director of the Center for Energy and Environment at the Competitive Enterprise Institute, who led the Trump transition at U.S. EPA. "Since CEQ is in charge of NEPA, that means Mary and her team will be important."
- Neumayr also brings deep Capitol Hill experience, having served as deputy chief counsel on energy and environment for the House Energy and Commerce Committee.
- Before that, Neumayr served in the George W. Bush administration as deputy general counsel for environment and nuclear programs at the Energy Department from 2006 to 2009, and as counsel to the assistant attorney general for the Justice Department's Environment and Natural Resources Division from 2003 to 2006.

02/05/2018: E&E News, *Skeptic's retreat sparks questions about alternative science*:

<https://www.eenews.net/stories/1060072867>

- Another explanation is that CEQ's work has continued apace, even if its relatively slim staff is taxed. Many inside the administration believe the acting chief, Mary Neumayr, is capable of steering the council in the interim.

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02/21/2018: New York Times, *New Candidates Emerge for Trump's Top Environmental Advisor*: <https://www.nytimes.com/2018/02/21/climate/trump-environment-adviser-candidates.html>

- The short list also includes Mary Neumayr, who as the agency's chief of staff since March has been doing the job in an acting capacity for nearly a year, said Jeffrey Holmstead, a partner at the firm Bracewell and a former E.P.A. air chief.
- "She's been a steady hand at C.E.Q. since she got there and everyone thinks she's been doing a great job," Mr. Holmstead said. But, he added, "I'm not sure that she wants the attention that comes with being the chair and having to run the gantlet of the confirmation process."
- Ms. Neumayr's views on topics like climate change are far less well known than Mr. van der Vaart's.

[APG]

FW: [EXTERNAL] SCHEDULED: Document Number - 2018-14821

From: "Smith, Katherine R. EOP/CEQ" <"/o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=e45de0bbb5ca4e87a4c4528ec12a7b03-sm">
To: "Sun, Howard C. EOP/CEQ" <(b) (6)>
Date: Mon, 09 Jul 2018 08:50:57 -0400

In case you need this, it was in the (b) (6) inbox.

-Katherine

From: noreply@fedreg.gov <noreply@fedreg.gov>
Sent: Friday, July 6, 2018 12:11 PM
To: FN-Chair <(b) (6)>
Subject: [EXTERNAL] SCHEDULED: Document Number - 2018-14821

Please do not reply directly to this e-mail. If you have any questions or comments regarding this email, please contact [Dominique Nathan](#).

Attention : Howard Sun, (CEQ) Council on Environmental Quality

Document 2018-14821, Category PROPOSED RULES has been scheduled to publish on 07-11-2018.

This document will be placed on public inspection on 07-10-2018 08:45:00.

The subject of this document is Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.

The submitting Agency is (CEQ) Council on Environmental Quality.

The Docket Id is Docket No. CEQ-2018-0001.

The RIN is 0331-AA03.

This document has an effective date of NA.

The comments due date is 08-20-2018.

The separate part # for this document is NA.

Agency/CFR Title/CFR Part:

(CEQ) Council on Environmental Quality, CFR Title is 40, CFR Part is 1500,1501,1502,1503,1504,1505,1506,1507,1508

[3225-F8-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; extension of comment period

Mary Backgrounder

From: "Schneider, Daniel J. EOP/CEQ" <(b) (6)>
To: "Smith, Katherine R. EOP/CEQ" <(b) (6)>
Date: Tue, 10 Jul 2018 15:05:41 -0400
Attachments: Draft Mary Backgrounder 07-09-18.docx (107.32 kB)

Attached.

Dan Schneider
Associate Director for Communications
Council on Environmental Quality
Executive Office of the President
(b) (6) (desk)
(b) (6)
www.whitehouse.gov/ceq



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Draft – Deliberative – 07/09/18

Date: July 9, 2018

Re: Backgrounder for Mary Neumayr Nomination

Background: On June 18, 2018, President Trump nominated Mary Bridget Neumayr, of Virginia, to be the Chair of the White House Council on Environmental Quality (CEQ). The following document provides a brief overview of the ongoing news surrounding Ms. Neumayr's nomination.

Overview:

Ms. Neumayr has been serving as CEQ's Chief of Staff since March 2017. Prior to joining CEQ, she served in a variety of positions with the Committee on Energy and Commerce in the U.S. House of Representatives; including as Deputy Chief Counsel, Energy and Environment (2017); Senior Counsel (2011-2017); and Counsel (2009-2010). Ms. Neumayr also served as Deputy General Counsel for Environment and Nuclear Programs at the U.S. Department of Energy (2006-2009), and as Counsel to the Assistant Attorney General for the Environment and Natural Resources Divisions at the U.S. Department of Justice (2003-2006). Prior to her government service, Ms. Neumayr was in private legal practice from 1989 through 2003. She received her B.A. from Thomas Aquinas College and her J.D. from the University of California, Hastings College of Law.

White House press release on intent to nominate: <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-personnel-key-administration-posts-46/>

White House press release on formal nomination: <https://www.whitehouse.gov/presidential-actions/seventeen-nominations-one-withdrawal-sent-senate-today/>

Post-Nomination News:

06/12/2018: E&E News, *Trump nominates Mary Neumayr as CEQ head*:
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- "I am pleased that the President has nominated Mary Neumayr to lead the Council on Environmental Quality," Sen. Jim Inhofe (R-Okla.) said in a statement. "We've worked well together and I appreciate her commitment to protecting the environment while also cutting duplicative and unnecessary regulations. She will play a key role in working with Congress to promote good government reforms as we work towards an infrastructure bill. I congratulate her on her nomination, and look forward to her confirmation."

06/13/2018: The Hill, *Trump taps Hill veteran for White House environment job*:
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06/13/2018: Politico Morning Energy: <https://www.politico.com/newsletters/morning-energy/2018/06/13/pruitt-hits-the-road-again-249986>

- **TRUMP TAPS NEUMAYR:** The White House announced that Trump plans to nominate Mary Neumayr to run his Council on Environmental Quality. Neumayr's appointment would make official her role at CEQ, where she has been the acting head since March 2017. One of her most important acts thus far at CEQ was the withdrawal of Obama-era CEQ guidance on incorporating greenhouse gas emissions into environmental reviews, Pro's Alex Guillén [reports](#).
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06/14/2018: E&E News, *No 'alarm sirens' over second CEQ pick – Carper:*

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- Sen. Tom Carper (D-Del.), who urged the White House to abandon efforts to confirm Trump's first pick to lead CEQ, Kathleen Hartnett White, said yesterday he did not personally know Mary Neumayr but had been told by staff members who have worked with her that "alarm sirens don't go off". I look forward to meeting with her to learn her views on a range of issues," Carper told E&E News of Neumayr, who has been leading CEQ as its chief of staff since joining in March of 2017.
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- "I thought it was a very positive step for people who are interested in seeing this rulemaking come to fruition," Wagner said. "She is very well versed in these rules, very well versed in her background and knowledge of process."

06/25/2018: E&E News, Panel sets first permitting hearing since CEQ nomination:

<https://www.eenews.net/eedaily/stories/1060086257/search?keyword=Mary+neumayr>

- First, President Trump last week nominated Mary Neumayr as chairwoman of the White House Council on Environmental Quality. The council, which oversees permitting regulations under the National Environmental Policy Act, has lacked a permanent director. Trump's original pick, Kathleen Hartnett White, withdrew her name from consideration after it became clear she would not pass the Senate.

07/03/2018: E&E News, *Trove of emails reveals constellation of climate aides*:

<https://www.eenews.net/climatewire/stories/1060087535/search?keyword=Mary+neumayr>

- Two others at the meeting have been elevated to new roles, leaving their old slots empty. They are Francis Brooke, who left Pence's office to take Catanzaro's position, and Mary Neumayr, who has been nominated to lead the Council on Environmental Quality after serving as its de facto head.

Pre-Nomination News:

02/01/2018: E&E News, *Who's who in Trump's infrastructure initiative*:

<https://www.eenews.net/stories/1060072527>

- CEQ chief of staff Neumayr is also being eyed as a pivotal player in Trump's bid to speed NEPA reviews.
- "If they're going to spend money on infrastructure, the only way they're going to be able to do it is if they streamline the NEPA permitting process," said Myron Ebell, director of the Center for Energy and Environment at the Competitive Enterprise Institute, who led the Trump transition at U.S. EPA. "Since CEQ is in charge of NEPA, that means Mary and her team will be important."
- Neumayr also brings deep Capitol Hill experience, having served as deputy chief counsel on energy and environment for the House Energy and Commerce Committee.
- Before that, Neumayr served in the George W. Bush administration as deputy general counsel for environment and nuclear programs at the Energy Department from 2006 to 2009, and as counsel to the assistant attorney general for the Justice Department's Environment and Natural Resources Division from 2003 to 2006.

02/05/2018: E&E News, *Skeptic's retreat sparks questions about alternative science*:

<https://www.eenews.net/stories/1060072867>

- Another explanation is that CEQ's work has continued apace, even if its relatively slim staff is taxed. Many inside the administration believe the acting chief, Mary Neumayr, is capable of steering the council in the interim.

[APG]



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Draft – Deliberative – 07/09/18

02/21/2018: New York Times, *New Candidates Emerge for Trump's Top Environmental Advisor*: <https://www.nytimes.com/2018/02/21/climate/trump-environment-adviser-candidates.html>

- The short list also includes Mary Neumayr, who as the agency's chief of staff since March has been doing the job in an acting capacity for nearly a year, said Jeffrey Holmstead, a partner at the firm Bracewell and a former E.P.A. air chief.
- "She's been a steady hand at C.E.Q. since she got there and everyone thinks she's been doing a great job," Mr. Holmstead said. But, he added, "I'm not sure that she wants the attention that comes with being the chair and having to run the gantlet of the confirmation process."
- Ms. Neumayr's views on topics like climate change are far less well known than Mr. van der Vaart's.

[APG]

RE: CEQ Website update request

From: "Adams, John (AU) (CONTR)" <john.adams@hq.doe.gov>
To: "Drummond, Michael R. EOP/CEQ" <(b) (6)> "Carter, Marian (CONTR)" <marian.carter@hq.doe.gov>, "Alexander, Lillian" <lillian.alexander@hq.doe.gov>
Cc: "Mansoor, Yardena M. EOP/CEQ" <(b) (6)> "Boling, Ted A. EOP/CEQ" <(b) (6)>
Date: Wed, 11 Jul 2018 15:13:55 -0400

Good afternoon Michael,

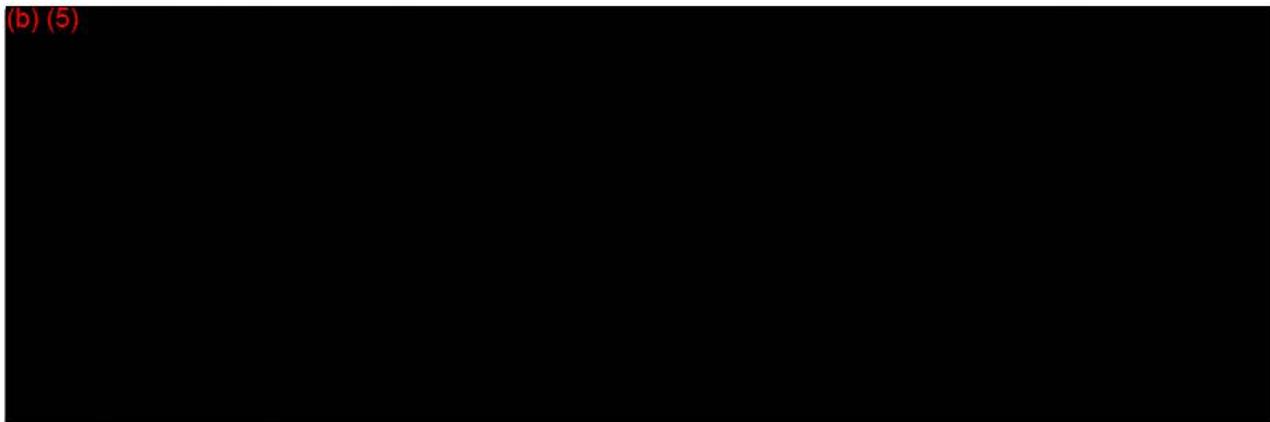
This request has been completed.

From: Drummond, Michael R. EOP/CEQ [mailto:(b) (6)]
Sent: Wednesday, July 11, 2018 2:56 PM
To: Adams, John (AU) (CONTR) <John.Adams@Hq.Doe.Gov>; Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>; Alexander, Lillian <Lillian.Alexander@hq.doe.gov>
Cc: Mansoor, Yardena M. EOP/CEQ <(b) (6)> Boling, Ted A. EOP/CEQ <(b) (6)>
Subject: CEQ Website update request

John,

At <https://ceq.doe.gov/laws-regulations/regulations.html>, please make the indicated change and post the attached document:

(b) (5)



As always, thank you for your help.

Michael Drummond
Deputy Associate Director for NEPA
Council on Environmental Quality

(b) (6)

RE: Questions, please review

From: "Seale, Viktoria Z. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=af5f6888d706481b94d18088a30821c9-se">
To: "Schneider, Daniel J. EOP/CEQ" <(b) (6)> "Smith, Katherine R. EOP/CEQ" <(b) (6)> "Pettigrew, Theresa L. EOP/CEQ" <(b) (6)> "Neumayr, Mary B. EOP/CEQ" <(b) (6)> "Herrgott, Alex H. EOP/CEQ" <(b) (6)>
Date: Mon, 16 Jul 2018 17:15:45 -0400

Attachments
: Draft Questions DS VS.docx (24.94 kB)

Minor suggestions added to Dan's suggestions.

From: Schneider, Daniel J. EOP/CEQ
Sent: Monday, July 16, 2018 5:02 PM
To: Smith, Katherine R. EOP/CEQ <(b) (6)> Pettigrew, Theresa L. EOP/CEQ <(b) (6)> Neumayr, Mary B. EOP/CEQ <(b) (6)> Seale, Viktoria Z. EOP/CEQ <(b) (6)> Herrgott, Alex H. EOP/CEQ <(b) (6)>
Subject: RE: Questions, please review

Minor suggestions.

From: Smith, Katherine R. EOP/CEQ
Sent: Monday, July 16, 2018 4:59 PM
To: Pettigrew, Theresa L. EOP/CEQ <(b) (6)> Neumayr, Mary B. EOP/CEQ <(b) (6)> Seale, Viktoria Z. EOP/CEQ <(b) (6)> Schneider, Daniel J. EOP/CEQ <(b) (6)> Herrgott, Alex H. EOP/CEQ <(b) (6)>
Subject: RE: Questions, please review

Adjusted spacing

From: Pettigrew, Theresa L. EOP/CEQ
Sent: Monday, July 16, 2018 4:52 PM
To: Neumayr, Mary B. EOP/CEQ <(b) (6)> Seale, Viktoria Z. EOP/CEQ <(b) (6)> Schneider, Daniel J. EOP/CEQ <(b) (6)>

Herrgott, Alex H. EOP/CEQ <(b) (6)> Smith, Katherine R. EOP/CEQ
<(b) (6)>

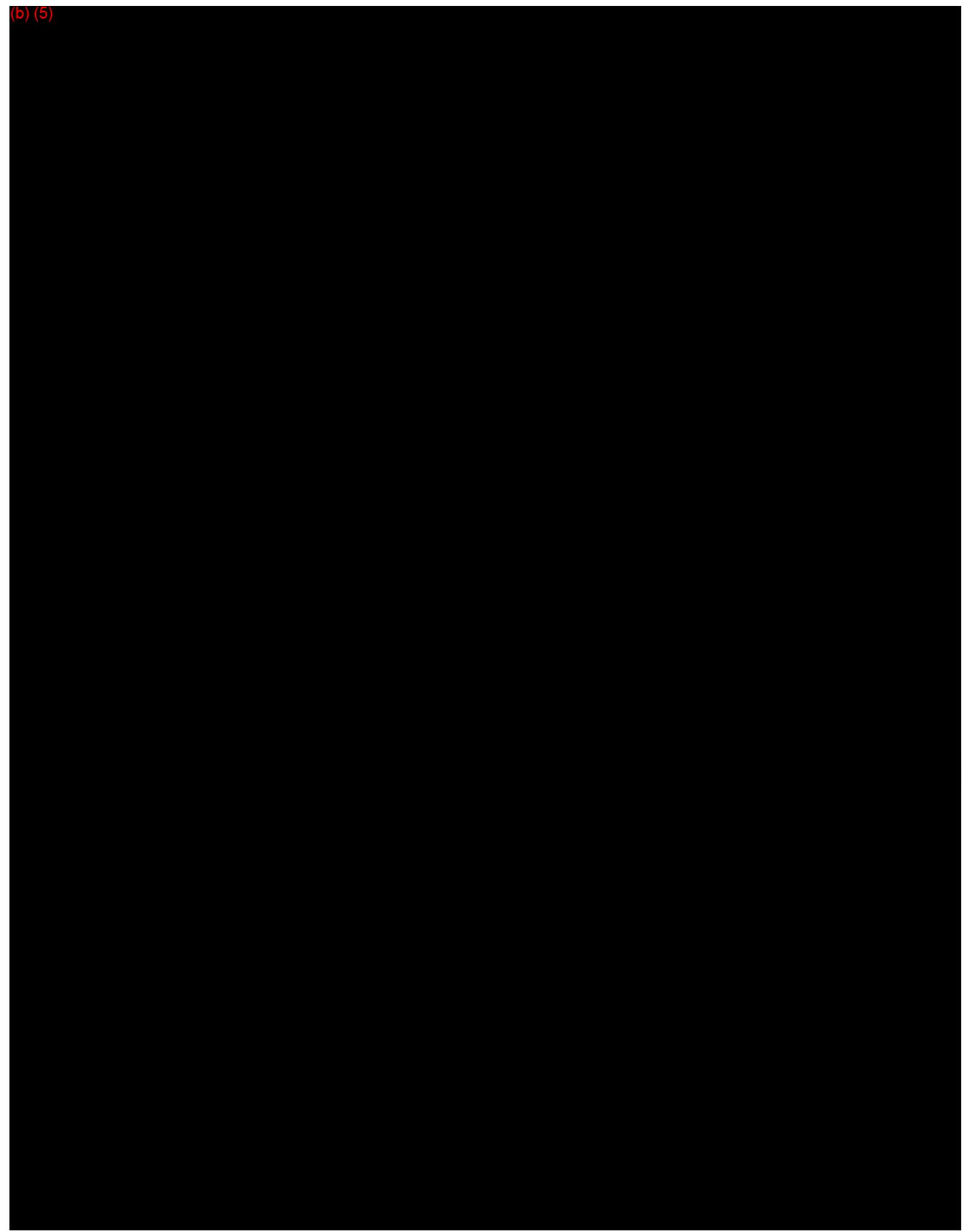
Subject: Questions, please review

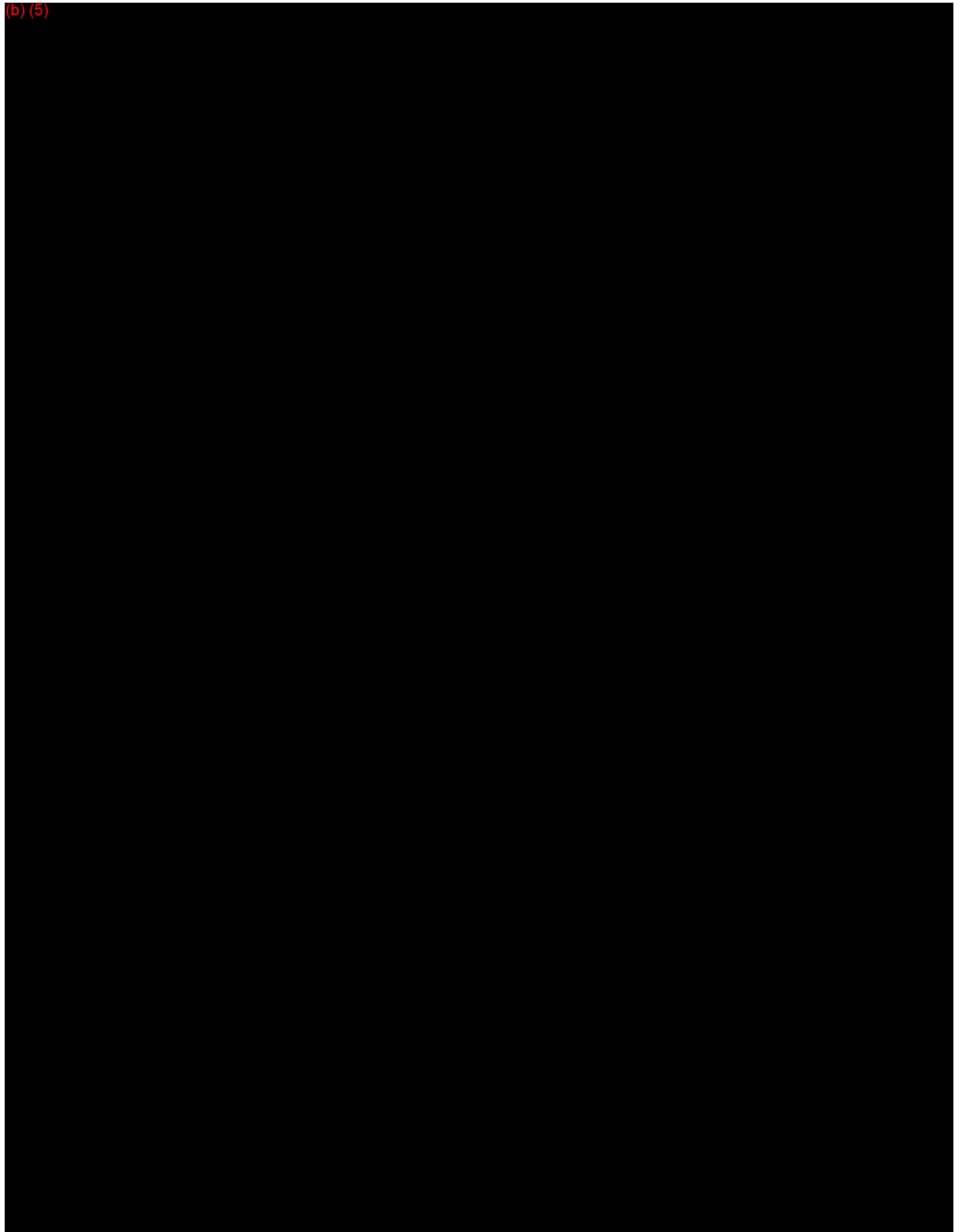
Please review this document now, if possible. (b) (5).

Thank you!

Theresa

Theresa L. Pettigrew
Associate Director for Legislative Affairs
Council on Environmental Quality
Executive Office of the President
(b) (6) (office)
(202) 456-6546 (fax)
www.whitehouse.gov/ceq





final QFRs submitted

From: "Pettigrew, Theresa L. EOP/CEQ" <(b) (6)>
To: "Smith, Katherine R. EOP/CEQ" <(b) (6)>
Date: Fri, 27 Jul 2018 17:04:42 -0400
Attachments: All Neumayr QFRs 07.19.2018 Final Responses.pdf (236.57 kB)

These were submitted today. Sending to you only as reference. Thank you!

Senate Committee on Environment and Public Works
Hearing entitled, “Hearing on the Nominations of Mary Bridget Neumayr to be a Member of
the Council on Environmental Quality and John C. Fleming to be Assistant Secretary of
Commerce for Economic Development”

July 19, 2018

Questions for the Record for Mary Bridget Neumayr

Chairman Barrasso:

1. Red tape and a lack of coordination among federal agencies has significantly delayed infrastructure projects across the country. I am glad to see that the Trump administration has taken meaningful steps to improve the environmental review process and increase coordination among federal agencies. I am especially glad to see that the administration set a two-year goal for completing environmental reviews for these projects. Can you give us a progress report on these efforts? Specifically, are federal agencies on track to meet this two-year goal?

Executive Order (EO) 13807 of August 15, 2017, titled “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects,” directed Federal agencies to carry out environmental reviews and authorization decisions for major infrastructure projects pursuant to a “One Federal Decision” policy. The EO sets a government-wide goal of reducing the average time for such reviews to two years, measured from the date of publication of a notice of intent (NOI) to prepare an environmental impact statement (EIS) to the date of issuance of a record of decision (ROD).

Pursuant to EO 13807, on March 20, 2018, the Office of Management and Budget (OMB) and the Council on Environmental Quality (CEQ) issued a framework memorandum to assist agencies with implementing the One Federal Decision policy. On April 9, 2018, President Trump announced that 11 Federal agencies and the Federal Permitting Improvement Steering Council (Permitting Council) had executed a Memorandum of Understanding (MOU) committing to work collaboratively to meet the two-year goal for major infrastructure projects. Under the EO, “major infrastructure projects” are projects for which multiple Federal authorizations are required, the lead Federal agency has decided to prepare an EIS, and the project sponsor has identified the reasonable availability of funds.

CEQ has convened an interagency working group and is working with Federal agencies to implement the One Federal Decision policy and MOU for major infrastructure projects. Additionally, pursuant to the EO, OMB is currently working to establish an accountability system to track agency performance for processing environmental reviews and meeting the two-year goal.

2. Earlier this year 11 agencies and the Permitting Council established by the FAST Act signed a Memorandum of Understanding (MOU) outlining the Administration's One Federal Decision policy. This policy establishes a coordinated and timely process for environmental reviews of major infrastructure projects. Under the MOU, the federal agencies agreed to work together to develop a single Permitting Timetable.

- a. Can you explain how this will help achieve a timely, predictable permitting process?

Under the MOU, the lead Federal agency for a proposed major infrastructure project, in consultation with cooperating agencies, will develop a joint schedule, referred to as a Permitting Timetable, that provides for a two-year timeframe from the date of publication of an NOI to prepare an EIS to the date of issuance of a ROD. Federal agencies will develop a single EIS and single ROD, subject to limited exceptions. They will also coordinate with regard to scoping and concurrence points, and elevate and resolve issues and disputes to avoid unnecessary delays. The MOU is intended to coordinate agencies' processes while preserving each agency's statutory authorities and independence.

- b. What types of projects do you see as benefitting from the One Federal Decision process with a two-year goal for permitting decisions?

Projects that may benefit from the One Federal Decision process include a wide range of projects to modernize our nation's infrastructure, including transportation, energy, water, and environmental restoration projects.

- c. What is the goal of the One Federal Decision process? How does One Federal Decision seek to address delays in the permitting process?

The goal of the One Federal Decision process is to improve coordination between Federal agencies and provide greater transparency, accountability, and predictability in the Federal environmental review and authorization process for infrastructure projects.

3. On June 20, 2018, CEQ issued an Advanced Notice of Proposed Rulemaking (ANPR) entitled, "Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act [(NEPA)]." Will you confirm that CEQ, through the ANPR, is considering ways to improve the NEPA process for all applicable federal decision-making, including routine land-management decisions made by the Bureau of Land Management and the U.S. Forest Service?

Yes, in the Advance Notice of Proposed Rulemaking, CEQ is requesting comment on potential revisions to update and clarify its regulations in order to ensure a more effective, timely, and efficient process for decision-making

by all Federal agencies, consistent with the policy stated in Section 101 of the National Environmental Policy Act. This includes land management decisions made by the Bureau of Land Management and the U.S. Forest Service.

Ranking Member Carper:

4. Whistleblower laws protect the right of federal employees to make lawful disclosures to agency management officials, the Inspector General, and the Office of Special Counsel. They also have the right to make disclosures to Congress.

Specifically, 5 U.S.C. § 7211 states that the “right of employees, individually or collectively, to petition Congress or a Member of Congress or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.” Further, 5 U.S.C. § 2302(b)(8), makes it a violation of federal law to retaliate against a whistleblower because of “(A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences- (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation...” In addition, pursuant to 18 U.S.C. § 1505, it is against federal law to interfere with a Congressional inquiry.

- a. If you are confirmed, will you commit to protect the rights of all CEQ career employees to make lawful disclosures, including their right to speak with Congress?

Yes.

- b. Will you commit to communicate employees’ whistleblower rights via email to all CEQ employees within a week of being sworn in?

Yes. The Whistleblower Protection Act of 1989, the Whistleblower Protection Enhancement Act of 2012, and related laws provide the right for all covered employees to make whistleblower disclosures and ensure that employees are protected from whistleblower retaliation. In 2017 and 2018, the Council on Environmental Quality (CEQ) took steps to complete the requirements of the Office of Special Counsel (OSC) Certification Program for Federal agencies to meet their statutory obligations under these statutes. In 2018, CEQ was added to the list of agencies that have completed OSC’s Certification Program.

5. Do you agree to provide complete, accurate and timely responses to requests for information submitted to you by any Member of the Environment and Public Works Committee? If not, why not?

Yes.

6. Do you agree with the President's decision in 2017 to withdraw from the Paris Climate Accord? Please explain why or why not.

The President announced his decision on June 1, 2017. This decision was within his authority, and I support the decision.

7. As you know, 96 percent of highway projects are categorically excluded from NEPA, meaning they're in a category of actions that don't significantly impact the environment and therefore don't require further analysis. In fact, the vast majority of all Federal actions are categorically excluded from NEPA. When Wyoming DOT Director Bill Panos testified before our committee last year, he indicated that in recent years, all their projects have been Categorical Exclusions from NEPA. Do you agree that for this vast majority of projects, NEPA approvals do not constitute a significant burden? If not, why not?

Categorical exclusions are a well-established, efficient means of addressing National Environmental Policy Act (NEPA) compliance for actions that are not individually or cumulatively significant.

8. Several court decisions have held that federal agencies are obligated to analyze the effects of climate change as it is relevant to proposed actions in the course of complying with NEPA. (See for example, *Center for Biological Diversity v. National Highway Traffic Safety Administration*, 508 F.3d 508 (9th Cir. 2008), and *Mid States Coalition for Progress v. Surface Transportation Board*, 345 F.3d 520 (8th Cir. 2003).
- Were those decisions wrongly decided in your view? If so, please explain why.
 - Given that President Trump revoked CEQ's guidance to agencies on how to incorporate climate change impacts into federal environmental reviews, how specifically are you now supporting agencies' efforts to consider climate change as part of their NEPA analyses?
 - In your view, how should greenhouse gas impacts and sea level rise be considered in the NEPA analysis?

There have been a number of court decisions relating to NEPA implementation and greenhouse gas or climate change related considerations, and Federal agencies have sought to comply with these court decisions. As a general matter, Federal agencies are required under NEPA to review the potential environmental consequences of proposed major Federal actions that may significantly affect the quality of the environment. In conducting NEPA analyses, Federal agencies have discretion and should use their experience and expertise to decide how and to what degree to analyze particular effects. Pursuant to CEQ's NEPA implementing regulations, agencies should identify methodologies and ensure information is of high quality, consistent with 40 CFR 1500.1(b) and 40 CFR 1502.24.

9. The CEQ regulations are intended to be flexible so that they may apply broadly to all agency actions. CEQ directs agencies to supplement these regulations as appropriate with agency-specific regulations that encompass the nature of actions taken by that agency and the additional authorities or statutory requirements that agency has. In this way, NEPA may be integrated into an agency's decision-making process in a way that is tailored for that agency. Do you believe that it is appropriate for the CEQ regulations to be flexible in this way to enable NEPA to function as an umbrella to other laws and processes administered by the agency? If not, why not?

Yes.

