

## FW: CEQ's agenda

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**From:** "Dorjets, Viad EOP/OMB" <(b) (6)>  
**To:** "Marchese, April L. EOP/CEQ" <(b) (6)>  
**Date:** Mon, 26 Mar 2018 17:01:14 -0400  
**Attachments:** CEQ 2018 Spring Agenda Entries - 3\_23\_2018.docx (19.59 kB)

April – I am doing a quick review of CEQ's Spring Agenda since Chad is on vacation and noticed an item on NEPA regs. Could you please let me know (b) (5)

Thanks!

**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Friday, March 23, 2018 5:15 PM  
**To:** Dorjets, Viad EOP/OMB <(b) (6)>  
**Subject:** CEQ's agenda

Vlad,

Attached is CEQ's agenda entries document and their change report. I've also attached the distribution list. Here is their MAX page: (b) (2)

Thanks for doing the review!!!

Chad

**COUNCIL ON ENVIRONMENTAL QUALITY**

**40 CFR 1500**

**Semiannual Regulatory Agenda**

**AGENCY:** Council on Environmental Quality.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This notice provides the semiannual agenda of the Council on Environmental Quality (CEQ) rules scheduled for review or development between spring 2018 and spring 2019. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

**ADDRESSES:** All agency contacts are located at the Council on Environmental Quality, 730 Jackson Place Northwest, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** Please direct all comments and inquiries about these rules to the appropriate agency contact. Please direct general comments relating to the agenda to Aaron L. Szabo, at the address above or at (202) 395-5750.

**SUPPLEMENTARY INFORMATION:** With this publication, CEQ meets the requirement of Executive Order 12866 that CEQ publish an agenda of rules that CEQ has issued or expects to issue and of currently effective rules that CEQ has scheduled for review. Additionally, CEQ meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year, as necessary, identifying rules that may have significant economic effects on a substantial number of small entities. The complete Unified Agenda will be published at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users enhanced ability to obtain information from the Agenda database. Agenda information is also available at [www.regulations.gov](http://www.regulations.gov), the government-wide website for submission of comments on proposed regulations.

[APG]

**NAME Mary Neumayr,**

*Chief of Staff,*

*Council on Environmental Quality.*

**Council on Environmental Quality—Prerule Stage**

Sequence Number	Title	Regulation Identifier Number
1	Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act	0331-AA03

**Council on Environmental Quality—Proposed Rule Stage**

Sequence Number	Title	Regulation Identifier Number
2	Freedom of Information Act (FOIA) and Privacy Act Regulations Update	0331-AA02

<b>Council on Environmental Quality (CEQ)</b>	<b>Prerule Stage</b>

[APG]

**1. • UPDATE TO THE REGULATIONS FOR IMPLEMENTING THE PROCEDURAL PROVISIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT**

**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

**Unfunded Mandates:** Undetermined

**EO 13771 Designation:** Other

**Legal Authority:** 42 U.S.C. 4371 et seq.

**CFR Citation:** 40 CFR Parts 1500 to 1508

**Legal Deadline:** None

**Abstract:** On August 15, 2017, President Trump issued Executive Order 13807, titled Establishing Discipline and Accountability in the Environment Review and Permitting Process for Infrastructure.” Section 5(e) of Executive Order 13807 directed the Council on Environmental Quality (CEQ) to develop an initial list of actions it will take to enhance and modernize the Federal environmental review and authorization process. CEQ published its the initial list of actions in the Federal Register on September 14, 2017 (82 FR 43226) and stated that CEQ intends to review existing CEQ regulations implementing the procedural requirements of the National Environmental Policy Act in order to identify changes needed to update and clarify those regulations. The regulations were issued in 1978, were amended in 1986, and have never been comprehensively revised. While CEQ has issued memoranda and guidance documents over the years, CEQ believes it is appropriate at this time to consider updating the implementing regulations.

**Timetable:**

Action	Date	FR Cite
ANPRM	05/00/18	

**Regulatory Flexibility Analysis Required:** Undetermined

[APG]

**Government Levels Affected:** Undetermined

**Agency Contact:** Ted Boling, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20506

**Phone:** 202 395-5750

**RIN:** 0331-AA03

Council on Environmental Quality (CEQ)	Proposed Rule Stage

**2. • FREEDOM OF INFORMATION ACT (FOIA) AND PRIVACY ACT REGULATIONS UPDATE**

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 5 U.S.C. 552 et seq.

**CFR Citation:** 40 CFR 1515 ; 40 CFR 1516

**Legal Deadline:** None

**Abstract:** The Council on Environmental Quality (CEQ) is developing a proposal to revise its Freedom of Information Act (FOIA) regulations, in order to comply with the FOIA Improvement Act of 2016; to reflect CEQ's business process; and to correct or remove obsolete information. CEQ is also revising its Privacy Act implementation regulations due to changes of address and other administrative issues.

**Timetable:**

[APG]

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	07/00/18	

**Regulatory Flexibility Analysis Required: No**

**Government Levels Affected: None**

**Agency Contact:** Viktoria Z. Seale, Council on Environmental Quality, 730 Jackson Place NW,  
Washington, DC 20506

**Phone:** 202 395-5750

**RIN:** 0331-AA02

[FR Doc. Filed 01-01-01; 0:00 AM]

[APG]

## [EXTERNAL] RE: Comment from CEQ?

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

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

**Date:** Mon, 07 May 2018 15:17:35 -0400

Very helpful. Thanks, Dan.

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

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

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

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

Hey Nick,

On background, attributable to a CEQ Spokesman:

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

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Hope that helps,

Dan

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

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

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

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

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



## RE: Comment from CEQ?

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

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

**Date:** Thu, 17 May 2018 11:58:27 -0400

Hey Nick,

What's your timing on this?

Dan

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

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

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

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

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

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

**Date:** Thu, 17 May 2018 11:42:52 -0400

Hey Dan,

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

**Date:** Fri, 18 May 2018 12:48:52 -0400

Hey Nick, still checking in on this.

Dan

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

**Sent:** Friday, May 18, 2018 10:06 AM

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

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

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

**Date:** Fri, 18 May 2018 10:05:42 -0400

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## [EXTERNAL] RE: Comment from CEQ?

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

**Date:** Mon, 21 May 2018 10:46:19 -0400

Sure: 202-446-0437

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

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

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

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

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

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

**Sent:** Monday, May 21, 2018 10:39 AM

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

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

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

How long will the process take?

Are there any specific areas of the NEPA regulations that are ripe for reform?

Do you think the FAST Act and MAP-21 provide a model for streamlining/change?

How will the current lack of Senate-confirmed political leadership affect how CEQ handles the potential regulatory changes?

How many public comments is CEQ expecting to get?

Best,  
Nick

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

**Sent:** Friday, May 18, 2018 12:49 PM

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

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**RE: EO 12866 Review of CEQ NEPA Procedural Provisions  
Prerule - CEQ passback attached - comments due noon 6/6**

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**From:** "Whiteman, Chad S. EOP/OMB" <(b) (6)>  
**To:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**Date:** Fri, 01 Jun 2018 11:23:06 -0400

(b) (5)

**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Friday, June 1, 2018 11:18 AM  
**To:** Wold, Theo J. EOP/WHO <(b) (6)> Jain, Varun M. EOP/OMB  
<(b) (6)> Upadhyaya, Shraddha A. EOP/OMB  
<(b) (6)> Thomas, Amanda L. EOP/OMB  
<(b) (6)> Wackler, Ted M. EOP/OSTP <(b) (6)>  
Salvi, Mary E. EOP/WHO <(b) (6)> White, Peter J. EOP/WHO  
<(b) (6)> Smith, Ja'Ron K. EOP/WHO <(b) (6)> Starling,  
Ray A. EOP/WHO <(b) (6)> Brooke, Francis J. EOP/WHO  
<(b) (6)> Fitzgerald, Timothy W. EOP/CEA  
<(b) (6)> Abajian, Xander C. EOP/CEA  
<(b) (6)> Pinkos, Stephen M. EOP/OVP <(b) (6)>  
Hickey, Mike J. EOP/OMB <(b) (6)> Burgess, Scott H. EOP/OMB  
<(b) (6)> Winters, Paul A. EOP/OMB <(b) (6)>  
Derentz, Landon R. EOP/NSC <(b) (6)> Abbey, Tristan C. EOP/NSC  
<(b) (6)> Laing, Sally S. EOP/USTR <Sally\_S\_Laing@ustr.eop.gov>; Patel, Mayur  
R. EOP/USTR <Mayur\_R\_Patel@ustr.eop.gov>; Stradtman, Jennifer A. EOP/USTR  
<Jennifer\_A\_Stradtman@ustr.eop.gov>; Miller, Ashley A. EOP/USTR <Ashley\_A\_Miller@ustr.eop.gov>;  
Dougherty, Emily I. EOP/USTR <Emily\_I\_Dougherty@ustr.eop.gov>; 'John S. EOP/WHO Moran  
<(b) (6)> <(b) (6)> 'Rosario A. EOP/OMB Palmieri  
<(b) (6)> <(b) (6)> 'Laity, Jim <(b) (6)>  
<(b) (6)> 'Christopher D. EOP/CEQ Prandoni  
<(b) (6)> <(b) (6)> Trick, Bryant P.  
EOP/USTR <Bryant\_Trick@ustr.eop.gov>; Abrams, Andrew D. EOP/OMB  
<(b) (6)> Crutchfield, Craig C. EOP/OMB <(b) (6)>  
McDonald, Christine A. EOP/OMB <(b) (6)> Roach, Emma K. EOP/OMB  
<(b) (6)> Burnett, Ben D. EOP/OMB <(b) (6)>  
Vallina, Cyndi A. EOP/OMB <(b) (6)> Nelson, Kimberly P. EOP/OMB  
<(b) (6)> Lucas, Adrienne E. EOP/OMB  
<(b) (6)> Fischietto, Mary S. EOP/OMB  
<(b) (6)>  
**Cc:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Subject:** RE: EO 12866 Review of CEQ NEPA Procedural Provisions Prerule - CEQ passback attached -  
comments due noon 6/6

All, Attached is CEQs passback to interagency comments on the NEPA ANPRM. Please let me know if you have any follow-up comments by noon on Wednesday, June 6<sup>th</sup>. Thanks, Chad

**From:** Whiteman, Chad S. EOP/OMB

**Sent:** Monday, May 7, 2018 9:38 AM

**To:** Wold, Theo J. EOP/WHO <(b) (6)> Jain, Varun M. EOP/OMB

<(b) (6)> Upadhyaya, Shraddha A. EOP/OMB

<(b) (6)> Thomas, Amanda L. EOP/OMB

<(b) (6)> Wackler, Ted M. EOP/OSTP <(b) (6)>

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<(b) (6)> Smith, Ja'Ron K. EOP/WHO <(b) (6)> Starling,

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<(b) (6)> Abajian, Xander C. EOP/CEA

<(b) (6)> Pinkos, Stephen M. EOP/OVP <(b) (6)>

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

<(b) (6)> Hickey, Mike J. EOP/OMB <(b) (6)> Burgess,

Scott H. EOP/OMB <(b) (6)> Winters, Paul A. EOP/OMB

<(b) (6)> Derentz, Landon R. EOP/NSC <(b) (6)>

Abbey, Tristan C. EOP/NSC <(b) (6)> Laing, Sally S. EOP/USTR

<Sally\_S\_Laing@ustr.eop.gov>; Patel, Mayur R. EOP/USTR <Mayur\_R\_Patel@ustr.eop.gov>; Stradtman,

Jennifer A. EOP/USTR <Jennifer\_A\_Stradtman@ustr.eop.gov>; Miller, Ashley A. EOP/USTR

<Ashley\_A\_Miller@ustr.eop.gov>; Dougherty, Emily I. EOP/USTR <Emily\_I\_Dougherty@ustr.eop.gov>;

John S. EOP/WHO Moran <(b) (6)> <(b) (6)> Rosario A.

EOP/OMB Palmieri <(b) (6)> <(b) (6)> Laity, Jim

<(b) (6)> <(b) (6)> Christopher D. EOP/CEQ Prandoni

<(b) (6)> <(b) (6)> Trick, Bryant P.

EOP/USTR <Bryant\_Trick@ustr.eop.gov>; Abrams, Andrew D. EOP/OMB

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<(b) (6)> Lucas, Adrienne E. EOP/OMB

<(b) (6)>

**Cc:** Szabo, Aaron L. EOP/CEQ <(b) (6)> Seale, Viktoria Z. EOP/CEQ

<(b) (6)> Mary B. EOP/CEQ Neumayr <(b) (6)>

<(b) (6)>

**Subject:** EO 12866 Review of CEQ NEPA Procedural Provisions Prerule - comments due COB on 5/14

All,

Please review and send to me any EO 12866 comments on the Council on Environmental Quality (CEQ) advanced notice of proposed rulemaking, "Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act," (RIN 0331-AA03) by **5pm on Monday, May 14th**.



As a reminder, the attached materials are deliberative and pre-decisional while under OMB review and may not be shared or discussed with anyone outside of the Executive Branch. If there are others within the EOP that you believe should review the rule, please let me know so that I can send the rule to them and add them to my distribution list so that they will receive future communications/versions of the rule. As a note, I have distributed the rule to agencies in a separate email. If you have contacts in the agencies that you believe should review, please let me know and I will forward to them.

**Summary:** 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 only once. Given the length of time since its NEPA implementing regulations were issued, CEQ is soliciting 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.

If you have questions or would like to discuss any aspect of the final rule, please feel free to contact me.

Thank you,  
Chad

Chad Whiteman  
Natural Resources and Environment Branch | Office of Information and Regulatory  
Affairs  
Office of Management and Budget | Executive Office of the President  
202-395-4718

(b) (6)

# Fwd: EO 12866 Review of CEQ NEPA Procedural Provisions

## Prerule - CEQ passback attached - comments due noon 6/6

---

**From:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**To:** "Neumayr, Mary B. EOP/CEQ" <(b) (6)> "Seale, Viktoria Z. EOP/CEQ" <(b) (6)> "Smith, Katherine R. EOP/CEO" <(b) (6)>  
**Date:** Fri, 01 Jun 2018 12:20:12 -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)

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FYI.

Sent from my iPhone

Begin forwarded message:

**From:** "Whiteman, Chad S. EOP/OMB" <(b) (6)>  
**Date:** June 1, 2018 at 11:18:20 AM EDT  
**To:** "Wold, Theo J. EOP/WHO" <(b) (6)> "Jain, Varun M. EOP/OMB" <(b) (6)>, "Upadhyaya, Shraddha A. EOP/OMB" <(b) (6)>, "Thomas, Amanda L. EOP/OMB" <(b) (6)>, "Wackler, Ted M. EOP/OSTP" <(b) (6)>, "Salvi, Mary E. EOP/WHO" <(b) (6)> "White, Peter J. EOP/WHO" <(b) (6)> "Smith, Ja'Ron K. EOP/WHO" <(b) (6)> "Starling, Ray A. EOP/WHO" <(b) (6)> "Brooke, Francis J. EOP/WHO" <(b) (6)> "Fitzgerald, Timothy W. EOP/CEA" <(b) (6)> "Abajian, Xander C. EOP/CEA" <(b) (6)> "Pinkos, Stephen M. EOP/OVP" <(b) (6)>, "Hickey, Mike J. EOP/OMB" <(b) (6)>, "Burgess, Scott H. EOP/OMB" <(b) (6)>, "Winters, Paul A. EOP/OMB" <(b) (6)>, "Derentz, Landon R. EOP/NSC" <(b) (6)> "Abbey, Tristan C. EOP/NSC" <(b) (6)> "Laing, Sally S. EOP/USTR" <[Sally\\_S\\_Laing@ustr.eop.gov](mailto:Sally_S_Laing@ustr.eop.gov)>, "Patel, Mayur R. EOP/USTR" <[Mayur\\_R\\_Patel@ustr.eop.gov](mailto:Mayur_R_Patel@ustr.eop.gov)>, "Stradtman, Jennifer A. EOP/USTR" <[Jennifer\\_A\\_Stradtman@ustr.eop.gov](mailto:Jennifer_A_Stradtman@ustr.eop.gov)>, "Miller, Ashley A. EOP/USTR" <[Ashley\\_A\\_Miller@ustr.eop.gov](mailto:Ashley_A_Miller@ustr.eop.gov)>, "Dougherty, Emily I. EOP/USTR" <[Emily\\_I\\_Dougherty@ustr.eop.gov](mailto:Emily_I_Dougherty@ustr.eop.gov)>, "Moran, John S. EOP/WHO" <(b) (6)> "Palmieri, Rosario A. EOP/OMB" <(b) (6)> "Laity, Jim A. EOP/OMB" <(b) (6)>, "Prandoni, Christopher D. EOP/CEQ" <(b) (6)> "Trick, Bryant P. EOP/USTR" <[Bryant\\_Trick@ustr.eop.gov](mailto:Bryant_Trick@ustr.eop.gov)>, "Abrams, Andrew D. EOP/OMB" <(b) (6)>, "Crutchfield, Craig C. EOP/OMB" <(b) (6)>, "McDonald, Christine A. EOP/OMB" <(b) (6)>, "Roach, Emma K. EOP/OMB" <(b) (6)>, "Burnett, Ben D. EOP/OMB" <(b) (6)>, "Vallina, Cyndi A. EOP/OMB" <(b) (6)> <(b) (6)> <(b) (6)>, "Nelson, Kimberly P. EOP/OMB" <(b) (6)>, "Lucas, Adrienne E. EOP/OMB" <(b) (6)>

"Fischietto, Mary S. EOP/OMB" <(b) (6)>  
Ce: "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
Subject: RE: EO 12866 Review of CEQ NEPA Procedural Provisions Prerule - CEQ passback attached - comments due noon 6/6