10. The US Government Accountability Office released a report on July 19, 2018, titled "Highway and Transit Projects: Better Data Needed to Assess Changes in the Duration of Environmental Reviews". The report indicated that it is unclear whether recent changes to the environmental review process for highway and transit projects has had an impact on timelines because agencies "lack reliable data and tracking systems." This is a finding that reiterates findings from past GAO reports, such as a report from 2014 that found that government-wide data on the number and type of NEPA analyses are not readily available, and that agencies' data is poor because they do not routinely track the number of EAs and CEs they complete, nor the time required to complete NEPA reviews. This deficit of accurate and reliable data makes it difficult to determine either the success of past streamlining efforts or the potential benefits of additional streamlining or other changes. There is also very little data on the costs and benefits of completing NEPA analyses. CEQ is the agency tasked with NEPA implementation.

- a. Would you agree that it is important to improve the data quality in this field, and that better data is needed for Congress to be able to target procedural improvements that would speed up project delivery without damaging the environment?

It is important that Congress have access to information that is of high quality, including data relating to environmental reviews, when considering legislative proposals.

- b. Will you further commit to providing an analysis of how the statutory project delivery changes from the last 10 years have been working out? If so, please provide a timeline and description of all planned efforts, and if not, why not?

CEQ is currently in the process of compiling data from 2010 through 2017 relating to completed environmental impact statements (EIS) across all Federal agencies, including transportation-related projects. This compilation will include information on the time for completion of the review, measured from the date of publication of a notice of intent (NOI) to prepare an EIS to the date of issuance of a record of decision (ROD).

11. Over the last several years there have been numerous reports, from non-partisan government entities such as the Government Accountability Office and Congressional Research Service, as well as academia and private studies – all of which indicate that the primary causes of project and permitting delay are not related to the NEPA process. Do you agree with these conclusions? If not, please explain specifically why not, and provide documentation to support your explanation.

Environmental reviews under NEPA are among the many factors that shape the timeline for project and permitting decisions. Recognizing that there can be many reasons for delays, it is important to consider whether there are commonsense measures to promote improved coordination and planning by Federal agencies in order to ensure that the NEPA process is more efficient, timely, and predictable, without compromising environmental protection.

12. Would you agree that agencies need the resources, staff, and training necessary to implement NEPA and the many existing flexibilities in the current regulations?
- a. In your view, do agencies have sufficient resources necessary to implement NEPA? Please explain your response.
 - b. In your view, do agencies have sufficient staff necessary to implement NEPA? Please explain your response.
 - c. In your view, do agencies have sufficient training necessary to implement NEPA? Please explain your response.
 - d. In your view does CEQ have sufficient staff capacity to oversee the 70 or more Federal agencies that are subject to NEPA? Please explain your response.
 - e. To the extent that agencies do not have sufficient resources, staff, or training, will you advocate for budget increases that will enable agencies to implement NEPA appropriately?
 - f. Would you commit to working with agencies in conducting a review of agencies' resources and needs with regard to NEPA compliance to inform any kind of regulatory review process?

I believe Federal agencies have sufficient resources to implement NEPA. CEQ is currently working with agencies to better coordinate their NEPA reviews and more effectively allocate resources, including through the establishment of joint schedules, environmental analyses, and records of decision. CEQ's NEPA implementing regulations set forth in 40 CFR 1507.2 and 1506.5 direct agencies to ensure that they have the capability to implement NEPA.

CEQ's staff conduct periodic training for Federal agency NEPA practitioners. In addition, CEQ coordinates NEPA training with non-profit organizations, including the National Association of Environmental Professionals, Rocky Mountain Mineral Law Foundation, American Law Institute, American Bar Association, and the Environmental Law Institute. CEQ also conducts quarterly NEPA Contacts meetings to consult with staff

across Federal agencies regarding issues relating to implementation of NEPA.

If confirmed, I commit to working to ensure that agencies effectively allocate resources to enable them to implement NEPA appropriately.

13. A few years ago, CEQ issued a guidance document, clarifying to agencies that there are ample flexibilities within the existing NEPA regulations that are available and either underused, or not used at all, and which would facilitate more efficient timely reviews.
 - a. Shouldn't those authorities be both fully implemented and their impacts understood prior to undertaking a proposal to revise the NEPA regulations themselves?
 - b. What flexibilities within the regulations do you think should be better used by agencies?
 - c. Why don't you think the agencies are using these existing flexibilities?

On June 20, 2018, CEQ published an Advance Notice of Proposed Rulemaking (ANPRM) to consider potential updates and clarifications to its NEPA implementing regulations. The ANPRM requests comment on a wide range of topics relating to NEPA implementation in order to facilitate more efficient and timely reviews, and comments received will inform any future action. It is important to consider all relevant CEQ guidance as the agency considers whether revisions to update and clarify its regulations may be appropriate.

14. CEQ is inextricably tied to NEPA, which lays out the nation's environmental policy and enshrines two basic principles, environmental impact review and public input, into federal decisions. The chair of CEQ is meant to implement that policy. Recently, CEQ issued an Advanced Notice of Proposed Rulemaking (ANPRM) announcing an intention to revise the regulations. Have you been involved? If so, how?

CEQ developed the ANPRM and as a staff member I participated in its development. It was subject to interagency review conducted by the Office of Information and Regulatory Affairs (OIRA) pursuant to Executive Order (EO) 12866.

15. The NEPA regulations are one of the most broadly applicable in the federal government, and the statute and regulations often provide the only opportunity for the public to weigh in on government decisions and projects impacting their communities. This process has led in many cases to better projects with community buy-in. When CEQ undertook regulatory reviews in 1978, 1981, 1985, and 1997, it held public meetings to solicit additional input of private citizens and stakeholders, whether for the release of studies, guidance, or regulations.

- a. In response to my letter to you on this topic, you stated that, “Robust public engagement is critical to the rulemaking process.” While I agree with you, will you commit to my specific request that CEQ hold public meetings to solicit additional input of private citizens and stakeholders? If so, please provide a timeline that includes the expected number of public meetings and their expected locations. If not, why not?
- b. Can you commit to holding public meetings around the country and have a process that is commensurate with the scope of this undertaking and that complies with the spirit of public input NEPA embodies? If so, please provide a timeline that includes the expected number of public meetings and their expected locations. If not, why not?
- c. What specific types of additional public outreach will CEQ commit to beyond those required by the rulemaking process to ensure the public has a chance to meaningfully respond?
- d. Have you met with any stakeholders and discussed possible revisions? Who did you meet with and when? Please provide copies of all calendar items for CEQ senior staff and yourself for our review.
- e. What steps are you taking to ensure CEQ is both soliciting input from all groups – especially traditionally marginalized groups – and then incorporating that input into your rulemaking?
- f. What additional steps are you planning, in addition to the minimum legal requirements, to make sure the public has a say in how these regulations are rewritten?

On June 20, 2018, CEQ published an ANPRM to consider potential updates and clarifications to its NEPA implementing regulations. CEQ staff developed the ANPRM and it was subject to interagency review conducted by OIRA pursuant to EO 12866. The ANPRM requests comments on a wide range of topics relating to CEQ’s regulations, and does not include any regulatory proposals. As part of the interagency review process, CEQ staff met with various stakeholders.

CEQ supports transparency in the rulemaking process and earlier this year integrated its system with [regulations.gov](https://www.regulations.gov) in order to ensure that all comments submitted would be publically available, and that the public would have access to information relating to prior CEQ actions. In response to requests from the public, CEQ also extended the comment period for the ANPRM from July 20, 2018, to August 20, 2018, and will be accepting comments submitted to [regulations.gov](https://www.regulations.gov) as well as comments by regular mail. CEQ has also posted the ANPRM on its website at <https://ceq.doe.gov/laws-regulations/regulations.html>. As of July 27, 2018, CEQ has received over one thousand comments.

CEQ has not made any decision with regard to future actions, and will consider comments received in response to the ANPRM. Should CEQ determine that it would be appropriate to issue a proposed rule setting forth

potential revisions to its NEPA regulations, CEQ will consider all options for public engagement, including public meetings. CEQ will also ensure that comments received are posted on [regulations.gov](https://www.regulations.gov) so that stakeholders and the public will have timely access to all comments received.

16. You previously indicated in 2012 that you were concerned with the speed with which new regulations were being promulgated.¹ You stated, “I think one of the major concerns is the pace at which they're issuing these regulations. They're very lengthy, they're very complex. Each rule may have effects relating to other rules. The pace at which they're being issued is a genuine concern, because the staff at the Agency is under pressure and the public is under pressure to read all of these rules, to analyze them, and to prepare their comments.” In response to an audience question about what kind of time frame you would desire for the formulation and implementation of environmental regulations, you further stated that to “issue rules before you fully analyzed what the actual impact may be is an approach that raises concern.” Do you still agree with these statements?

Yes.

17. NEPA is the primary way in which the federal government implements EO 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”) because NEPA is closely aligned with the principles of environmental justice. NEPA ensures that the environmental, health, and economic impacts of federal projects are disclosed and communities impacted by federal projects are given a meaningful voice.
- a. If confirmed as Chair, what specific actions would you take to increase meaningful public input, transparency, and disclosure of disproportionate impacts?
 - b. It is widely known that the impacts of climate change will disproportionately impact low-income communities and communities of color. If confirmed as chair, will you commit to disclosing the impacts of climate change on such communities in NEPA analyses? If not, why not?

In 1994, President Clinton issued EO 12898, titled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” which directed Federal agencies to address disproportionately high and adverse human health or environmental effects on minority and low income communities. CEQ issued related guidance in 1997, and CEQ participates in the Federal interagency working group led by the Environmental Protection Agency (EPA) which addresses environmental justice issues. In March 2016, the working group issued a document titled “Promising Practices for EJ Methodologies in NEPA Reviews” which CEQ has posted on its website and is available at <https://ceq.doe.gov/nepa-practice/justice.html>. In addition, on February 23, 2018, EPA issued a

¹ 42 ELR 10191 (March 2012), “EPA and the Economy: Seeing Green?” available at: <https://elr.info/news-analysis/42/10191/epa-and-economy-seeing-green>.

memorandum affirming EPA’s commitment to the implementation of the 1994 EO. If confirmed, I commit that addressing environmental issues for low income and minority communities will be a priority, including actions under NEPA to facilitate the development of new or improved infrastructure in these communities.

18. Were you involved with developing the Administration’s Infrastructure Plan? If yes, were you involved with the proposal and the permitting provisions? If yes, to what extent?

The Administration’s “Legislative Outline for Rebuilding Infrastructure in America” (Legislative Principles) released in February 2018 was developed pursuant to a deliberative interagency process that included multiple components within the Executive Office of the President, including CEQ, and also included relevant Federal agencies. The Legislative Principles were intended to inform Congress’ consideration and development of infrastructure-related legislative proposals.

19. The Administration’s Infrastructure Plan proposed to limit injunctive relief, even though it is already considered an extraordinary remedy. With regard to NEPA, can you identify and list any cases in which a court abused its power to authorize injunctive relief? If not, can you explain what the problem is with allowing impacted communities to obtain injunctive relief against the government?

Over the past four decades, Federal appellate courts have on a number of occasions reversed NEPA related decisions by lower courts to grant injunctive relief. This has included the U.S. Supreme Court, as well as Federal appellate courts, concluding that injunctive relief was inappropriate.

20. The Administration’s Infrastructure Plan proposes to eliminate EPA review responsibilities under Section 309 of the Clean Air Act. It is well documented² that the 309 process adds value to lead agency analysis and an ultimate decision. Do you agree? If not, why do you believe that EPA shouldn’t have an oversight role? If so, would you urge retention of this provision?

As stated in the Legislative Principles, separate from its authority under Section 309 of the Clean Air Act, EPA currently has responsibility to review and comment on EISs on matters within its jurisdiction. EPA typically is included as a cooperating agency for areas within its technical expertise, and the review under Section 309 is separate and in addition to this existing responsibility for matters within its jurisdiction. This proposal, as stated in the Legislative Principles, would not eliminate EPA’s regulatory responsibilities to comment during the development of EISs on matters within EPA’s jurisdiction or affect EPA’s responsibilities to collect and publish EISs. As stated in the Legislative

² <https://www.epa.gov/office-inspector-general/report-epas-comments-improve-environmental-impact-statement-process>

Principles, it also would not prevent EPA from providing technical assistance to the lead or a cooperating agency upon request.

21. At the roundtable on the FAST Act on June 27, several members of the Senate and your staff, citing CEQ, said that FAST-41 has saved a billion dollars. I have seen no documentation to substantiate that assertion. Can you present documentation supporting that assertion?

Facilitating coordinated environmental reviews and authorization decisions can result in cost savings. In her testimony, the Acting Executive Director of the Federal Permitting Improvement Steering Council (Permitting Council) stated that the Permitting Council has “succeeded in saving FAST-41 projects over \$1 billion in costs that would have otherwise resulted from avoidable permitting process delays.” My understanding is that this estimate is based on information provided to the Permitting Council by project sponsors.

22. Recent guidance issued by the Bureau of Land Management ([BLM Instruction Memorandum 2018-034](#)) has not only removed the requirement for environmental review prior to issuing oil and gas leases but has also removed the requirement to provide an opportunity for public review and comment and shortened the time for filing an administrative protest (now the only way for the public to provide input on millions of acres put up for lease every quarter) to just 10 days.
- How is this consistent with NEPA’s direction to ensure that government decisions are subject to public scrutiny?
 - How would you recommend agencies provide sufficient opportunities for public input prior to making final decisions to turn public lands over to third parties?

Public participation is very important and Federal agencies can comply through a range of approaches. If confirmed, I will work with agencies to ensure their compliance with applicable law and regulations.

23. As you may be aware, EO 13792 directed the Department of the Interior to review national monument designations and create a report of recommendations to the President via the Chair of CEQ. During the review, a historic number of comments were received by DOI. Despite this, DOI never publicly acknowledged the total breakdown of comments, although interior DOI documents made available via FOIA show that over 99 percent of all comments opposed changes to national monument designations. Even worse, the documents indicate that DOI staff omitted these figures from their report and recommendations.³ Instead, the report disparaged the comments by claiming that they “demonstrated a well-orchestrated national campaign organized by multiple organizations.” The President went on to take unprecedented and likely illegal actions to eliminate over two million acres of Bears Ears and Grand Staircase-Escalante National

³ Final Report Summarizing Findings of the Review of Designations Under the Antiquities Act, available at: https://www.doi.gov/sites/doi.gov/files/uploads/revised_final_report.pdf.

Monuments – the largest rollback of public lands protections in history – based in part on incomplete and misleading information.

- a. In your capacity as Chief of Staff at CEQ, did you see a draft of the DOI report before it was transmitted to the President, and were you aware that the vast majority of comments were in opposition to the recommendations, a fact which was not made evident in the report? If not, when did you become aware of this?
- b. As Chair of CEQ do you think it is appropriate for an agency to obscure the true breakdown of public sentiment from the decision makers and public, and to make recommendations that contradict the vast majority of public comments received?
- c. Do you think it is appropriate that DOI would make recommendations to the President without making him aware that 99% of respondents to the proposal opposed those recommendations?

The final report issued by the Department of the Interior (DOI) in response to EO 13792, titled “Review of Designations Under the Antiquities Act,” was reviewed pursuant to a deliberative interagency process that included multiple components within the Executive Office of the President, including CEQ. In the final report sent to the President on December 5, 2017, the DOI described the nature and volume of the public comments received. It is important to include stakeholder input in the development of policies and recommendations.

24. NEPA is a short statute and the NEPA guidance has been key to implementing that law. Major rewrites have been time consuming because of the varied interests and types of projects that are subject to these regulations. Since CEQ’s budget has been significantly reduced over the past years, the agency has had to rely more and more on detailees.
 - a. Will the use of detailees be necessary to redo these regulations?
 - b. If so, would you provide the Committee with a list of the present and future expected detailees, their NEPA experience, the agencies they are from, what their primary role(s) in rewriting the NEPA regulations is/are expected to be, and what is happening to their agency portfolio while at CEQ?

On June 20, 2018, CEQ published an ANPRM to consider potential updates and clarifications to its NEPA implementing regulations. CEQ will review comments on the ANPRM, and these comments will inform any future action including whether to pursue any proposed revisions to the CEQ regulations. Should CEQ determine that it would be appropriate to issue a proposed rule setting forth potential revisions to its NEPA regulations, CEQ will work with relevant federal agencies to develop the proposal.

25. As you know, one of CEQ’s statutory responsibilities is to analyze conditions and trends in environmental quality [specifically, “to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining

whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;” 42 U.S.C. § 4344(2)]. Can you describe how CEQ would carry out that responsibility under your leadership?

As issues arise, I will consult with relevant Federal agencies on environmental matters within their expertise. Additionally, 42 U.S.C. 4345 authorizes CEQ to utilize the services, facilities, and information of public and private agencies and organizations that have developed information on particular environmental issues.

26. As you may know, American Indians and Alaska Natives share a unique relationship with the federal government. As part of that relationship, the federal government has a duty to perform meaningful consultation with Indian Tribes and Alaska Native villages regarding issues that affect tribal communities and tribal members. Do you commit to engage in essential and honest consultation with tribes and tribal governments?

Yes.

27. Please define the Council on Environmental Quality (CEQ)’s mission and the role you believe that sound science plays in fulfilling that mission.

CEQ’s mission includes overseeing implementation of NEPA by Federal agencies. In addition, CEQ also provides recommendations to the President and coordinates with Federal agencies regarding environmental policy matters. In carrying out its mission, CEQ should be informed by sound science.

28. Do you think the U.S. National Academy of Sciences is a reliable authority on scientific matters? If not, why not?

Yes.

29. If confirmed, how do you plan to maintain a relationship with the White House Office of Science and Technology Policy (OSTP)?

CEQ works closely with OSTP on a variety of matters including as Co-Chairs of the Ocean Policy Committee, established under EO 13840, titled “Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States.” If confirmed, I look forward to continuing to work closely with OSTP.

30. NOAA reported this year that extreme weather events costing \$1 billion or more have doubled on average in frequency over the past decade – costing this country \$425 billion in the last five years. With a little extra planning – combined with prudent, targeted investments – the federal government can help save lives, livelihoods and

taxpayer dollars. On March 28, 2017 through Executive Order 13783, President Trump rescinded Executive Order 13653, *Preparing the United States for the Impacts of Climate Change*, which provided tools for American communities to “strengthen their resilience to extreme weather and prepare for other impacts of climate change.” Included in the revoked Executive Order were provisions that made it easier for communities hit by extreme weather events to rebuild smarter and stronger to withstand future events, including rebuilding roads and infrastructure to be more climate-resilient, and investing in projects that better protect communities from flooding and their drinking water from contamination.

- a. What role, if any, did you or your staff have in contributing to the decision-making process that led to Executive Order 13783, in particular language that rescinded the Executive Order 13653? Please explain in detail.

EO 13783, titled “Promoting Energy Independence and Economic Growth,” was developed pursuant to a deliberative interagency process that included multiple components within the Executive Office of the President, including CEQ, as well as relevant Federal agencies.

- b. In light of the extreme weather damages observed since March 28, 2017, would you support the reinstatement of federal guidance and tools for American communities to “strengthen their resilience to extreme weather and prepare for other impacts of climate change?” If not, why not?

Extreme weather events highlight the importance of modern, resilient infrastructure. I support efforts to pursue technology and innovation, the development of modern, resilient infrastructure, and environmentally beneficial projects, including restoration projects, to address future risks, including climate related risks. I also support efforts to improve weather data, forecasting, modeling and computing in order to prepare for and respond to extreme weather events.

- c. President Trump also rescinded CEQ’s issued guidance to federal agencies requiring the consideration of greenhouse gasses and climate change effects when evaluating potential impacts of a federal action under NEPA. What role, if any, did you or your staff have in contributing to the drafting of language that rescinded this guidance?

EO 13783 directed CEQ to rescind this guidance. Pursuant EO 13783, CEQ published a notice of withdrawal of the guidance on April 5, 2017 at 82 FR 16576.

- d. Should the federal government consider the social costs of carbon in federal actions? If not, why not?

NEPA and CEQ's NEPA implementing regulations do not require agencies to monetize the costs and benefits of a proposed action. CEQ's regulations at 40 CFR 1502.23 provide that agencies need not weigh the merits and drawbacks of particular alternatives in a monetary cost-benefit analysis, and that such analysis should not be used when there are important qualitative considerations. Social cost of carbon (SCC) estimates were developed for rulemaking purposes to assist agencies in evaluating the costs and benefits of regulatory actions, and were not intended for project level reviews under NEPA.

To the extent that SCC estimates are used for rulemaking purposes, EO 13783 directs Federal agencies to be consistent with the guidance contained in the Office of Management and Budget (OMB) Circular A-4 of September 17, 2003. This guidance addresses consideration of domestic versus global impacts as well as appropriate discount rates, and specifically directs agencies to consider the domestic costs and benefits of rulemakings.

31. Two weeks prior to Hurricane Harvey devastated vast portions of Texas, Executive Order 13807 on "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure" went so far as to repeal the Federal Floodplain Risk Management Standard (FFRMS), which would have held new infrastructure projects to more resilient standards. The FFRMS guidance provided three flexible options for meeting the standard in flood hazard areas: (1) build standard infrastructure, such as federally funded housing and roads, two feet above the 100-year flood standard and elevate critical infrastructure, like hospitals and fire departments, by three feet; (2) elevate infrastructure to the 500 year flood standard; or (3) simply use data and methods informed by the best-available, actionable climate science. In short, the FFRMS was meant to protect taxpayer dollars spent on projects in areas prone to flooding, not to mention the human toll of such events. That is a common-sense approach given that in just the past five years, all 50 states have experienced flood damage.
- a. What role, if any, did you or your staff have in contributing to the decision-making process that led to Executive Order 13807, in particular language that rescinded the FFRMS? Please explain in detail.
 - b. In light of the hurricane-related damage observed last season and the extreme weather events this country has seen this year, would you support the reinstatement of the FFRMS? If not, why not, and how would you suggest resiliency be factored into the infrastructure project design and approval process?
 - c. Do you agree that infrastructure projects that do not account for flooding hazards in the manner(s) prescribed by the FFRMS would be more likely to suffer flood damage over the lifetime of the infrastructure? Would such damage be likely to result in additional costs to repair? If not, why not?
 - d. Do you view the repeal of the FFRMS as a national security threat, given the security threat that rising sea levels could pose to military bases? If not, why not?

EO 13807, titled “Establishing Discipline and Accountability in Environmental Review and Permitting Process for Infrastructure Projects,” was developed pursuant to a deliberative interagency process that included multiple components within the Executive Office of the President, including CEQ, as well as relevant Federal agencies. Agencies are currently implementing EO 11988, titled “Floodplain Management,” which was published on May 24, 1977, 42 FR 26951. I support efforts to prepare and plan for extreme weather events, including through the development of modern, resilient infrastructure to address such events.

32. In Executive Order 13834, President Trump also revoked Executive Order 13693, *Planning for Federal Sustainability in the Next Decade*, which stated that “each agency shall prioritize actions that reduce waste, cut costs, enhance the resilience of Federal infrastructure and operations, and enable more effective accomplishments of its mission.” This includes a goal of cutting the federal government’s greenhouse gas emissions by forty percent over ten years.

- a. What role, if any, did you or your staff have in contributing to the decision-making process that led to revoking Executive Order 13693? Please explain in detail.

EO 13834, titled “Efficient Federal Operations,” was developed pursuant to a deliberative interagency process that included multiple components within the Executive Office of the President, including CEQ, as well as relevant Federal agencies. The EO reflects this Administration’s priorities to protect the environment, promote efficient management, and save taxpayer dollars.

- b. EO 13693 provided a commitment and plan for Federal agencies to meet certain statutory requirements related to energy and environmental performance of Federal facilities, vehicles, and operations. Are there requirements under Executive Order 13834 that currently are not being met? If so, please list them.

EO 13834 provides agencies with greater discretion and flexibility to comply with statutory requirements. These statutory requirements are listed on CEQ’s website at [sustainability.gov](https://www.sustainability.gov). CEQ plans to provide consolidated data and information relating to Federal agency performance on this website in the near future.

- c. Will you commit to ensure each of these statutory requirements are being satisfied?

I commit to working with Federal agencies to meet their statutory requirements and to continue to make progress going forward. In implementing the EO, CEQ plans to work with OMB to monitor agency implementation and track performance.

- d. Will you commit to further review of Executive Order 13693 and discussion with my staff to determine if there are specific actions to be reinstated that could reduce waste, cut costs, or enhance the resilience of Federal infrastructure and operations?

I commit to working with Congress, including your staff, to identify opportunities to further drive and promote efficiency across the Federal government.

33. Please list all Clean Air Act regulations that were promulgated by the Obama Administration – not a voluntary or grant program – that you support and why?

I support regulations promulgated under the Clean Air Act that are consistent with the EPA's statutory authorities.

34. Are there any other EPA regulations – not a voluntary or grant program - that are on the books today that you support? If so, please list them.

I support EPA regulations that are consistent with the agency's statutory authorities.

35. Delaware is already seeing the adverse effects of climate change with sea level rise, ocean acidification, and stronger storms. While all states will be harmed by climate change, the adverse effects will vary by state and region. Can you comment on why it is imperative that we have national standards for the reduction in carbon pollution? If you do not believe it is imperative, why not?

To address climate change related concerns, I believe it is important to pursue technology and innovation to adapt to a changing climate, consistent with Congressional directives. This includes current efforts pursuant to the Weather Research and Forecasting Innovation Act to improve weather data, modeling, computing, forecasting, and warnings. In addition, it is important to pursue continued research to improve our understanding of the climate system. Further, it is important to pursue a strong economy which allows us to develop modern, resilient infrastructure to address future risks, including climate related risks.

36. In December 2007, President Bush's EPA proposed to declare greenhouse gases as a danger to public welfare through a draft Endangerment Finding, stating, "The Administrator proposes to find that the air pollution of elevated levels of greenhouse gas (GHG) concentrations may reasonably be anticipated to endanger public welfare...Carbon dioxide is the most important GHG (greenhouse gas) directly emitted by human activities, and is the most significant driver of climate change."⁴ Do you agree with these statements, if not, why not?

⁴https://insideclimatenews.org/sites/default/files/2007_Draft_Proposed_Endangerment_Finding.pdf

I believe that the climate is changing and that human activity has a role.

37. In a *per curiam* opinion, the U.S. Circuit Court of Appeals for the District of Columbia affirmed the Endangerment Finding and the U.S. Supreme Court declined to issue a writ of certiorari on the D.C. Circuit's decision. The Endangerment Finding set in motion EPA's legal obligations to set greenhouse gas emissions standards for mobile and stationary sources, including those established by the Clean Power Plan in August 2015.⁵ Do you agree with the courts that EPA has an obligation to address CO₂? If not, why not?

The Endangerment Finding was issued in 2009 and upheld by the D.C. Circuit in 2012. Any reconsideration of the Endangerment Finding by the EPA would be subject to the Administrative Procedure Act.

38. Do you agree with President Trump's decision to withdraw the United States from the International Paris Climate Accord? If so, please explain.

The President announced this decision on June 1, 2017. The decision was within his authority and I support the decision.

39. For the most part, patients and their families only participate in scientific trials and studies once they know their privacy - and any resulting health-related information - will remain confidential and secure. If confirmed, do you commit to respecting confidentiality agreements that exist between researchers and their subjects? Will you protect the health information of the thousands of people that have participated in health studies in the past?

Yes, it is important to respect confidentiality agreements between researchers and their subjects, and to protect the health information of people who participate in health studies.

40. On April 17, 2012, Dr. Jerome Paulson, Chair, Council on Environmental Health, American Academy of Pediatrics, testified before the EPW Committee, stating, "Methyl mercury causes localized death of nerve cells and destruction of other cells in the developing brain of an infant or fetus. It interferes with the movement of brain cells and the eventual organization of the brain... The damage it [methylmercury] causes to an individual's health and development is permanent and irreversible. ... There is no evidence demonstrating a "safe" level of mercury exposure, or a blood mercury concentration below which adverse effects on cognition are not seen. Minimizing mercury exposure is essential to optimal child health."⁶

- a. Do you agree with the American Academy of Pediatrics' finding on the

⁵ <https://www.epa.gov/climatechange/us-court-appeals-dc-circuit-upholds-epas-action-reduce-greenhouse-gases-under-clean>

⁶ <https://www.epw.senate.gov/public/cache/files/4/3/4324fd62-dc89-4820-bd93-ff3714fcb30/01AFD79733D77F24A71FEF9DAFCCB056.41712hearingwitness testimony paulson.pdf>

importance of minimizing mercury exposures for child health? If not, please cite the scientific studies that support your disagreement.

It is important to minimize the exposure to methylmercury, especially for children, consistent with the laws established by Congress.

- b. Do you agree the record supports EPA's findings that mercury, non-mercury hazardous air pollutant metals, and acid gas hazardous air pollutants emitted from uncontrolled power plants pose public health hazards? If not, why not?

EPA published the "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units," (referred to as the Mercury and Air Toxics Standards (MATS) Rule) on February 16, 2012, based on a record that found mercury, non-mercury hazardous air pollutant metals, and acid gas hazardous air pollutants from uncontrolled power plants pose public health hazards.

- c. Do you agree it is currently difficult, or impossible, to monetize the reduced risk of human health and ecological benefits from reducing mercury emissions from power plants? If so, please explain. If not, why not?

EPA monetized the benefits from reductions in mercury exposure in the MATS Rule based on analysis of health effects due to recreational freshwater fish consumption. EPA also identified unquantified impacts for both benefits and costs related to the MATS Rule.

- d. Do you agree that EPA's recent consideration of the costs of the Mercury and Air Toxics Rule shows that the agency has met the "necessary and appropriate" criteria Congress provided under 112(n) to direct the EPA to regulate power plant mercury (and other air toxic) emissions under Section 112, and more specifically under Section 112(d)? If not, why not?

On June 29, 2015, the U.S. Supreme Court in *Michigan v. EPA* remanded the MATS Rule based on the agency's failure to consider costs when making its finding that the regulation was appropriate and necessary under Section 112(n) of the Clean Air Act. EPA announced in its Spring 2018 Regulatory Agenda that the agency is planning to propose a rule titled "Mercury and Air Toxics Standards for Power Plants Residual Risk and Technology Review and Cost Review." EPA also stated in the Spring 2018 Regulatory Agenda that, in its April 2017 court filing, the agency requested that oral argument for the MATS litigation be continued to allow the current Administration adequate time to review the Supplemental Cost Finding, and to determine whether it will be

reconsidered. That reconsideration is currently under review by EPA.

41. What, if any, are the casual connections between hydraulic fracturing and environmental problems such as contamination of drinking water and emissions of air pollution and greenhouse gasses?

With respect to drinking water, EPA published a study in December 2016, titled “Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States.” This study assessed the potential for activities in the hydraulic fracturing water cycle to impact the quality or quantity of drinking water resources and to identify factors that affect the frequency or severity of those impacts. The study found that under some circumstances the hydraulic fracturing water cycle can impact drinking water resources, and that, “impacts can range in frequency and severity, depending on the combination of hydraulic fracturing water cycle activities and local- and regional-scale factors.”

With respect to air emissions associated with hydraulic fracturing, EPA has established standards under the Clean Air Act. In particular, on August 16, 2012, EPA published standards for the oil and gas sector that established control measures to limit the emission of volatile organic compounds (VOCs) as well as other air pollutants. For the 2012 rule, EPA estimated that control measures for VOCs would reduce methane emissions annually by 1 million to 1.7 million short tons as a co-benefit.

Senator Capito:

42. Mineral mining is a significant industry with obvious economic and other benefits to West Virginia and the nation. Typical projects employ numerous skilled miners and more in ancillary industries, and require huge investments that would benefit from prompt and firm regulatory decisions. The Federal Permitting Improvement Steering Council (FPISC), established under Title 41 of the FAST Act (FAST-41), is tasked with improving coordination among federal agencies to ensure the timely review and authorization of covered projects. While several areas of activity were identified in FAST-41 as being covered projects, the FPISC has the authority to determine additional eligible activities. Given that the Chairman of the Council on Environmental Quality is a member of the FPISC, what are your thoughts on including mineral mining as a covered project under FAST-41?

The Council on Environmental Quality (CEQ) is one of 16 agencies that serve as members of Federal Permitting Improvement Steering Council (Permitting Council). On July 28, 2017, the Permitting Council received a request to add mining as an infrastructure sector under the FAST-41 definition of a “covered project,” which may be determined by majority vote of the Permitting Council. The Permitting Council has developed a Standard Operating Procedure (SOP) for Adding a New Sector to consider the potential addition of new sectors of covered projects not expressly enumerated under FAST-41, which includes stakeholder outreach. To date, the Permitting Council has not made any determination to add any new sector of covered projects pursuant to the SOP and FAST-41. In connection with any future action with regard to requests to add a sector, it is important for CEQ to consult with all of the members of the Permitting Council, and to consider the views of stakeholders.

Senator Duckworth:

43. For nearly two decades, Executive Order 12898 has guided Federal efforts to advance environmental justice initiatives. This landmark Executive Order directs that “Each Federal Agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income population.”

If confirmed to lead the Council on Environmental Quality (CEQ), will you commit to upholding and achieving the goals contained in this critical environmental justice Executive Order 12898?

Yes. In 1994, President Clinton issued EO 12898, titled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” which directed Federal agencies to address disproportionately high and adverse human health or environmental effects on minority and low income communities. CEQ issued related guidance in 1997, and CEQ participates in the Federal interagency working group led by Environmental Protection Agency (EPA) which addresses environmental justice issues. In March 2016, the working group issued a document titled “Promising Practices for EJ Methodologies in NEPA Reviews” which CEQ has posted on its website and is available at <https://ceq.doe.gov/nepa-practice/justice.html>. In addition, on February 23, 2018, EPA issued a memorandum affirming EPA’s commitment to the implementation of the 1994 EO. If confirmed, I commit that addressing environmental issues for low income and minority communities will be a priority, including actions under NEPA to facilitate the development of new or improved infrastructure in these communities.

44. The Centers for Disease Control and Prevention has made clear that there is no safe level of lead in a person’s bloodstream, particularly a child. However, our Nation’s laws and regulations fail to eliminate the presence of lead in drinking water and claim success for merely lowering the amount of lead present in water supplies. There is no public health justification for being satisfied with only a small amount of lead in our drinking water and I simply refuse to accept excuses or explanations from cynics who claim that the United States is incapable of solving this problem.

If confirmed to lead CEQ, will you commit to taking concrete and meaningful action to make sure the Trump Administration prioritizes modernizing and strengthening the Lead and Copper Rule by no later than early 2019?

If confirmed, I will work with the EPA to prioritize development of this rule.

45. Illinois is home to an innovative Archer Daniels Midland project that is leading the way in helping to reduce emissions by capturing and storing carbon. This Carbon Capture, Utilization and Storage (CCUS) system is capable of storing more than 1 million tons of

carbon emissions, and it represents the type of CCUS technology that will prove vital in empowering our Nation and countries around the world to reduce emissions and protect our planet.

If confirmed to lead CEQ, will you commit to working with the U.S. Department of Energy and other agencies to support project developers and operators of Carbon Capture, Utilization and Storage facilities?

Yes. If confirmed, I will work with the Department of Energy and other relevant agencies on this issue.

Senator Markey:

46. On June 19, 2018 Trump rescinded the National Ocean Plan and replaced it with the Ocean Policy Committee co-chaired by the Council on Environmental Quality (CEQ) and the Office of Science and Technology Policy. The Northeast Ocean Plan, established in 2012, created the very successful Northeast Ocean Data Portal. The Portal helps ocean stakeholders plan activities such as fishing, marine traffic routes, and energy development by combining and layering data in regards to different ocean uses onto one map.
- a. As the head of CEQ and co-chair of the new Ocean Policy Committee, will you work to ensure federal agencies continue to engage with states and regions on regional ocean plans? Will you work to ensure federal agencies continue to engage with diverse stakeholders including fishermen, the tourism industry, the recreational industry, port operators, local communities, offshore wind development, the science community, and conservation groups?
 - b. Will you ensure that the Northeast Ocean Plan and other regional ocean plans continue to receive updated data and support so that local stakeholders, governments, states, federal agencies, industry, tribes, and the science community can make more informed management decisions?
 - c. Can you guarantee that federal support for data collection and management, including for publicly available data, will continue?

Executive Order (EO) 13840, titled “Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States,” specifically directs the Ocean Policy Committee (OPC) established under the EO to engage with stakeholders, including Regional Ocean Partnerships (ROPs), “to address ocean-related matters that may require interagency or intergovernmental solutions.” The EO also directs the OPC to coordinate the release of unclassified data and other ocean-related information through “common information management systems, such as the Marine Cadastre, that organize and disseminate this information.” The Marine Cadastre is a primary source of Federal coastal and ocean spatial data for ROPs. The Council on Environmental Quality (CEQ) and the Office of Science and Technology Policy (OSTP) have issued guidance to agencies relating to implementation of EO 13840 which is available at <https://www.whitehouse.gov/wp-content/uploads/2017/11/20180628EO13840OceanPolicyGuidance.pdf>.

47. The National Environmental Policy Act (NEPA) is often blamed for delays in infrastructure projects, but analyses done by federal agencies and reports by the Congressional Research Service have repeatedly pointed to issues like a lack of funding as the main cause of delays. Additional changes to the NEPA process required by recent legislation have also resulted in conflicting, duplicative, and confusing directions to staff responsible for conducting NEPA reviews.

- a. Before or as part of the broader NEPA rulemaking, would you commit to conducting a review of the resources that agencies have and are missing that are necessary to perform environmental impact statements and environmental assessments?

I believe Federal agencies have sufficient resources to implement NEPA. CEQ is currently working with agencies to better coordinate their NEPA reviews and to more effectively allocate resources, including the establishment of joint schedules, environmental analyses, and records of decision. CEQ's NEPA implementing regulations set forth in 40 CFR 1507.2 and 1506.5 direct agencies to ensure that they have the capability to implement NEPA. If confirmed, I commit to working to ensure that agencies effectively allocate resources to enable them to implement NEPA appropriately.

48. President Trump signed an executive order directing agencies to use a “One Federal Decision” mechanism, which designates a lead agency to shepherd a single NEPA review to completion.

- a. What role do you think CEQ plays in the “One Federal Decision” approach?

Pursuant to EO 13807, CEQ and the Office of Management and Budget (OMB) were directed to develop a framework for implementation of the One Federal Decision policy. On March 20, 2018, CEQ and OMB issued a memorandum to Federal agencies providing a framework for implementation of the policy. On April 9, 2018, President Trump announced that 11 Federal agencies and the Federal Permitting Improvement Steering Council (Permitting Council) executed a Memorandum of Understanding committing to work collaboratively to implement the policy and to meet the two-year goal for major infrastructure projects. Pursuant to EO 13807, CEQ will continue to work with the agencies to implement the One Federal Decision policy, including through the interagency working group convened by CEQ in fall 2017 to implement the EO.

Senator Merkley:

49. We have seen storm surges, floods, droughts, increased frequency and severity of natural disasters, ocean acidification, and general environmental distress across the country – a trend that will only continue with the climate chaos we are currently facing. In your testimony, you said that you believed humans are impacting the world’s climate. If confirmed as the head of CEQ, what steps will you take to proactively combat the environmental concerns listed above?

To address climate change related concerns, I believe it is important to pursue technology and innovation to adapt to a changing climate, consistent with Congressional directives. This includes current efforts pursuant to the Weather Research and Forecasting Innovation Act to improve weather data, modeling, computing, forecasting, and warnings. I also believe it is important to pursue continued research in order to improve our understanding of the climate system.

50. We are reaching a breaking point in terms of climate change impacts, and it is clear that this country need leaders who are willing to take action now to prevent us from rapidly reaching a point of no return in terms of climate change impacts. This cannot happen if science and the impacts of climate disruption are ignored. In your leadership role with the CEQ, what steps will you take to arrest and reverse climate change?

I believe it is important to pursue a strong economy which allows us to have the resources to advance technology and innovation and to develop resilient infrastructure to address future risks, including climate related risks. In addition, it is important to advance projects to achieve environmental protection, including environmental restoration projects. To facilitate the development of such projects in a timely manner, the Council on Environmental Quality (CEQ) has been working with Federal agencies to streamline environmental reviews that are conducted pursuant to the National Environmental Policy Act (NEPA) and related statutes.

51. CEQ’s primary role is leading coordination between environmental agencies. In an ANPRM (Advanced Notice of Proposed Rule Making) published last month, it seems clear the administration is looking to revamp the NEPA review process, which could allow for industry to bypass environmental regulations. As head of CEQ, can you please describe how you will ensure that this NEPA overhaul will not cut environmental review requirements?

On June 20, 2018, CEQ published an ANPRM to consider potential updates and clarifications to its NEPA implementing regulations. As stated in the ANPRM, “CEQ solicits public comment on potential revisions to update the regulations and ensure a more efficient, timely, and effective process consistent with the national environmental policy stated in NEPA.” CEQ will review comments on the ANPRM, and these comments will inform any

future action including whether to pursue any proposed revisions to the CEQ regulations.

52. On June 19th, President Donald Trump issued an Executive Order replacing the existing U.S. Ocean Policy with one that follows a shift away from environment to economy, changing U.S. ocean policy from one that was focused on stewardship of our valuable and vulnerable ocean life to resource use and extraction. If confirmed as the head of CEQ, how will you work to prioritize ocean conservation and coastal protection? How will you ensure the ecological health of our oceans and coastlines?

Congress has issued many statutes to address the management of our ocean resources and environmental protection of our oceans, Great Lakes, and coastal waters. Executive Order (EO) 13840, titled “Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States,” supports ocean stewardship by directing Federal agencies to work to ensure economic, security, and environmental benefits for present and future generations by coordinating ocean policy. The EO establishes an Ocean Policy Committee (OPC) and subcommittees to address science and technology and ocean resource management issues. Matters relating to ocean conservation and coastal protection may be addressed by the OPC and its subcommittees. If confirmed, as Co-Chair of the OPC, I commit to working with Federal agencies to continue to make data and information that supports conservation and coastal protection publicly available.

53. It seems as though the prioritization of economic development, and the president’s vow to expand fossil fuel extraction from our oceans, run directly counter to the CEQ’s goal of environmental protection and a productive harmony between humans and their environment? Please explain how the Trump Executive Order encourages healthy ocean ecosystems. If confirmed as the head of the CEQ, will you support these policies that will undoubtedly harm the long-term health and sustainability of our oceans?

EO 13840 specifically directs the OPC to engage and collaborate with stakeholders, including Regional Ocean Partnerships (ROPs), address regional coastal and ocean matters potentially requiring interagency or intergovernmental solutions, expand public access to Federal ocean-related data and information, and identify priority ocean research and technology needs to facilitate the use of science in establishing policy. The EO also facilitates the collection, development, dissemination, and exchange of information among agencies. If confirmed, as Co-Chair of the OPC, I commit to working with Federal agencies to implement the EO in a manner that advances environmental protection.

Senator Whitehouse:

54. Last month, President Trump issued an Executive Order repealing President Obama's National Ocean Policy Executive Order and implementing his own ocean priorities. The EO focused on extracting as much as possible from the oceans with little regard for conservation. It also omitted any mention of climate change and its effects on oceans and coasts.
- a. Do you agree that the primary focus of the United States' policy on oceans management should be on the exploitation of our oceans for short-term economic gain at the expense of long-term conservation and sustainable use?
 - b. Explain your understanding of the consequences of climate change and carbon pollution on our oceans and coasts, including warming, deoxygenation, sea level rise, and ocean acidification?
 - c. What role did you play in the development and drafting of President Trump's Executive Order?
 - i. Did you recommend or support the emphasis on extraction of resources in the EO?
 - ii. Did you recommend or support the exclusion of any mention of climate change or ocean acidification from the EO?

Executive Order (EO) 13840, titled "Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States," is an order that addresses interagency processes and coordination with regard to ocean-related research and resource management. This EO was developed pursuant to a deliberative interagency process that included multiple components within the Executive Office of the President, including the Council on Environmental Quality (CEQ), and also included relevant Federal agencies.

The EO establishes an Ocean Policy Committee (OPC) and establishes two subcommittees, including a subcommittee on science and technology, and a subcommittee on resource management. I anticipate that matters relating to climate change and ocean acidification may be addressed by one or both subcommittees.

55. The EO establishes an interagency Ocean Policy Committee which is co-chaired by the Council on Environmental Quality and Director of the Office of Science and Technology Policy. The Co-chairs are directed, in coordination with the Assistants to the President for National Security Affairs, Homeland Security and Counterterrorism, Domestic Policy, and Economic Policy, to "regularly convene and preside at meetings of the Committee, determine its agenda, and direct its work, and shall establish and direct subcommittees of the Committee as appropriate."
- a. Given your current status as the highest ranking official at CEQ, what steps have you taken to establish the Committee, and set its agenda and meeting schedule?

- b. When do you plan to hold the first Committee meeting?
- c. What subcommittees and specific tasks for these subcommittees do you anticipate forming?

To implement EO 13840, on June 20, 2018, CEQ and the Office of Science and Technology Policy (OSTP) which co-chairs the OPC, held a call with state representatives from regions across the country, including the Northeast region, to discuss the new EO. On June 28, 2018, CEQ and OSTP also issued guidance to Federal agencies relating to implementation of the EO, which is available at <https://www.whitehouse.gov/wp-content/uploads/2017/11/20180628EO13840OceanPolicyGuidance.pdf>.

CEQ and OSTP have scheduled the first OPC Meeting for August 1, 2018. At the meeting Federal agencies will discuss implementation of EO 13840, including: i) the function and structure of the OPC and establishment of the subcommittees; ii) the timely release of Federal ocean-related data and information; iii) priority ocean research and technology needs; iv) Federal participation in ocean research projects, including through the National Oceanographic Partnership Program; and v) interagency coordination.

56. The EO also “recognizes and supports Federal participation in regional ocean partnerships.” These partnerships manage ocean planning and data collection for the purposes of sustainable ocean management.
- a. If confirmed, how will you advise federal agencies to support and participate in these regional ocean partnerships?
 - b. How should federal agencies consider the data and recommendations from the regional ocean partnerships in their own work and decision-making?

As stated above, on June 28, 2018, CEQ and OSTP issued guidance to Federal agencies relating to implementation of the EO, including continued support for Regional Ocean Partnerships (ROPs) or their functional equivalents.

EO 13840 directs the OPC to identify priority ocean research and technology needs to facilitate the use of science in establishing policy, and the collection, development, dissemination, and exchanges of information among agencies. It also directs that the OPC address coordination and Federal participation in projects conducted under the National Oceanographic Partnership Program. Data and recommendations from the ROPs should inform these activities.

57. The EO emphasizes the importance of ocean data and monitoring, a priority for the Senate Oceans Caucus. As we develop legislation to support enhanced ocean data and

monitoring technologies and methods, will you work with us to improve and implement the legislation, if passed?

Yes.

58. The growing threat of plastic pollution and other marine debris are endangering our coastal economies and wildlife. The bipartisan Save Our Seas Act, which aims to increase federal involvement in both domestic and international efforts to combat marine debris, passed the Senate by unanimous consent last August. The House of Representatives is expected to pass their bipartisan companion bill shortly. The issue of marine debris has captured the attention of the nation and concerned citizens of all political leanings.
- a. What role can CEQ play in coordinating federal efforts to research, monitor, and reduce marine plastic pollution?
 - b. If confirmed, do you commit to working with the bipartisan Senate Oceans Caucus to build on the Save Our Seas Act and build on U.S. investments in marine debris research, prevention, and innovation?

Addressing marine debris is an important issue. If confirmed, as Co-Chair of the OPC, I commit to working with you and your colleagues on this issue going forward.

59. At your confirmation hearing, you told Senator Van Hollen that you “agree that the climate is changing and that human activity has a role.” My question to you is do you believe that human activity, namely the burning of fossil fuels, is the primary driver of climate change? If not, what is?

I agree that the climate is changing and human activity has a role. The climate system is driven by complex interactions, and examination of the climate involves complex models and assumptions, as well as projections which may extend far into the future. To improve our understanding of the climate system, it is important to continue climate related research.

60. In your time as chief of staff at CEQ, you have already withdrawn guidance issued under the Obama administration that directed relevant agencies to consider the carbon emissions and associated climate change effects in NEPA reviews. Given that Freddie Mac, the insurance industry trade publication Risk & Insurance, and the Union of Concerned Scientists all warn that sea level rise caused by climate change will have a severe impact on coastal real estate values, and the Bank of England and numerous researchers, economists, and other academics warn of the risks of a “carbon bubble,” please explain why you think that it is good policy to not require that the climate effects of projects be considered in NEPA reviews?

As a general matter, Federal agencies are required under NEPA to review the potential environmental consequences of proposed major Federal actions that may significantly affect the quality of the environment.

61. How should greenhouse gas impacts and sea level rise be considered in NEPA project reviews?

In conducting NEPA analyses, Federal agencies have discretion and should use their experience and expertise to decide how and to what degree to analyze particular effects. Pursuant to CEQ's NEPA implementing regulations, agencies should identify methodologies and ensure information is of high quality, consistent with 40 CFR 1500.1(b) and 40 CFR 1502.24.

62. The Obama administration had estimated the social cost of carbon to be around \$45 per ton of emissions in 2020. Former EPA Administrator Scott Pruitt reduced this number to between \$1 and \$6 per ton, notably by excluding the costs of climate change that are borne outside our borders.
- a. Do you agree that the social cost of carbon is a valuable tool for policy makers that should be used to help them assess the true costs of projects and true benefits of regulations limiting carbon emissions?
 - b. Do you agree with Pruitt's decision to reduce the value of the social cost of carbon by excluding costs that are borne outside our borders?

NEPA and CEQ's regulations do not require agencies to monetize the costs and benefits of a proposed action. CEQ's regulations at 40 CFR 1502.23 provide that agencies need not weigh the merits and drawbacks of particular alternatives in a monetary cost-benefit analysis, and that such analysis should not be used when there are important qualitative considerations. Social cost of carbon (SCC) estimates were developed for rulemaking purposes to assist agencies in evaluating the costs and benefits of regulatory actions, and were not intended for project level reviews under NEPA.

To the extent that SCC estimates are used for rulemaking purposes, EO 13783 directs Federal agencies to be consistent with the guidance contained in the Office of Management and Budget (OMB) Circular A-4 of September 17, 2003. This guidance addresses consideration of domestic versus global impacts as well as appropriate discount rates, and specifically directs agencies to consider the domestic costs and benefits of rulemakings.

63. Former EPA Administrator Scott Pruitt issued a proposed rule that would prohibit EPA from considering in its rulemaking process studies whose underlying data is not public. This proposed rule would exclude many public health studies that rely upon confidential patient data. Do you support Pruitt's approach of excluding peer-reviewed public health

studies simply because many of the people whose health data is used in them have not consented to making their data public?

Transparency and reproducibility of findings are essential for scientific research. It is important to respect confidentiality agreements between researchers and their subjects, and to protect the health information of people who participate in health studies. The proposed rule has been issued for public comment and comments submitted will inform any future action.

Draft

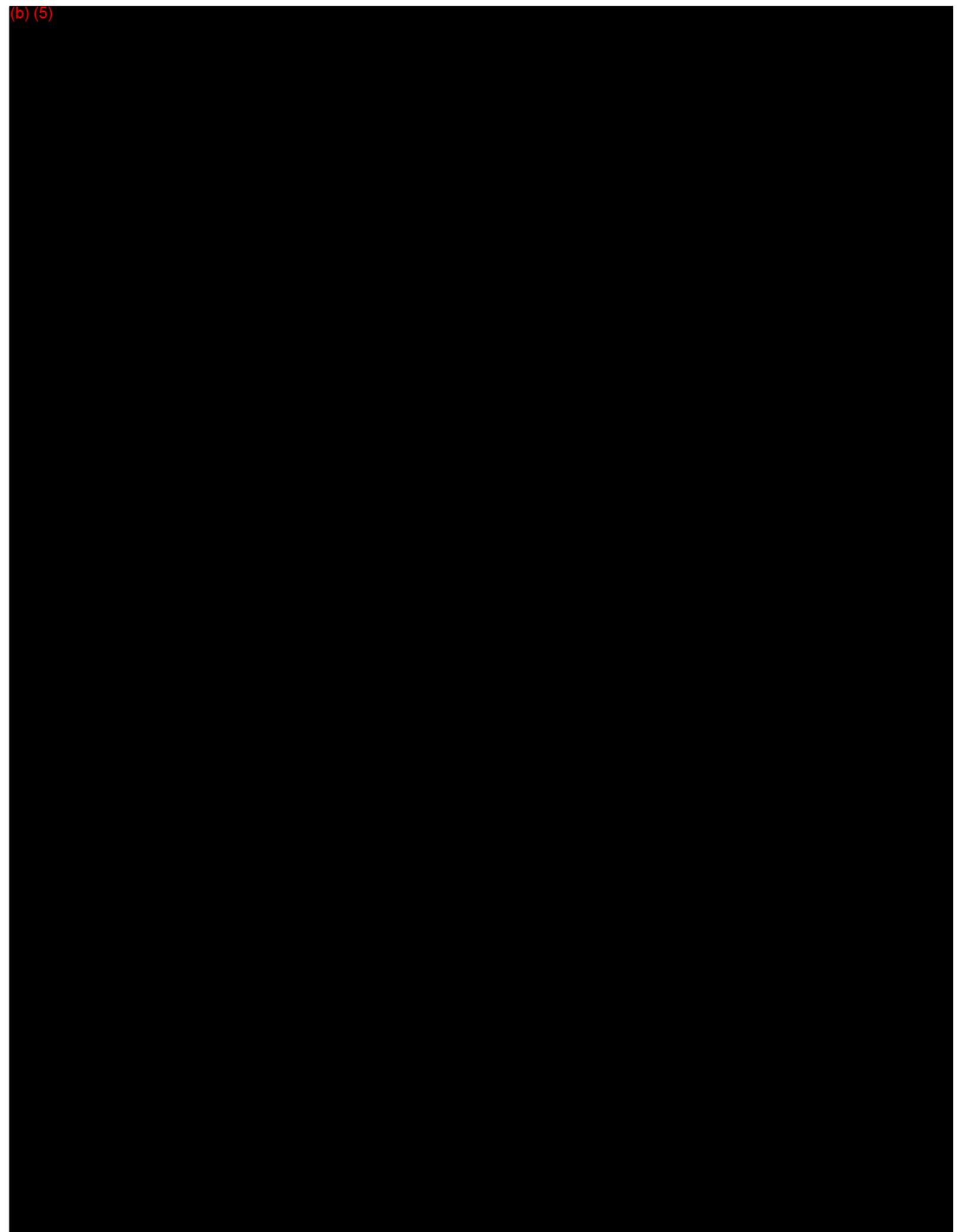
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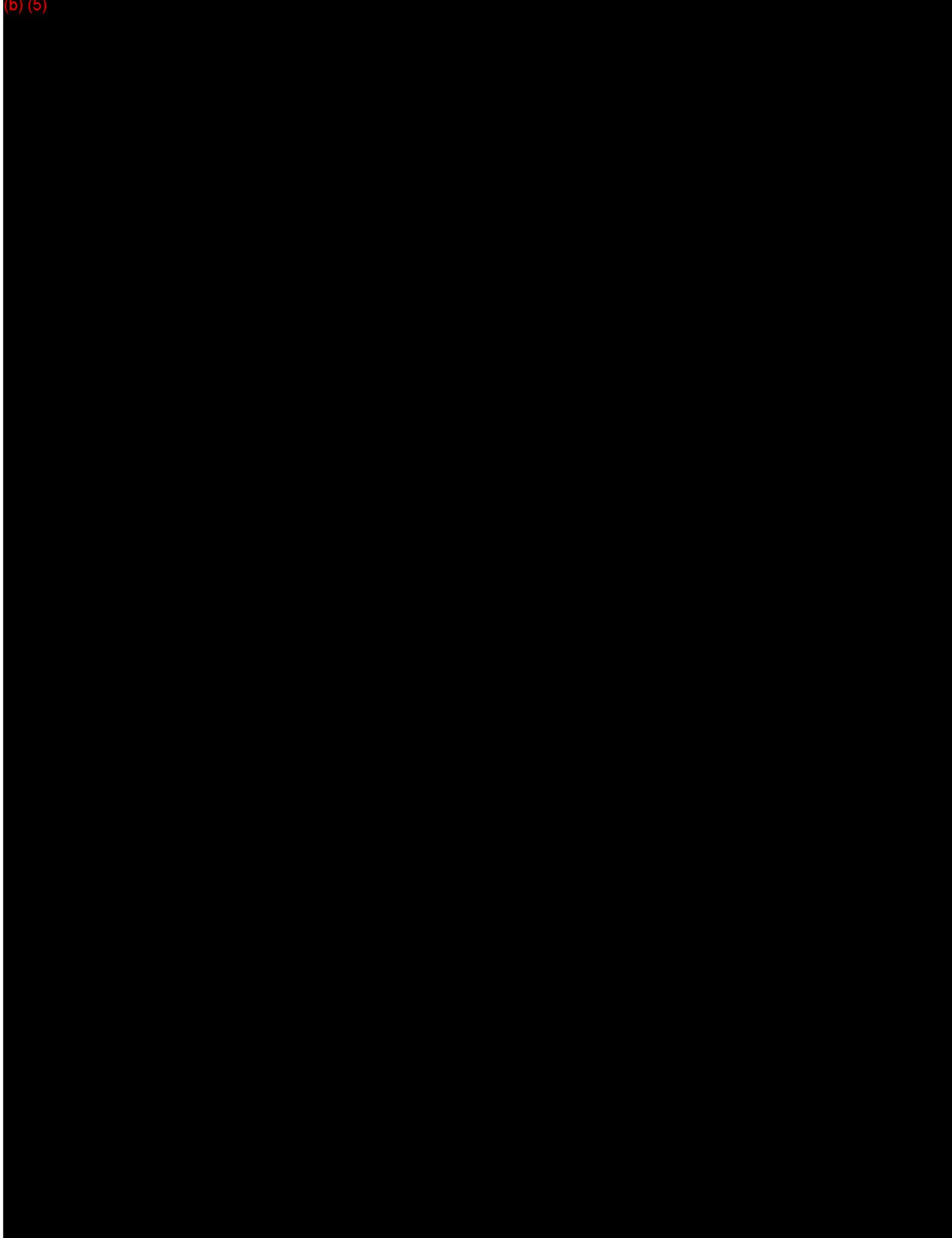
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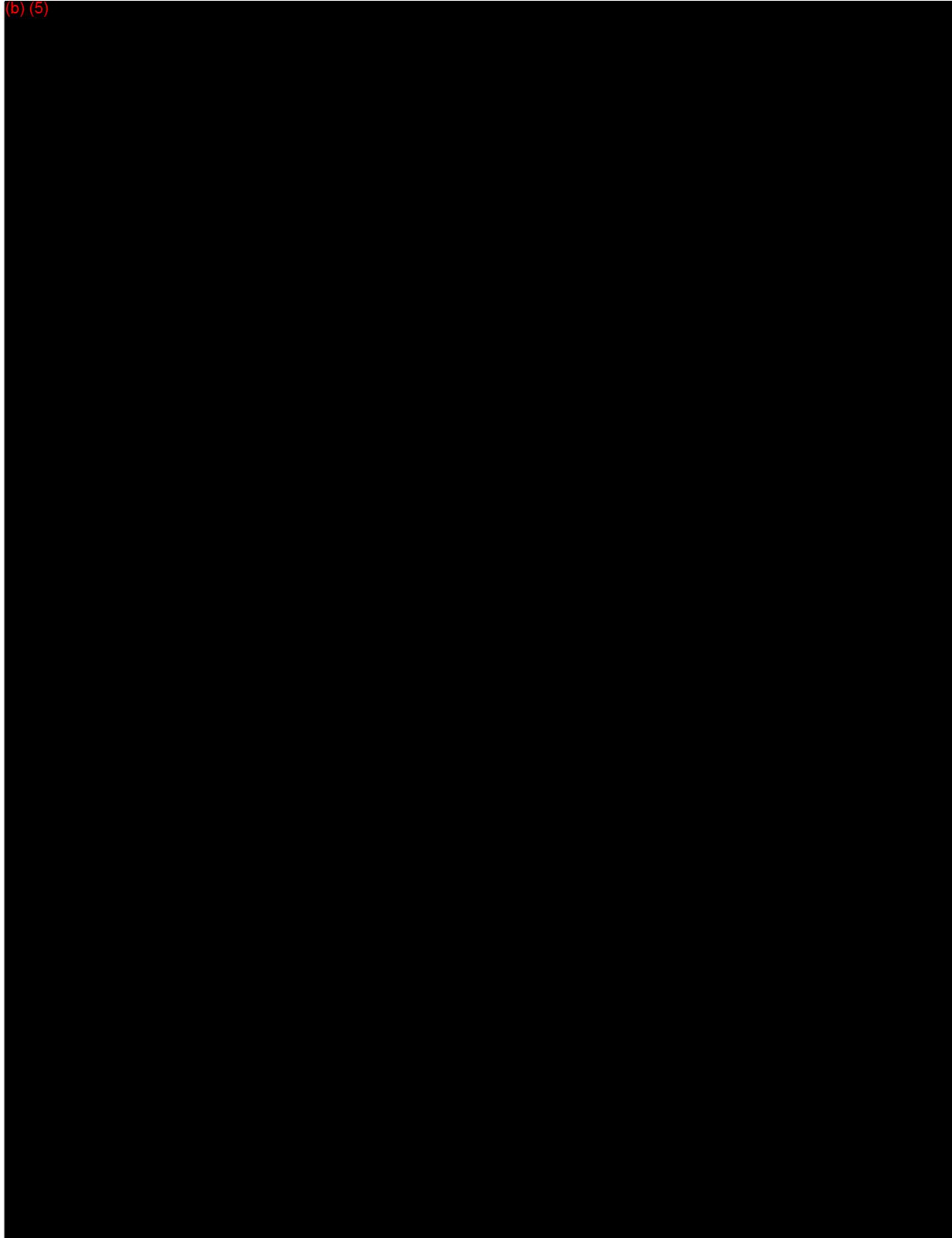
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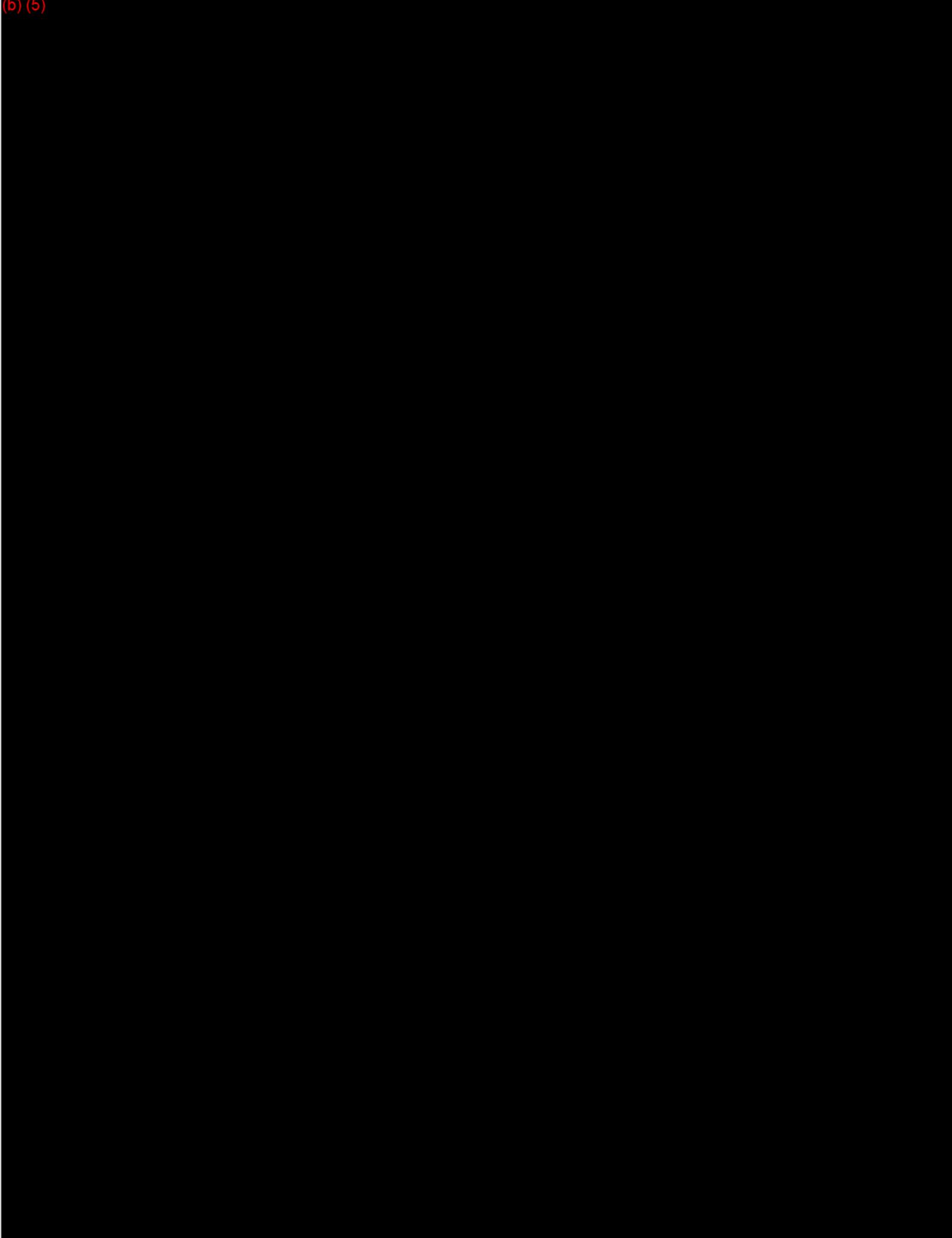
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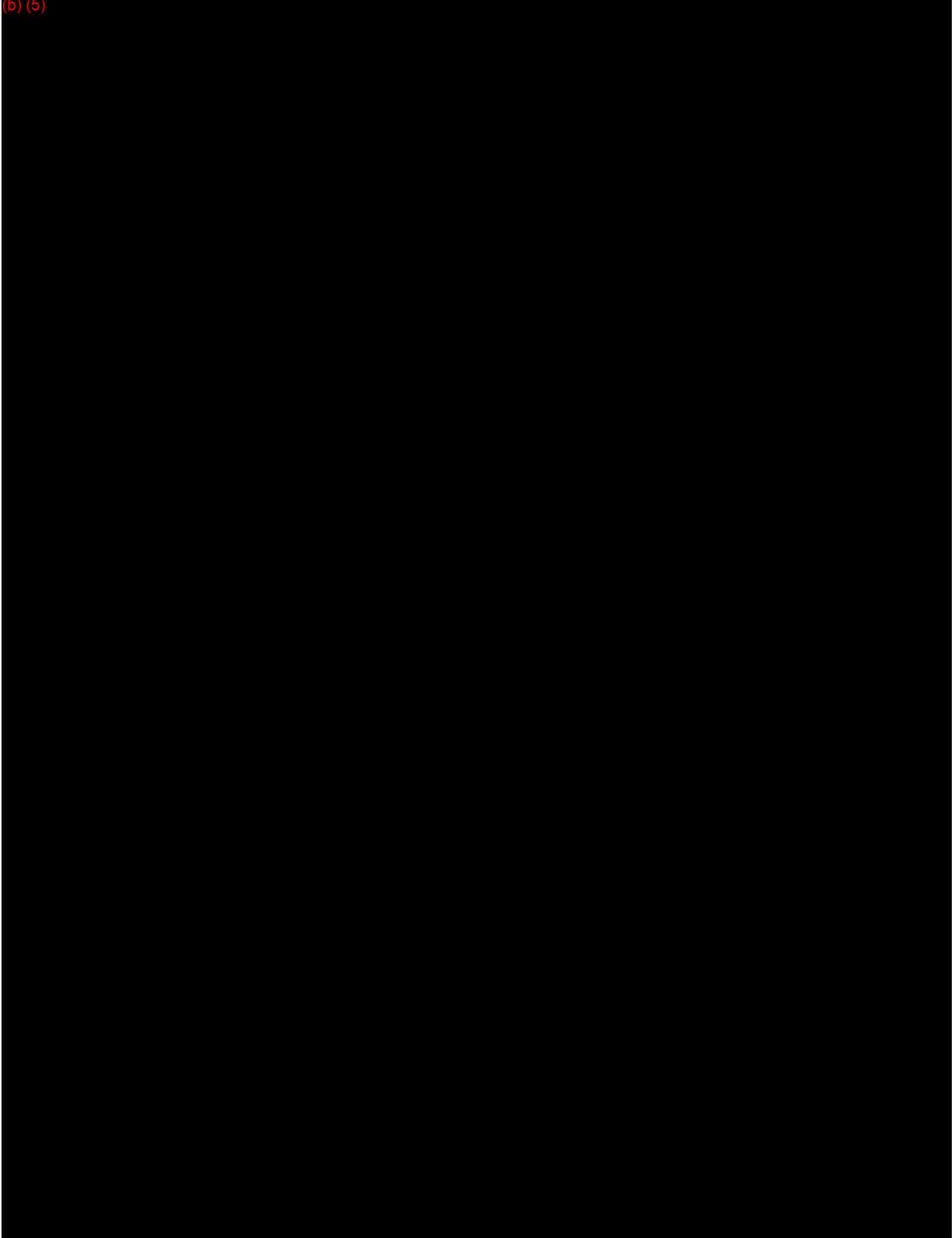
Katherine Smith
Special Assistant
Council on Environmental Quality
(b) (6)