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**Cc:** Szabo, Aaron L. EOP/CEQ <(b) (6)> Seale, Viktoria Z. EOP/CEQ <(b) (6)> 'Mary B. EOP/CEQ Neumayr (b) (6)> <(b) (6)>  
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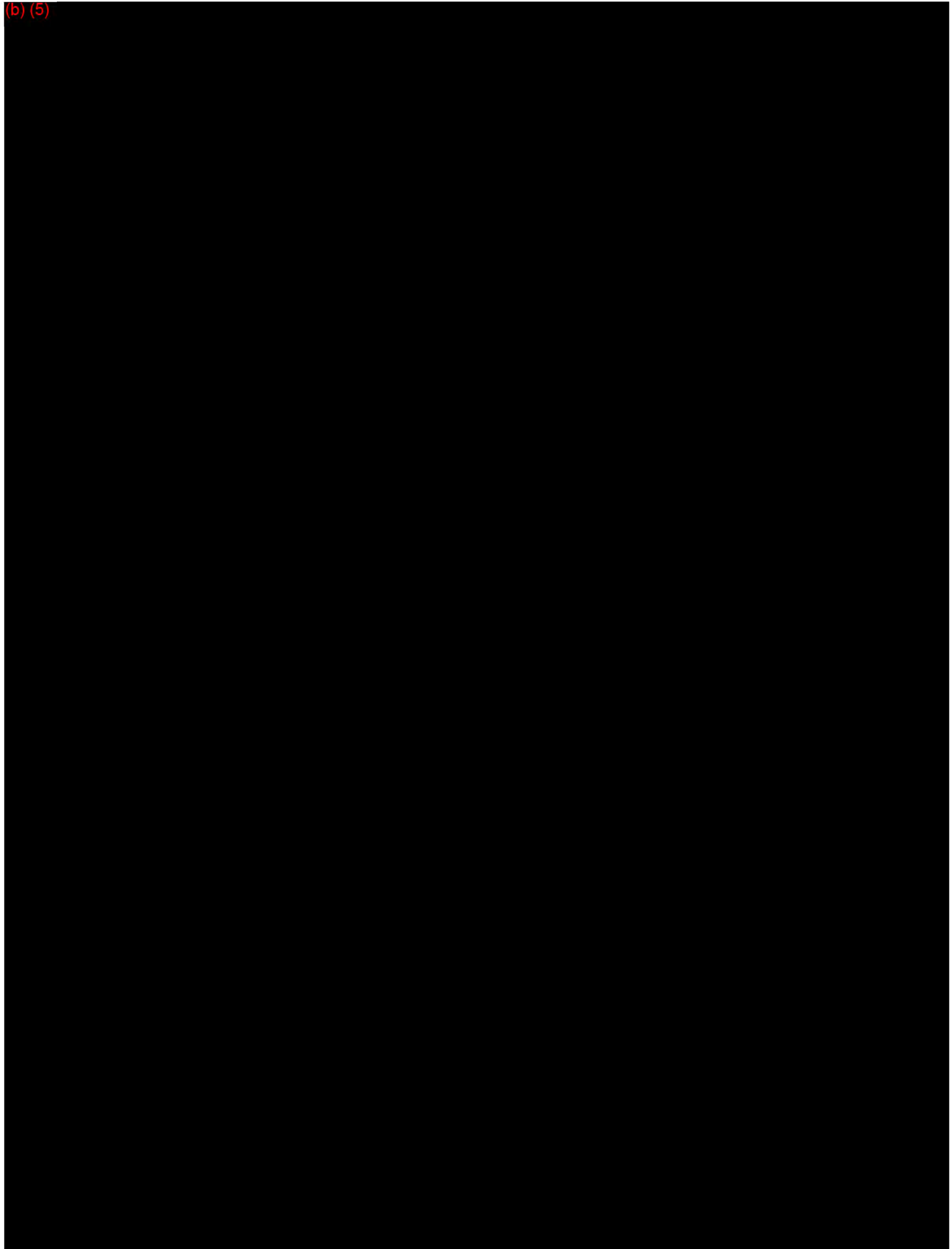
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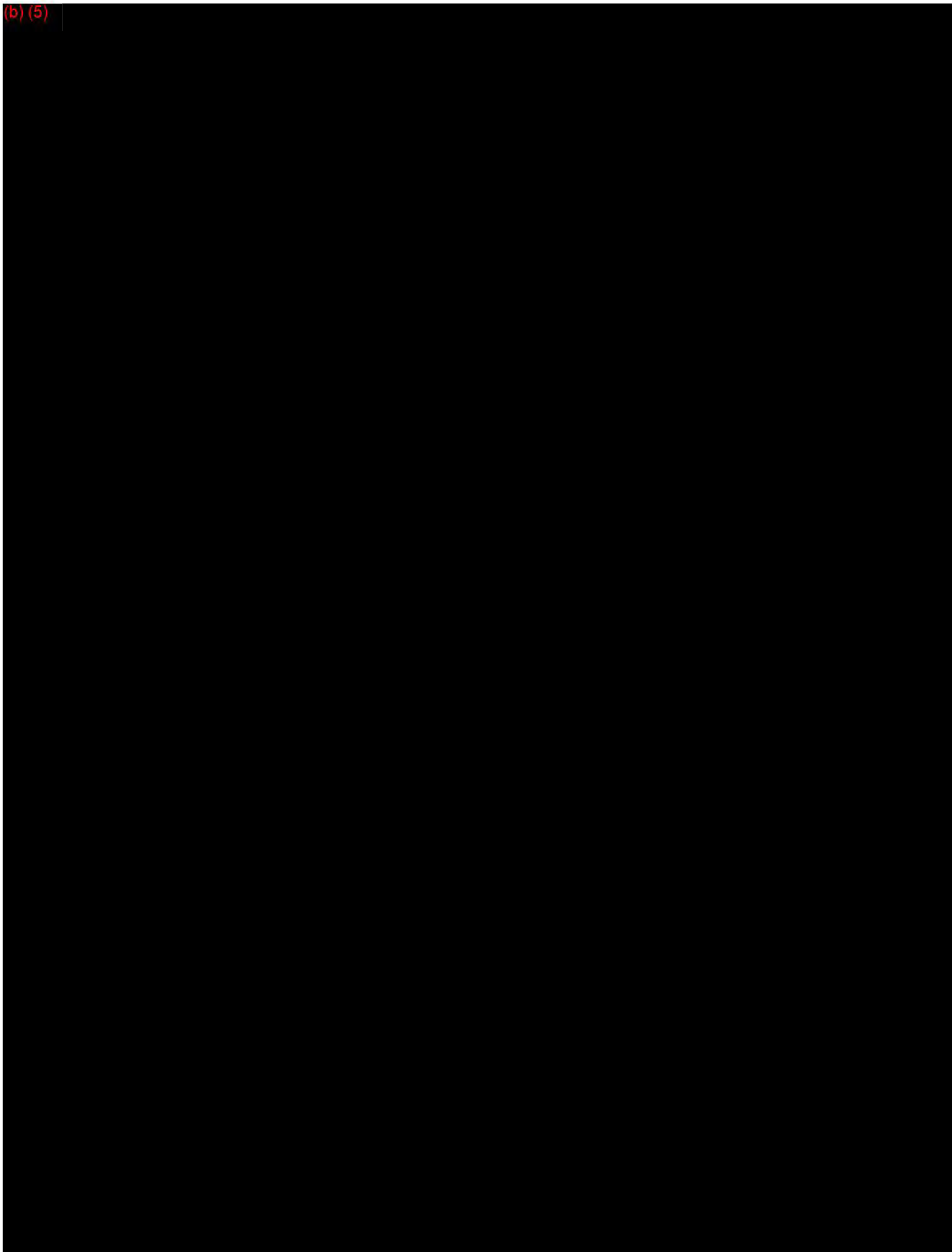
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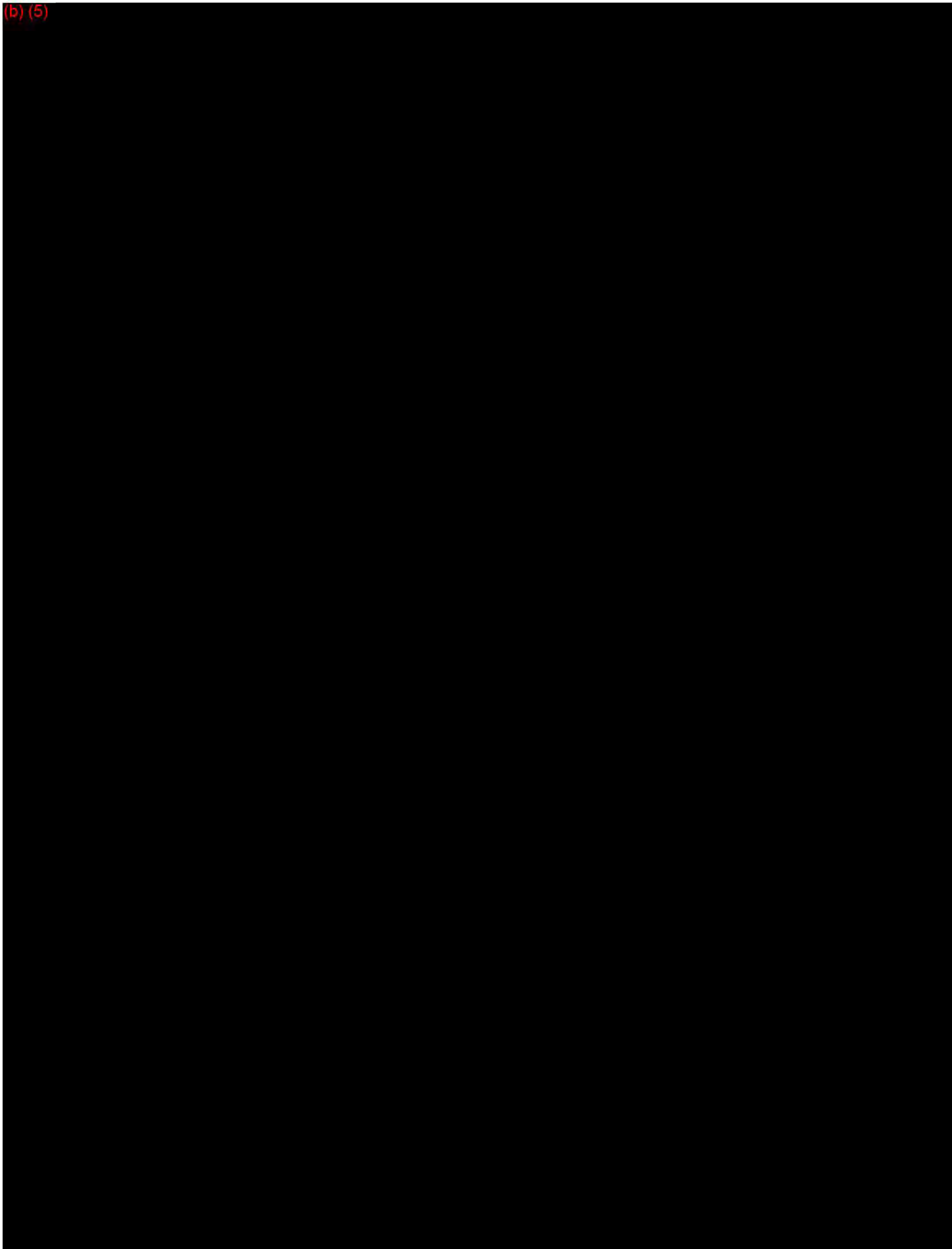
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Chad Whiteman  
Natural Resources and Environment Branch | Office of Information and Regulatory Affairs  
Office of Management and Budget | Executive Office of the President  
202-395-4718

(b) (6)