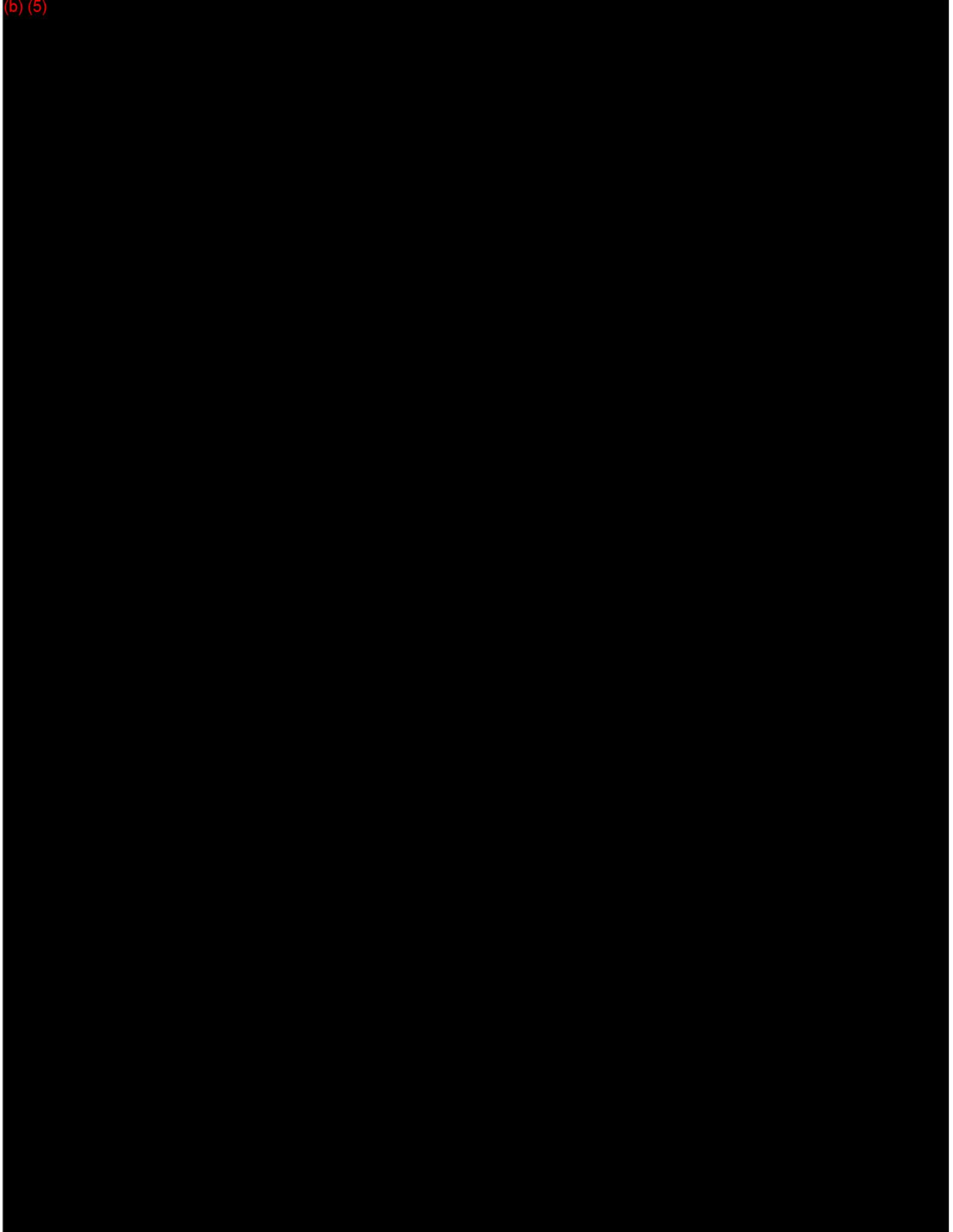


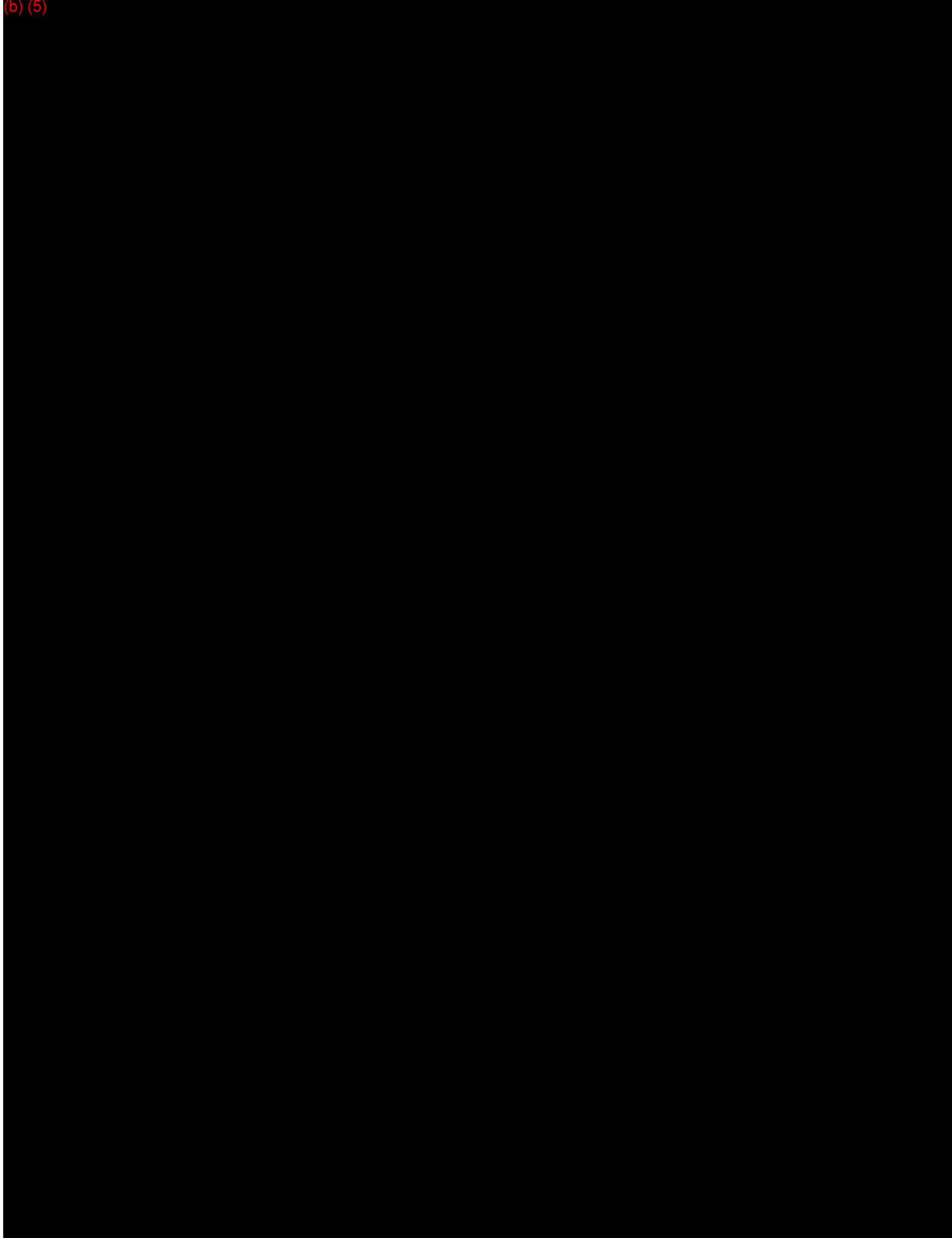


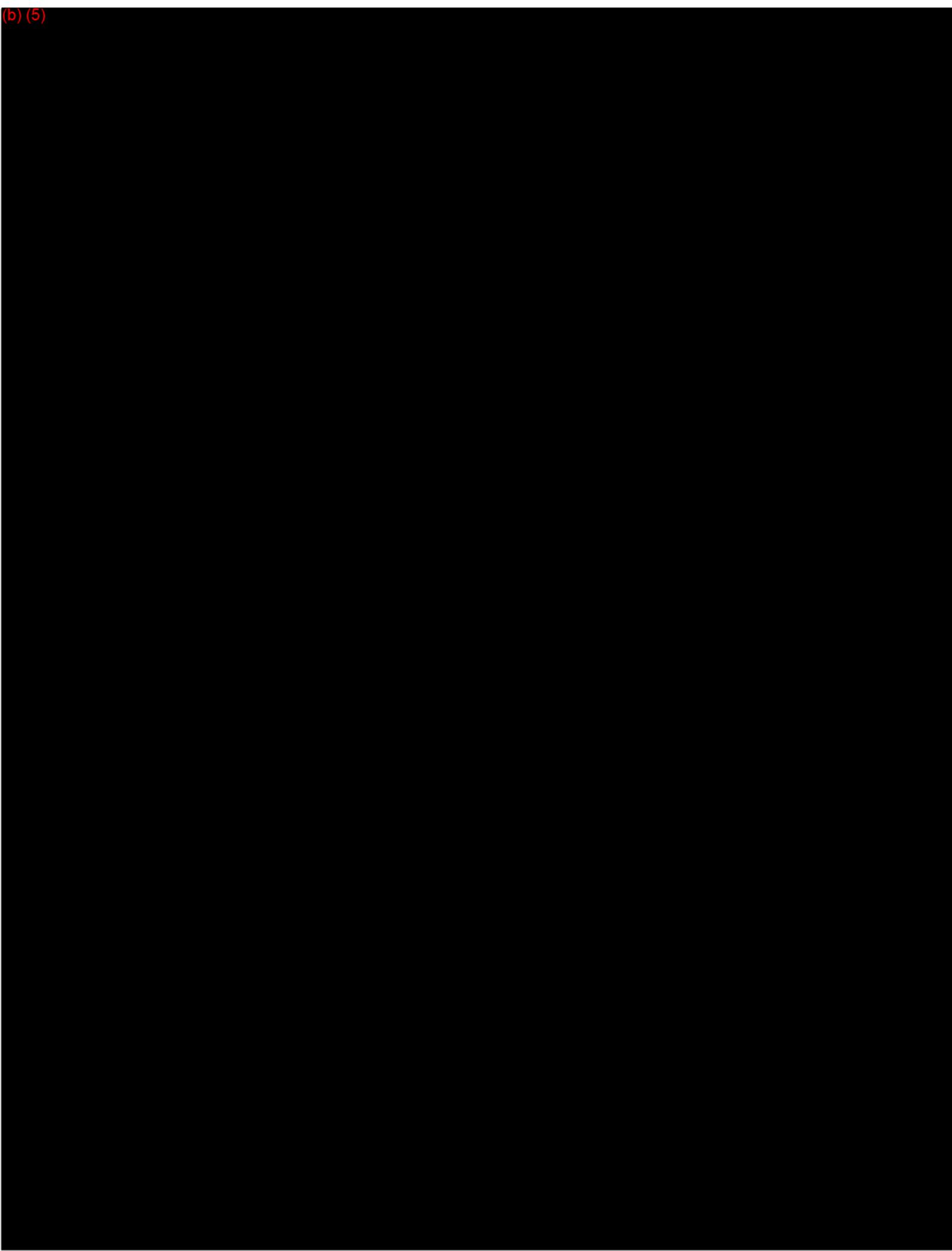


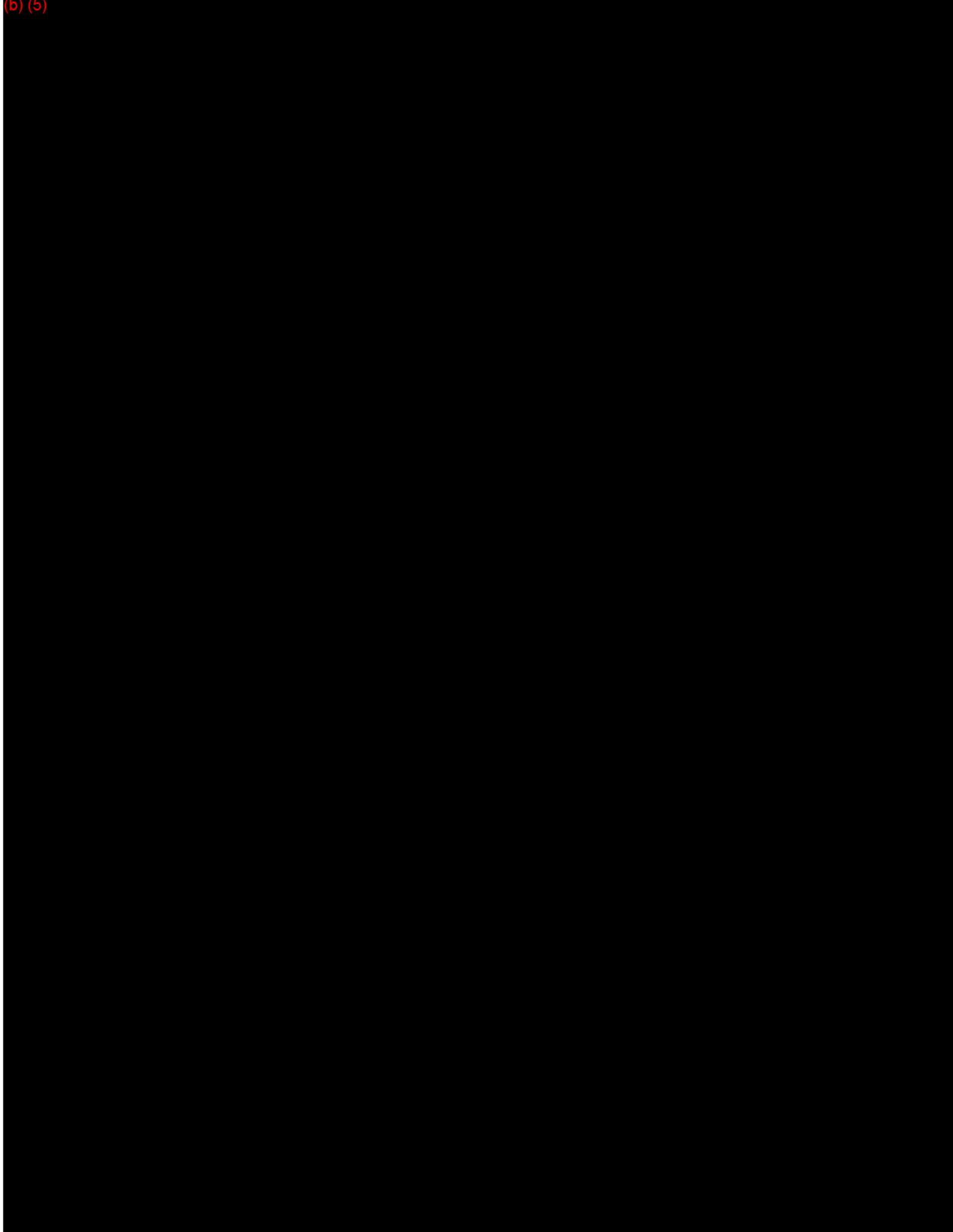


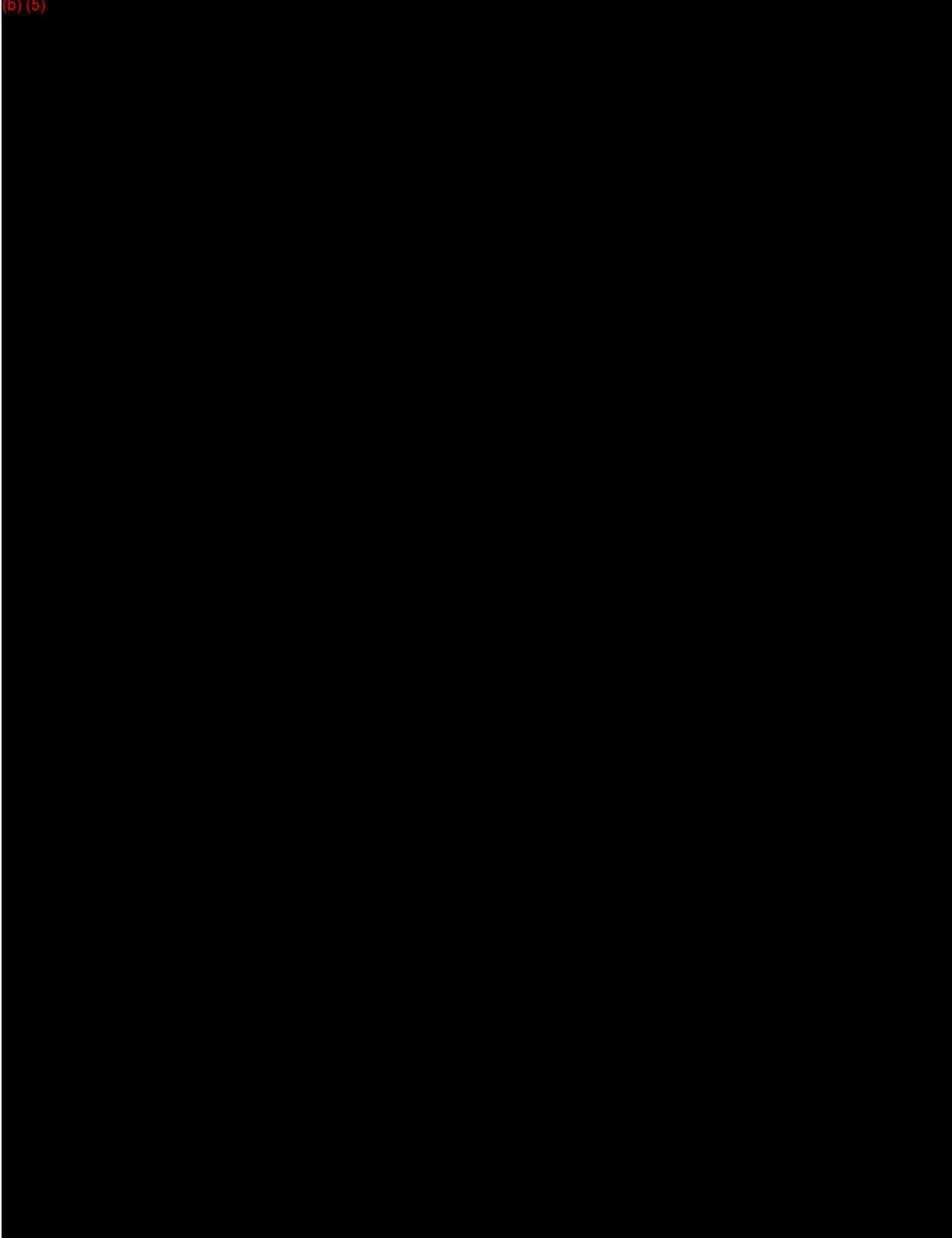


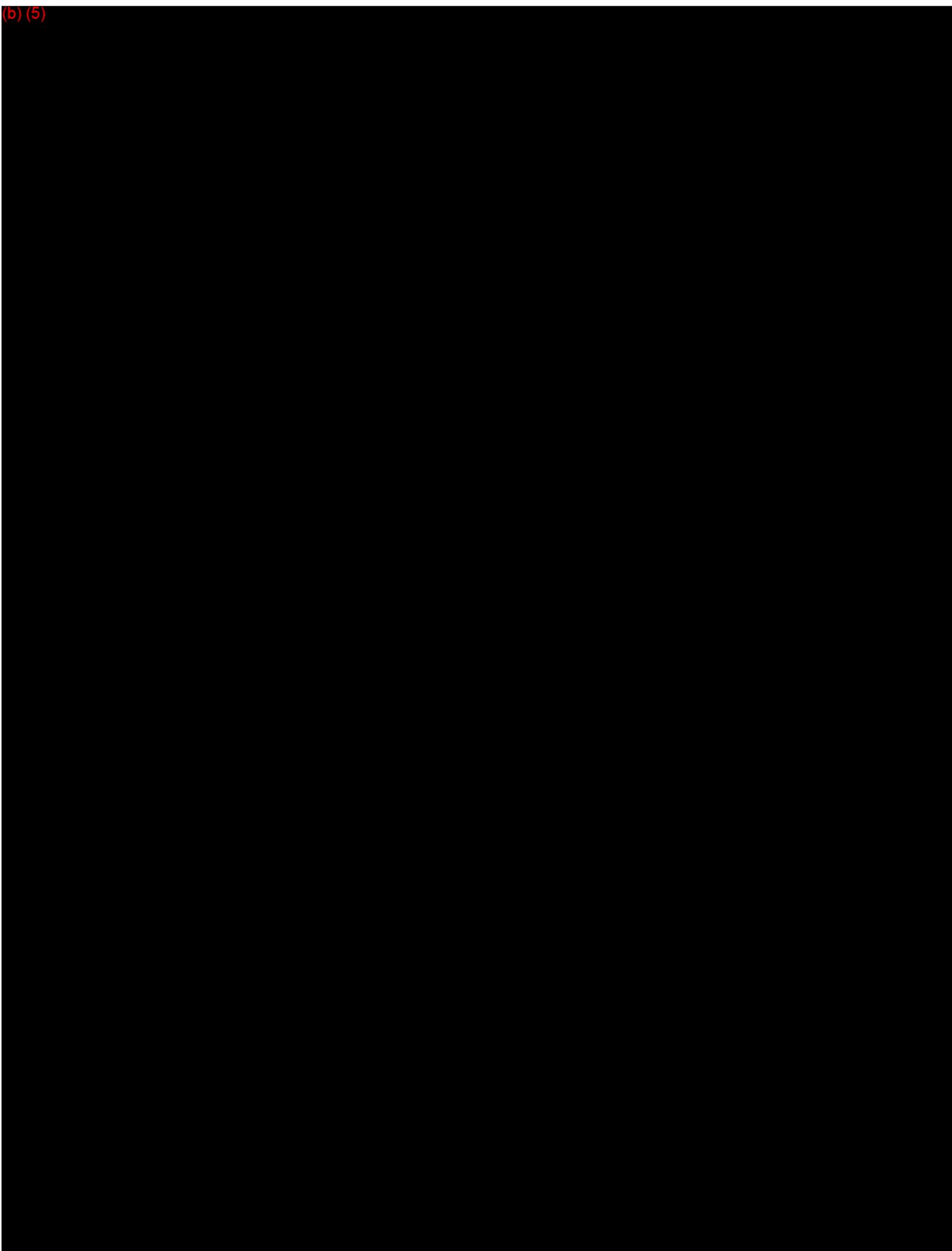


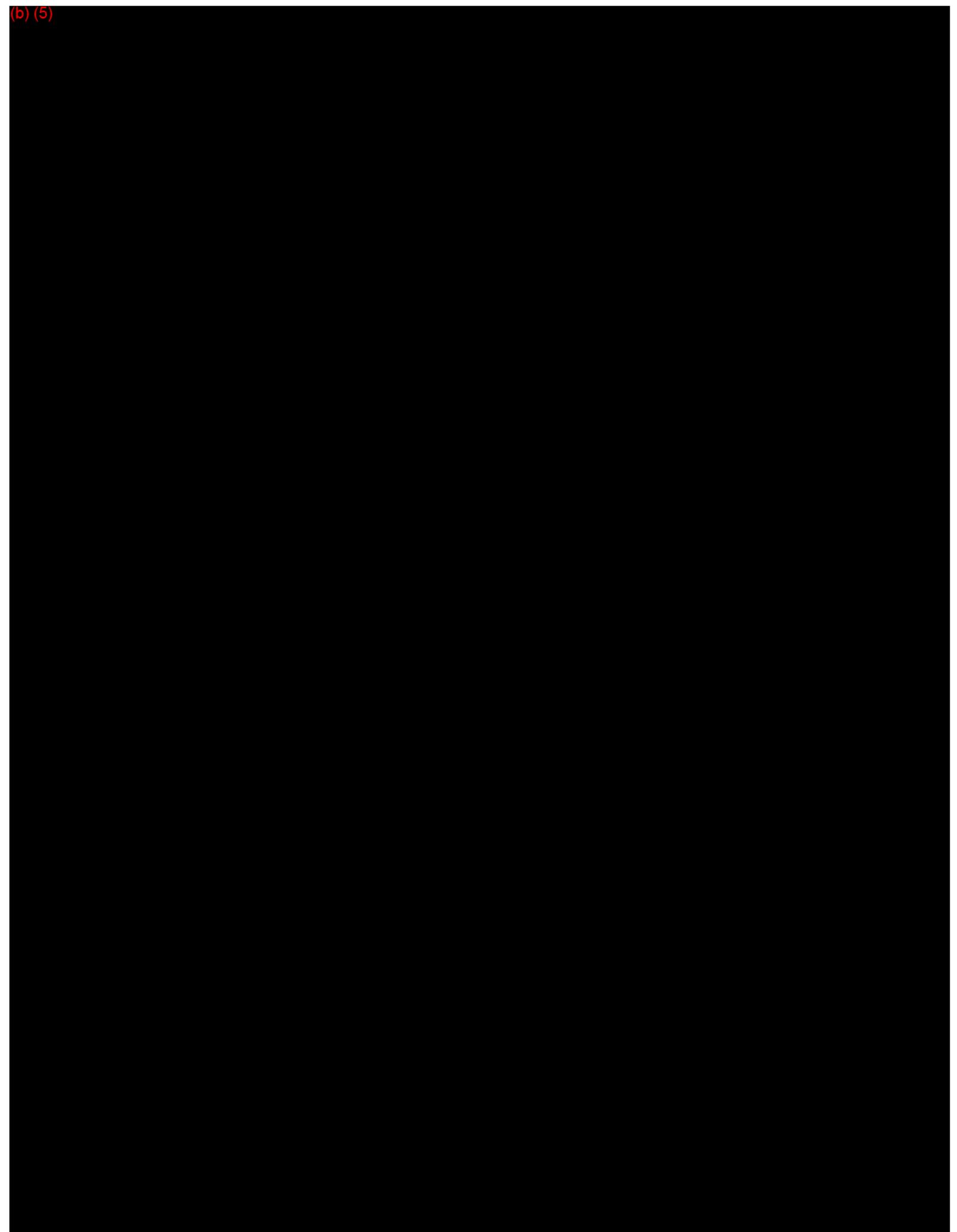


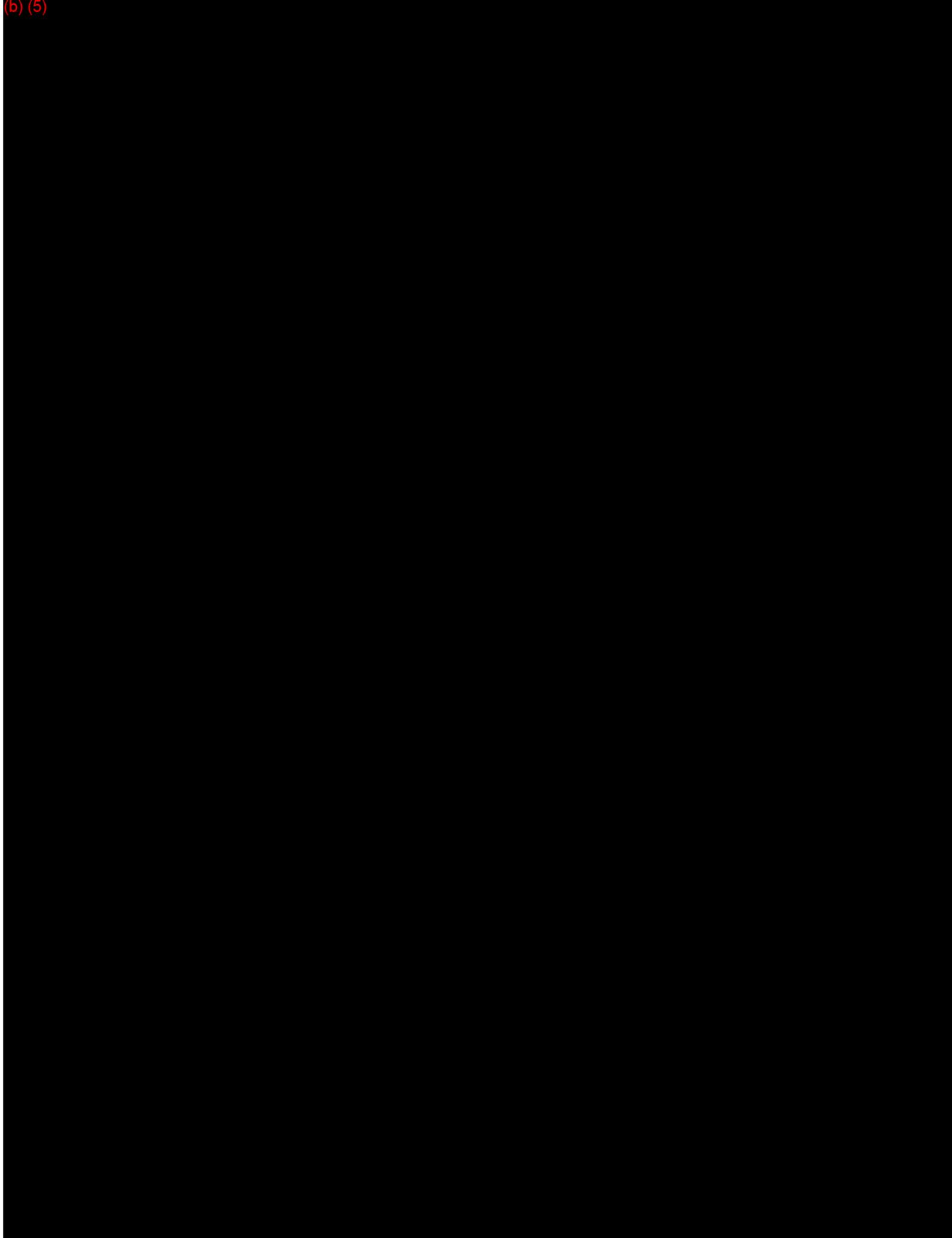


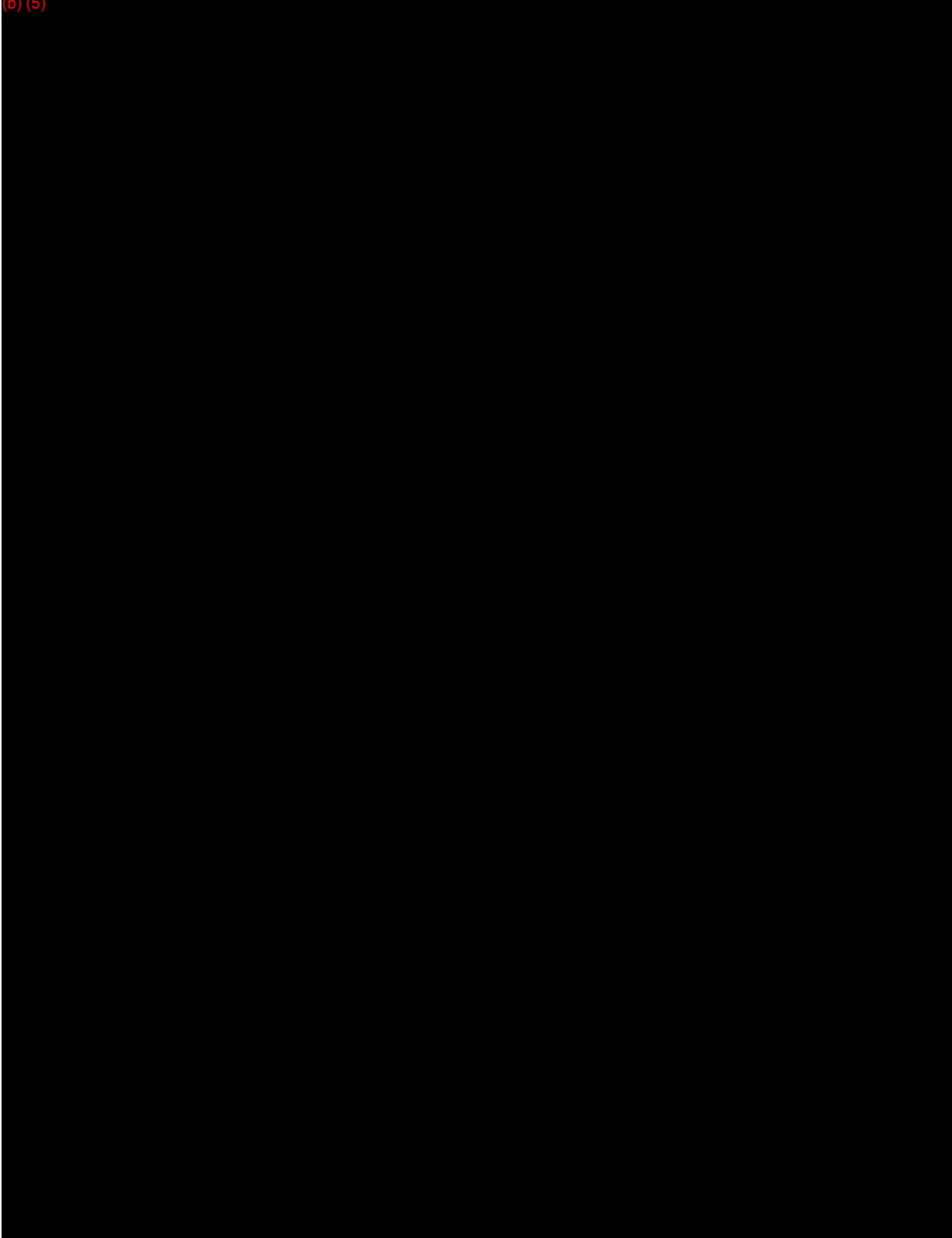