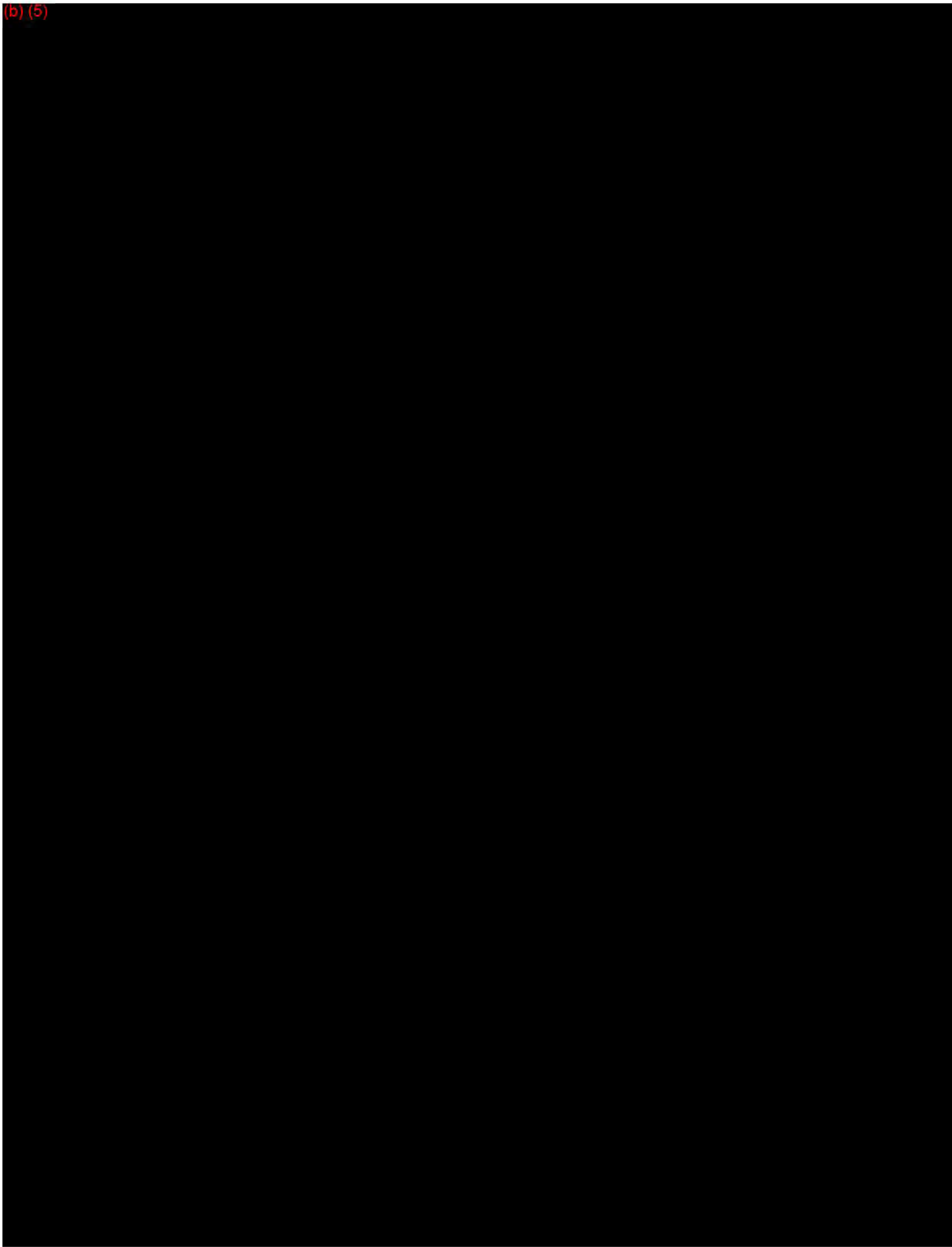


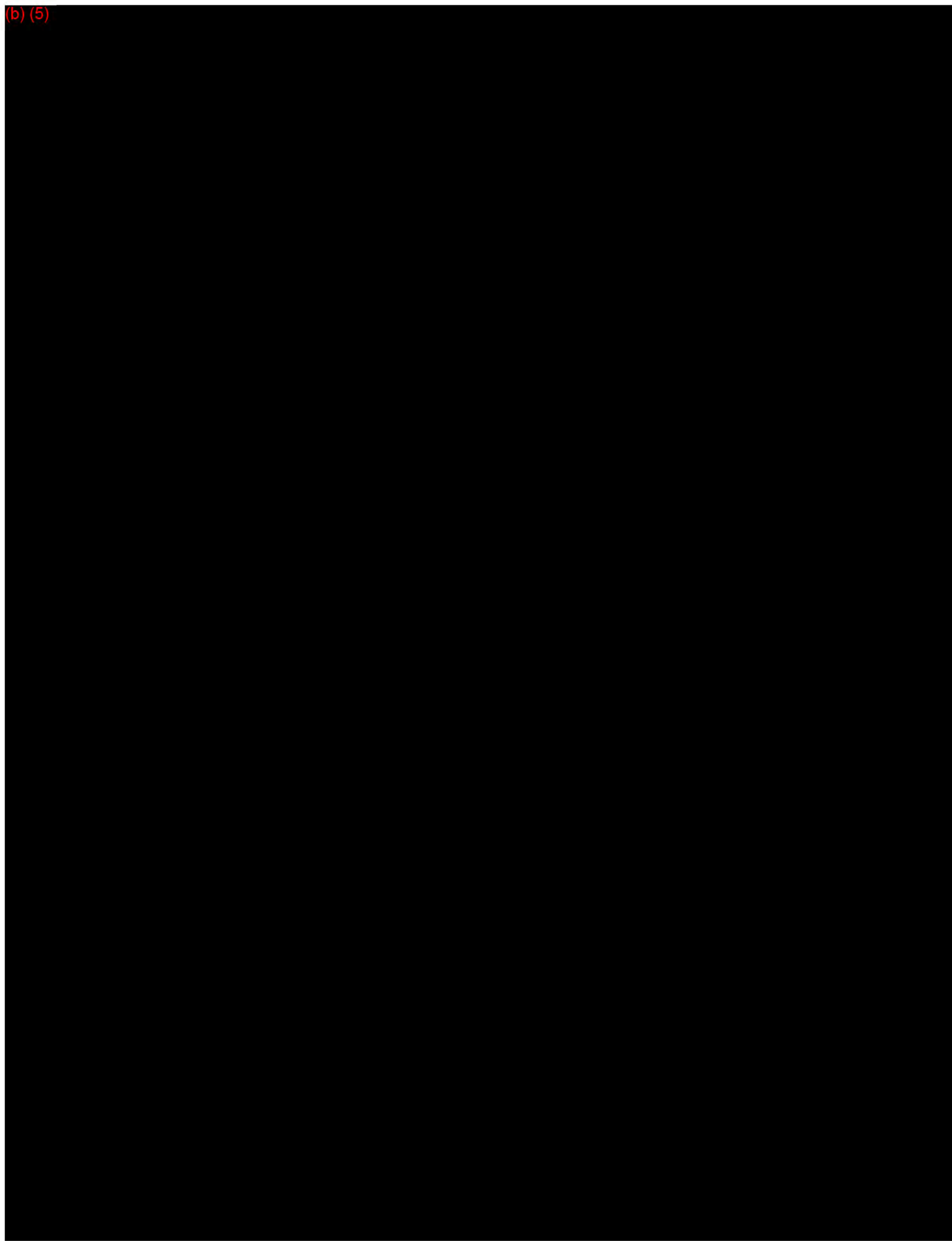


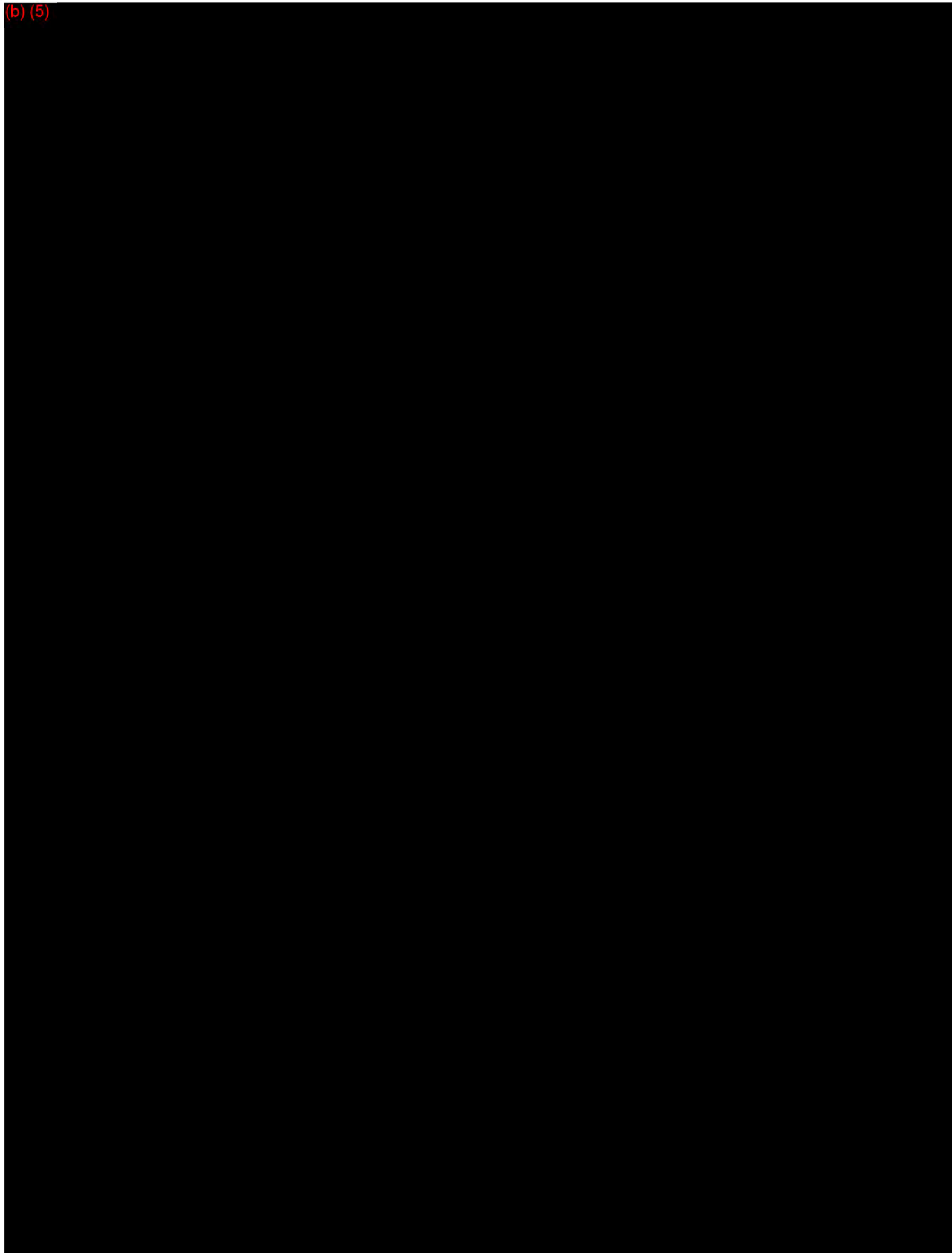


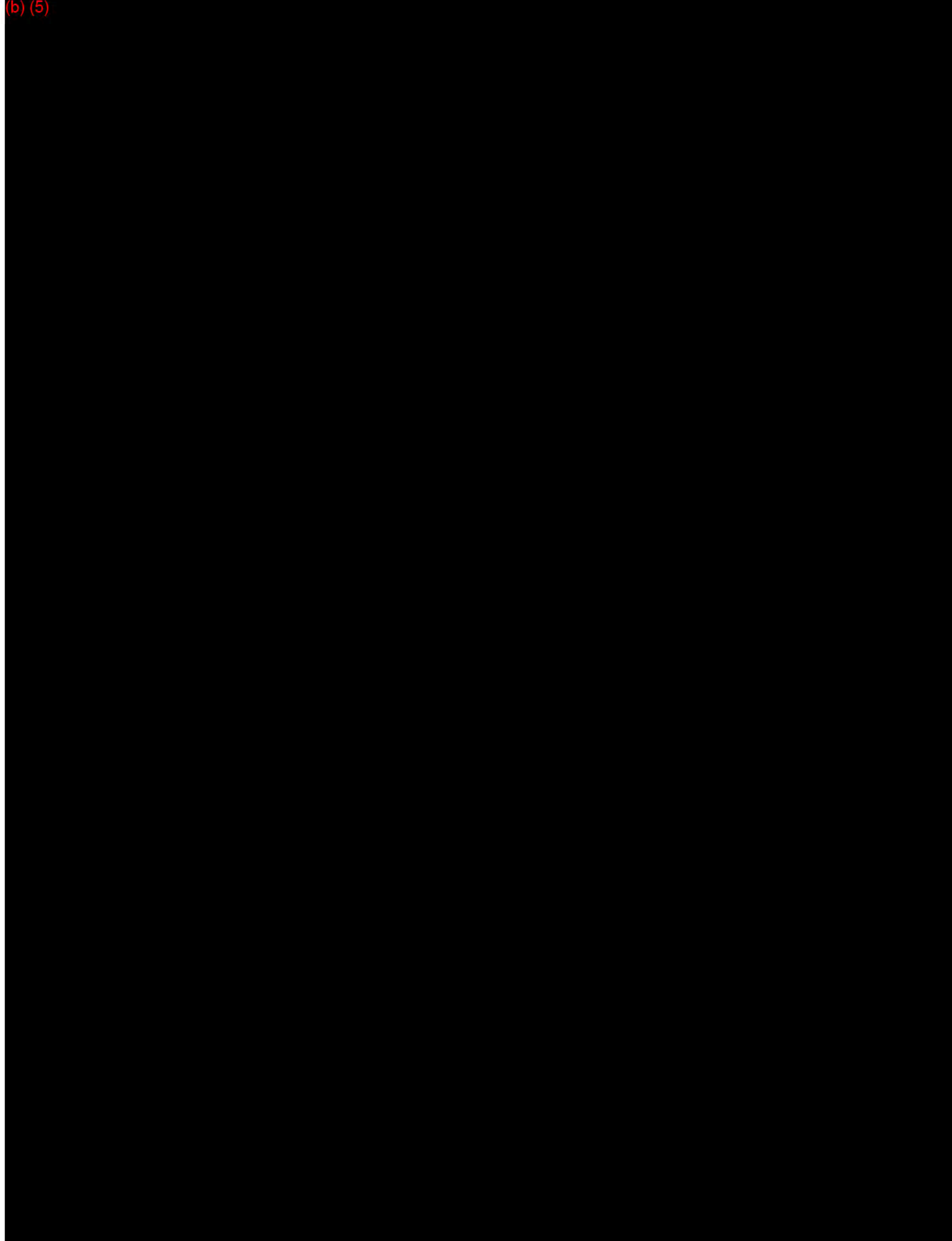


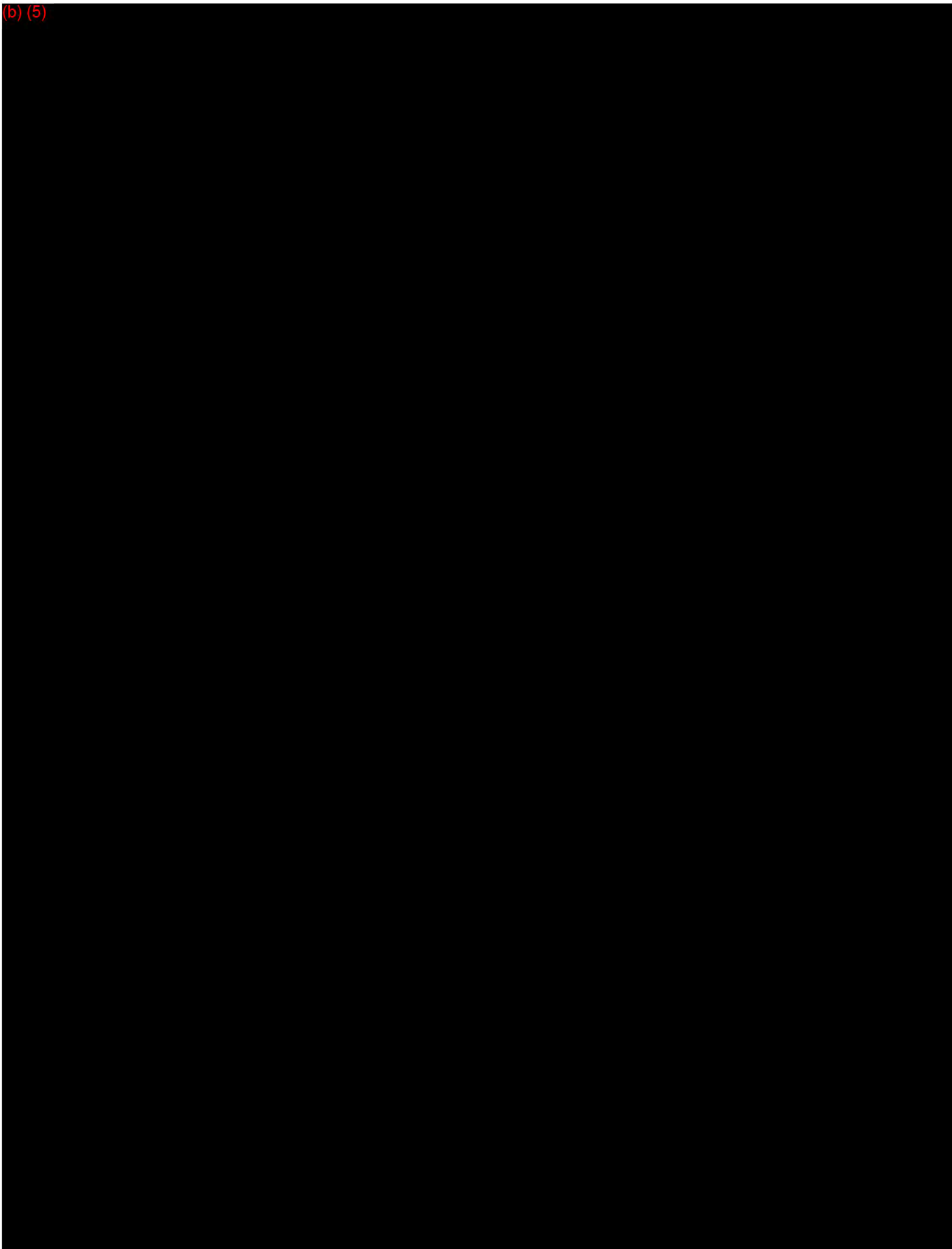


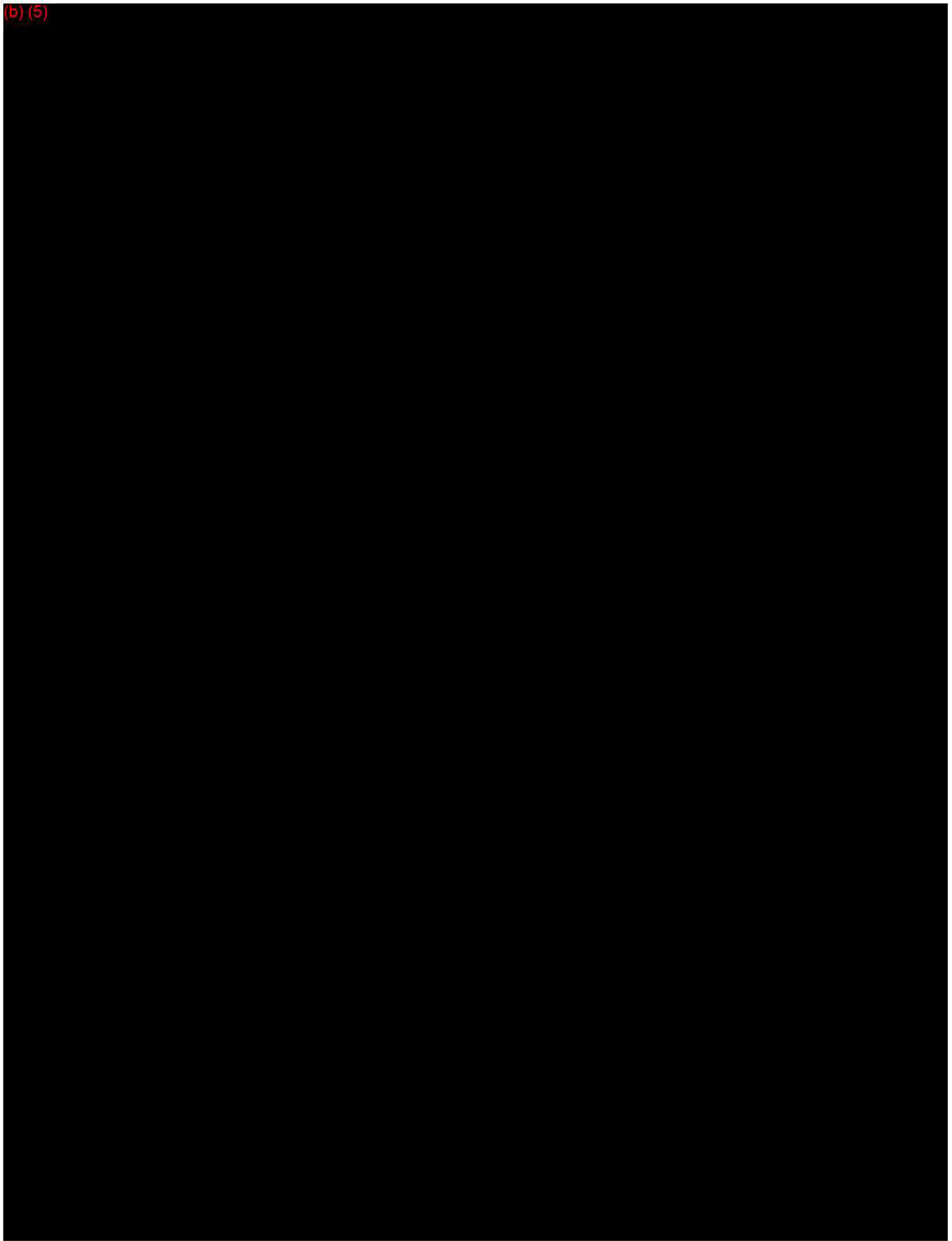


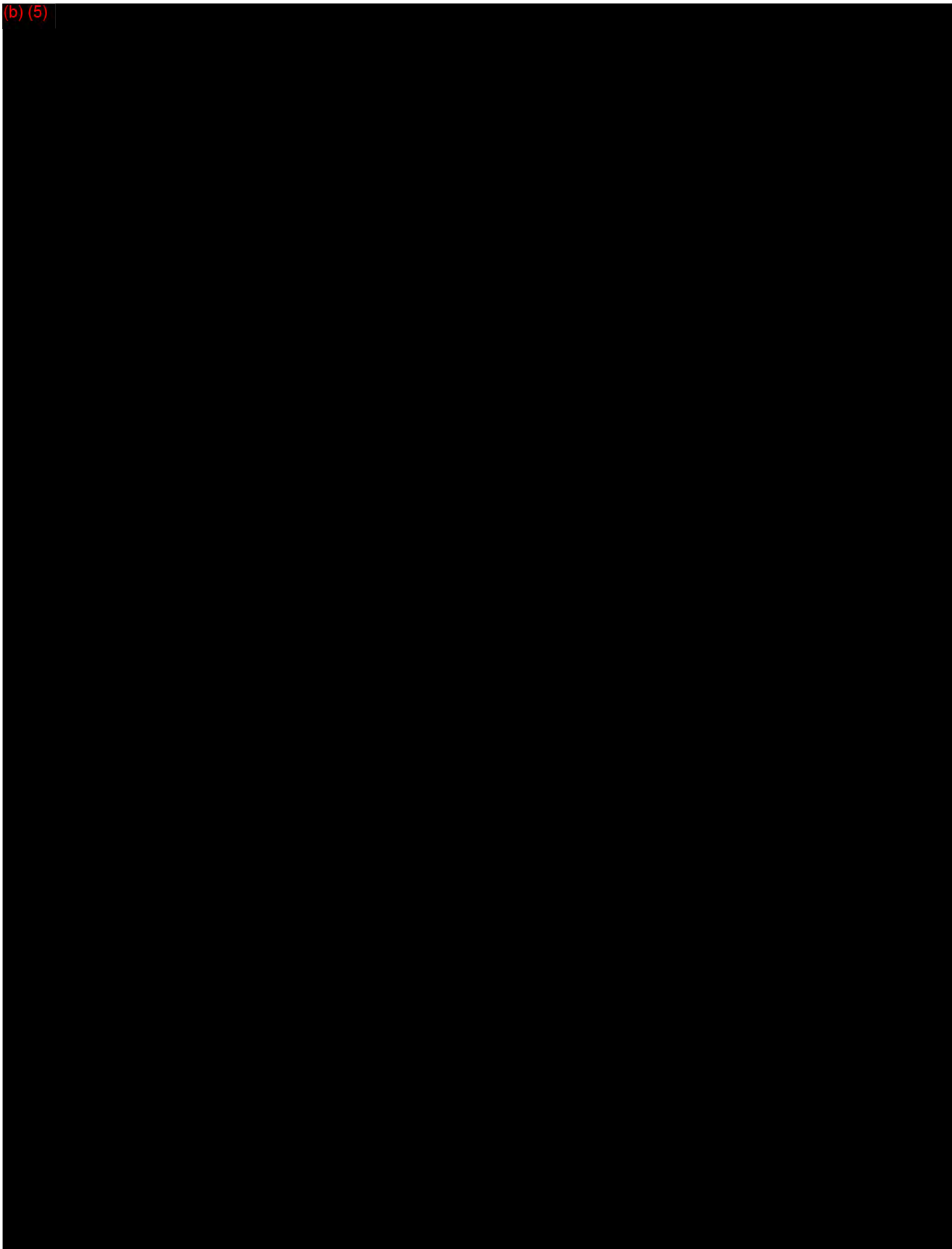


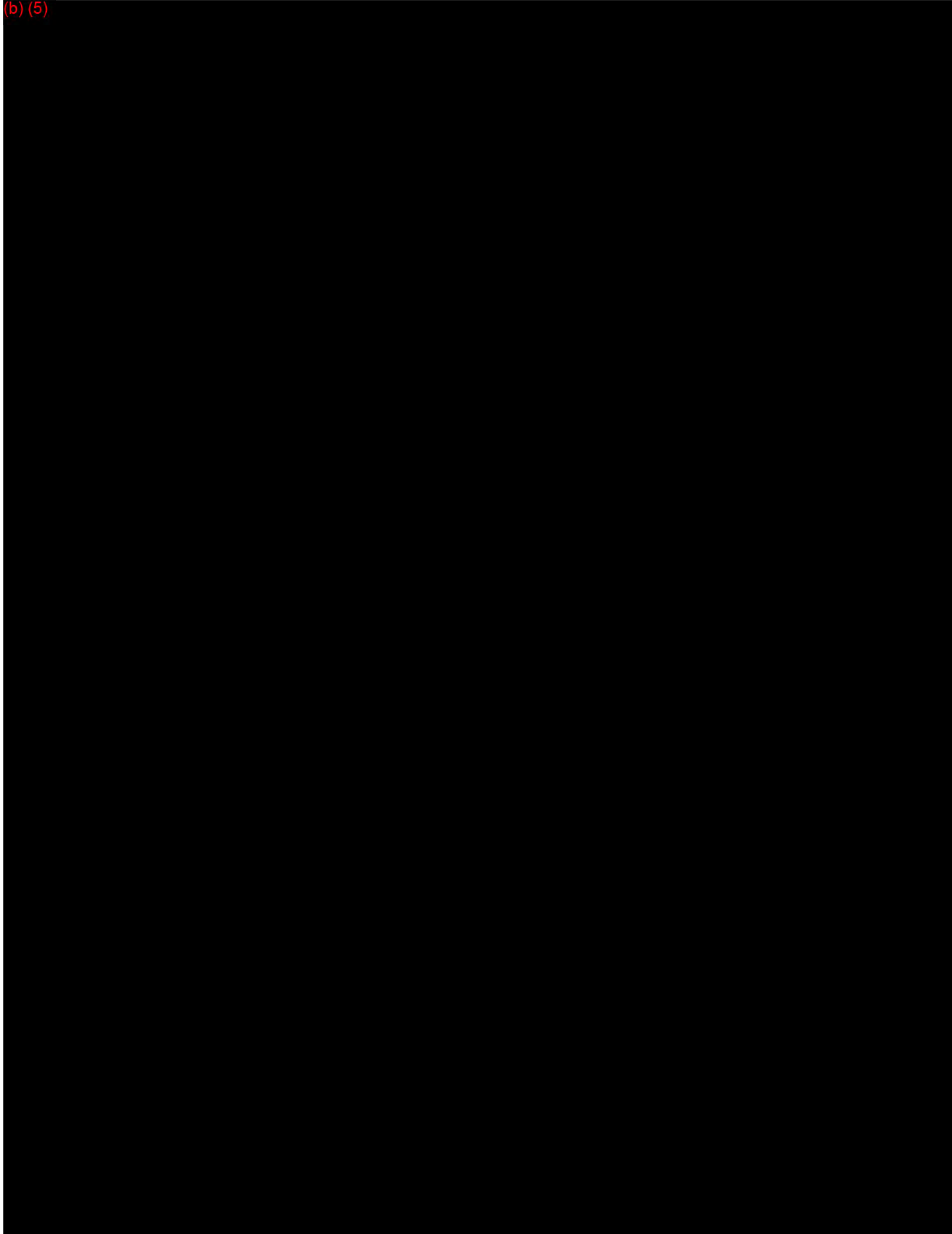




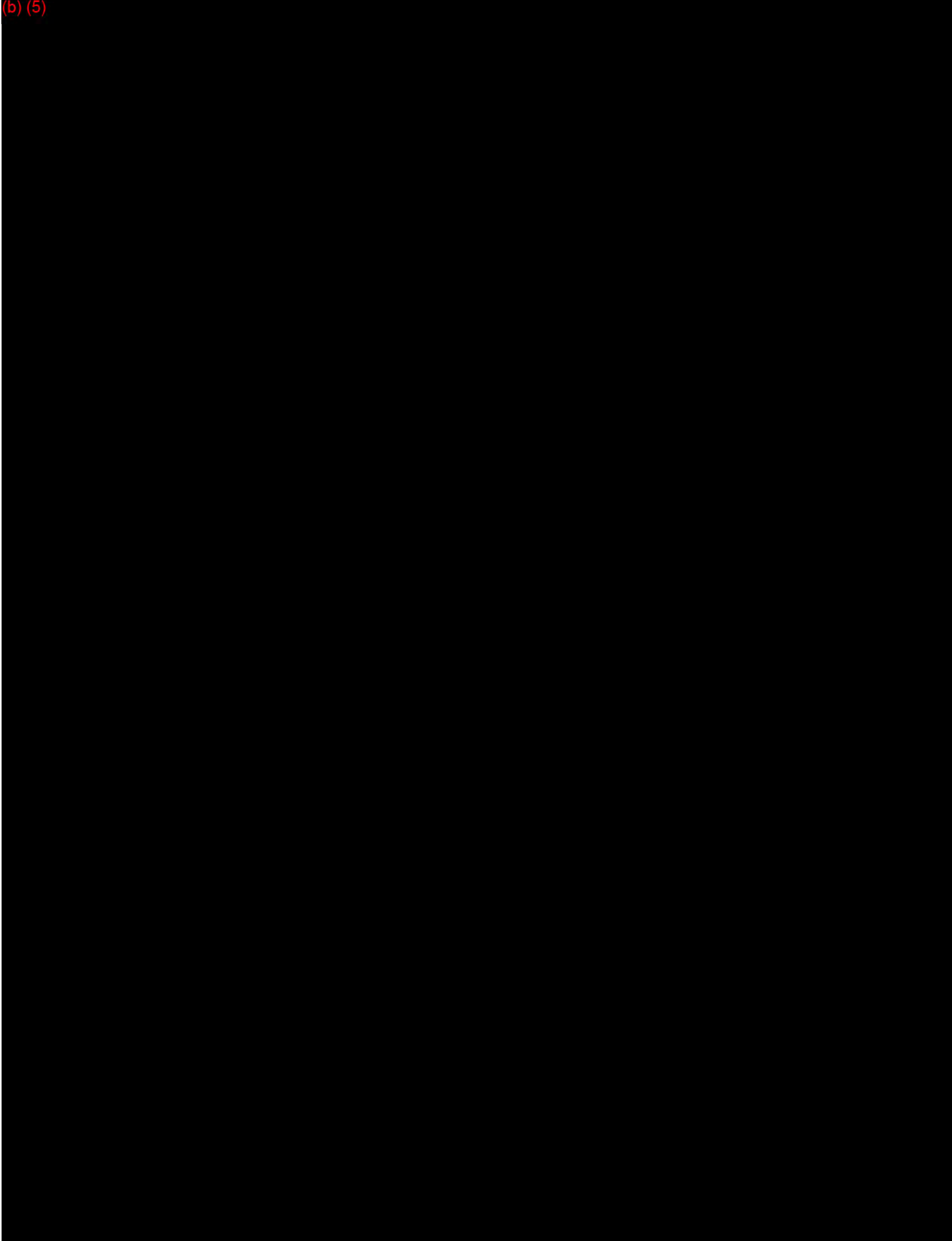


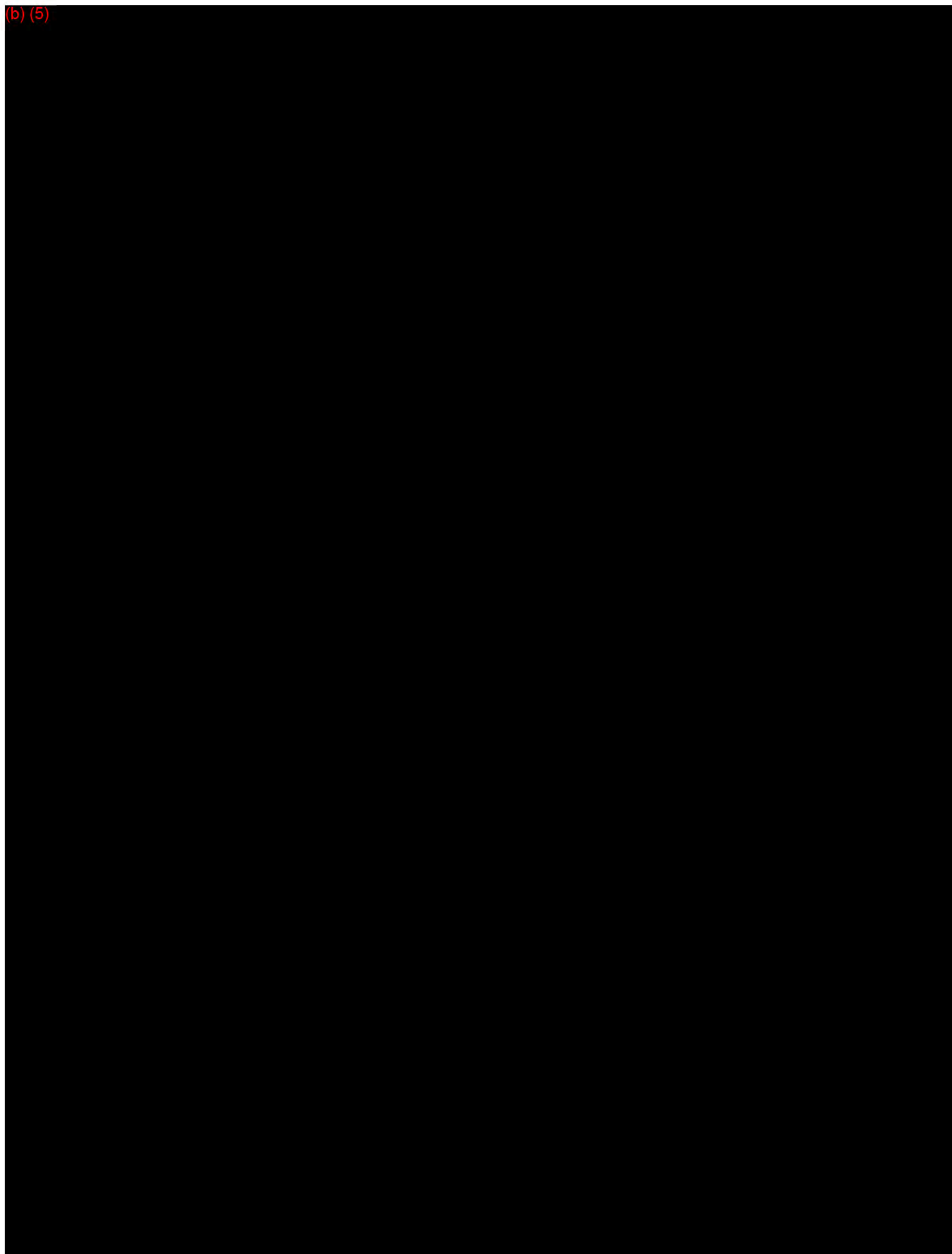


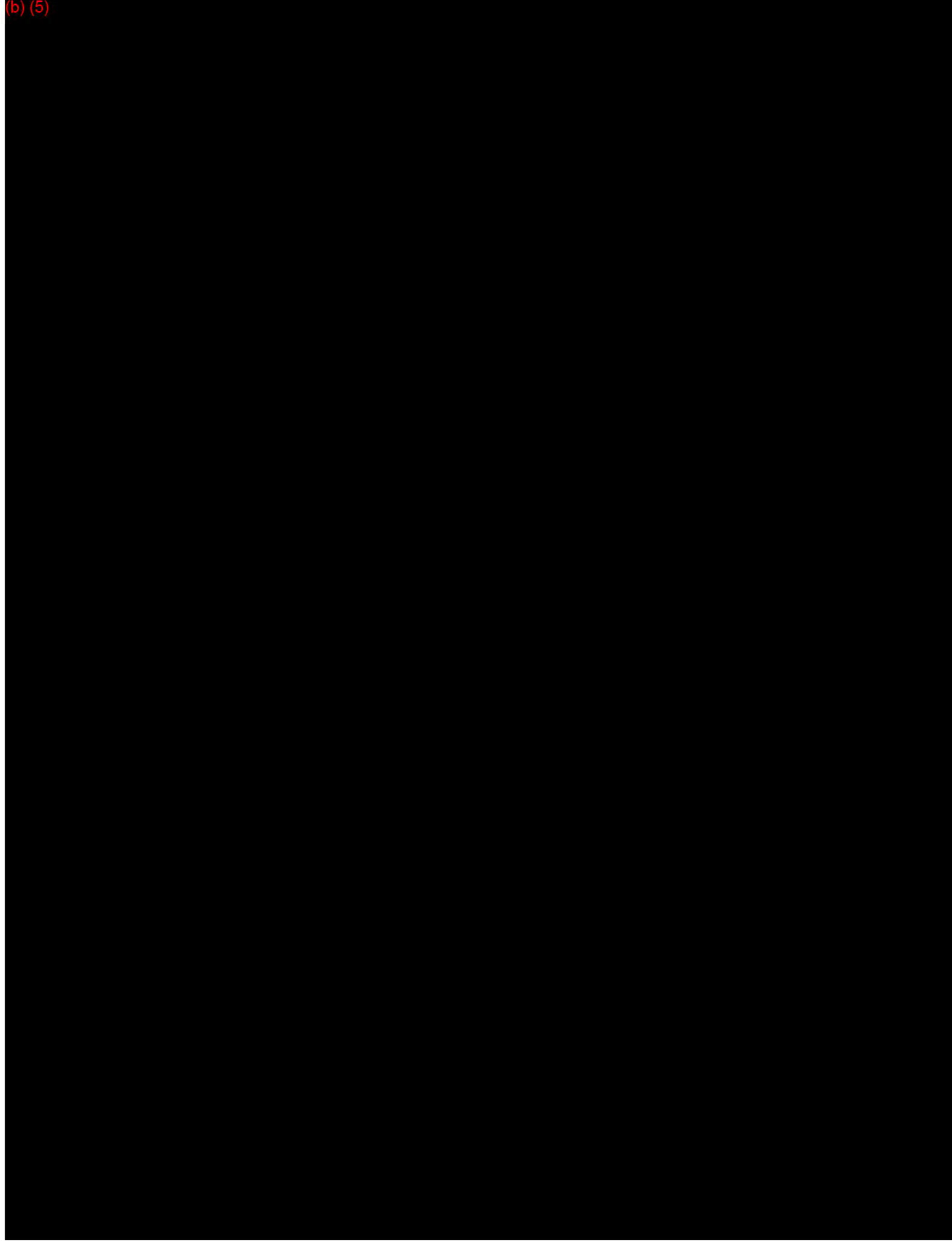


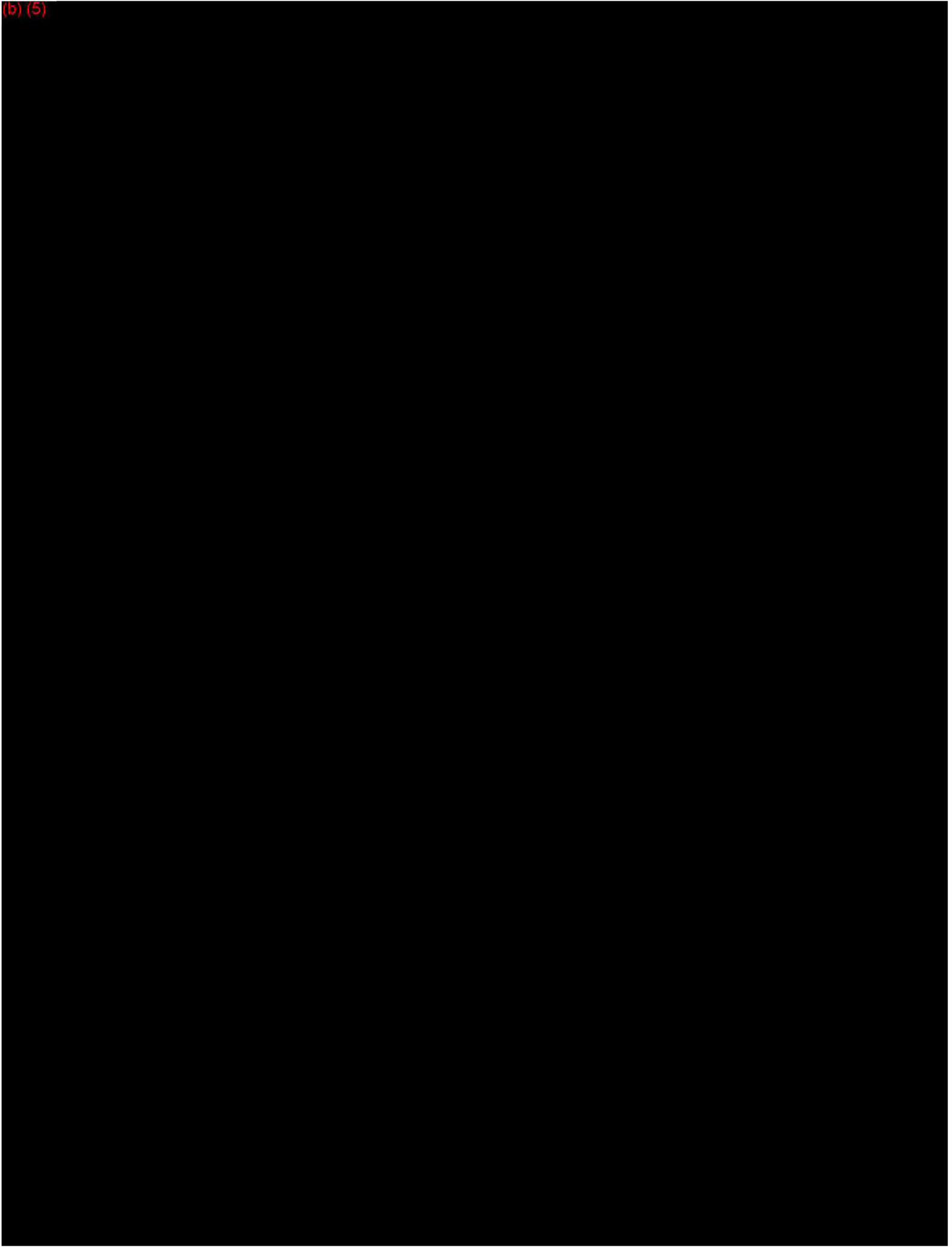


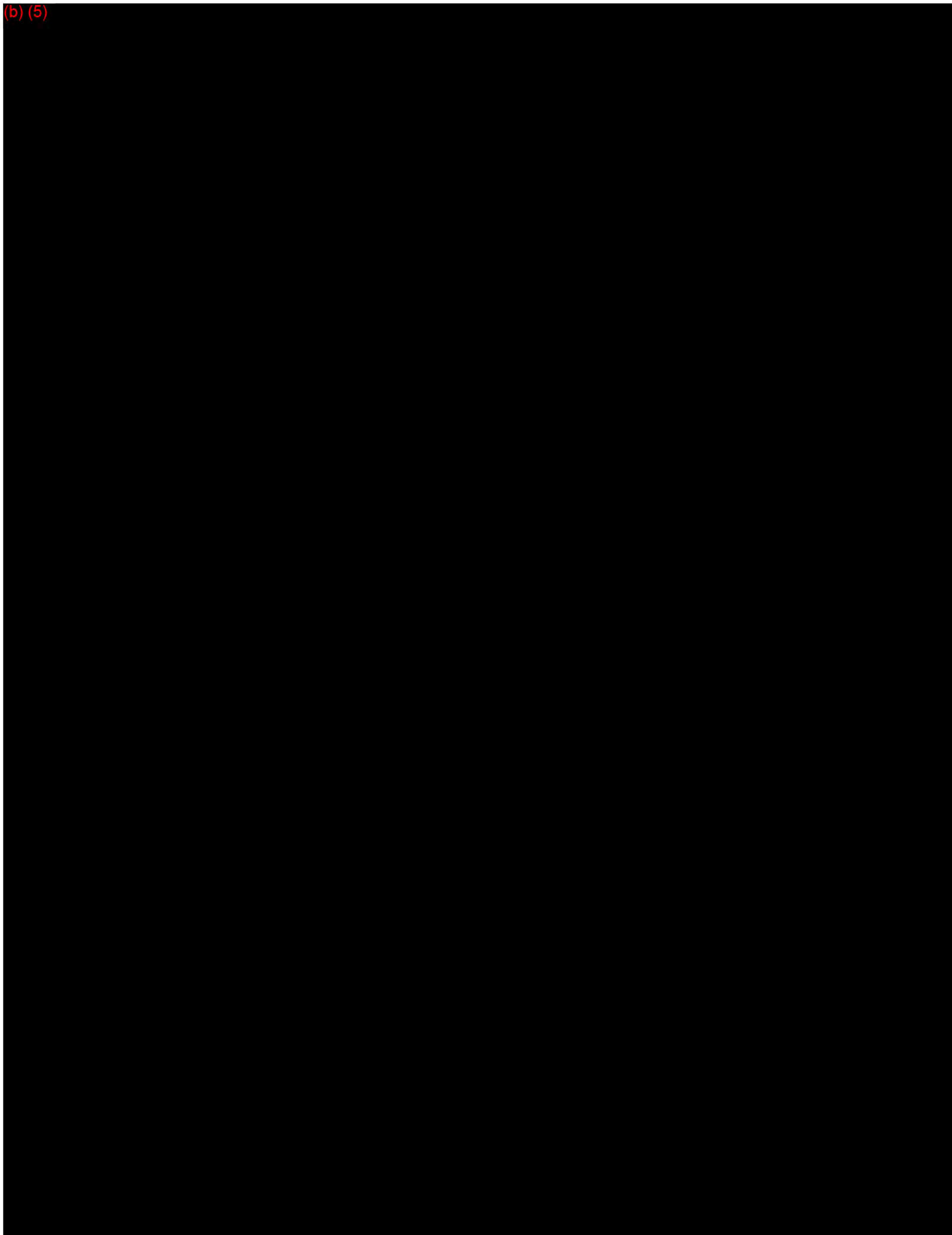


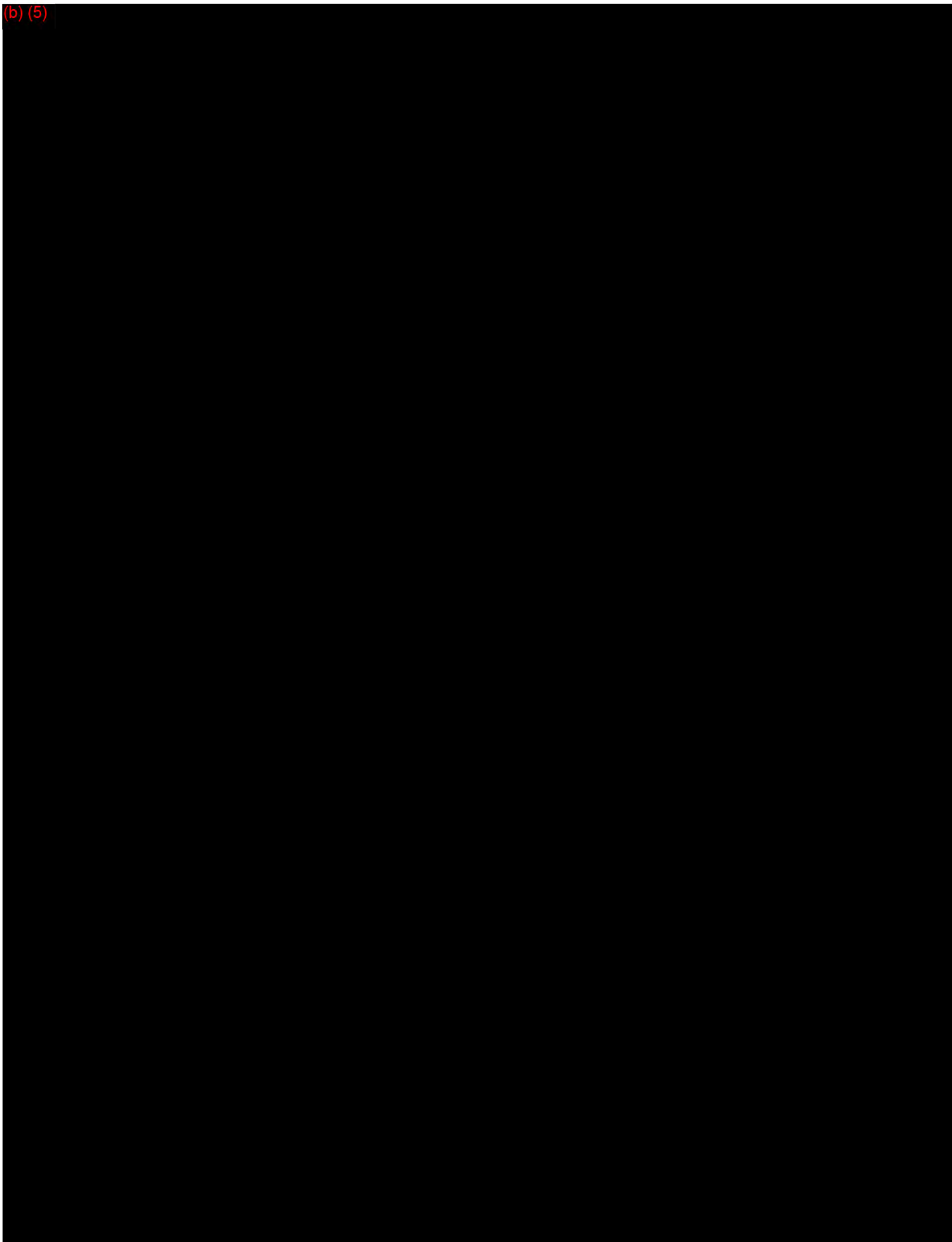


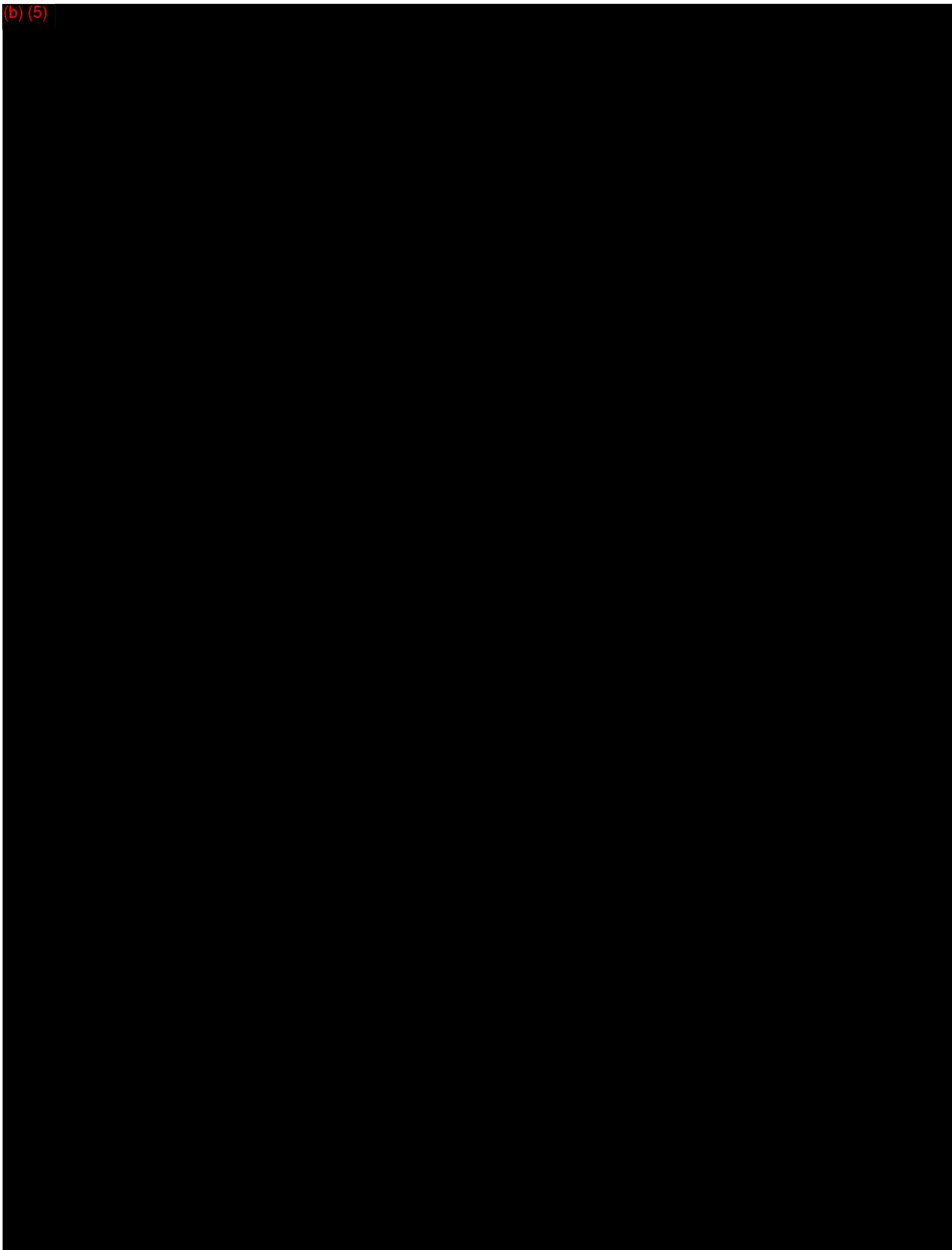


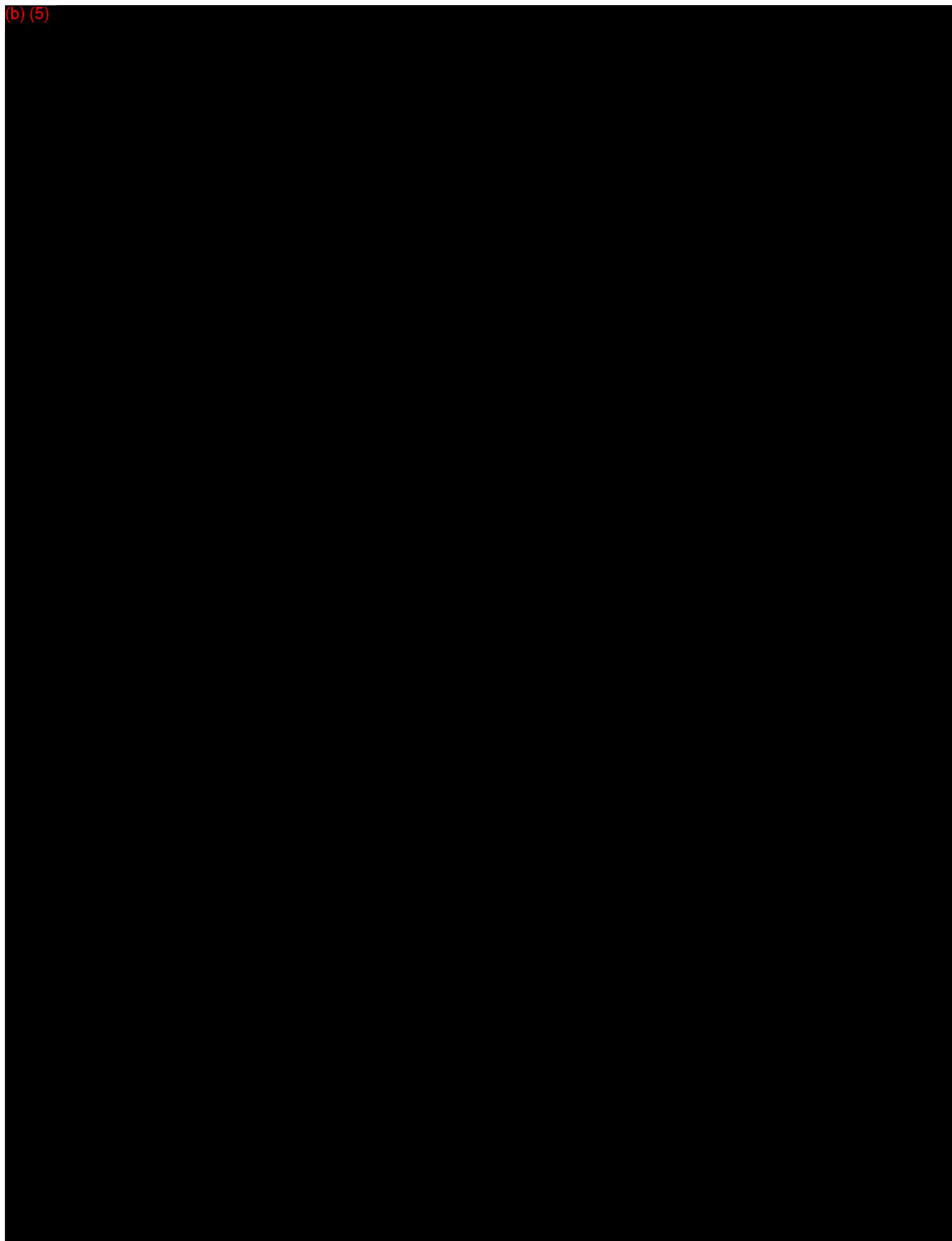




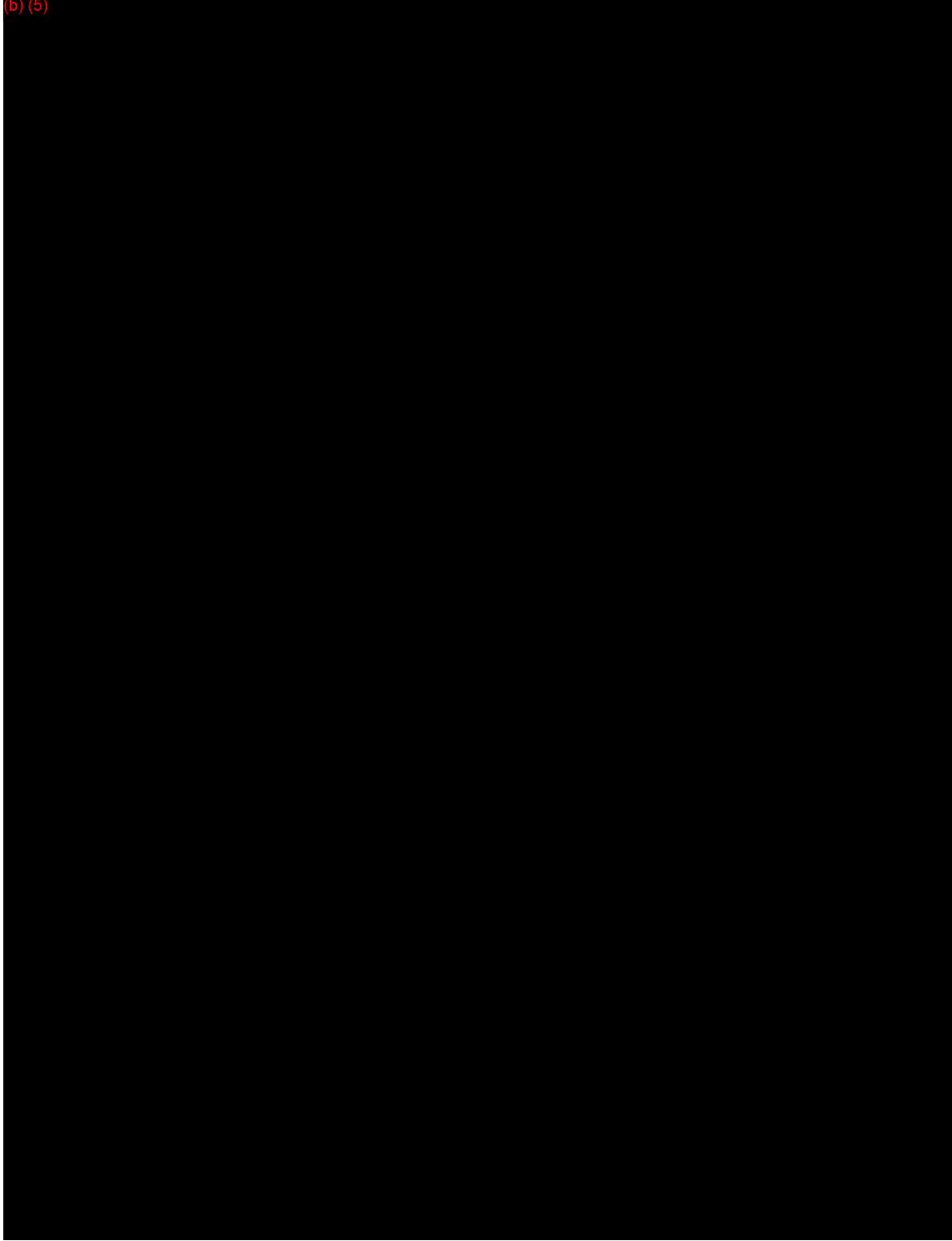


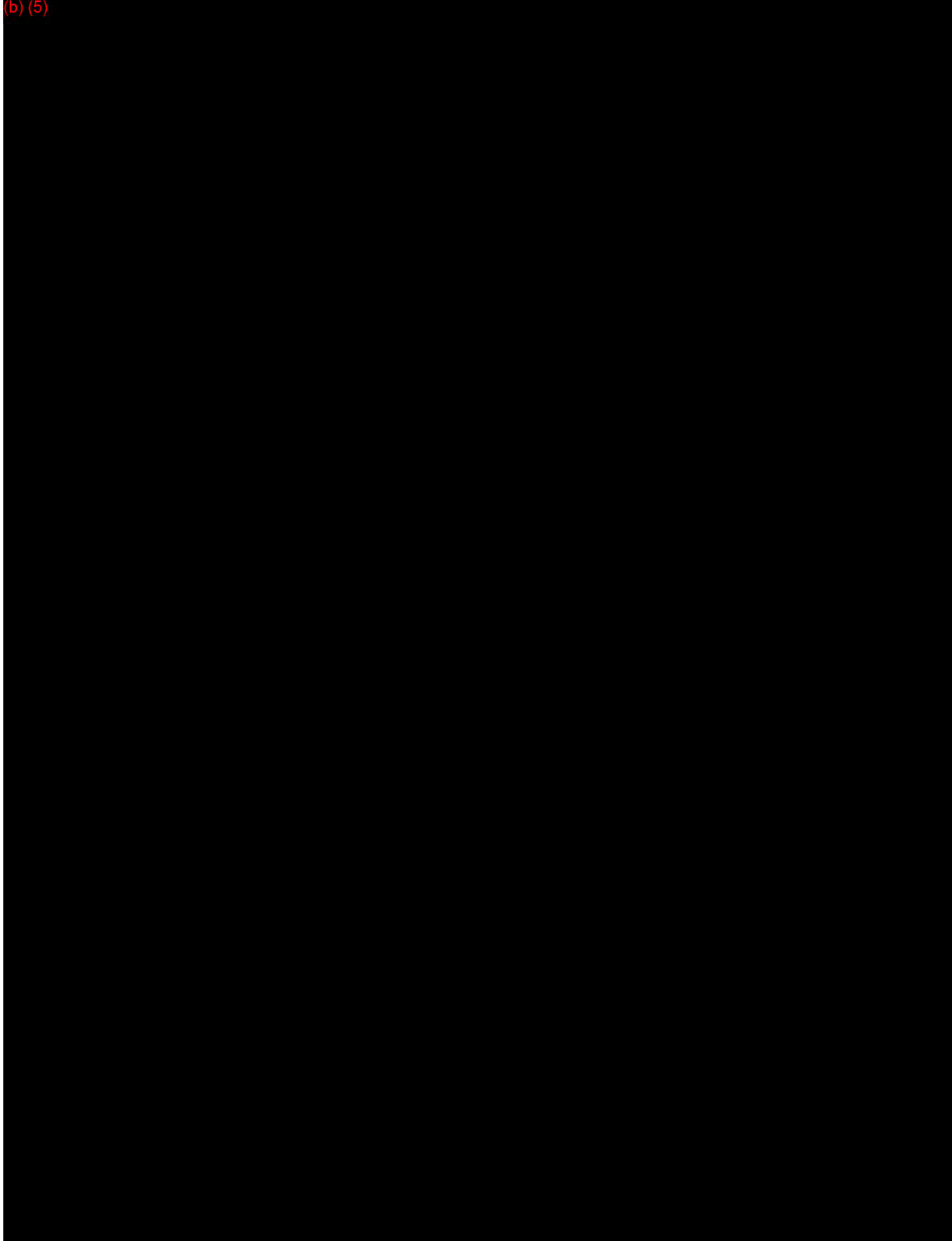


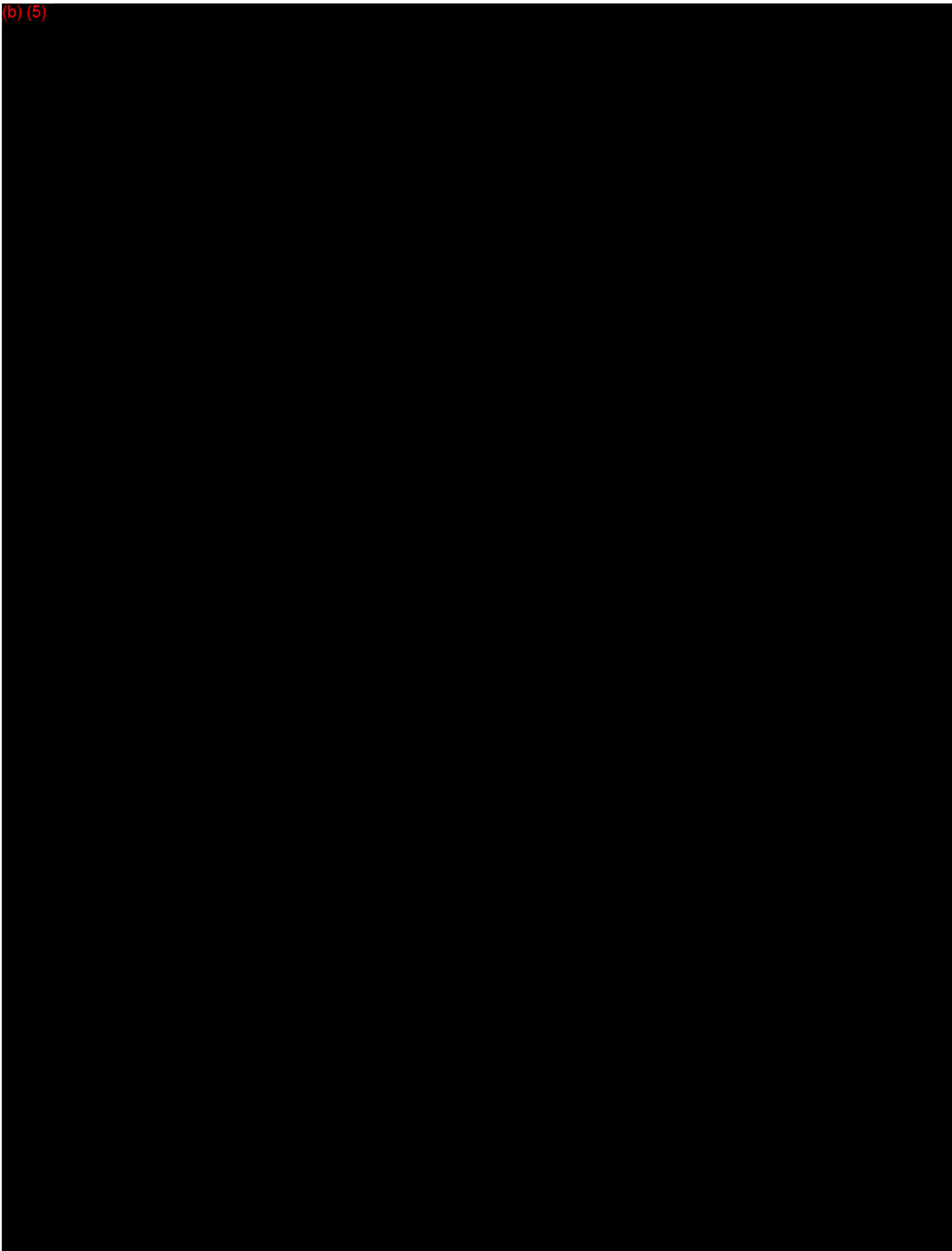


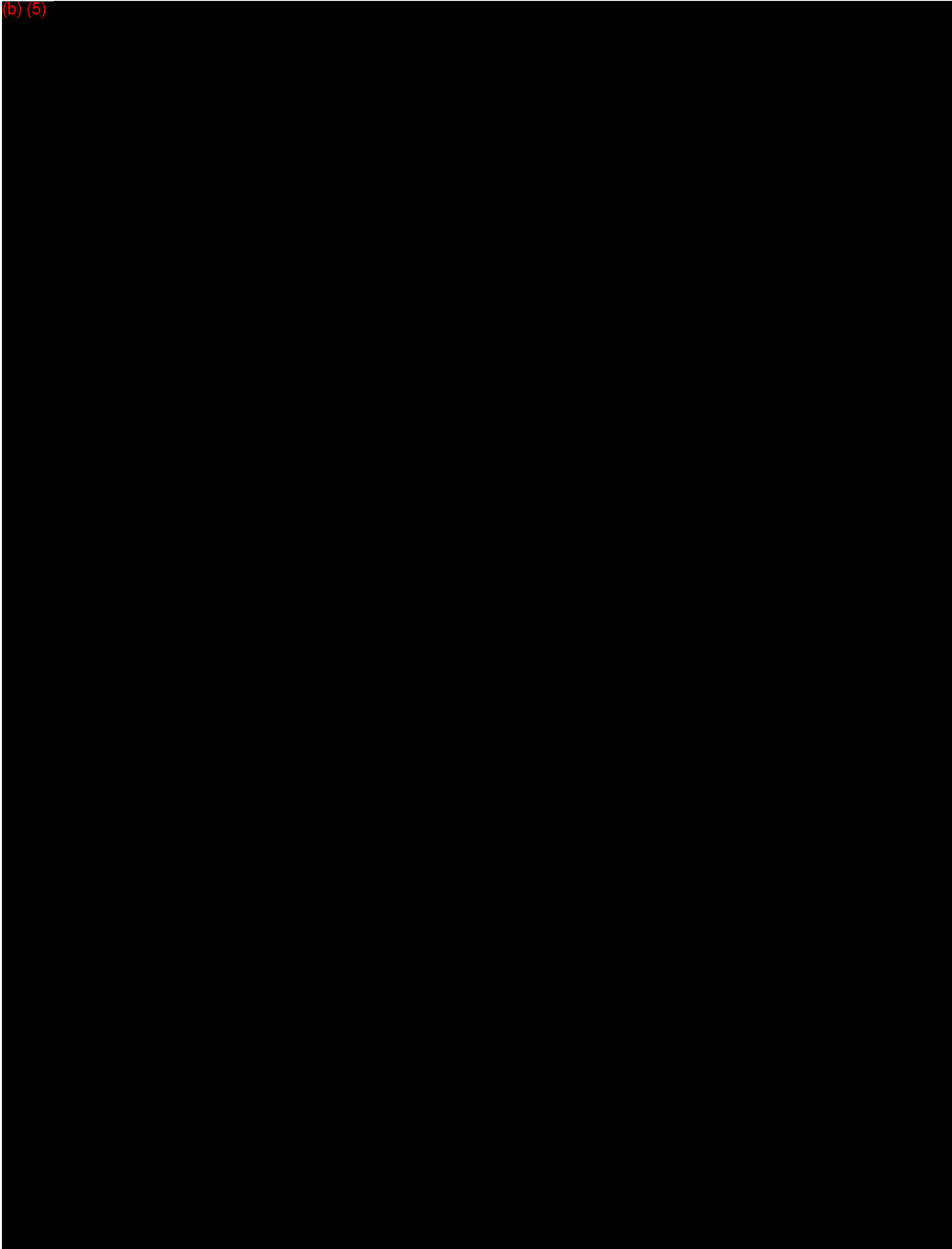


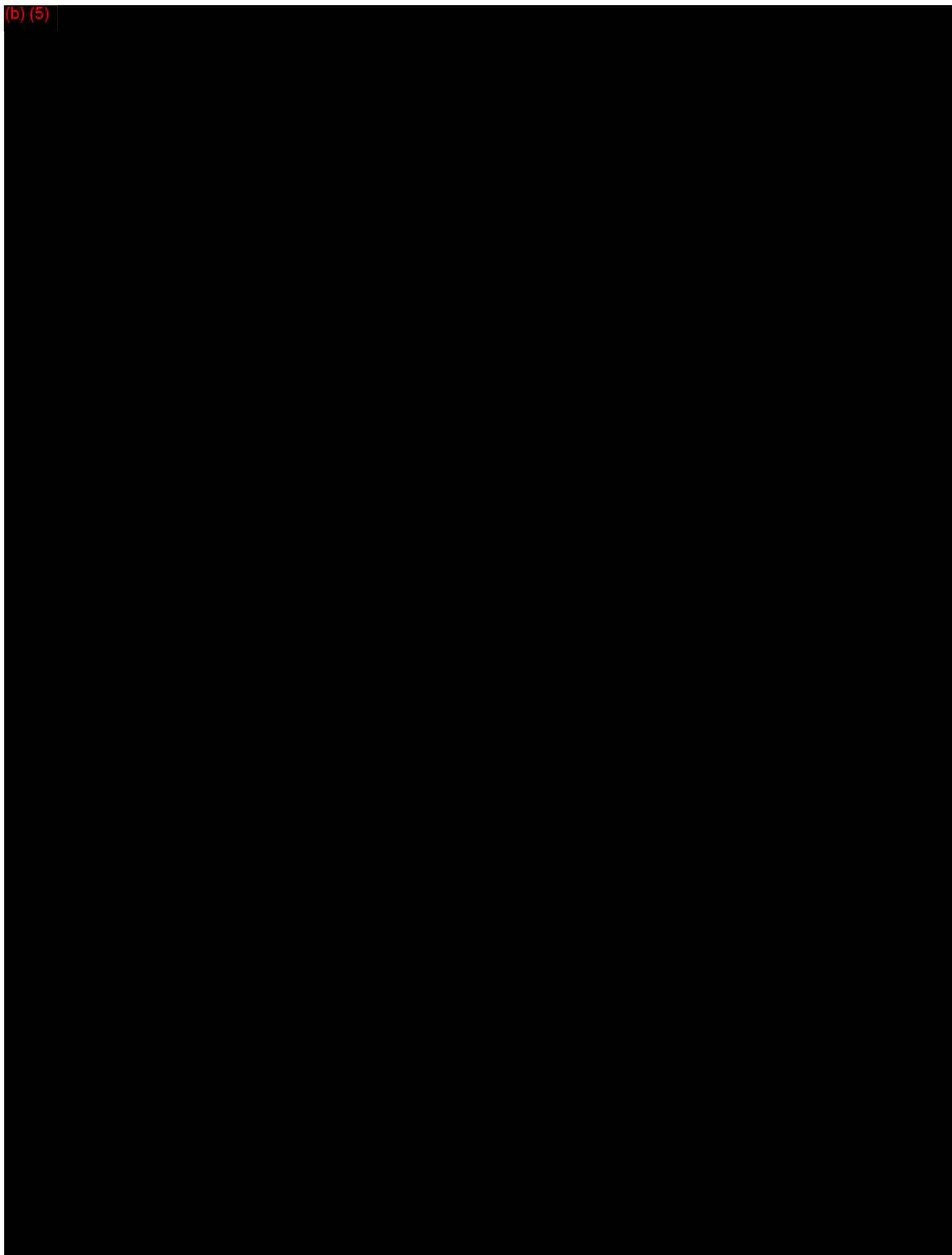


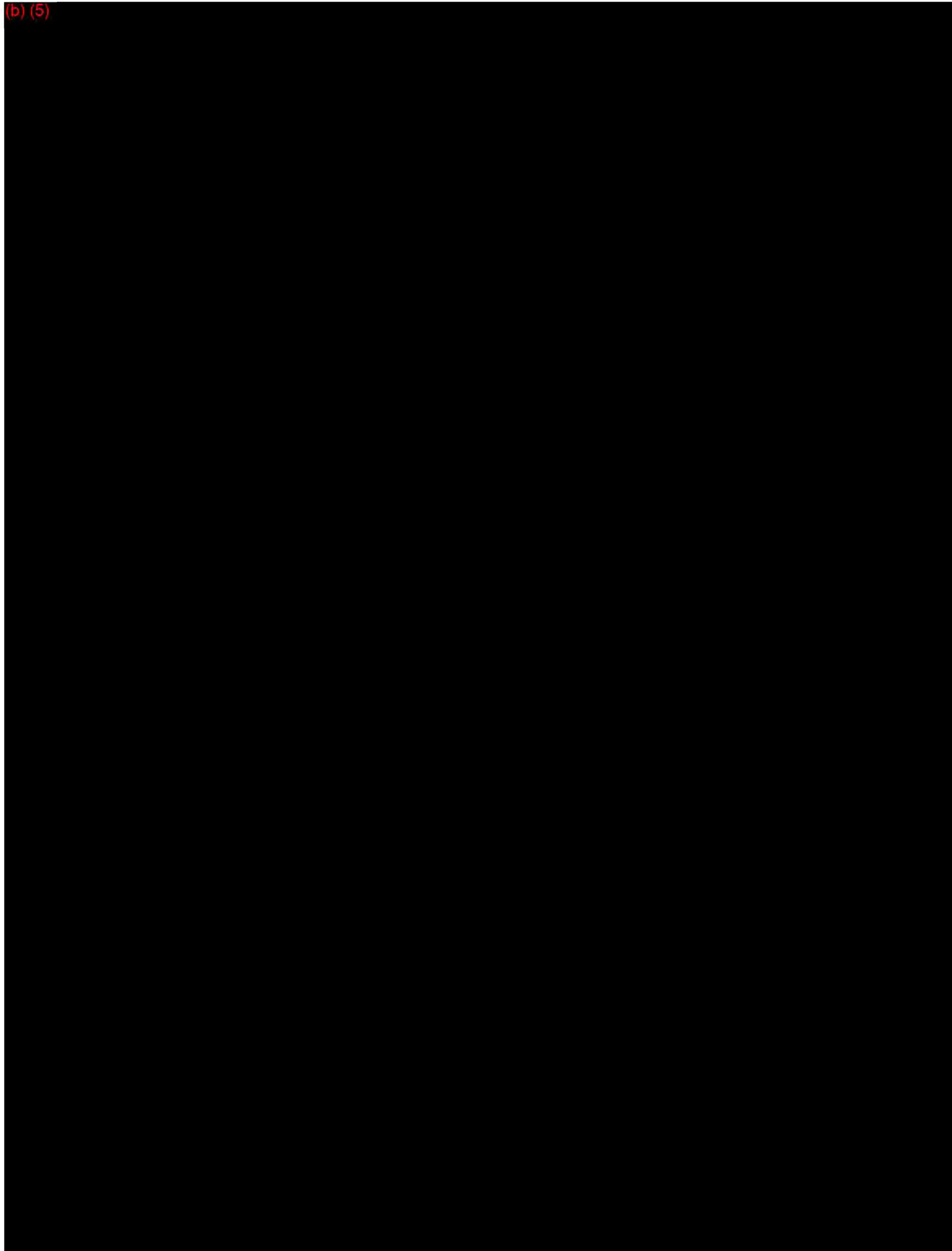


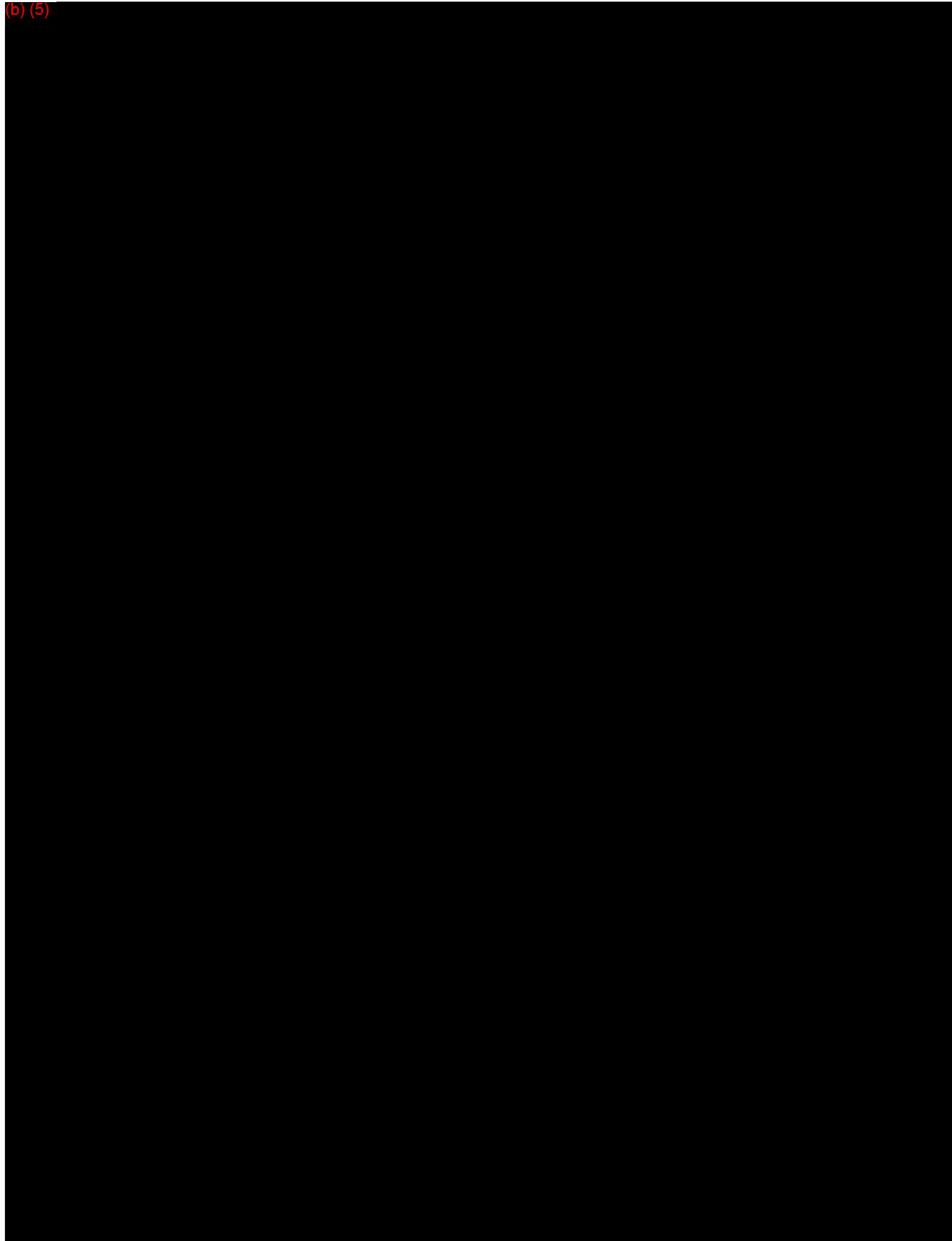












**RE: EO 12866 Review of CEQ NEPA Procedural Provisions  
Prerule - CEQ passback attached - comments due noon 6/6**

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