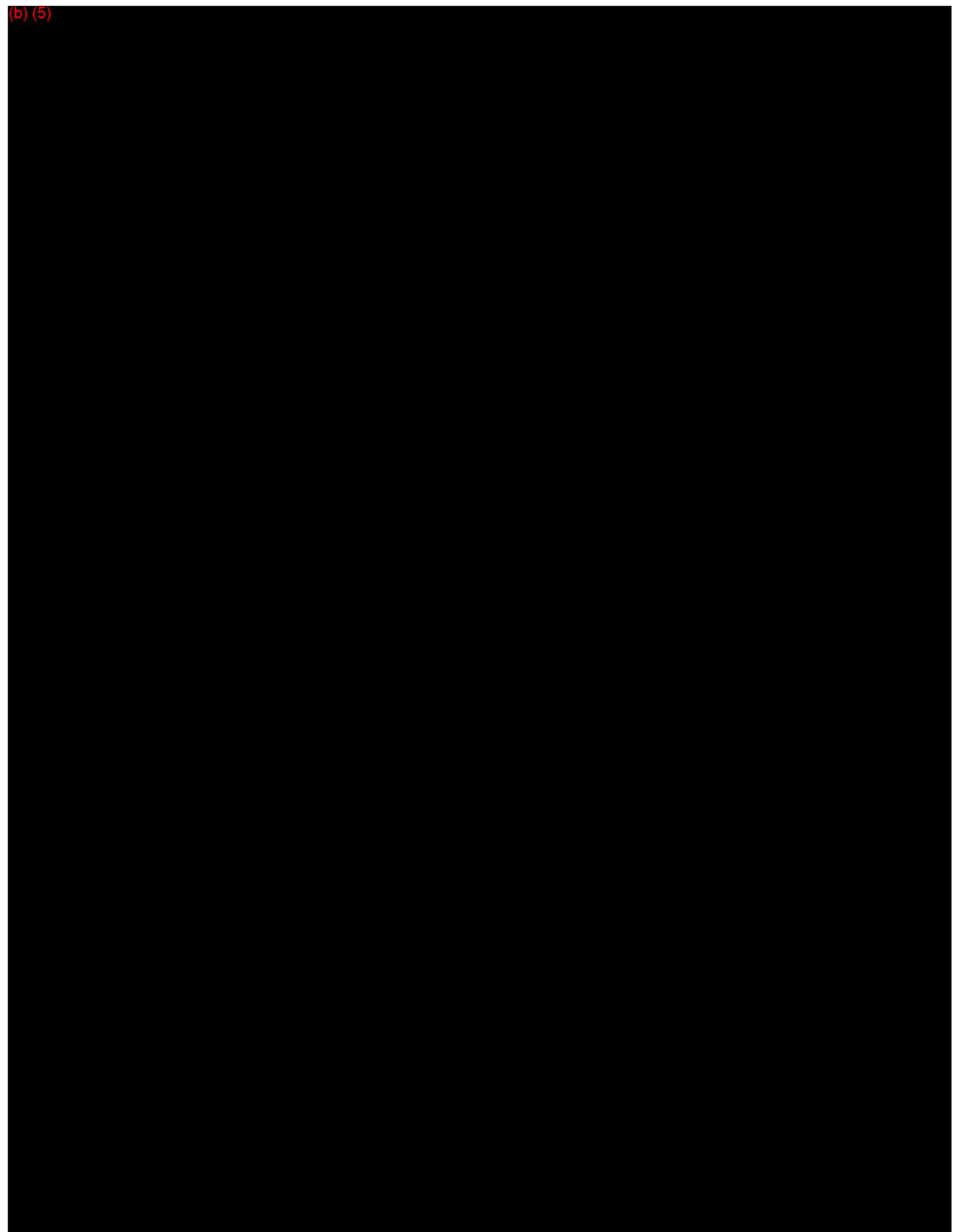


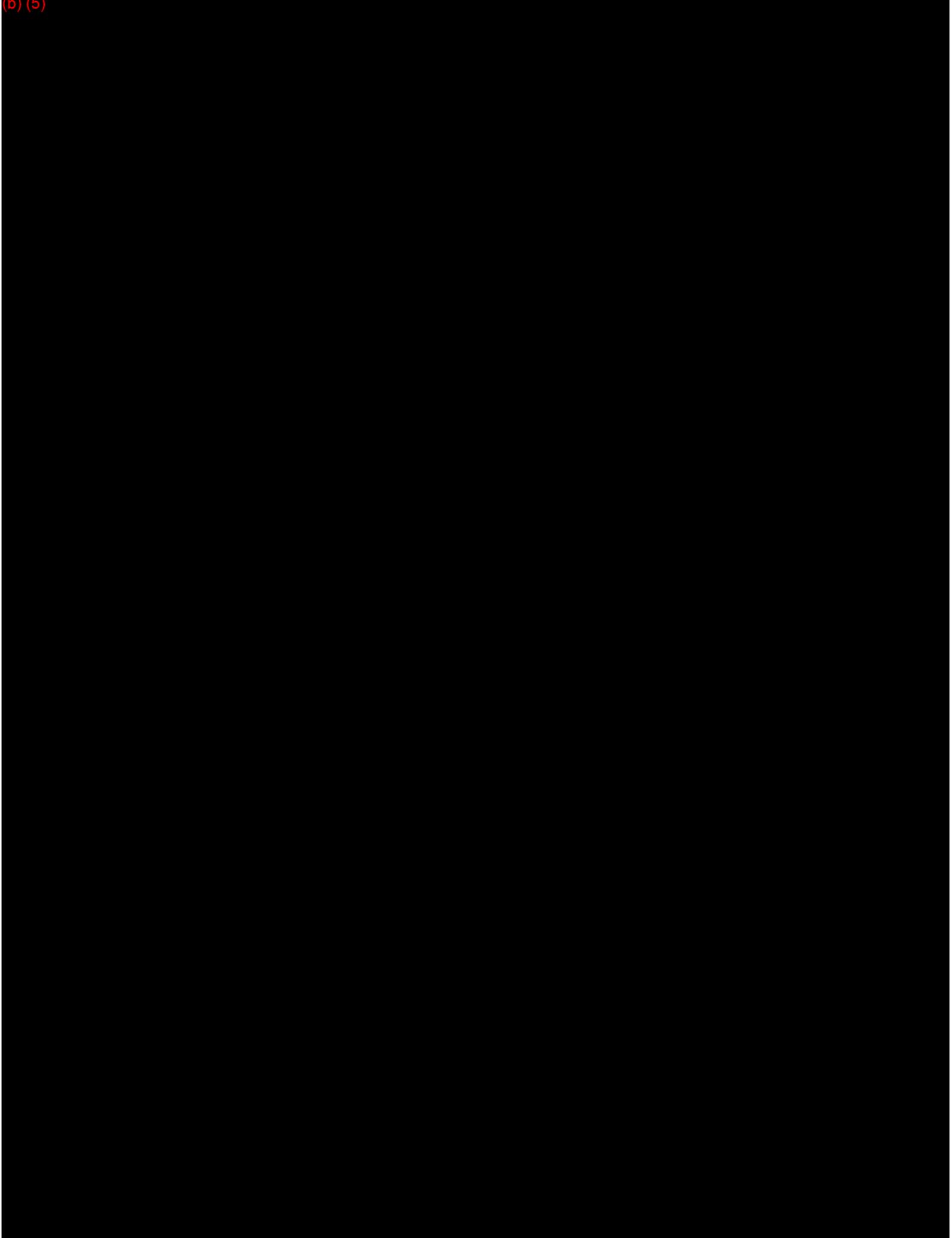


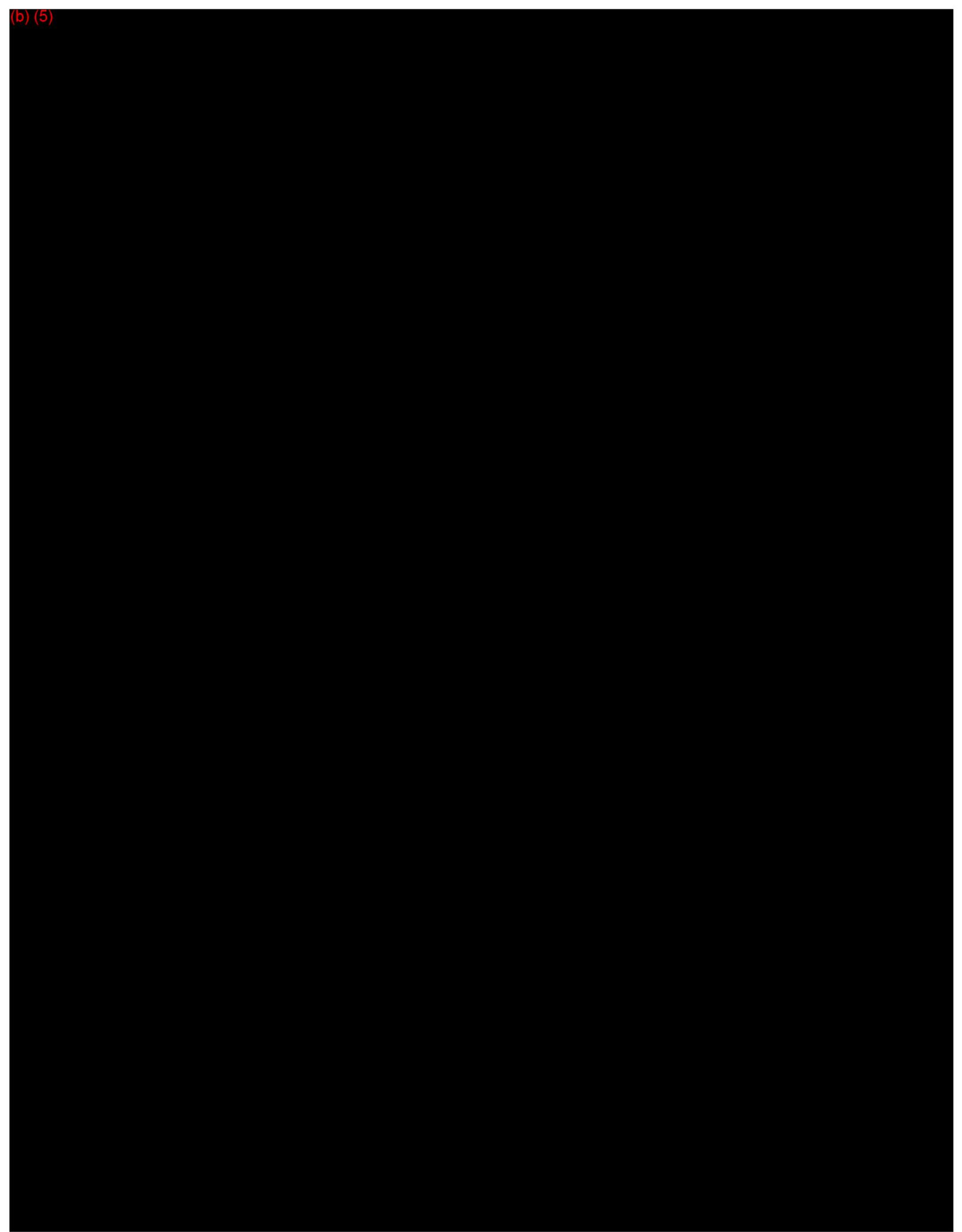




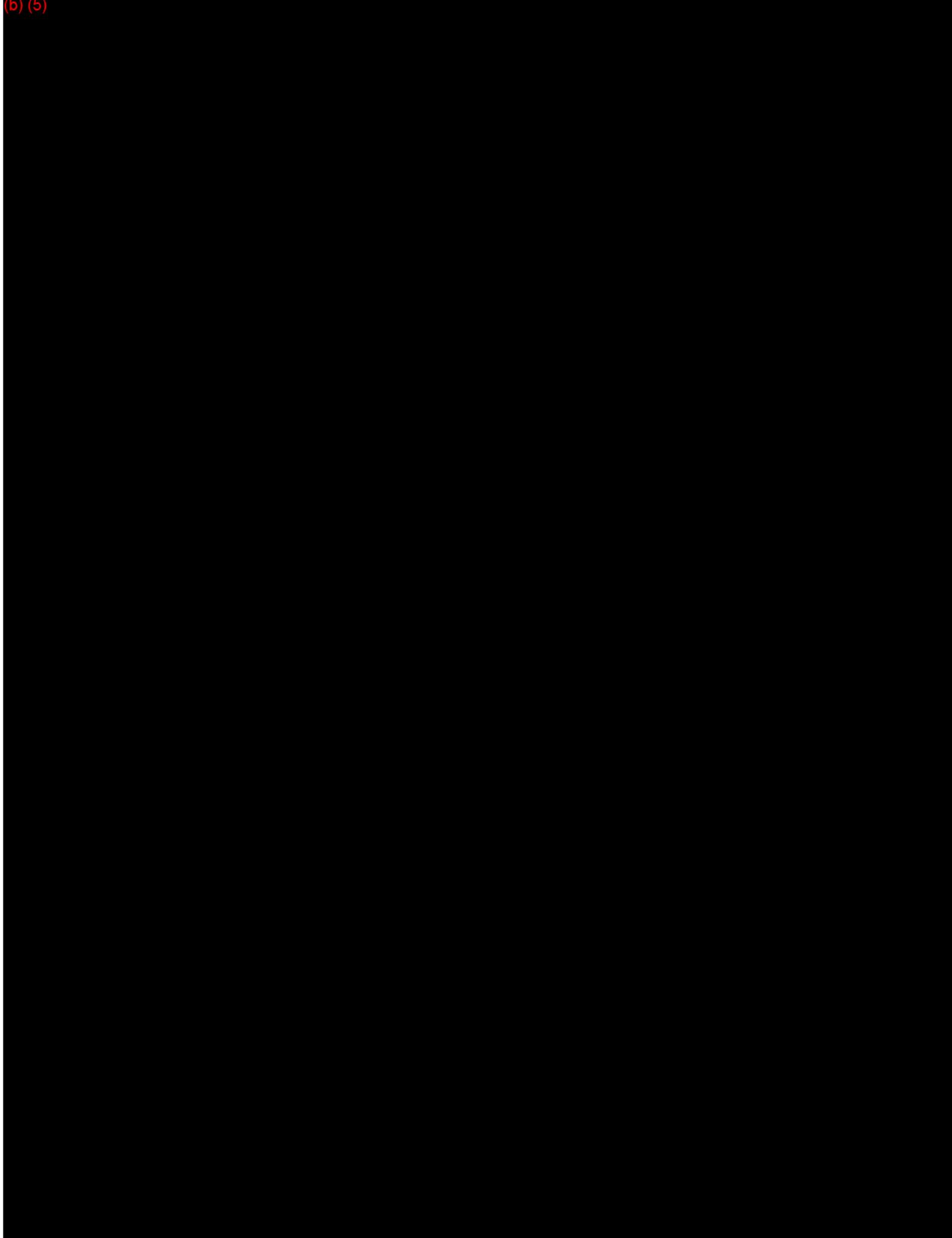


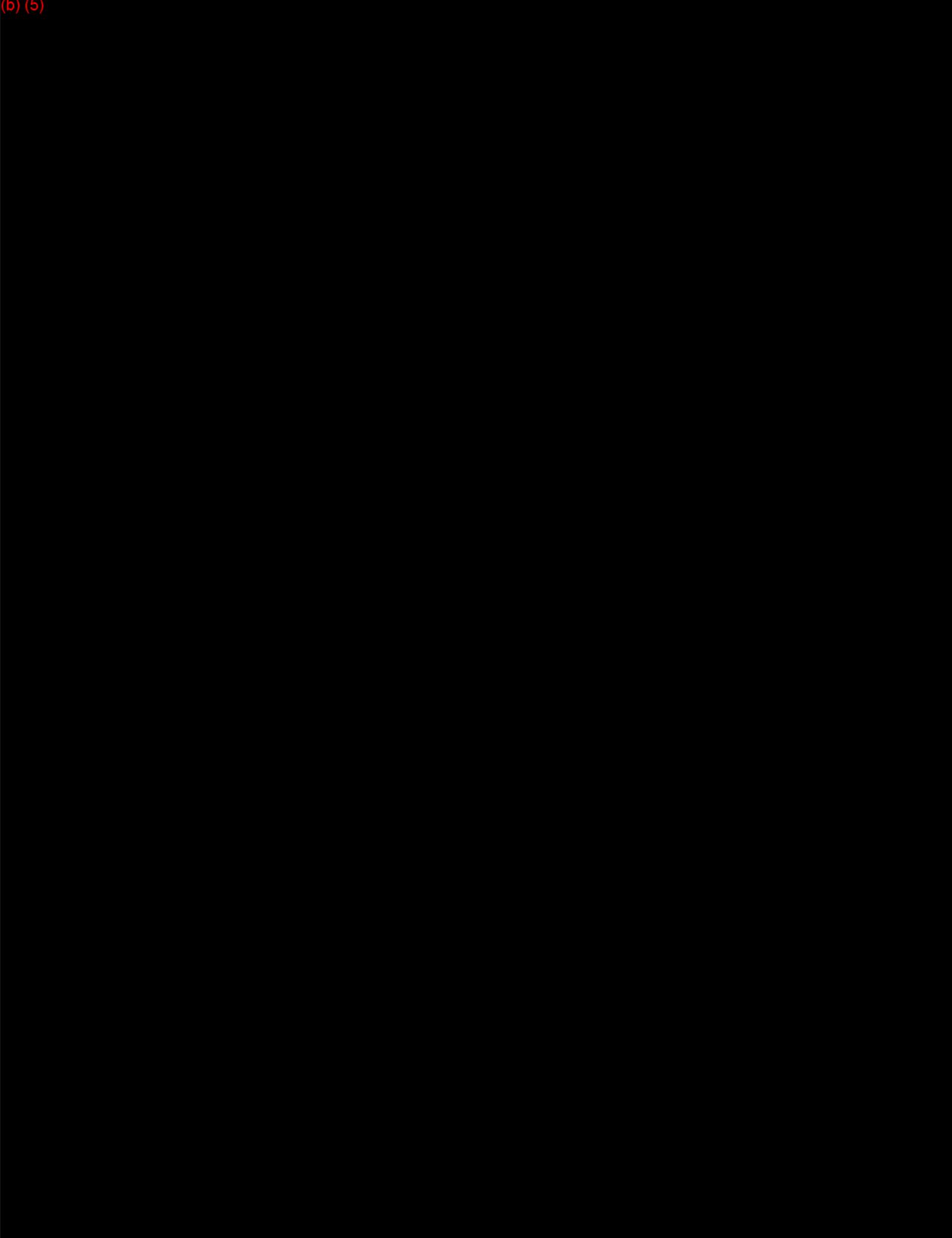






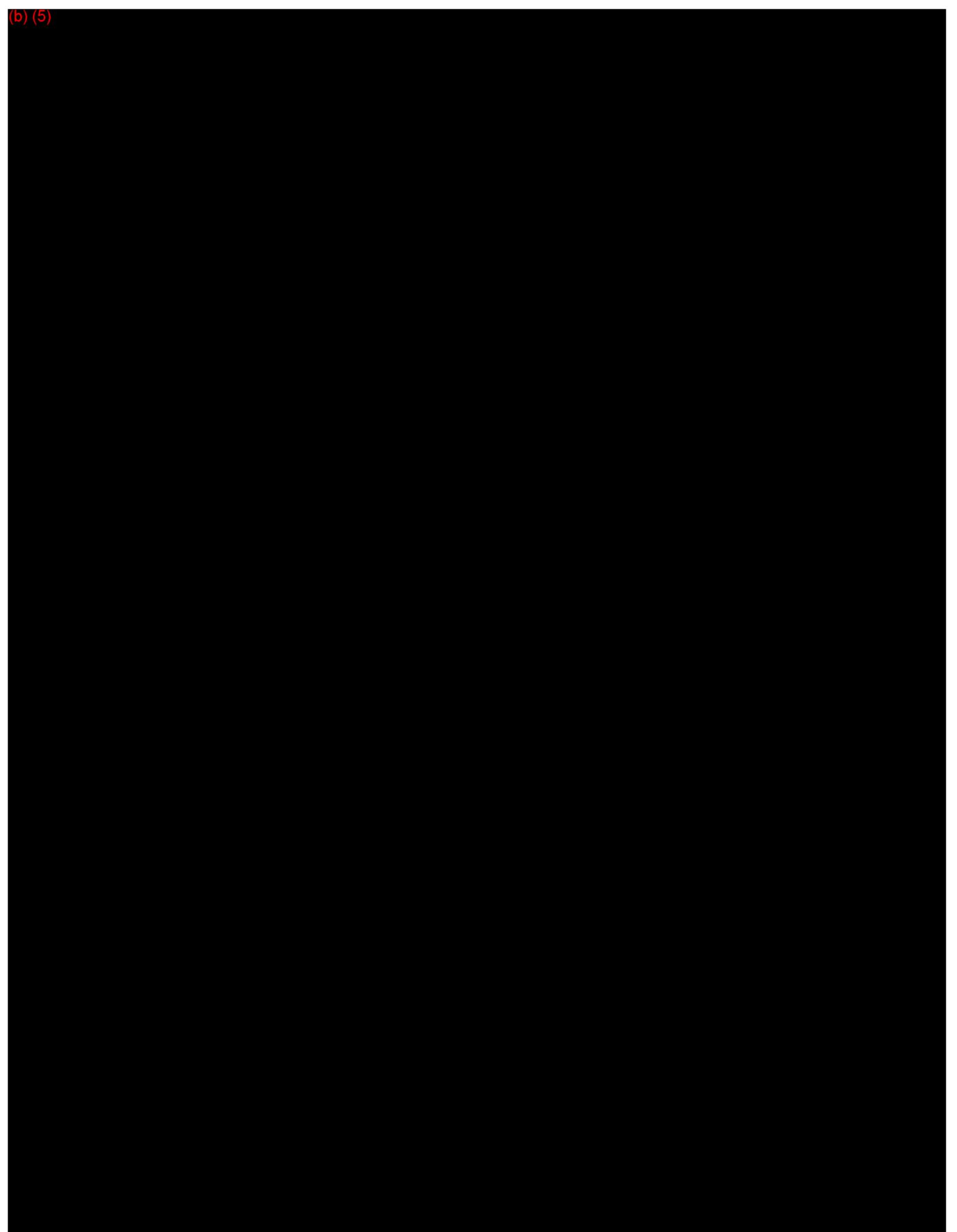
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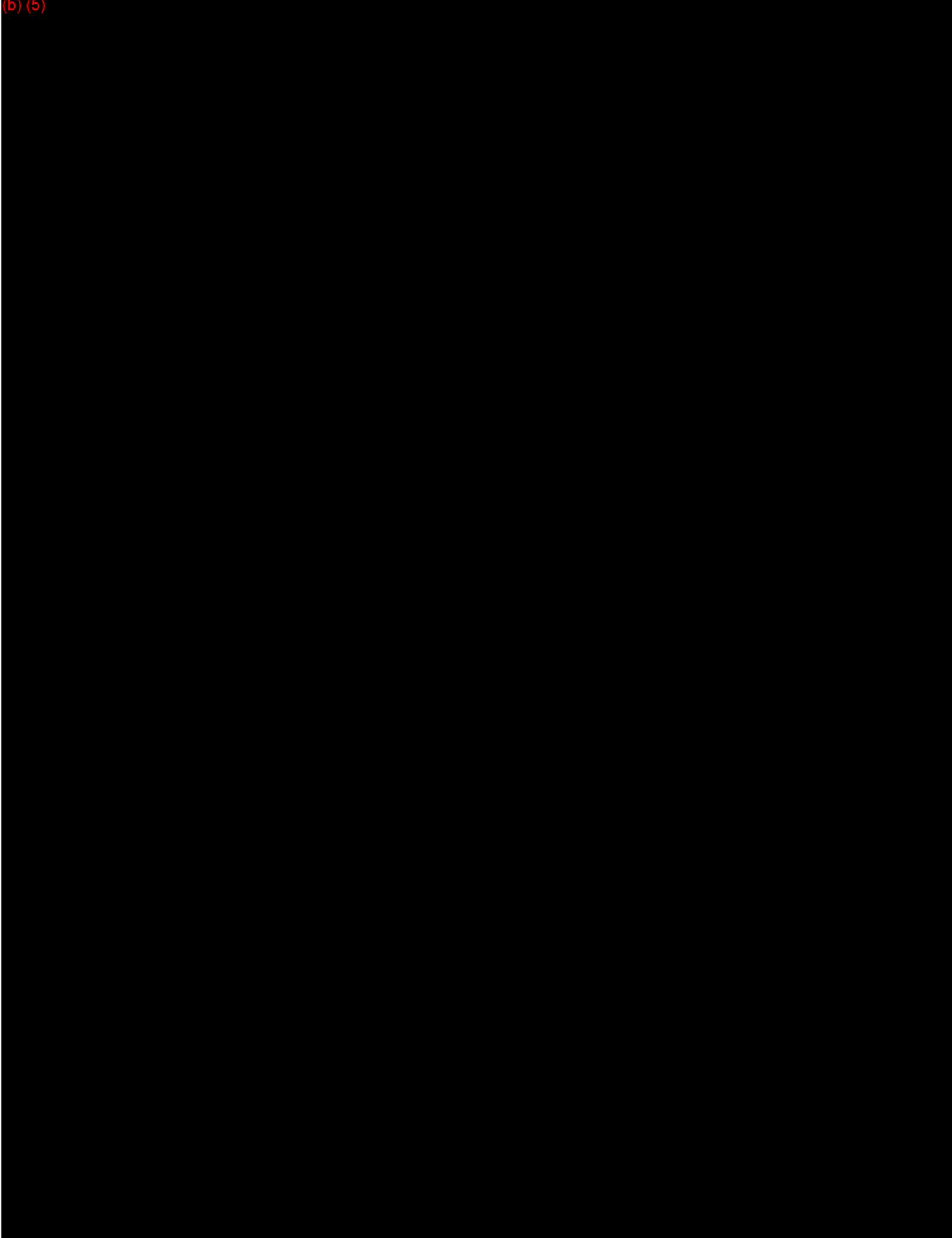