"Wold, Theo J. EOP/WHO" <(b) (6)> "Jain, Varun M. EOP/OMB" <(b) (6)>, "Upadhyaya, Shraddha A. EOP/OMB" <(b) (6)> "Thomas, Amanda L. EOP/OMB" <(b) (6)> "Wackler, Ted M. EOP/OSTP" <(b) (6)> "Salvi, Mary E. EOP/WHO" <(b) (6)> "White, Peter J. EOP/WHO" <(b) (6)> "Smith, Ja'Ron K. EOP/WHO" <(b) (6)> "Starling, Ray A. EOP/WHO" <(b) (6)> "Brooke, Francis J. EOP/WHO" <(b) (6)> "Fitzgerald, Timothy W. EOP/CEA" <(b) (6)> "Abajian, Xander C. EOP/CEA" <(b) (6)> "Pinkos, Stephen M. EOP/OVP" <(b) (6)> "Hickey, Mike J. EOP/OMB" <(b) (6)> "Burgess, Scott H. EOP/OMB" <(b) (6)> "Winters, Paul A. EOP/OMB" <(b) (6)>

**To:** <(b) (6)> "Derentz, Landon R. EOP/NSC" <(b) (6)> "Abbey, Tristan C. EOP/NSC" <(b) (6)> "Laing, Sally S. EOP/USTR" <sally\_s\_laing@ustr.eop.gov>, "Patel, Mayur R. EOP/USTR" <mayur\_r\_patel@ustr.eop.gov>, "Stradtman, Jennifer A. EOP/USTR" <jennifer\_a\_stradtman@ustr.eop.gov>, "Miller, Ashley A. EOP/USTR" <ashley\_a\_miller@ustr.eop.gov>, "Dougherty, Emily I. EOP/USTR" <emily\_i\_dougherty@ustr.eop.gov>, "Moran, John S. EOP/WHO" <(b) (6)> "Palmieri, Rosario A. EOP/OMB" <(b) (6)> "Laity, Jim A. EOP/OMB" <(b) (6)> "Prandoni, Christopher D. EOP/CEQ" <(b) (6)> "Trick, Bryant P. EOP/USTR" <bryant\_trick@ustr.eop.gov>, "Abrams, Andrew D. EOP/OMB" <(b) (6)> "Crutchfield, Craig C. EOP/OMB" <(b) (6)> "McDonald, Christine A. EOP/OMB" <(b) (6)> "Roach, Emma K. EOP/OMB" <(b) (6)>



<(b) (6)> "Burnett, Ben D. EOP/OMB"  