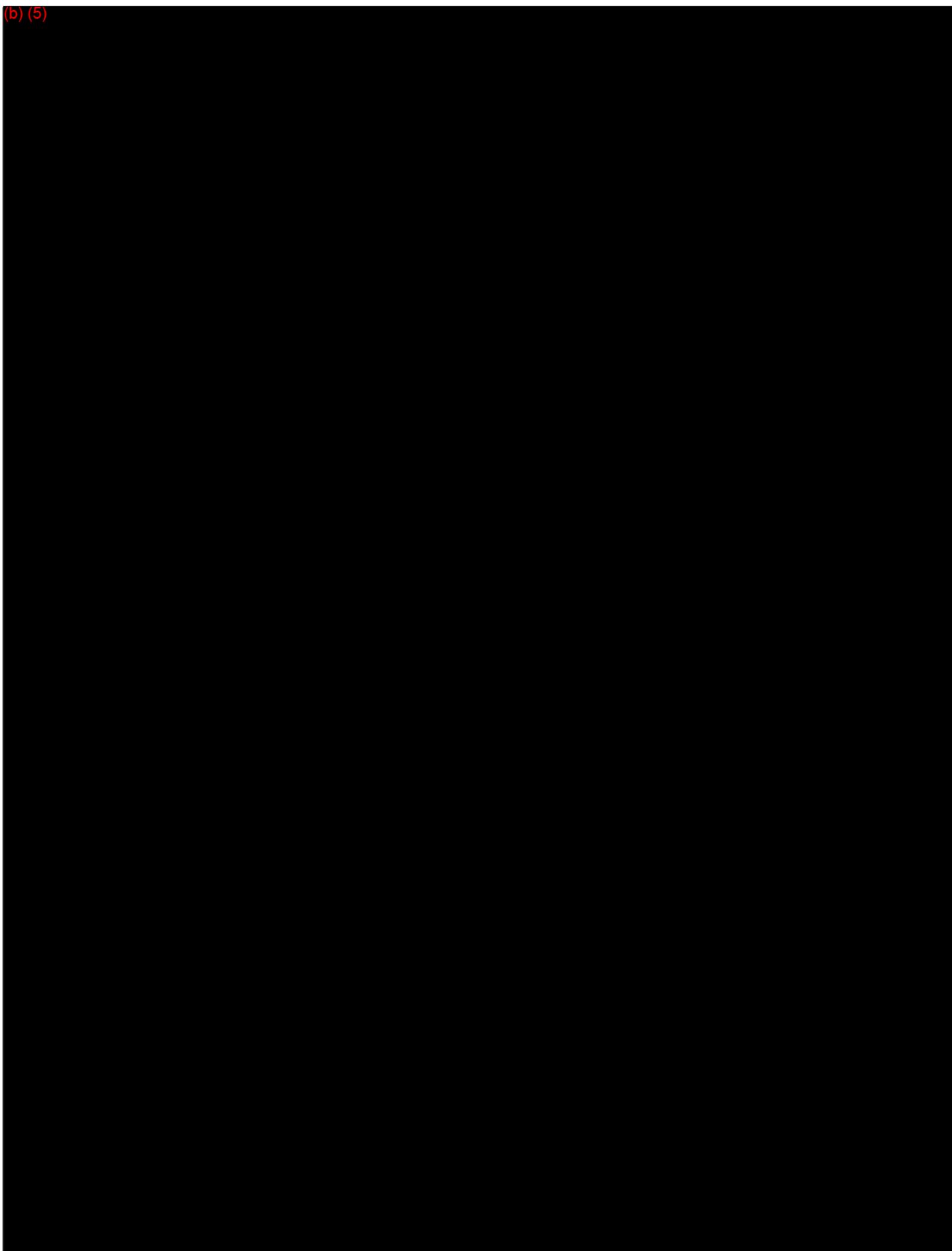
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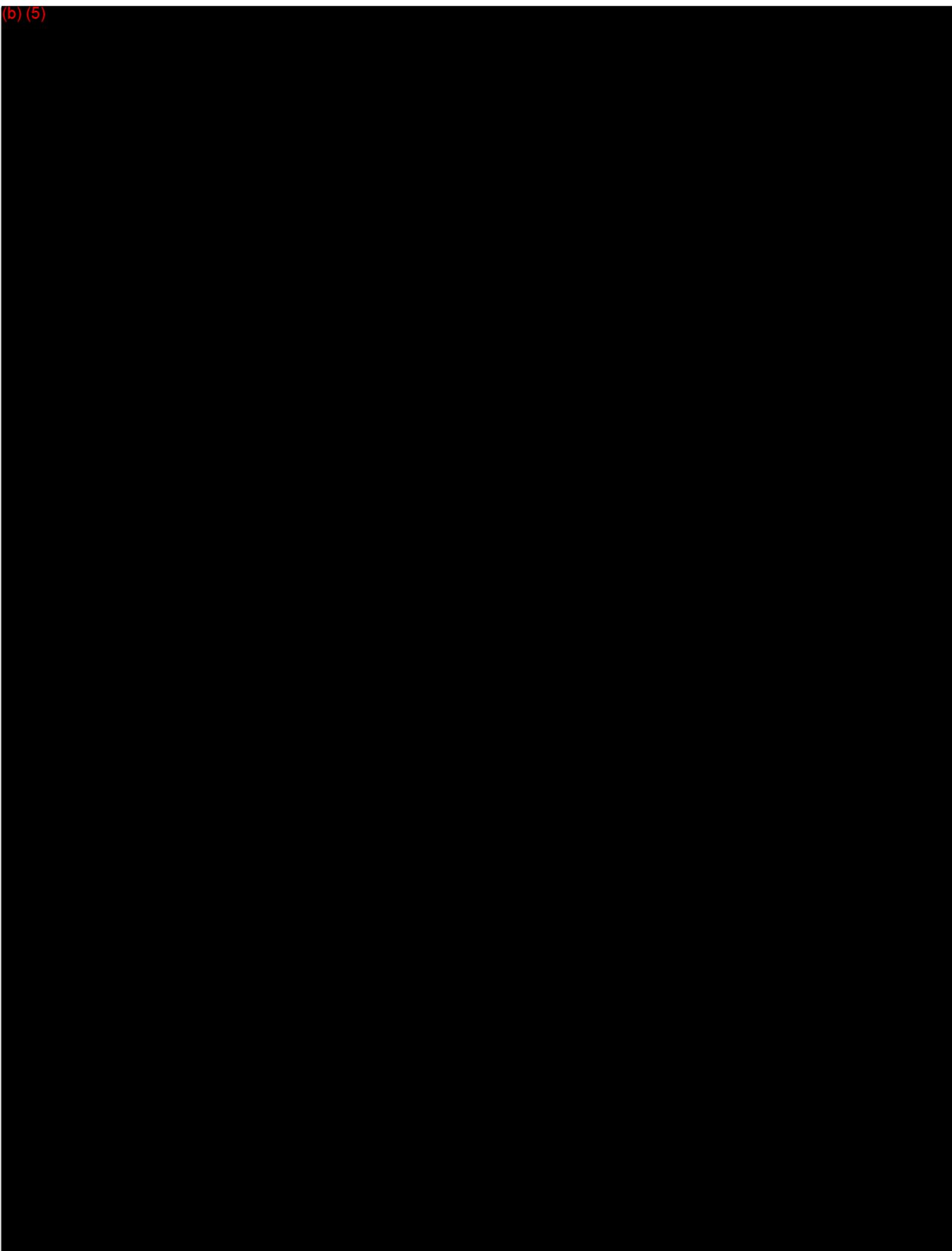
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To: "Smith, Katherine R. EOP/CEQ" <(b) (6)>
Date: Wed, 08 Aug 2018 12:40:19 -0400
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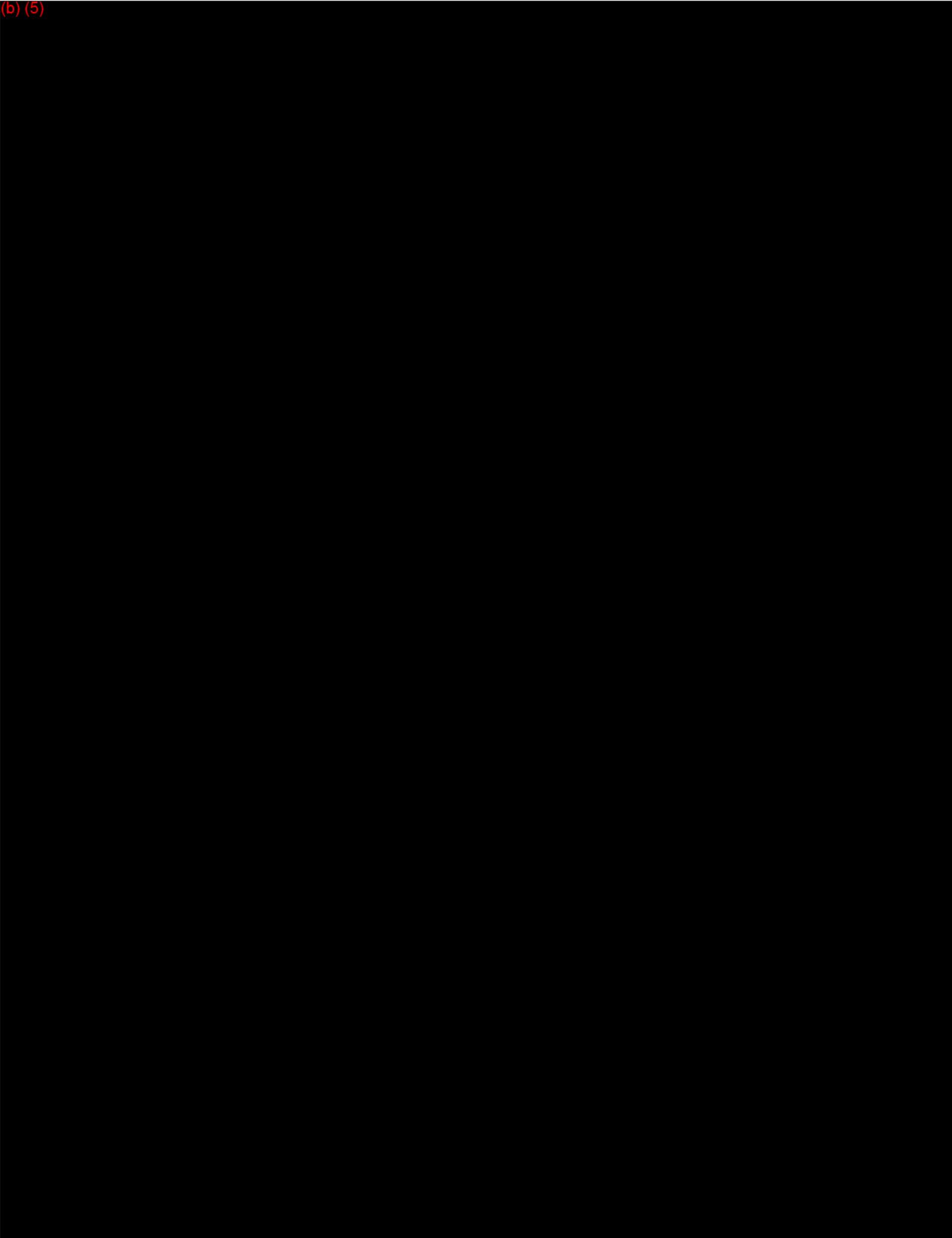


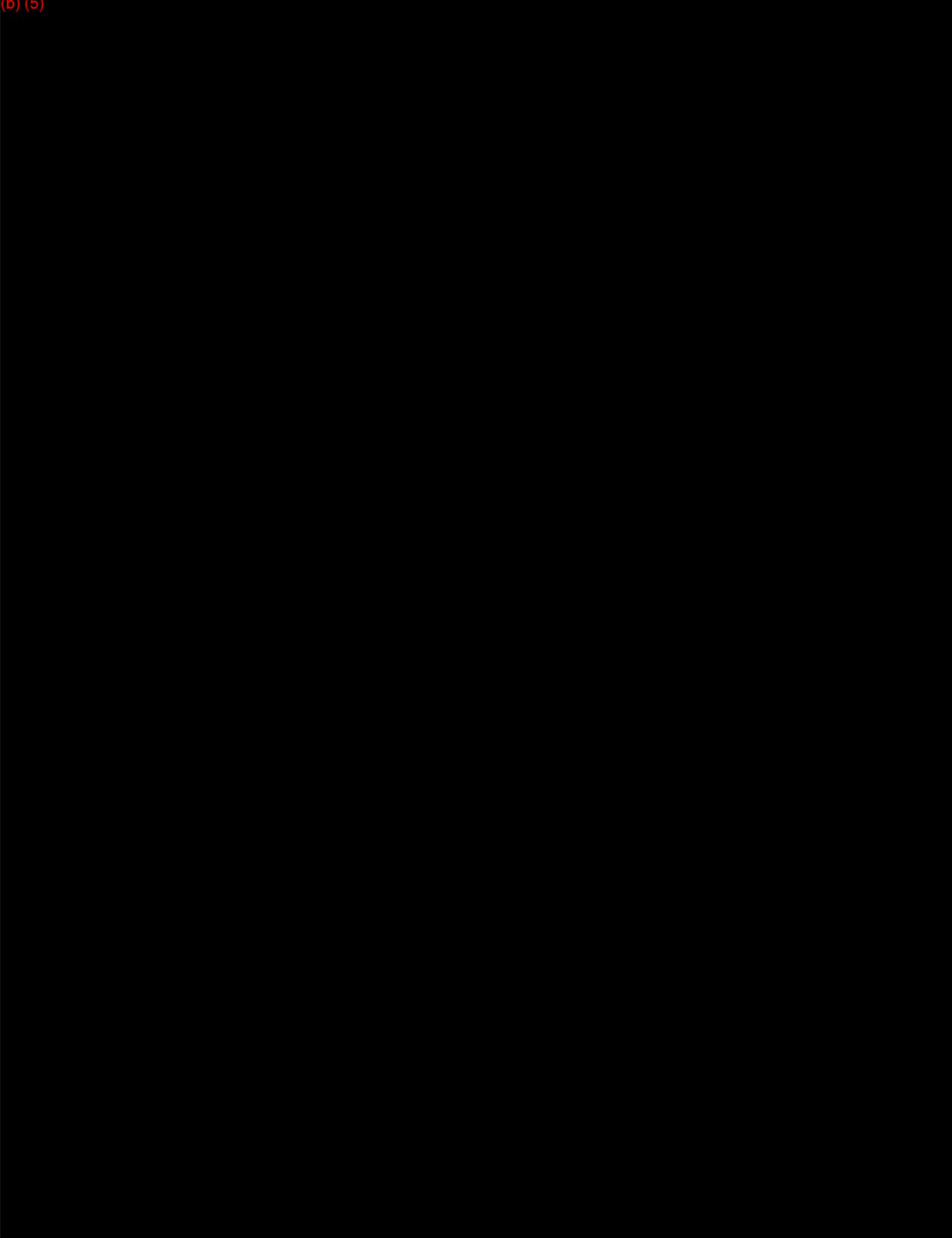
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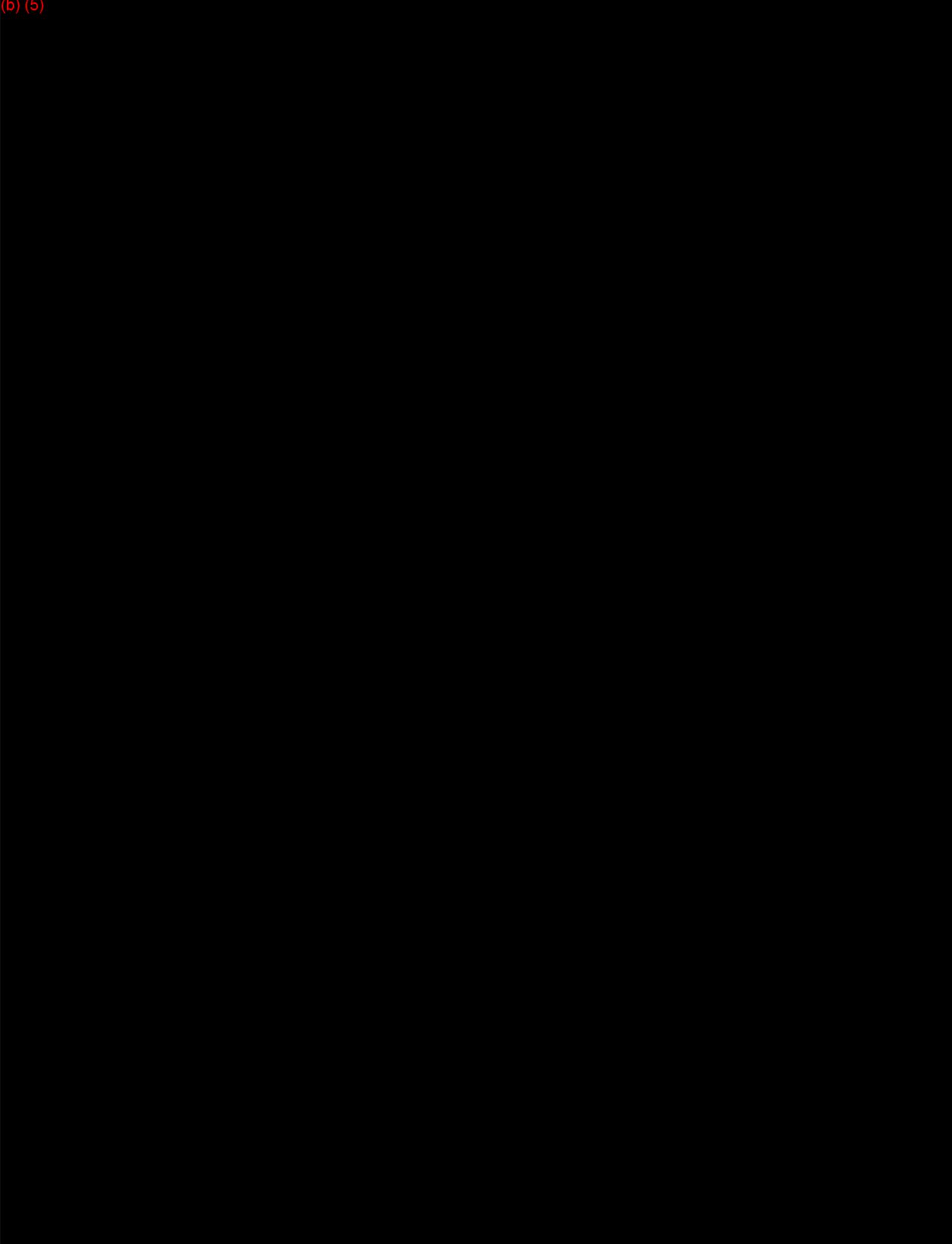