<(b) (6)> "Vallina, Cyndi A. EOP/OMB"  
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<(b) (6)> "Lucas, Adrienne E. EOP/OMB"  
<(b) (6)> "Fischietto, Mary S. EOP/OMB"  
<(b) (6)>

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

**Date:** Fri, 01 Jun 2018 11:18:20 -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)

All, Attached is CEQs passback to interagency comments on the NEPA ANPRM. Please let me know if you have any follow-up comments by noon on Wednesday, June 6<sup>th</sup>. Thanks, Chad

**From:** Whiteman, Chad S. EOP/OMB

**Sent:** Monday, May 7, 2018 9:38 AM

**To:** Wold, Theo J. EOP/WHO <(b) (6)> Jain, Varun M. EOP/OMB  
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Abbey, Tristan C. EOP/NSC <(b) (6)> Laing, Sally S. EOP/USTR  
<Sally\_S\_Laing@ustr.eop.gov>; Patel, Mayur R. EOP/USTR <Mayur\_R\_Patel@ustr.eop.gov>; Stradtman,  
Jennifer A. EOP/USTR <Jennifer\_A\_Stradtman@ustr.eop.gov>; Miller, Ashley A. EOP/USTR  
<Ashley\_A\_Miller@ustr.eop.gov>; Dougherty, Emily I. EOP/USTR <Emily\_I\_Dougherty@ustr.eop.gov>;  
'John S. EOP/WHO Moran <(b) (6)> <(b) (6)> Rosario A.  
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EOP/USTR <Bryant\_Trick@ustr.eop.gov>; Abrams, Andrew D. EOP/OMB  
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<(b) (6)>  