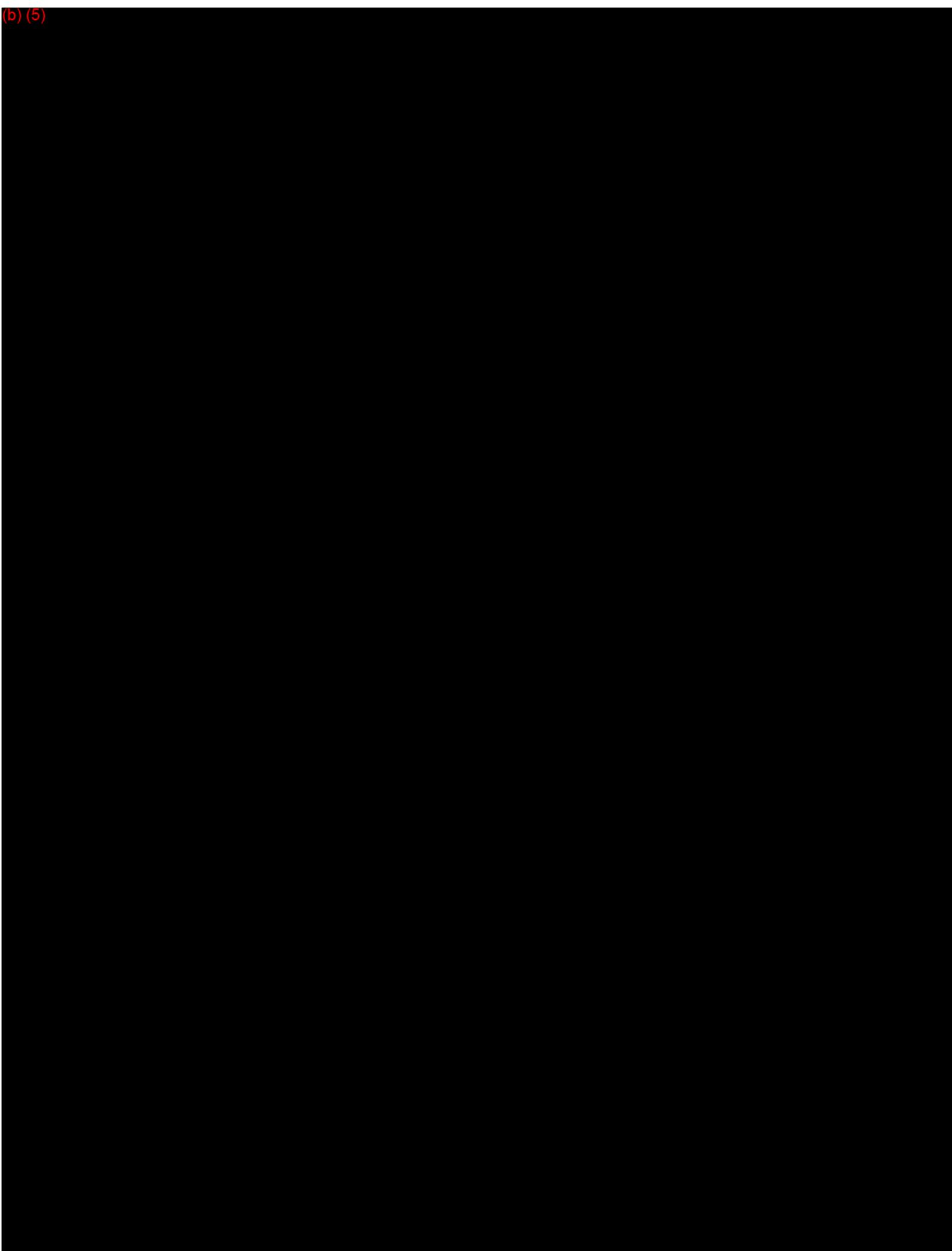


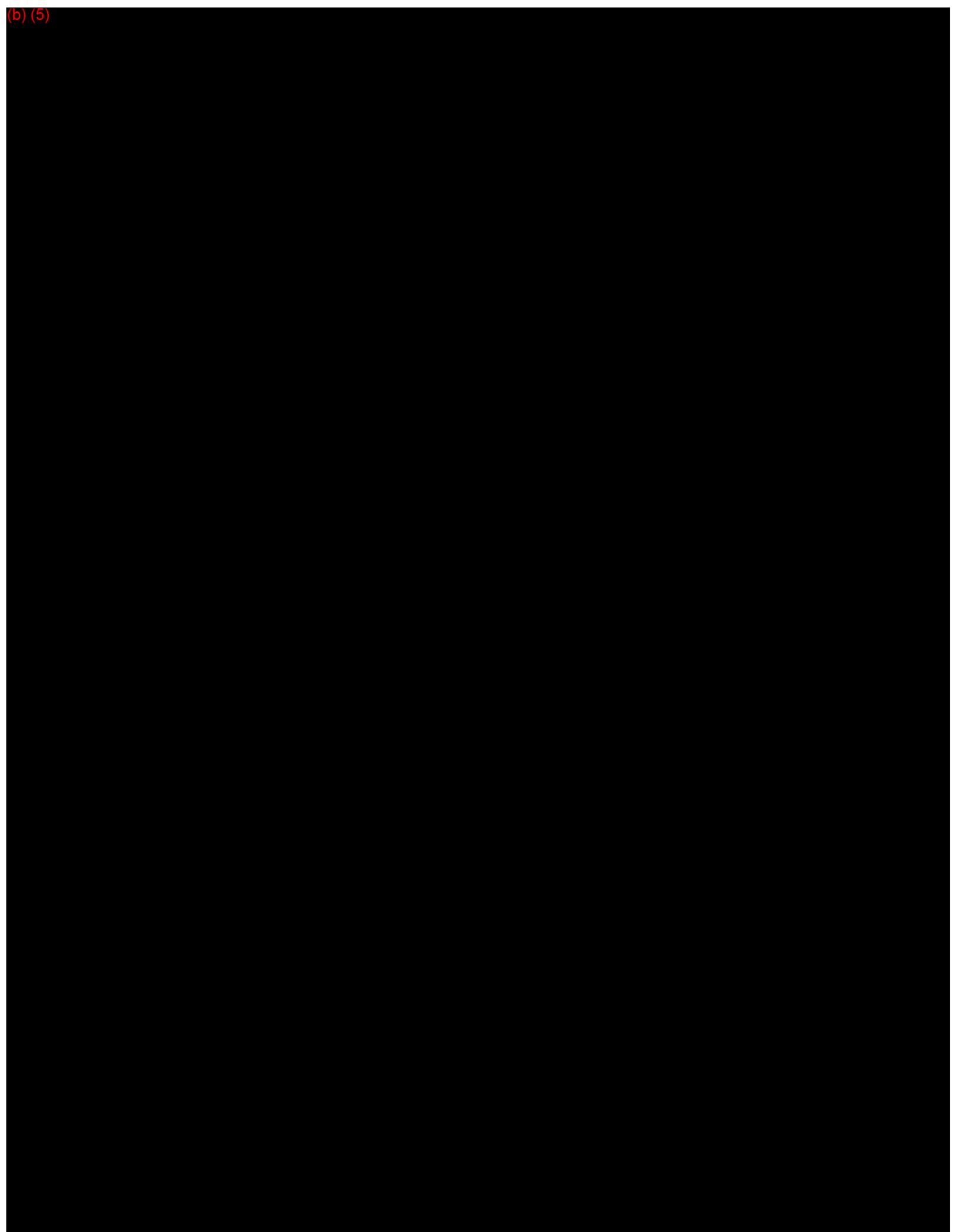


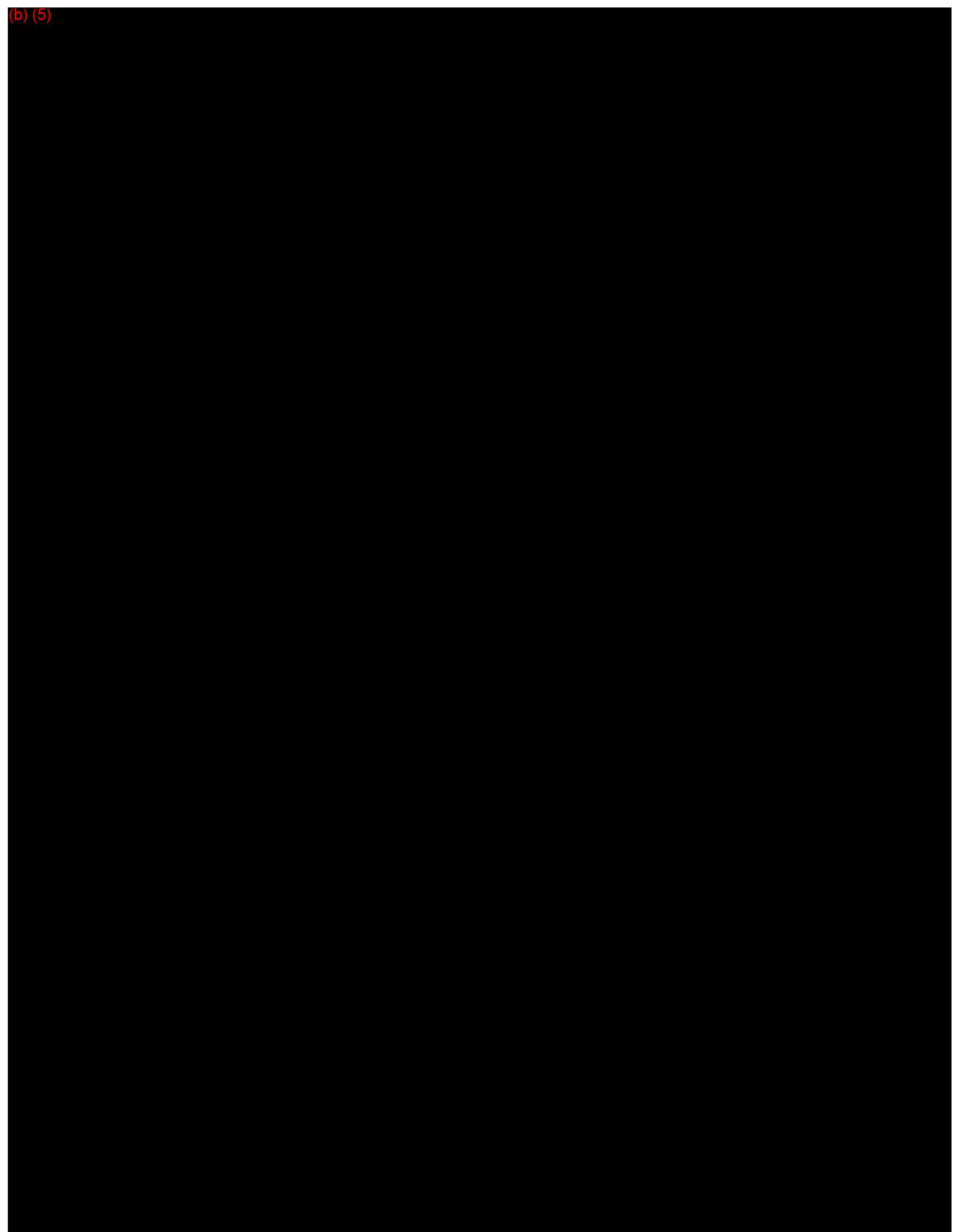


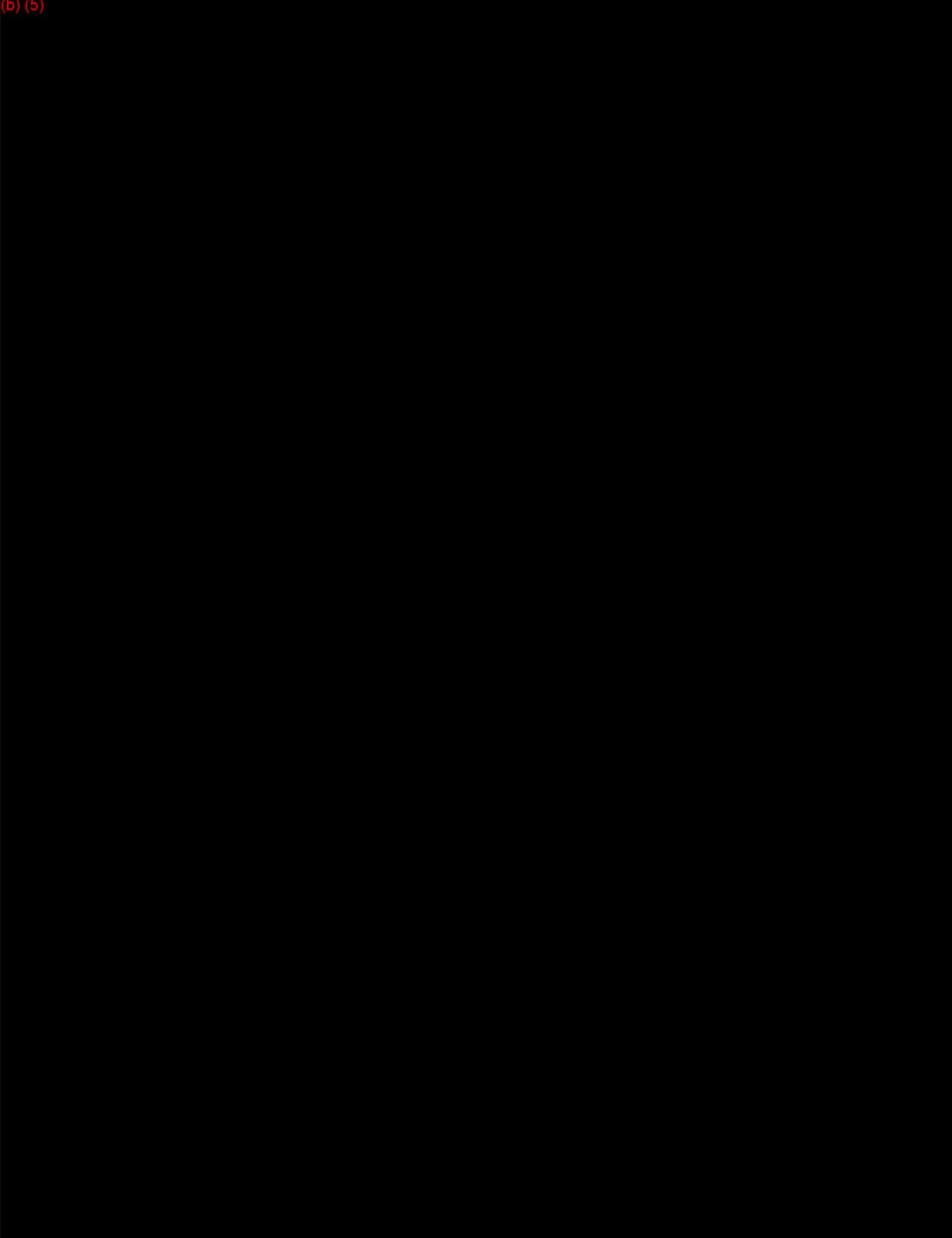


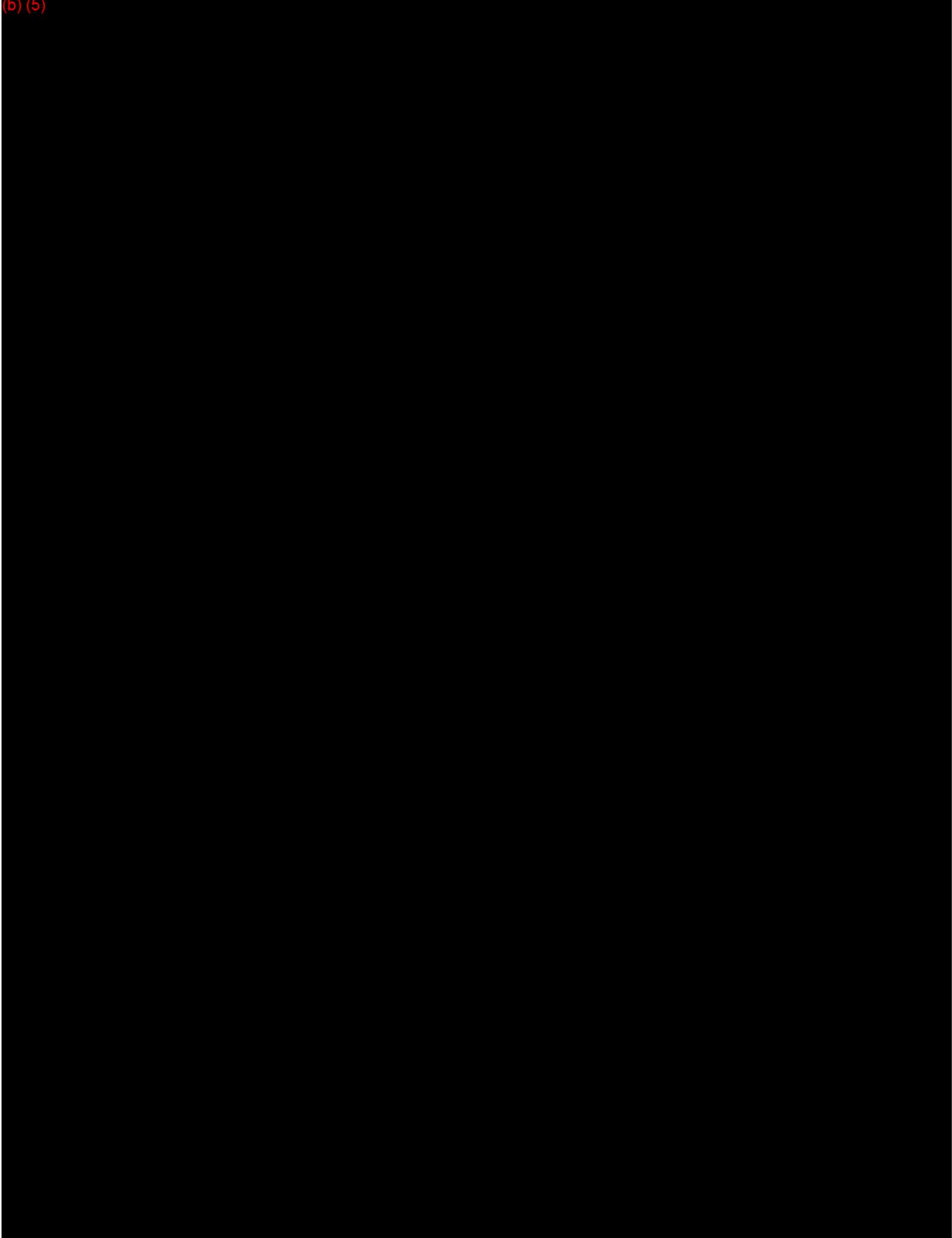


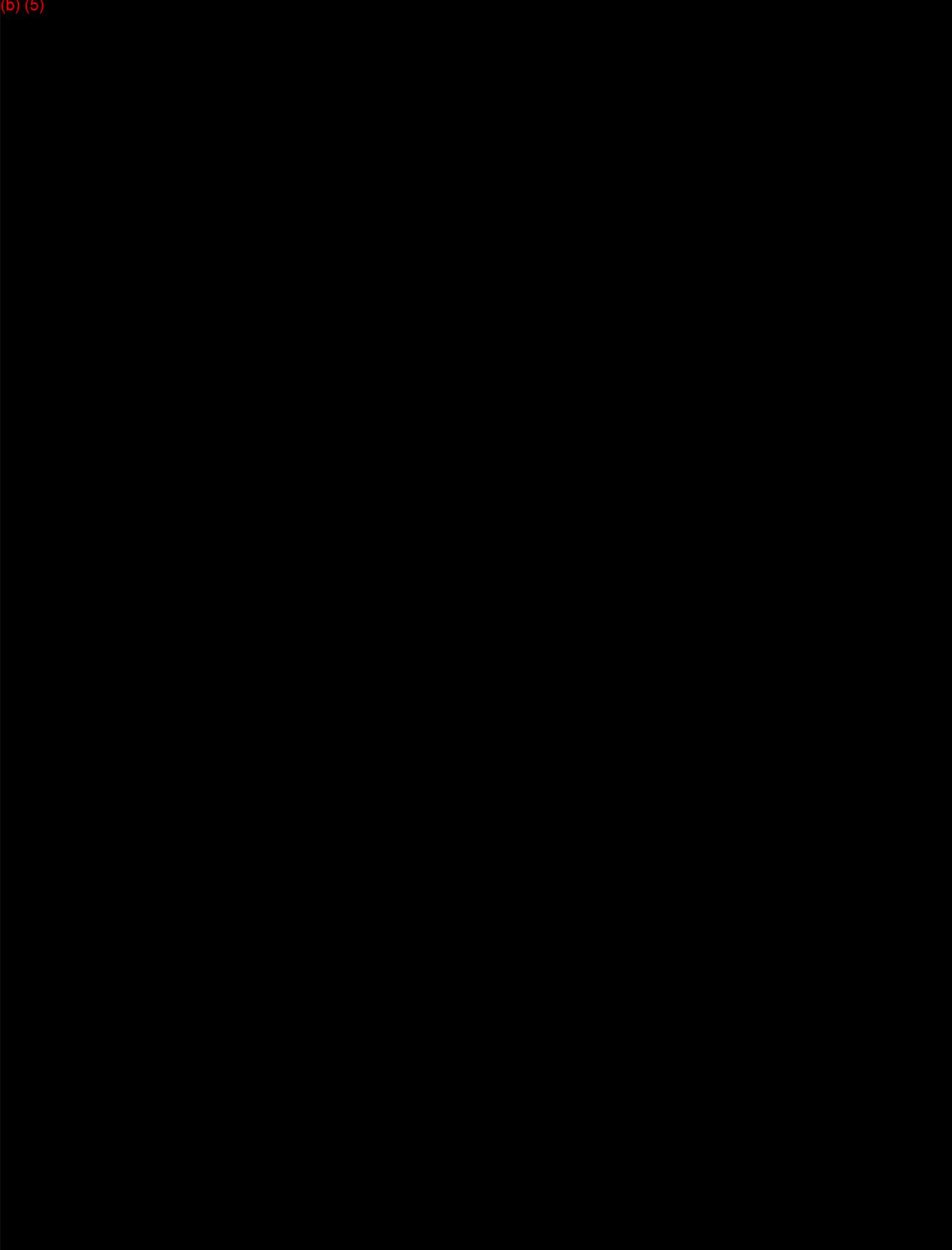


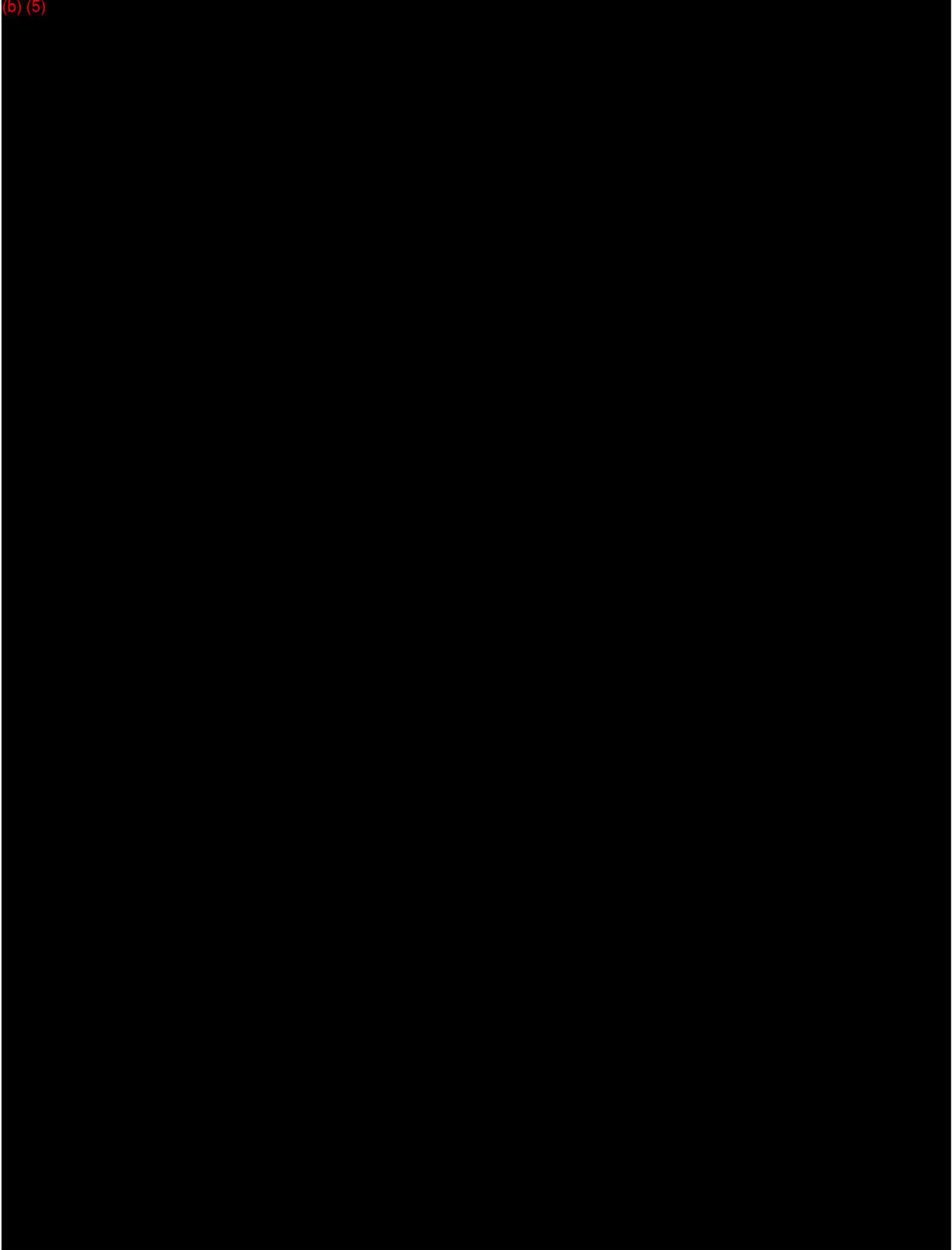


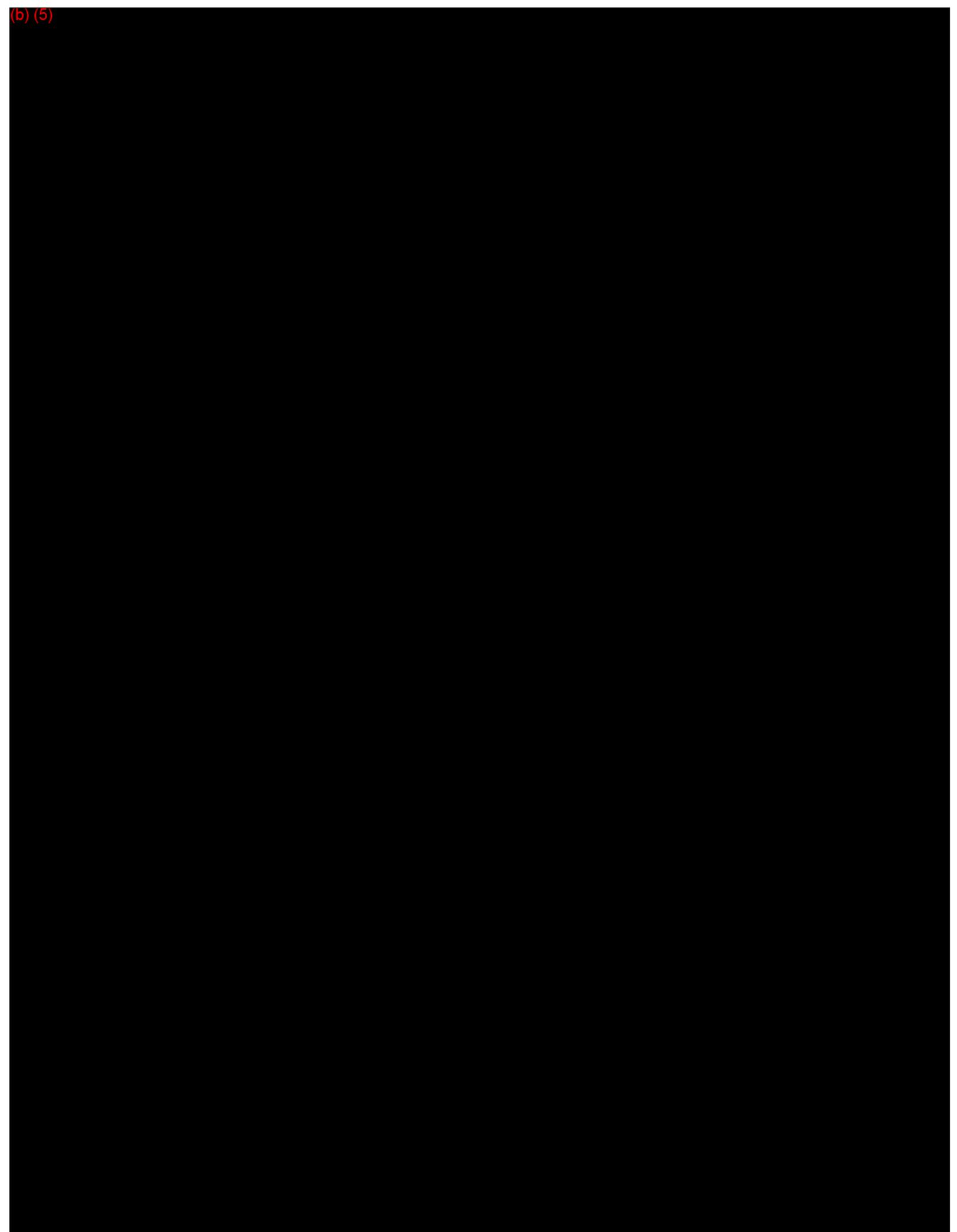


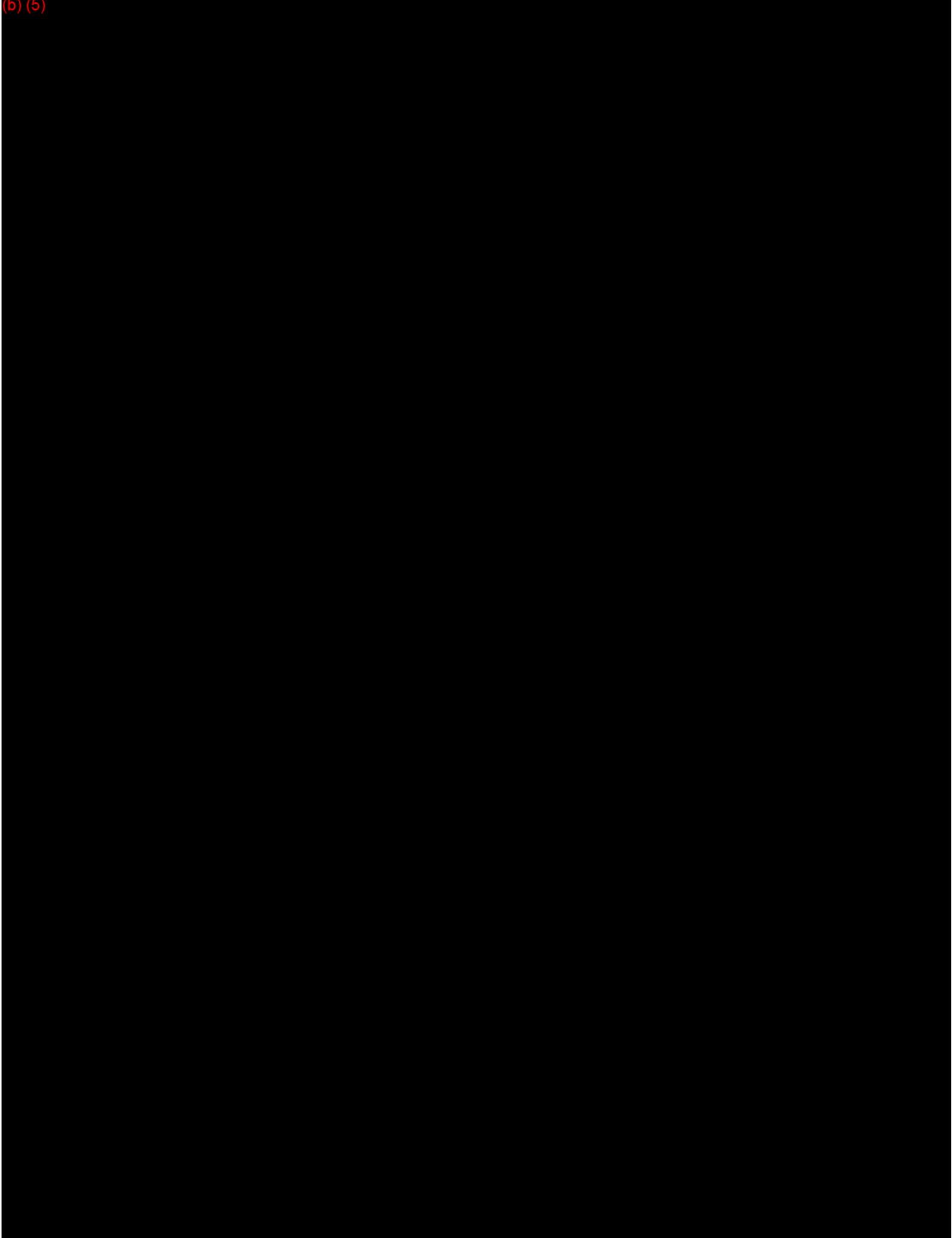


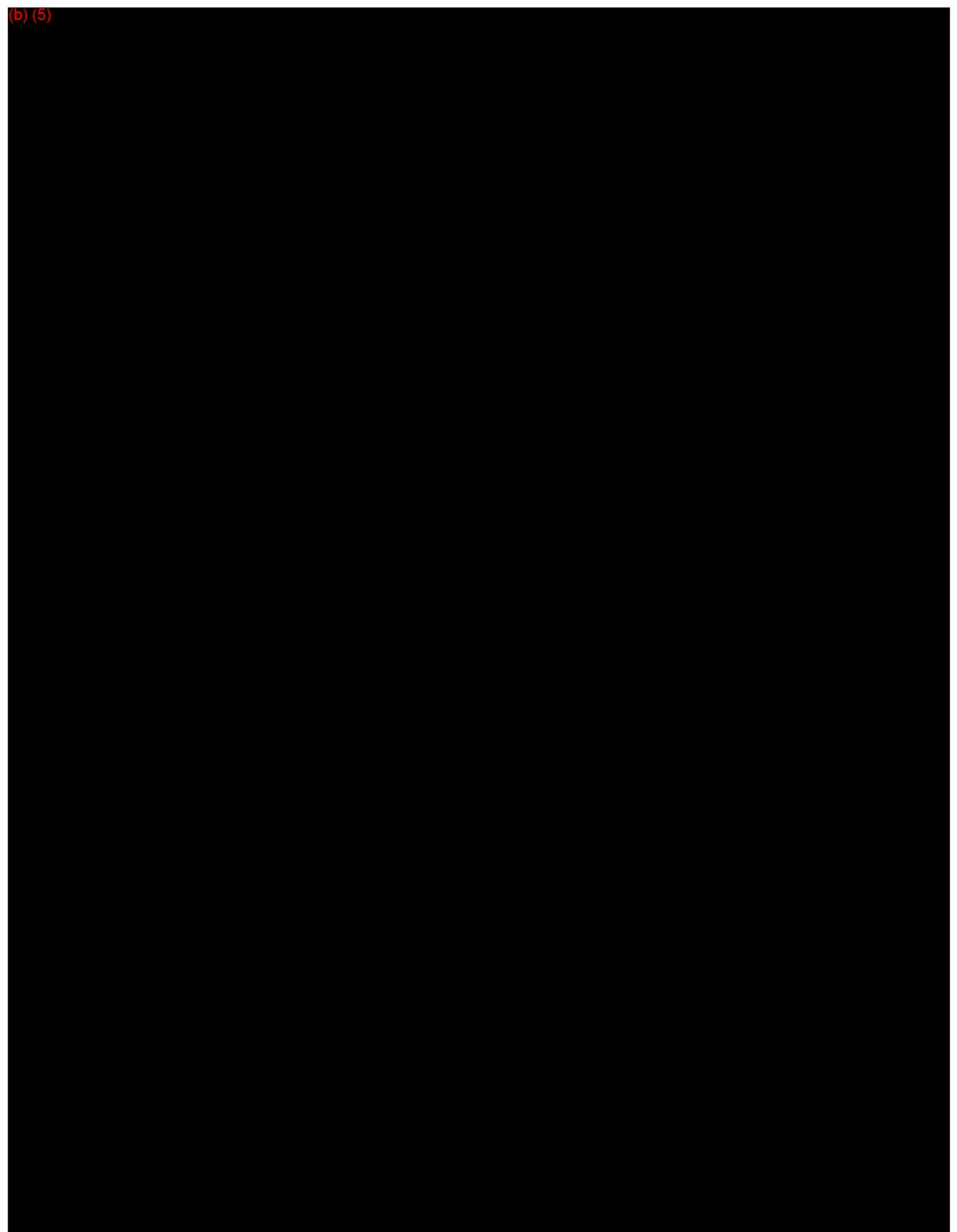


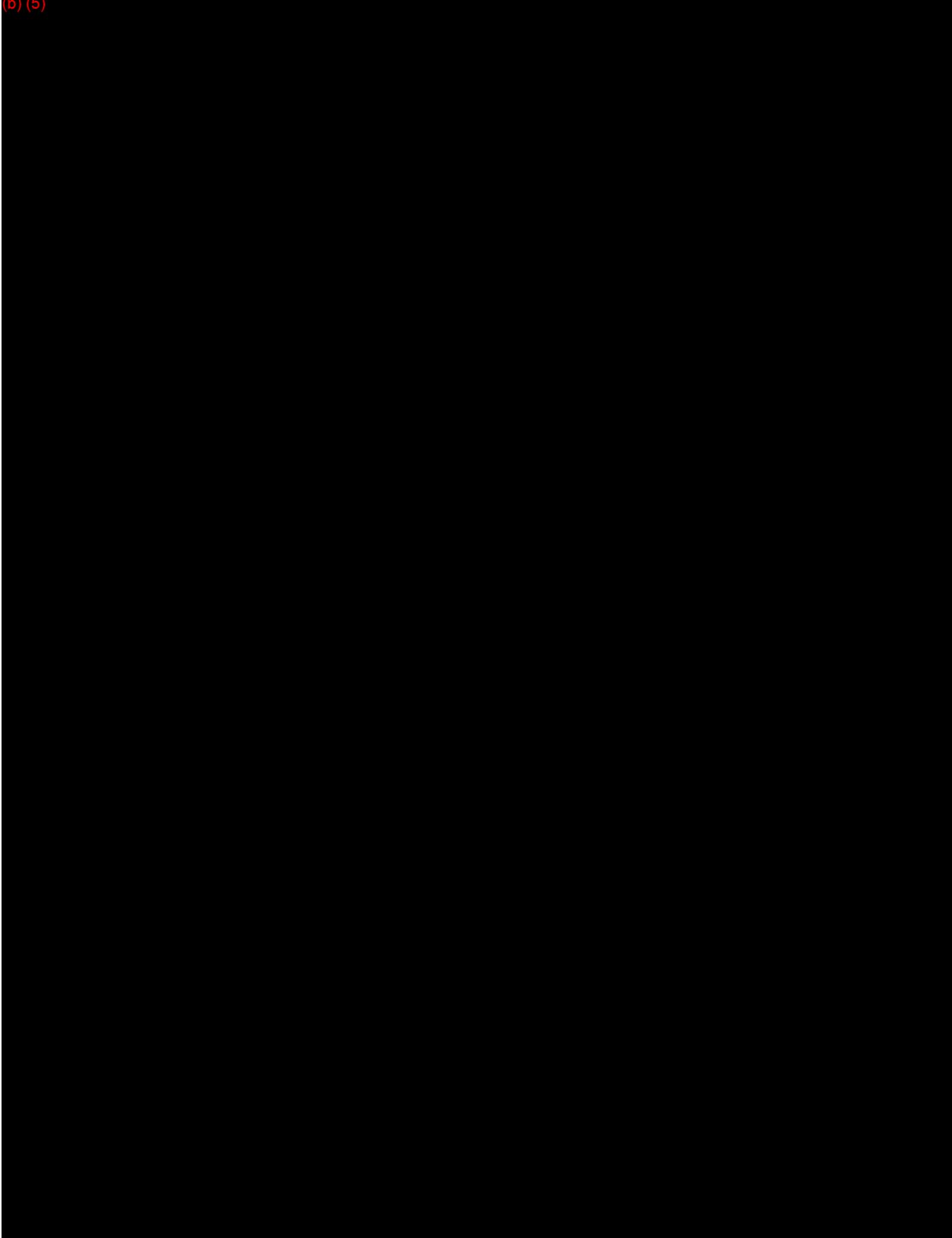


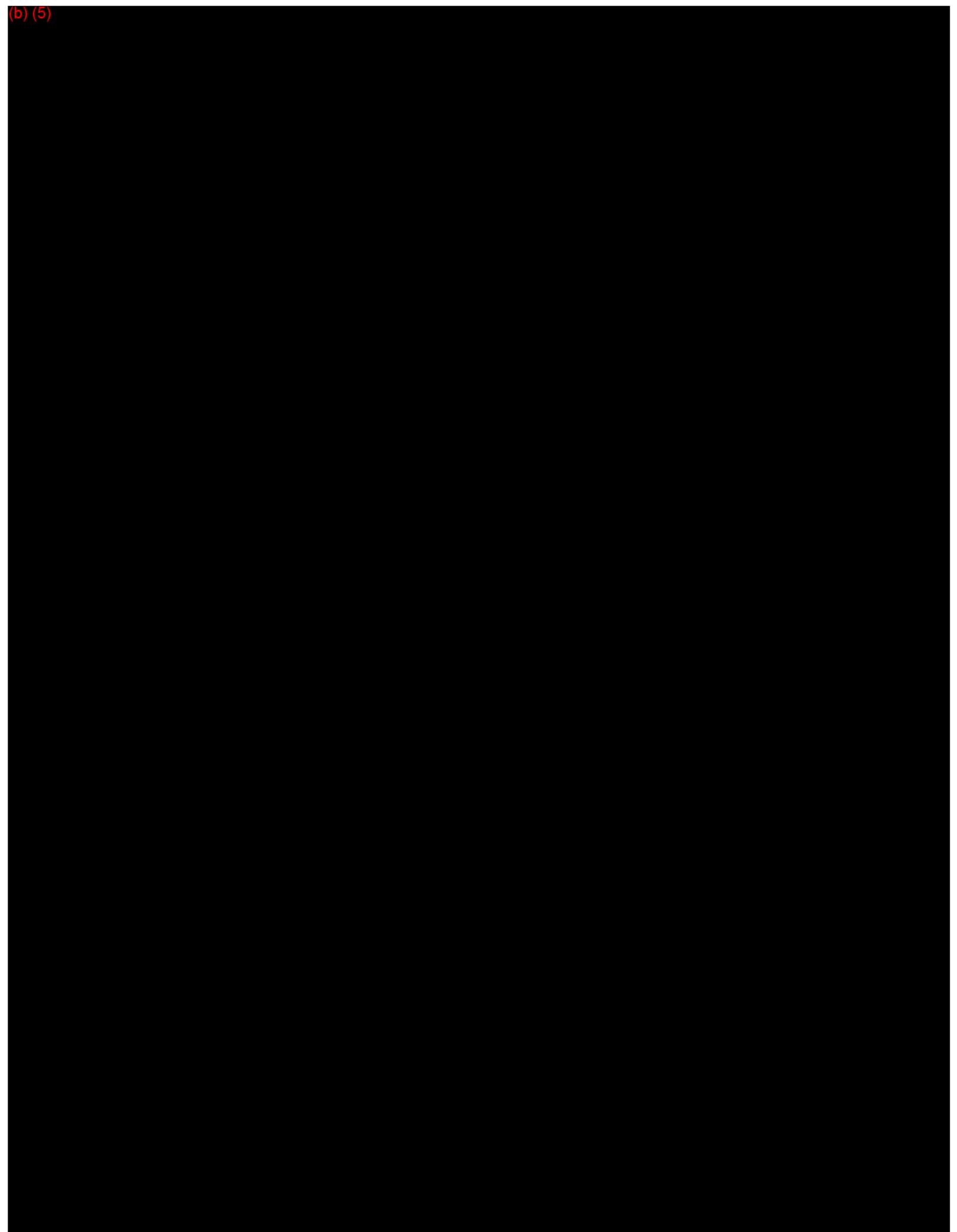












CEQ NEPA ANPRM Distribution list.xlsx

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To: "Neumayr, Mary B. EOP/CEQ" <(b) (6)> "Smith, Katherine R. EOP/CEQ" <(b) (6)>
Date: Wed, 08 Aug 2018 11:46:09 -0400
Attachments
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FW: Quick question re EO 12866