Cc: Szabo, Aaron L. EOP/CEQ <(b) (6)> Seale, Viktoria Z. EOP/CEQ  
<(b) (6)> Mary B. EOP/CEQ Neumayr <(b) (6)>  
<(b) (6)>  
**Subject:** EO 12866 Review of CEQ NEPA Procedural Provisions Prerule - comments due COB on 5/14

All,  
Please review and send to me any EO 12866 comments on the Council on Environmental Quality (CEQ) advanced notice of proposed rulemaking, "Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act," (RIN 0331-AA03) by **5pm on Monday, May 14th**.

As a reminder, the attached materials are deliberative and pre-decisional while under OMB review and may not be shared or discussed with anyone outside of the Executive Branch. If there are others within the EOP that you believe should review the rule, please let me know so that I can send the rule to them and add them to my distribution list so that they will receive future communications/versions of the rule. As a note, I have distributed the rule to agencies in a separate email. If you have contacts in the agencies that you believe should review, please let me know and I will forward to them.

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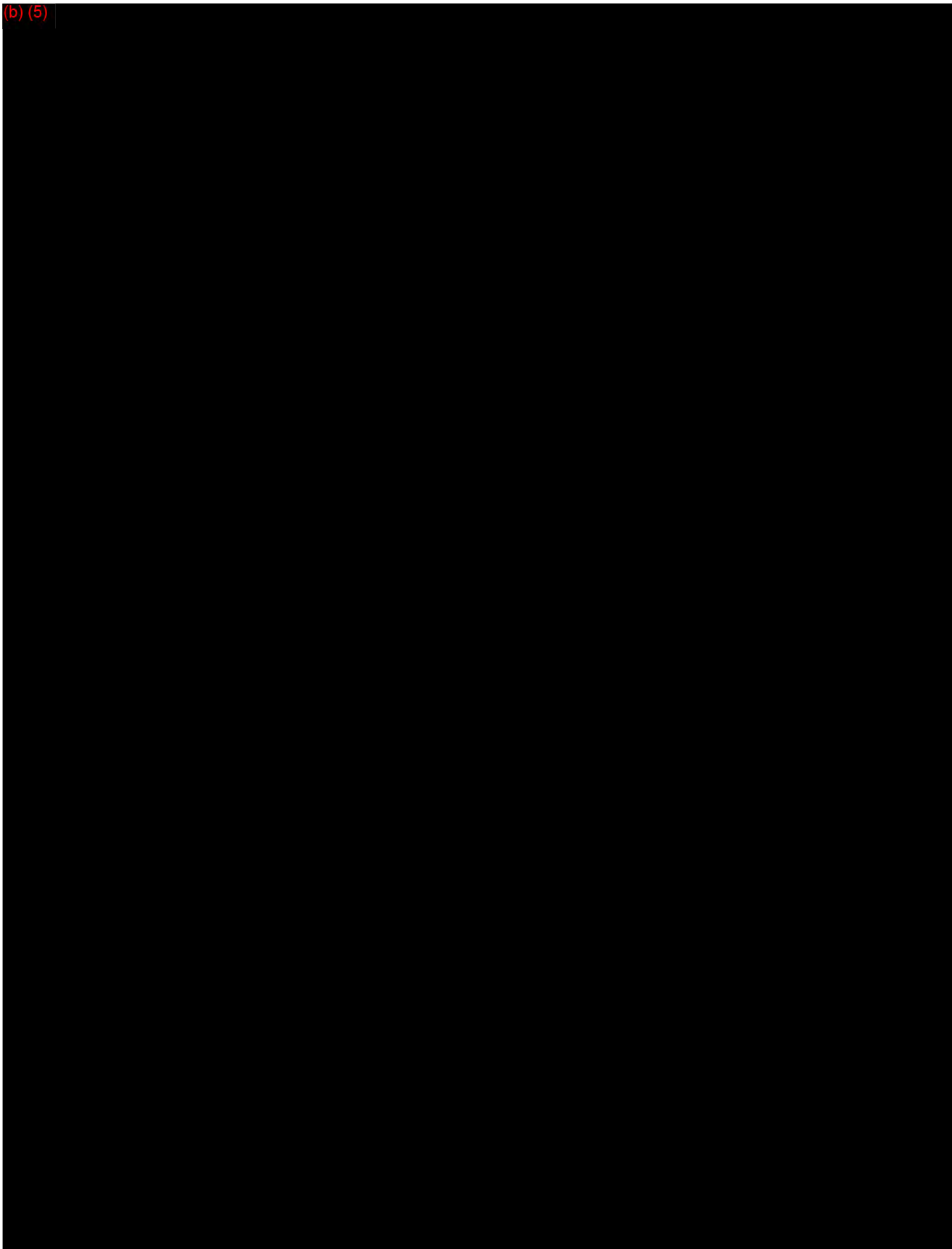
If you have questions or would like to discuss any aspect of the final rule, please feel free to contact me.