From: "Smith, Katherine R. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=e45de0bbb5ca4e87a4c4528ec12a7b03-sm">

To: "Szabo, Aaron L. EOP/CEQ" <(b) (6)>

Date: Thu, 09 Aug 2018 15:12:21 -0400

-----Original Message-----

From: Boling, Ted A. EOP/CEQ

Sent: Thursday, August 9, 2018 3:05 PM

To: Smith, Katherine R. EOP/CEQ <(b) (6)> Neumayr, Mary B. EOP/CEQ

<(b) (6)>

Subject: FW: Quick question re EO 12866

OIRA is updating the record of meetings on the ANPRM. RegInfo.gov currently shows only:

06/13/2018 11:30 AM 0331-AA03 0331-CEQ Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act Prerule Stage Completed

06/12/2018 03:00 PM 0331-AA03 0331-CEQ Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act Prerule Stage Completed

06/07/2018 04:00 PM 0331-AA03 0331-CEQ Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act Prerule Stage Completed

-----Original Message-----

From: Whiteman, Chad S. EOP/OMB

Sent: Thursday, August 9, 2018 2:43 PM

To: Boling, Ted A. EOP/CEQ <(b) (6)>

Subject: RE: Quick question re EO 12866

Ted,

We're just now getting the EO meetings posted on [reginfo.gov](https://www.reginfo.gov). Three of the meeting records have been posted so far. The remainder should be up soon. Mabel talked to me today about how to spell Chris P.'s name so she is actively uploading some of them today. Here is the link: <https://www.reginfo.gov/public/do/com12866Search>

Let me know if you have any questions.

Chad

-----Original Message-----

From: Boling, Ted A. EOP/CEQ

Sent: Thursday, August 9, 2018 2:39 PM

To: Whiteman, Chad S. EOP/OMB <(b) (6)>

Subject: Quick question re EO 12866

Chad - could you point me to where you post information about our meetings on the ANPRM? Or call me on (b) (6)

Sent from my iPhone

FW: Quick question re EO 12866

From: "Boling, Ted A. EOP/CEQ" <(b) (6)>
To: "Smith, Katherine R. EOP/CEQ" <(b) (6)> "Neumayr, Mary B. EOP/CEQ" <(b) (6)>
Date: Thu, 09 Aug 2018 15:04:34 -0400

OIRA is updating the record of meetings on the ANPRM. RegInfo.gov currently shows only:

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06/12/2018 03:00 PM 0331-AA03 0331-CEQ Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act Prerule Stage Completed
06/07/2018 04:00 PM 0331-AA03 0331-CEQ Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act Prerule Stage Completed

-----Original Message-----

From: Whiteman, Chad S. EOP/OMB
Sent: Thursday, August 9, 2018 2:43 PM
To: Boling, Ted A. EOP/CEQ <(b) (6)>
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Chad

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From: Boling, Ted A. EOP/CEQ
Sent: Thursday, August 9, 2018 2:39 PM
To: Whiteman, Chad S. EOP/OMB <(b) (6)>
Subject: Quick question re EO 12866

Chad - could you point me to where you post information about our meetings on the ANPRM? Or call me on (b) (6)

Sent from my iPhone

RE: Response to the Advance Notice of Proposed Rulemaking

From: "Boling, Ted A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=eae5b047f871428b9b46baf8afd1176a-bo">
To: "Clare T. Petersen" <cpetersen@charlestoncounty.org>
Cc: "James D. Armstrong" <jdarmstrong@charlestoncounty.org>
Date: Wed, 15 Aug 2018 16:23:58 -0400

Thank you, Clare.

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

From: Clare T. Petersen <CPetersen@charlestoncounty.org>
Sent: Wednesday, August 15, 2018 4:12 PM
To: Boling, Ted A. EOP/CEQ <(b) (6)>
Cc: James D. Armstrong <JDArmstrong@charlestoncounty.org>
Subject: [EXTERNAL] Response to the Advance Notice of Proposed Rulemaking

Good afternoon, Mr. Boling,
Attached to this email is Jim Armstrong's response to the Advance Notice of Proposed Rulemaking. I've also put a hard copy of his response in the mail for you as well. Please let us know if you need anything else.

My best,
Clare Petersen

Clare Petersen
Executive Assistant
Transportation | Public Works
4045 Bridge View Drive, Suite B-252
North Charleston, South Carolina 29405-7464
843-958-4011
843-958-4507 (Fax)



First batch of ANOPR comments ready for review

From

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

:

"Barnett, Steven W. EOP/CEQ" <(b) (6)> "Boling, Ted A.
EOP/CEQ" <(b) (6)> "Drummond, Michael R. EOP/CEQ"

To:

<(b) (6)> "Loyola, Mario A. EOP/CEQ"

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

<(b) (6)> "Osterhues, Mariys A. EOP/CEQ"

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

<(b) (6)> "Sharp, Thomas L. EOP/CEQ"

<(b) (6)>

Cc:

"Szabo, Aaron L. EOP/CEQ" <(b) (6)>

Date:

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

FW: Comments on the CEQ ANPRM -- includes specific issues for OIRA

From: "Boling, Ted A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=eae5b047f871428b9b46baf8afd1176a-bo">
"Drummond, Michael R. EOP/CEQ" (b) (6)
To: "Mansoor, Yardena M. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=2712a19fd57447088e0b9da580c16e15-ma">
Date: Fri, 17 Aug 2018 14:33:53 -0400
Attachments
: NRDC ANPRM Comments.pdf (756.84 kB)

From: Slesinger, Scott <sslesinger@nrdc.org>
Sent: Friday, August 17, 2018 1:38 PM
To: Boling, Ted A. EOP/CEQ (b) (6) Whiteman, Chad S. EOP/OMB (b) (6)
Cc: (b) (6) Echols, Mabel E. EOP/OMB (b) (6)
Subject: [EXTERNAL] Comments on the CEQ ANPRM -- includes specific issues for OIRA

Enclosed are NRDC comments on the ANPRM. There are several issues dealing with OIRA. I was not sure where to forward those comments. Thanks.

SCOTT SLESINGER
Senior Advisor for Federal Affairs



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Neomi Rao, OIRA Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20503

RE: Advance Notice of Proposed Rulemaking
40 CFR Parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508
[Docket No. CEQ-2018-0001]

Dear Ms. Neumayr and Ms. Rao:

The Natural Resources Defense Council (NRDC) is a national, not-for-profit environmental advocacy organization whose purpose is to safeguard the Earth: its people, its plants and animals, and the natural systems on which all life depends. NRDC has hundreds of thousands of members, all of whom depend on the Council of Environmental Quality (CEQ) to assure that the aims and goals of the National Environmental Policy Act are fulfilled. These comments on the Advanced Notice of Proposed Rulemaking of June 20, 2018, are in addition to comments submitted by the Partnership Project. We support all the comments in that document. These additional views intended to assist CEQ in meeting the stated goals of having a more efficient NEPA process. The first comment addresses whether CEQ has met the test to do a regulation. The second is a recommendation to speed up the process before any regulatory process is completed by immediately reinstating the climate guidance. Because these comments question CEQ compliance with Executive Orders under the responsibility of the Office of Information and Regulatory Affairs (OIRA), these comments are also addressed to that office.

1. Concerns with the ANPRM Process

We believe the ANPRM was premature. Section 1 of Executive Order 12,866, a popular executive order that the House of Representatives have often tried to make statutory, requires in Section 1:

“In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, **including the alternative of not regulating**. Costs

and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.”

Instead of this analysis, the only rationale given for opening up these rules is that it has been a long time since the rules were amended.

The Agency has failed to show that amending these regulations are helpful or necessary or will have a positive benefit. There is little or no research on delays caused by the regulatory process of environmental reviews, just questionable anecdotes. [see Appendix A for a fact check of those anecdotes <https://www.nrdc.org/experts/scott-slesinger/course-its-ok-we-are-only-lying-about-nepa>]

Rewriting the NEPA regulations will unsettle a very settled area of the law, causing industry to have to deal with uncertainty and possibly new processes. The process alone could be disruptive, not only to project sponsors, states and NEPA officials but will inevitably lead to more litigation as settled areas of the law become unsettled.

This disruption is similar to the experience with Executive Order 13,766, “Expediting Environmental Reviews and Approvals for High Priority Infrastructure Projects”, issued on January 24, 2017. It caused more delays in the NEPA process according to a letter from Senator Portman and Senator McCaskill [see Appendix B for full letter <https://www.portman.senate.gov/public/index.cfm/2017/6/portman-mccaskill-urge-trump-administration-to-use-permitting-reforms-recently-enacted-into-law>] Part of the August 15, 2018, Executive Order 13,807, “Presidential Executive Order on Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure” undid some of the damage and delays caused by 13,766. But EO 13,807 directed CEQ to consider changes in guidance as well as regulations.

A key question under Office of Management and Budget policy is whether guidance would be preferable to new rulemaking. There has been no discussion or analysis of that. We ask that OIRA require CEQ to make the case why changes in regulations are necessary before a decision is made on going forward with a proposal. We believe that the existing regulations establish an efficient and legally solid foundation for NEPA reviews; what is lacking is adequate resources for staff to comply with the legal requirements in a more efficient timeline. OIRA should use its authority to judge whether our argument is correct and proceed accordingly.

In addition, with the drastic reductions of the CEQ staff over the past years, new rulemaking will require detailees from agencies to complete the regulatory process. Ironically, this undoubtedly will require detailees to be pulled off environmental reviews, slowing down projects already in the pipeline – the exact opposite policy outcome enunciated by President Trump.

Although this rule is listed on the Unified Agenda and the Office of OIRA has met with interested groups before the ANPRM, CEQ so far seems to have ignore the policy of EO 12,866 in justifying re-writing these rules. We urge OIRA to require the analysis in EO 12,866 and successor polices before letting this wasteful process go forward.

Climate Guidance

The NEPA process is governed not only by regulations but by statutes, court decisions and agency guidance and Presidential Orders. [Executive Order 13,783](#) withdrew the climate guidance and required agencies to remove any of its agency actions that implemented that guidance.

Another section of 13,783, requires CEQ to:

“review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. Such review shall not include agency actions that are mandated by law, necessary for the public interest, and consistent with the policy set forth in section 1 of this order.” Section 2.

As part of its actions, under Section 2, the Administration should reinstitute the climate guidance. The rescinding of the climate guidance and the directive to remove all agency implementation of that guidance contradicts the Section 1 requirement because its removal will “burden the development or use of domestically produced energy resources” by slowing down the NEPA process and provide ample grounds for litigation.

That revoked guidance on measuring climate guidance did not establish any new requirements. The product of broad comment and review, the guidance provided a useful roadmap for agencies whose actions would directly or indirectly impact the climate. [See Appendix C for the blog to these comments <https://www.nrdc.org/experts/sharon-buccino/trumps-bad-bet-2-rescinding-wh-climate-guidance>]

The revocation conflicts with the proclaimed aim of the ANPRM to make environmental reviews more efficient. Courts have made it clear¹ that agencies **are required by law** to consider the environmental impact of a project or policy, which must also consider climate-related environmental impacts when you are evaluating environmental impacts. Undertaking analysis of a project or policy’s impact on climate change, or of the impact of climate change on the viability of a project, is complex. CEQ’s guidance was tremendously helpful in guiding project sponsors, contractors, federal permitting and environmental review personnel on the issues that

¹ *Center for Biological Diversity v. NHTSA*, 508 F.3d 508, 556, 37 ELR 20281 (9th Cir. 2007); []; *Western Organization of Resource Councils et al v. U.S. Bureau of Land Management et al*, No. 4:2016cv00021 - Document 34 (D. Mont. 2017); *High Country Conservation Advocates v. United States Forest Service*, Civil Action No. 13-cv-01723-RBJ (D. Colo. June 27, 2014).

an adequate environmental impact analysis will have to address. By setting forth the relevant issues, the guidance sped up the process, sets clear parameters for the review, and reduces the risk that the analysis will be found deficient by a reviewing court. The Executive Order revoking the guidance and requiring agencies to remove any of its agency actions that implemented that guidance, may have been to throw a bone to climate deniers. Its impact has been to make the NEPA process more difficult, and more prone to successful challenges. As a result, it will cause the very project delays it was intended to avoid.

For these reasons, the climate guidance should be immediately restored (before the regulatory process is completed). Whatever the senior-most officials in this administration may believe about climate science, the fact remains that analysis of climate impacts is legally required under NEPA. Restoring the guidance will enhance the NEPA process, and it will properly and efficiently assist in achieving the President's other objective of shortening permitting and environmental reviews and decreasing unnecessary litigation.

The climate guidance should remain as guidance. Analysis of climate impacts is often undergoing refinement; the guidance should remain as guidance so that the most up to date science can be more quickly implemented.

Thank you for considering our views.

s/ Scott Slesinger

Scott Slesinger
Senior Advisor for Governmental Affairs
Natural Resources Defense Council
sslesinger@nrdc.org

CC: Ted Boling, Council of Environmental Quality

Chad S. Whiteman, Office of Information and Regulatory Affairs

Appendix A

<https://www.nrdc.org/experts/scott-slesinger/course-its-ok-we-are-only-lying-about-nepa>

Of Course, It's OK, We Are Only Lying About NEPA

June 06, 2018 Scott Slesinger

There are few principles as basic to Americans as the right to participate in decisions when the federal government is going to affect the environment or economy of a community. Because this is inconvenient for developers they have enlisted the Congress and the White House in trying to cripple that right that is enshrined in the National Environmental Policy Act (NEPA). There have been over 60 separate bills introduced this year to scale it back NEPA and on June 6, 2018, another hearing on weakening NEPA is scheduled. This hearing is based on the theory that oil and gas drilling and fracking on public lands would never have a more than insignificant impact on the environment, ever.

Over the past several months, the propaganda about the required environmental reviews that agencies conduct before projects has been overwhelming. I wrote a blog on one of those misrepresentations [here](#). The major theme of the critics of environmental reviews is that despite its almost 50-year history, government projects, private fossil fuel development, and infrastructure has been stymied, mainly because of the National Environmental Policy Act. This is obviously untrue, based on the growth of our economy that included becoming a net exporter of energy during President Obama's term. I will use this blog to critique several recent poster children of NEPA and note the misstatements. (Or, if you prefer, "lies.")

Poster Child #1 Bayonne Bridge

CNBC did a story about the delays President Trump cited for road and highway projects, and, at the behest of the White House, spotlighted the case of the Bayonne Bridge raising, which critics said was slowed because of permitting and environmental reviews. The CNBC investigative tory, if you watch the short clip [here](#), found that weather and continuing the use of the bridge during construction were the drivers of the delays. The claims of a "10-year" review, were off base: It only took 26 months.

Poster Child #2 Anderson Bridge

On February 13, in conjunction with its federal infrastructure plan rollout, the White House published a blog post titled "[Washington Will No Longer be a Roadblock to Rebuilding America](#)." The blog uses the long delay of the Anderson Memorial Bridge project in Boston as an example of how federal environmental reviews and federal permitting is hindering infrastructure development across the country. **The problem, once again, is that federal environmental permitting had nothing to do with this project.** The Anderson Memorial Bridge project was funded completely by the State of Massachusetts and did not alter the existing waterway along the Charles River, **so at no point was federal-level environmental permitting needed** for this project. The implication is clear: While the White House has come

up with a mythical conclusion, it failed to find an example of even one project that fit that conclusion.

Poster Child #3: Dredging the Port of Corpus Christi

This is a typical scapegoating NEPA story. Politicians often get authorization for projects (and local press about the project) but fail to get the Congress to “appropriate” money to build them. Authorizations mean nothing without appropriations. Often, rather than admit they were unable to get real money, members will put the blame on environmental reviews. On March 6, 2018, according to the [Corpus Christi Business News](#), officials representing the Port of Corpus Christi met with their former governor and now Secretary of Energy Rick Perry about the need for federal **funding** for the dredging of the Port of Corpus Christi. The environmental reviews for this project weren’t mentioned.

However, the following week, [Perry testified before the Senate Commerce Committee](#) about the president’s infrastructure package loaded with anti-NEPA provisions. He didn’t urge lawmakers to fund the dredging project, as the port officials had requested. Instead, he claimed the reason the project failed to go forward wasn’t money, but bureaucrats:

“This isn’t a matter of we’re coming up here, or they’re coming up here, and asking for more money, they’re asking for federal agencies to basically get out of the way, to give them approval, so I think that’s one of the things that the president is talking about.”

This will be sad news to the Port which said the problem wasn’t NEPA, but the need for 225 million *federal* dollars.

Stories like this can be repeated a million times, or rather 97 billion times. [A Republican memo](#) to the Transportation and Infrastructure committee about funding of Army Corps of Engineers projects, noted that there are \$97 billion of projects ready to go, but the Corps’ construction budget is only \$5 billion a year. The problem isn’t NEPA; it’s where is the \$92 billion.

NRDC is working to protect NEPA, one of the landmark environmental statutes. The main goal of NEPA is assuring that the federal government looks before it leaps. It requires the federal government, when it is doing something to your community, to allow the public and local officials a chance to comment and these comments often lead to better projects. It should not be gutted as a diversion from the real problem addressing our infrastructure.

I recently was on a [podcast](#) with a Nick Goldstein, Vice President of Regulatory & Legal Issues of the American Road & Transportation Builders Association. I was well armed to defend NEPA from attacks by the road builders, but instead found myself nodding along while Goldstein made the same point I did: The real problem with infrastructure is the lack of federal financing.

Appendix B

<https://www.portman.senate.gov/public/index.cfm/2017/6/portman-mccaskill-urge-trump-administration-to-use-permitting-reforms-recently-enacted-into-law>

June 8, 2017

President Donald J. Trump

The White House

1600 Pennsylvania Ave, NW

Washington, D.C. 20500

Dear President Trump:

We were pleased that your Administration's recently released budget proposal recognized the need to improve the permitting process for major infrastructure projects. As the co-sponsors of the Federal Permitting Improvement Act, which was enacted into law last Congress as Title 41 of the Fixing America's Surface Transportation Act (FAST-41), however, we are concerned that your Administration is not making use of important tools Congress has given it to accomplish this goal.

The budget correctly notes that "the legal requirements and processes for the permitting and review of major infrastructure projects have developed in a siloed and ad-hoc way, creating complex *processes that in some cases take multiple years to complete.*" And, furthermore, that "[d]elays and uncertainty in project review timelines can affect critical financing and siting decisions [and] postpone *needed upgrades, replacements, or new development.*" We could not agree more strongly that the federal government needs to make timely and coordinated decisions regarding permits, and those same concerns drove us to author FAST-41. This bipartisan effort gave the federal government tools to streamline and improve the federal permitting process, which, as you have noted, is laden with uncertainty that hinders investment, economic growth, and job creation.

Through FAST-41, we sought to improve the permitting process for major capital projects across all sectors in three ways: better coordination and deadline-setting for permitting decisions; enhanced transparency; and reduced litigation delays. Despite deep divisions in other areas, we were able to come together to create a smarter, more transparent, better-managed process while not altering substantive public input or safeguards that exist in the review process.

Since Congress enacted FAST-41, however, neither the past Administration nor your Administration has realized the Federal Permitting Improvement Steering Council's (FPISC) potential. It took President Obama seven months to appoint an Executive Director, and FPISC barely got off the ground before the election. And now, given the Administration's stated interest in facilitating the permitting process and infrastructure development, it is perplexing that the Administration has not taken full advantage of the powerful tools Congress gave it in FAST-41 to accomplish those goals. Moreover, Executive Order 13,766, Expediting Environmental Reviews and Approvals for High Priority Infrastructure Projects, issued on January 24, 2017, appears to duplicate or conflict with many of the permit streamlining provisions in FAST-41. That executive order directs the Chairman of the Council on Environmental Quality (CEQ)—a position that has not yet been filled—to identify "High Priority Infrastructure Projects" and to coordinate with the appropriate agency heads to clarify

deadlines for such projects. While these are important tasks, FAST-41 already requires FPISC and its Executive Director to identify similar covered projects and to then work across all government agencies to set timetables and to ensure that they are met. We have heard from numerous stakeholders that the executive order is confusing and makes the permitting process even more complex—the exact opposite result of what seems to have been intended.

Moreover, we are increasingly concerned that the Administration's failure to appoint a permanent Executive Director is significantly impairing the ability of FPISC to achieve its mission of greater coordination across government. We have heard from a number of entities involved in FPISC-designated covered projects that a lack of clear leadership from the top has hampered cross-agency efforts and allowed permit siloing to continue.

Therefore, we ask that you expeditiously fill the role of FPISC Executive Director and clarify how CEQ's role can complement rather than conflict with FPISC's statutorily-mandated responsibilities.

We thank you for your attention to this critical issue and look forward to working with you on efforts to improve the federal permitting process so that we can deliver a smarter, faster, and more responsive government to the American people.

Sincerely,

<https://www.nrdc.org/experts/sharon-buccino/trumps-bad-bet-2-rescinding-wh-climate-guidance>

Trump's Bad Bet #2 – Rescinding WH Climate Guidance

April 03, 2017 / Sharon Buccino

Houses flooded. Trees and power lines down. Wildfires. Drought. Climate chaos is disrupting our lives and destroying our homes. Last year, the White House Council on Environmental Quality (CEQ) took action to do something about the damage. The White House issued guidance to help agencies include climate change in their environmental reviews. The agencies have a legal obligation under the National Environmental Policy Act (NEPA) to do so. The guidance provided consistency and tools to help.

On March 28, President Trump rescinded this guidance.

President Trump has run casinos. You'd think he would know a good bet when he sees one. Rescinding Obama's climate guidance isn't. Here's why:

1. ***Taxpayers lose.*** Courts have already said that federal agencies must consider climate in their environmental analysis. Trump's action doesn't get rid of this legal obligation. Now each agency will be left on its own to determine how best to do the analysis. Without the guidance, agencies will waste time and taxpayer money.
2. ***Companies lose.*** The guidance provided consistency. Whether dealing with the Bureau of Land Management to lease coal, the Army Corps of Engineers to build a pipeline or the Department of Transportation to build a highway, a company would know what kind of climate analysis was needed. Now they won't. The lack of guidance will trigger more litigation and delay.
3. ***Our lands and waters lose.*** From our coastal waters to the canyons of Utah, our public lands and waters are priceless assets belonging to each one of us. The guidance provided tools to assess the climate consequences of actions like drilling for oil and gas or mining for coal. It did not prohibit these actions; instead the guidance helped us make smart decisions about our energy choices for today and tomorrow.
4. ***Cities like Miami Beach lose.*** Miami Beach is spending \$500 million to keep rising sea levels from destroying the hotels, restaurants and shops that provide its glamor and glitz. The city needs information to spend this money wisely. How is climate change affecting sea level rise? How are government actions and taxpayer dollars affecting climate change? The guidance helped provide answers. Trump's action leaves cities like Miami Beach in the dark.
5. ***Our pocketbooks lose.*** Smart investment today will save billions tomorrow. Hurricane Sandy caused billions of dollars of damage. New York is working to rebuild in a way that limits future damage. The guidance helped federal agencies respond in similar ways—

making smarter decisions and investments in response to our changing climate. Trump's action denies us the information we need to invest wisely.

6. **Communities lose.** Working with local and state governments, the federal government invests billions of dollars in our communities. The guidance was designed to help communities build roads, seawalls, sewer systems and other investment that lasts. We don't want to build something that will get washed away in a year or two. Trump's action leaves cities and states in the dark.
7. **Democracy loses.** The federal government is spending our hard-earned dollars. Decisions to mine more coal or drill offshore affect the public lands and waters that belong to all of us. We have a right to a say in those decisions. We have a right to expect decisions informed by the best science available. The guidance helped deliver on these rights. Trump's action has taken them away.
8. **Nature loses.** Protecting nature helps us save ourselves. Fish, wildlife and plants provide jobs, food and clean water that sustain people, communities and economies across the nation. Information and action is needed now to ensure that we continue to have these natural resources tomorrow. The guidance helped agencies develop adaptation strategies to our changing climate. Trump's action ignores that our climate is changing.
9. **Our health loses.** Today's scientists point to climate change as "the biggest global health threat of the 21st century." As temperatures spike, so does the incidence of illness, emergency room visits, and death. Climate change makes us sick, hurting the most vulnerable like the young and the old the most.
10. **Our children lose.** Numerous tools now exist to estimate greenhouse gas emissions. Numerous solutions exist to reduce emissions and respond to climate change. We stumble blindly into the future if we fail to use them. The guidance helped provide them. Trump's action takes them away.

FW: [EXTERNAL] AMWA Comment Letter for Docket CEQ-2018-0001

From: "McLaurin, Juschelle D. EOP/CEQ" <(b) (6)>
To: "Boling, Ted A. EOP/CEQ" <(b) (6)>
Date: Fri, 17 Aug 2018 13:58:02 -0400
Attachments Association of Metropolitan Water Agencies Comment Letter CEQ-2018-0001.pdf
: (239.26 kB)

FYI

From: Stephanie Hayes Schlea <schlea@amwa.net>
Sent: Friday, August 17, 2018 12:34 PM
To: McLaurin, Juschelle D. EOP/CEQ <(b) (6)>
Subject: [EXTERNAL] AMWA Comment Letter for Docket CEQ-2018-0001

On behalf of the Association of Metropolitan Water Agencies, please find attached the comment letter regarding CEQ's *Advance Notice of Proposed Rulemaking: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act* (CEQ-2018-0001).

Stephanie Hayes Schlea
Manager, Regulatory and Scientific Affairs
Association of Metropolitan Water Agencies
Office: 202.331.2820
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Washington, DC 20006
><http://www.amwa.net><



August 17, 2018

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

Re: Docket No. CEQ-2018-0001, *Advance Notice of Proposed Rulemaking: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act*

Dear Mr. Boling:

The Association of Metropolitan Water Agencies (AMWA) welcomes the opportunity to comment on the Council on Environmental Quality’s (CEQ) advance notice of proposed rulemaking to update the regulations on implementing certain provisions of the National Environmental Policy Act (NEPA). AMWA represents the largest metropolitan, publicly owned drinking water systems in the nation and collectively our members serve more than 130 million people.

AMWA is supportive of NEPA as a cornerstone of our country’s environmental protection laws. It is important to our members because it ensures that possible impacts to the environment and public input related to these considerations are taken into account during federal decision making, particularly as it relates to protecting our nation’s water resources. Our members are affected by actions on federal lands that could have environmental impacts on the source of drinking water, such as projects on national forest lands, where many metropolitan cities’ drinking water originates, or projects on federal reservoirs where our members have drinking water storage contracts. NEPA plays a vital role in protecting these water sources and the larger environment by requiring the development of environmental assessments and environmental impact assessments to identify potential impacts of federal actions. While AMWA supports improving the efficiency of the NEPA process, it is important for the integrity of NEPA to be maintained and the opportunity for public participation and comment remain intact.

Our members are often applicants for projects that require NEPA reviews, such as projects for water supply and delivery that will receive funding via drinking water or clean water State Revolving Fund loans or through the Water Infrastructure Financing and Innovation Act. Many of our members have had experiences where the NEPA process has lasted several years and

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