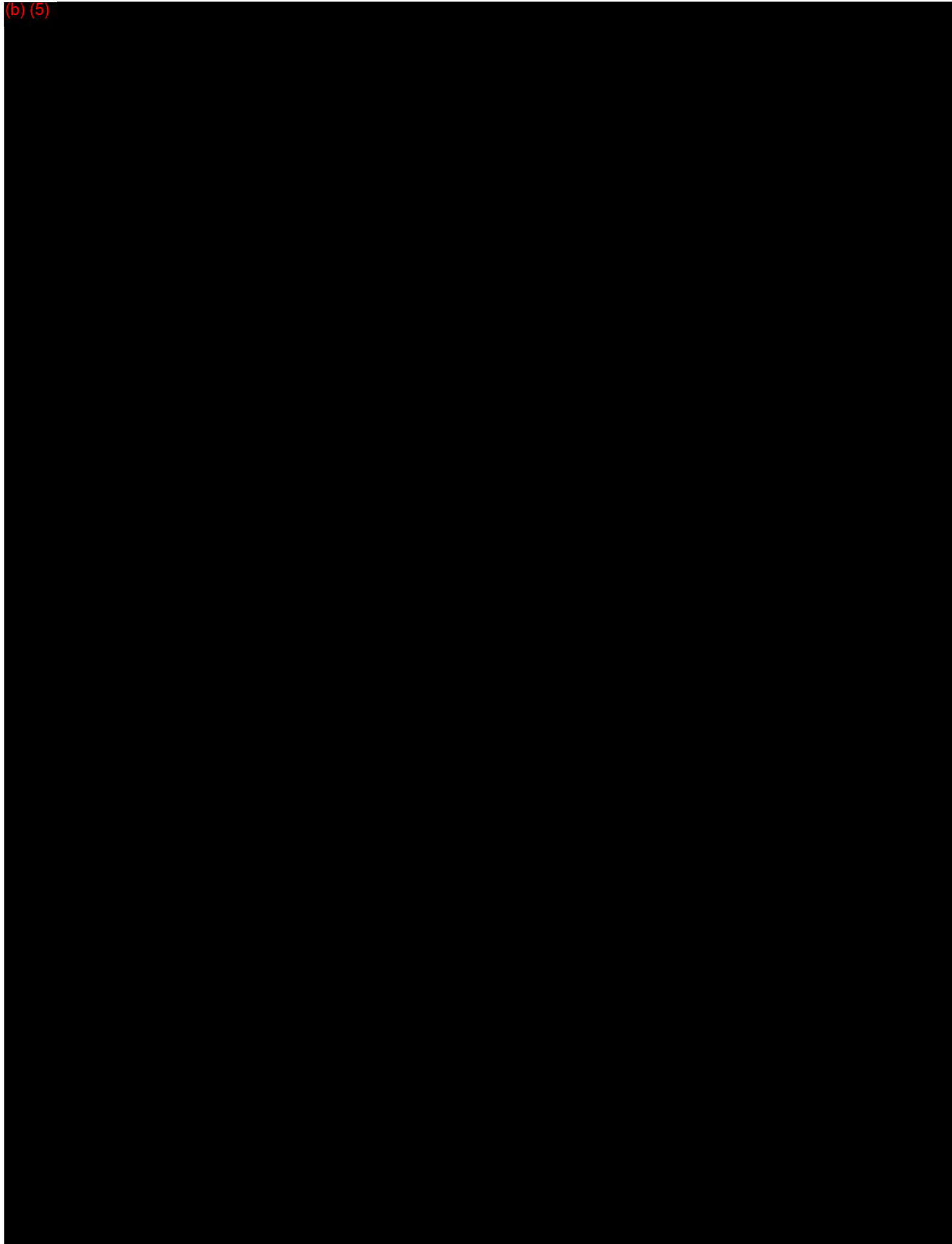
Thank you,  
Chad

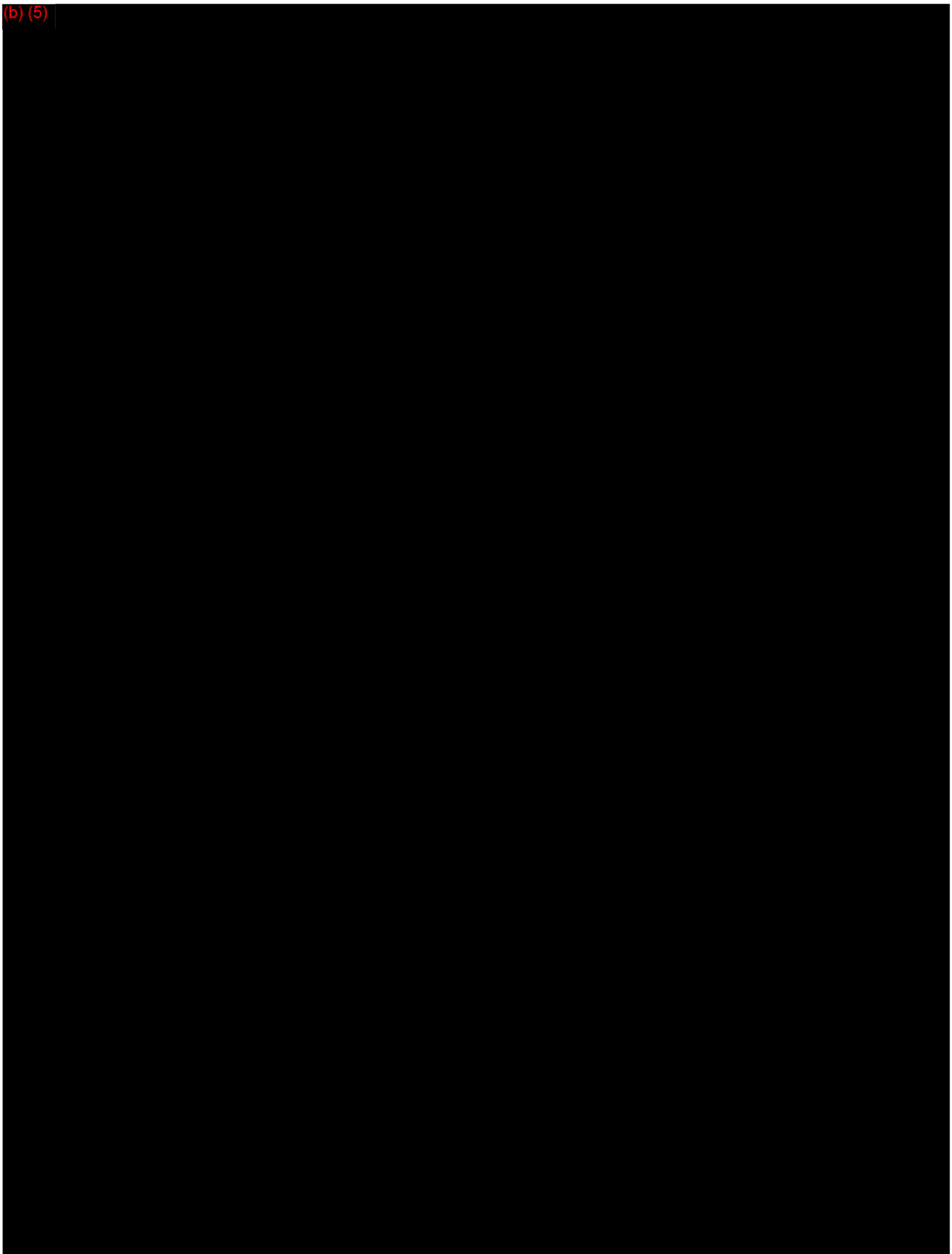
Chad Whiteman  
Natural Resources and Environment Branch | Office of Information and Regulatory Affairs  
Office of Management and Budget | Executive Office of the President  
202-395-4718

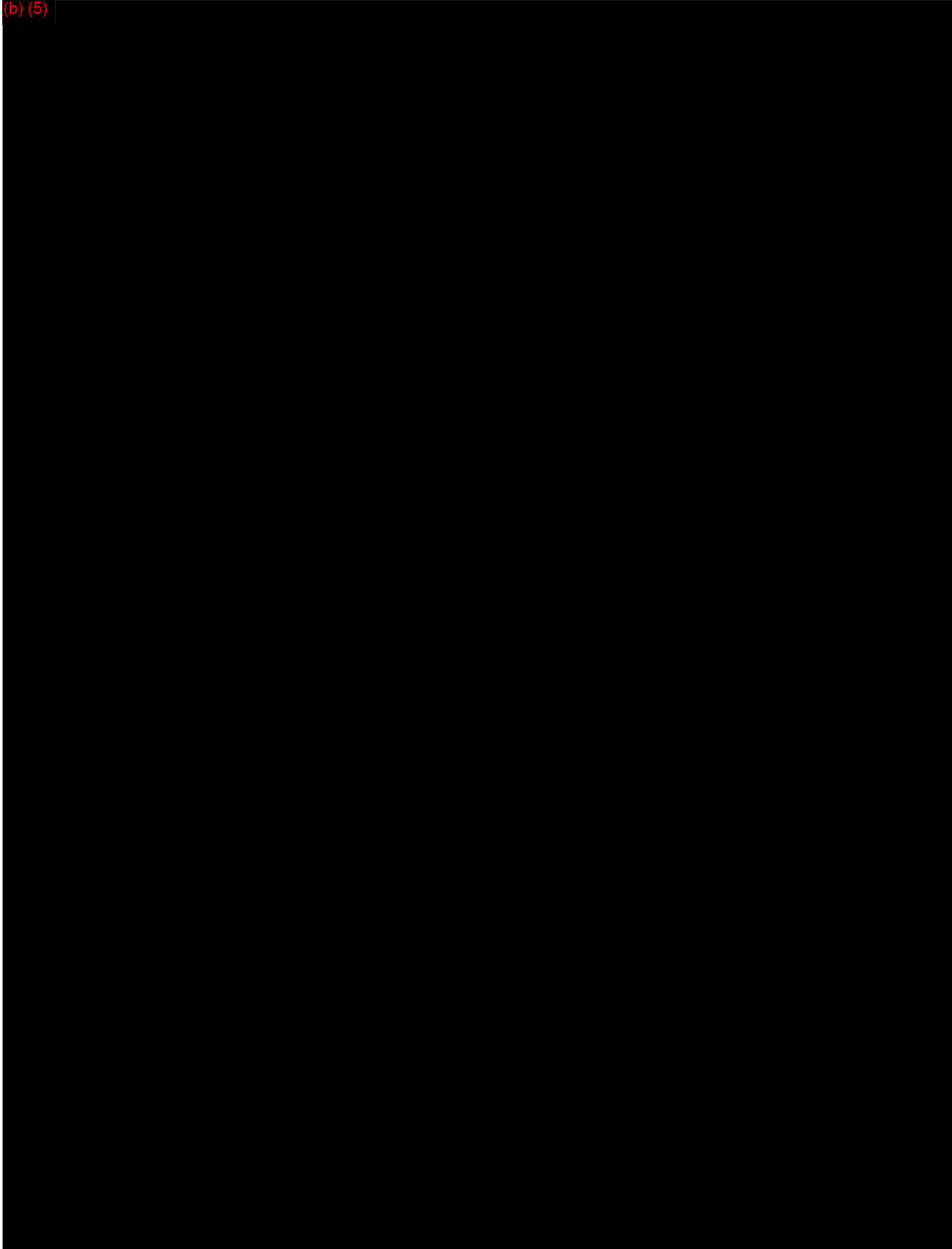
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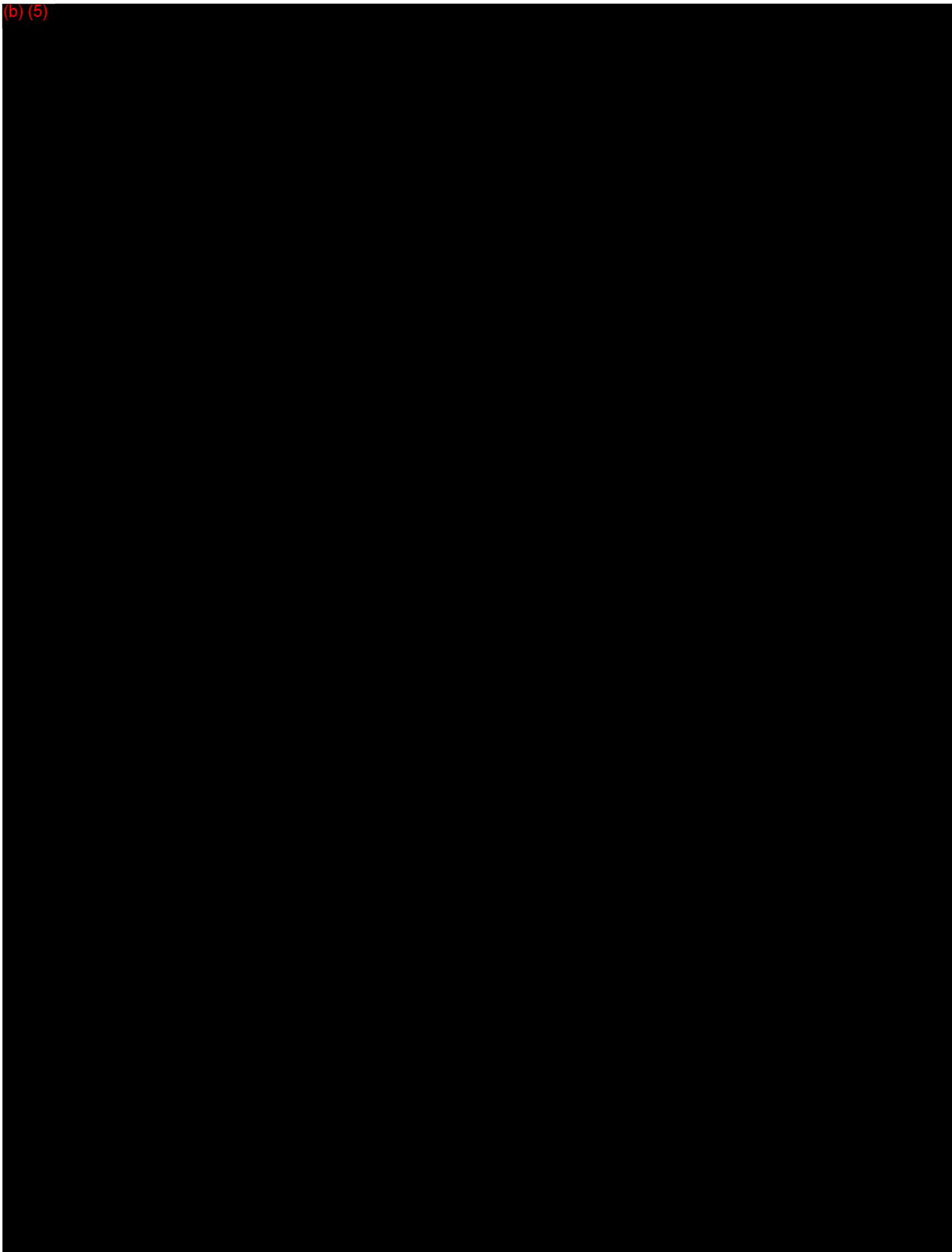




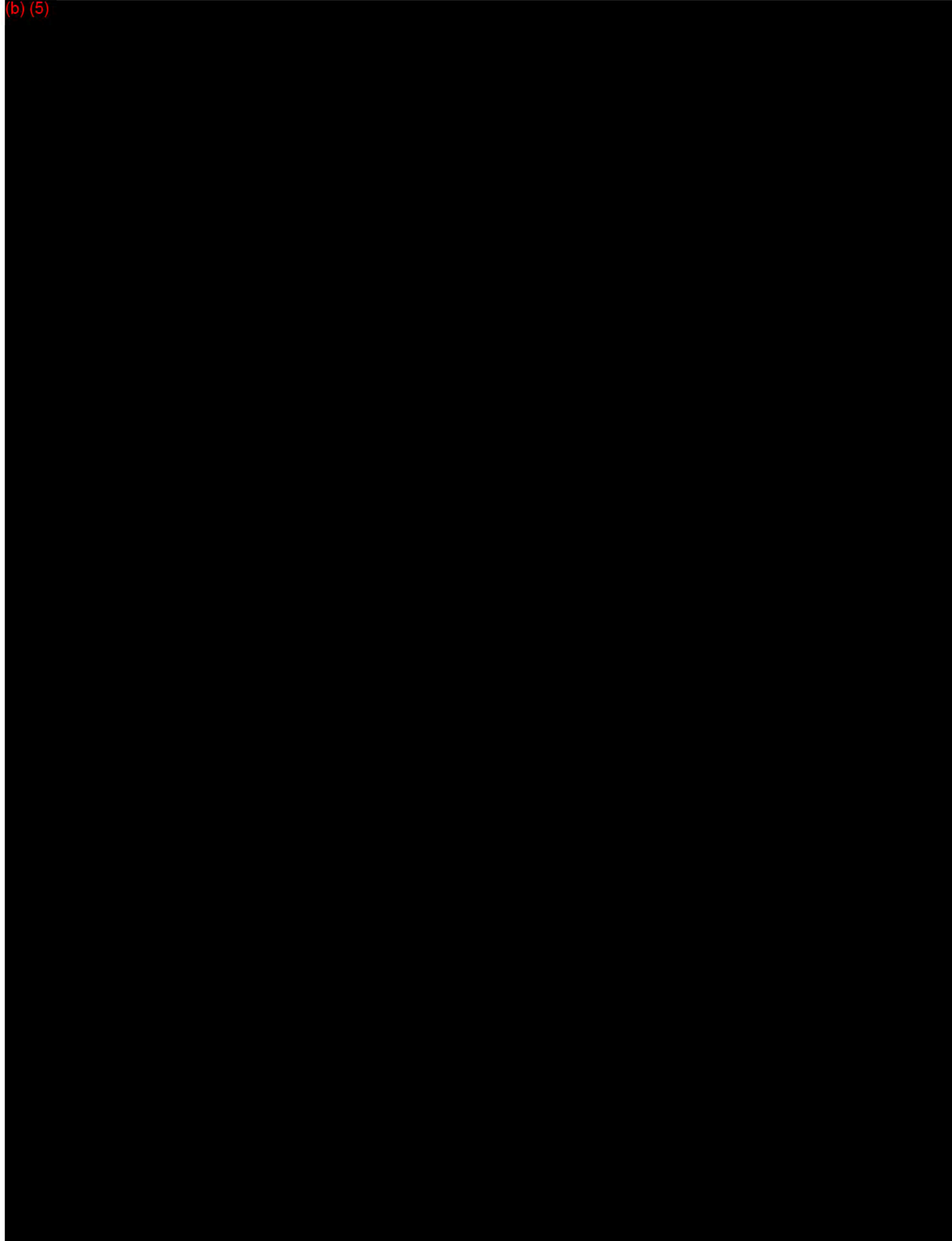


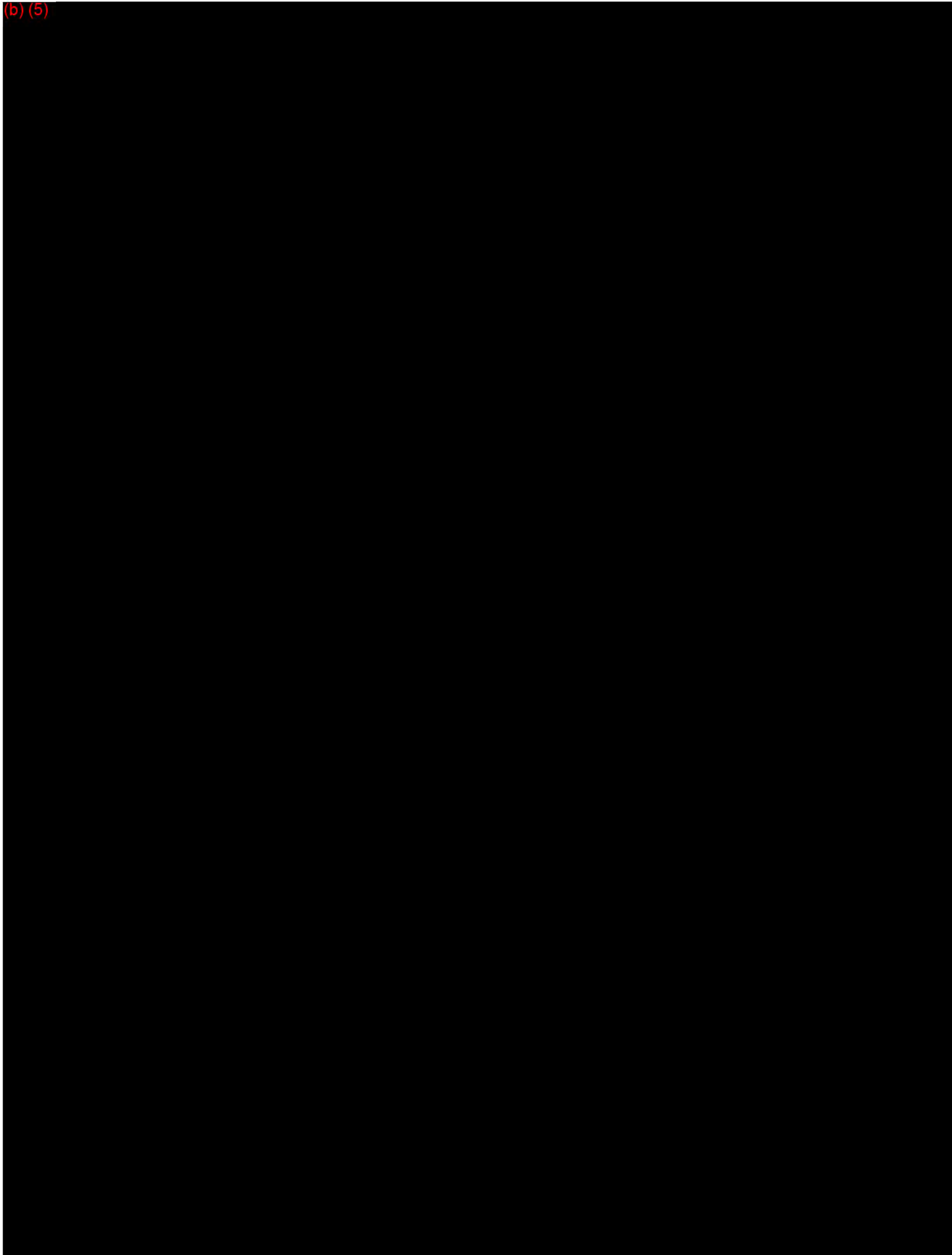


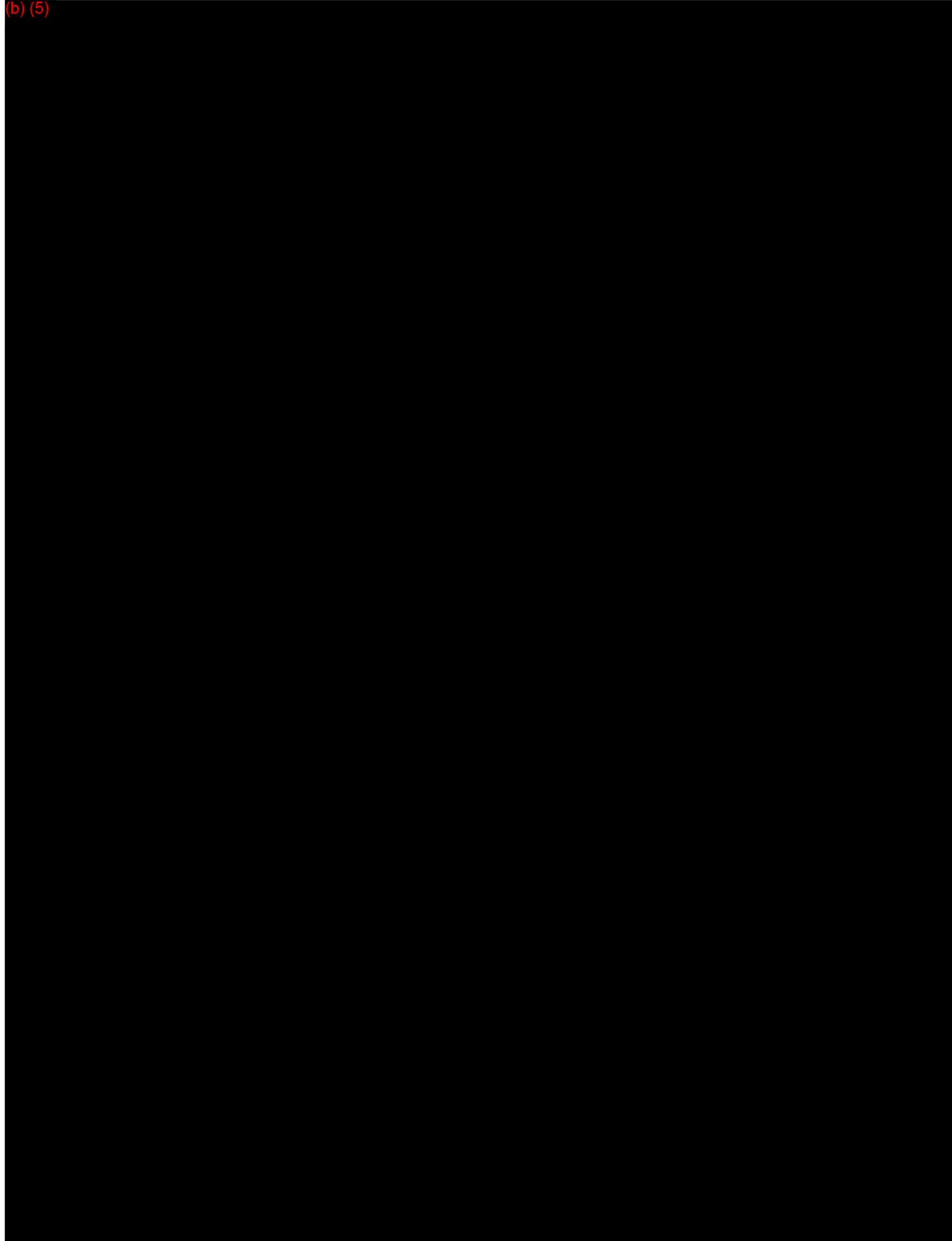


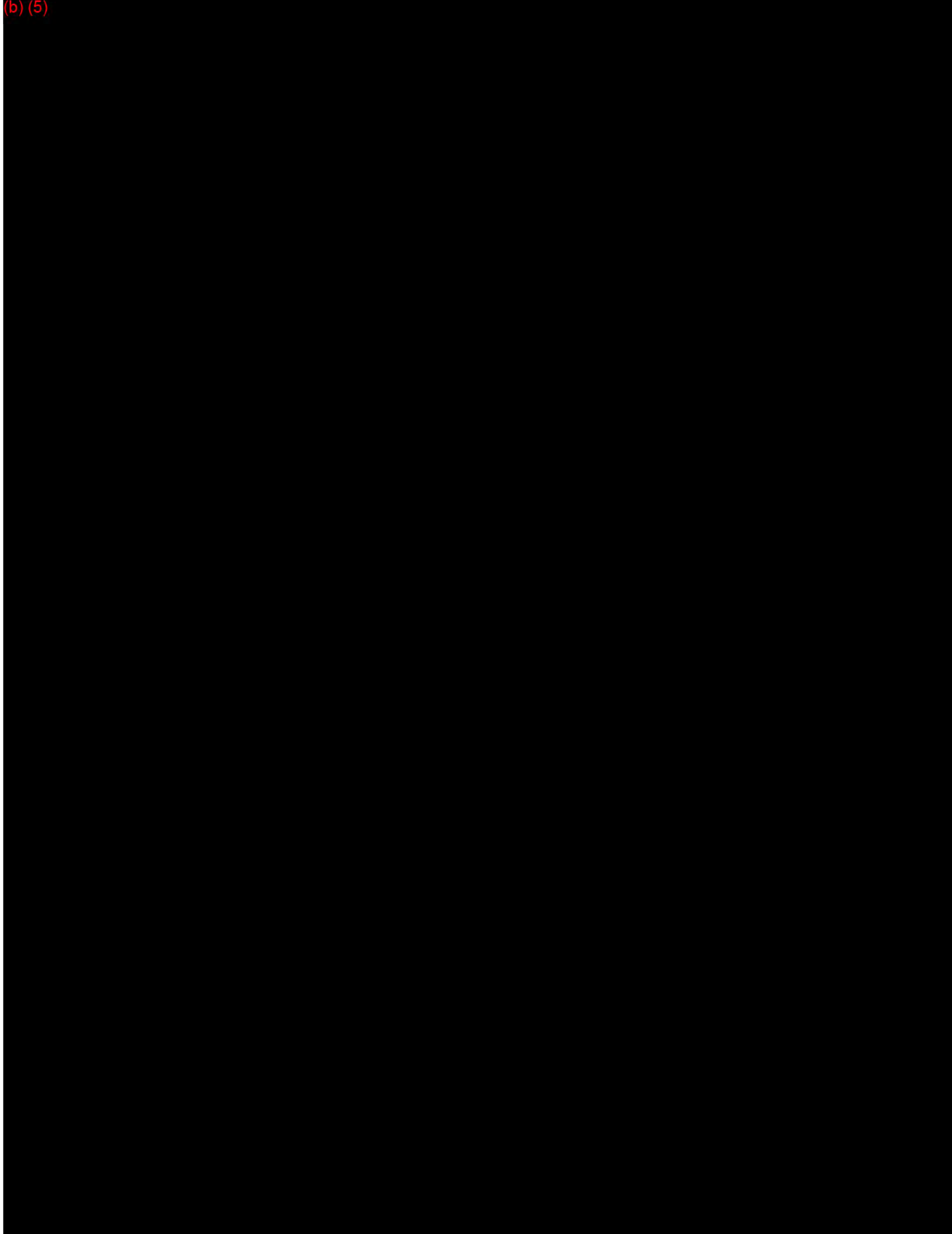


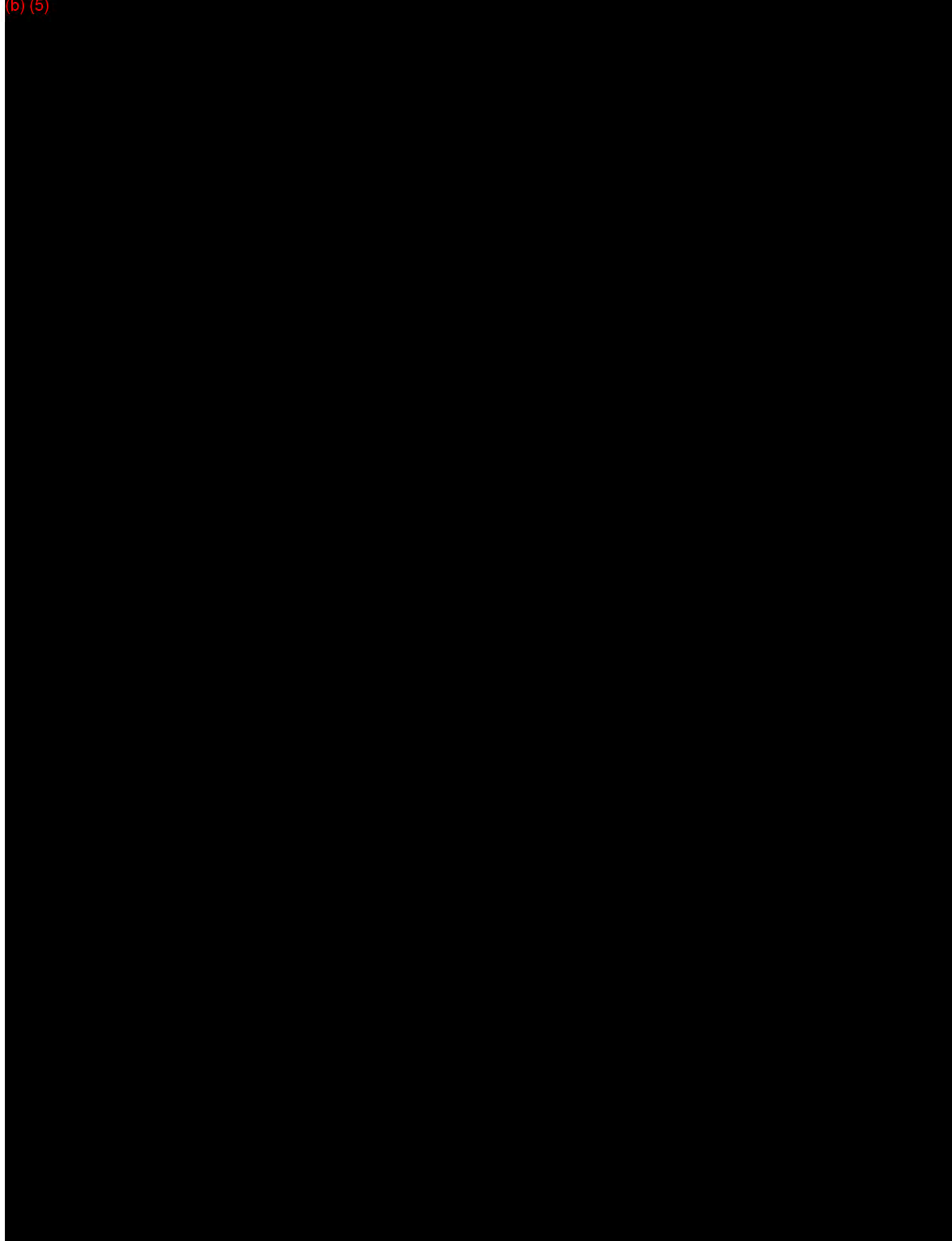


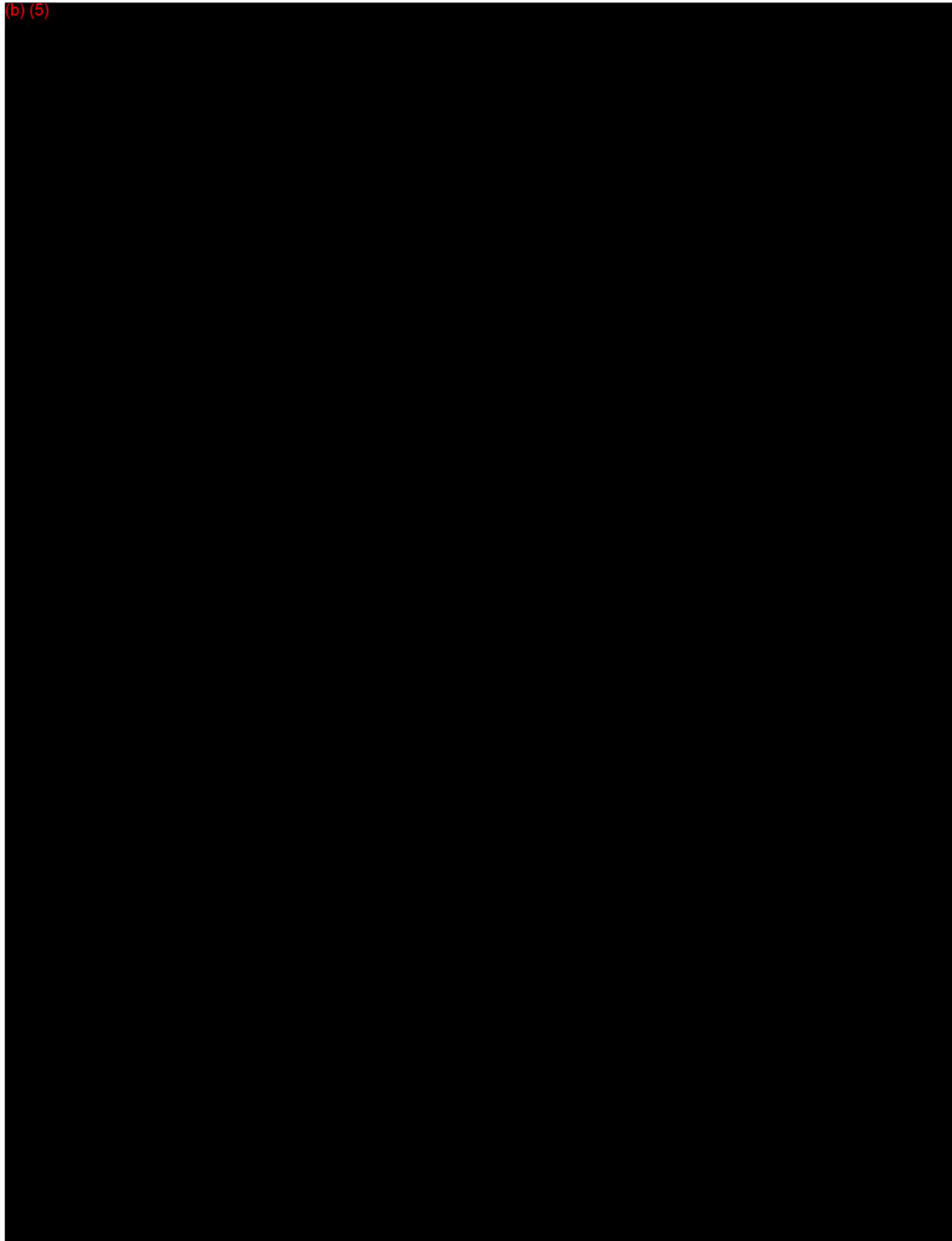


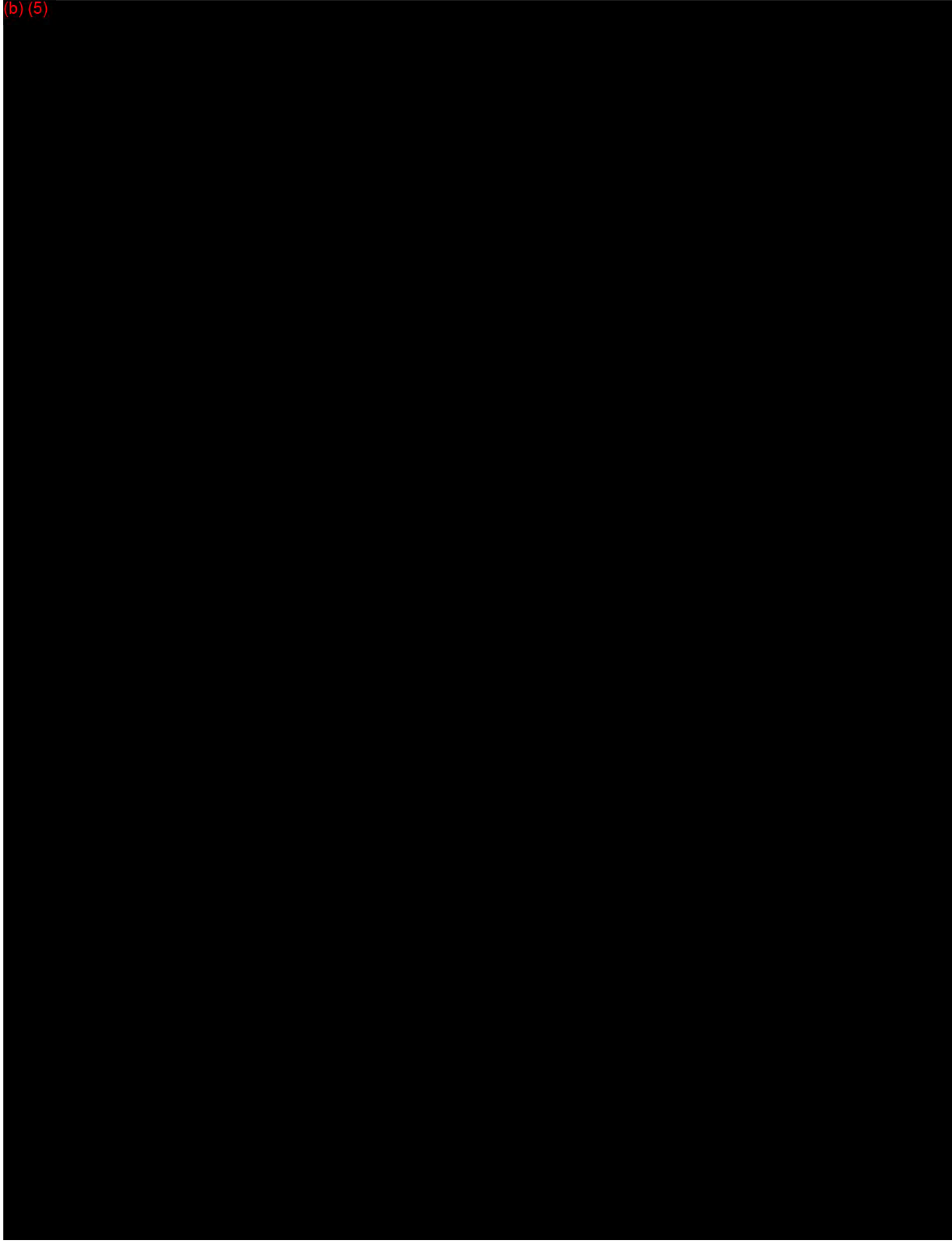


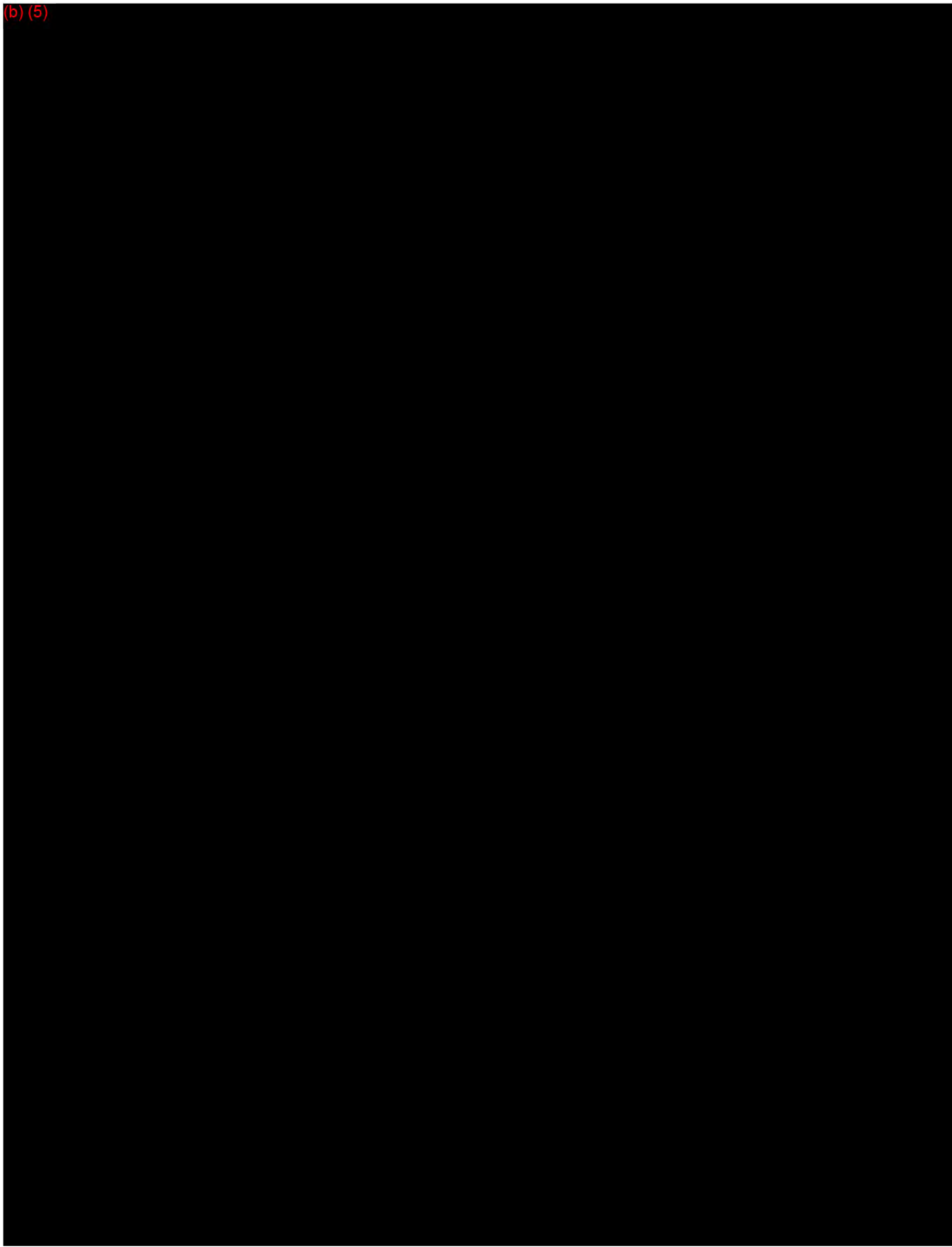






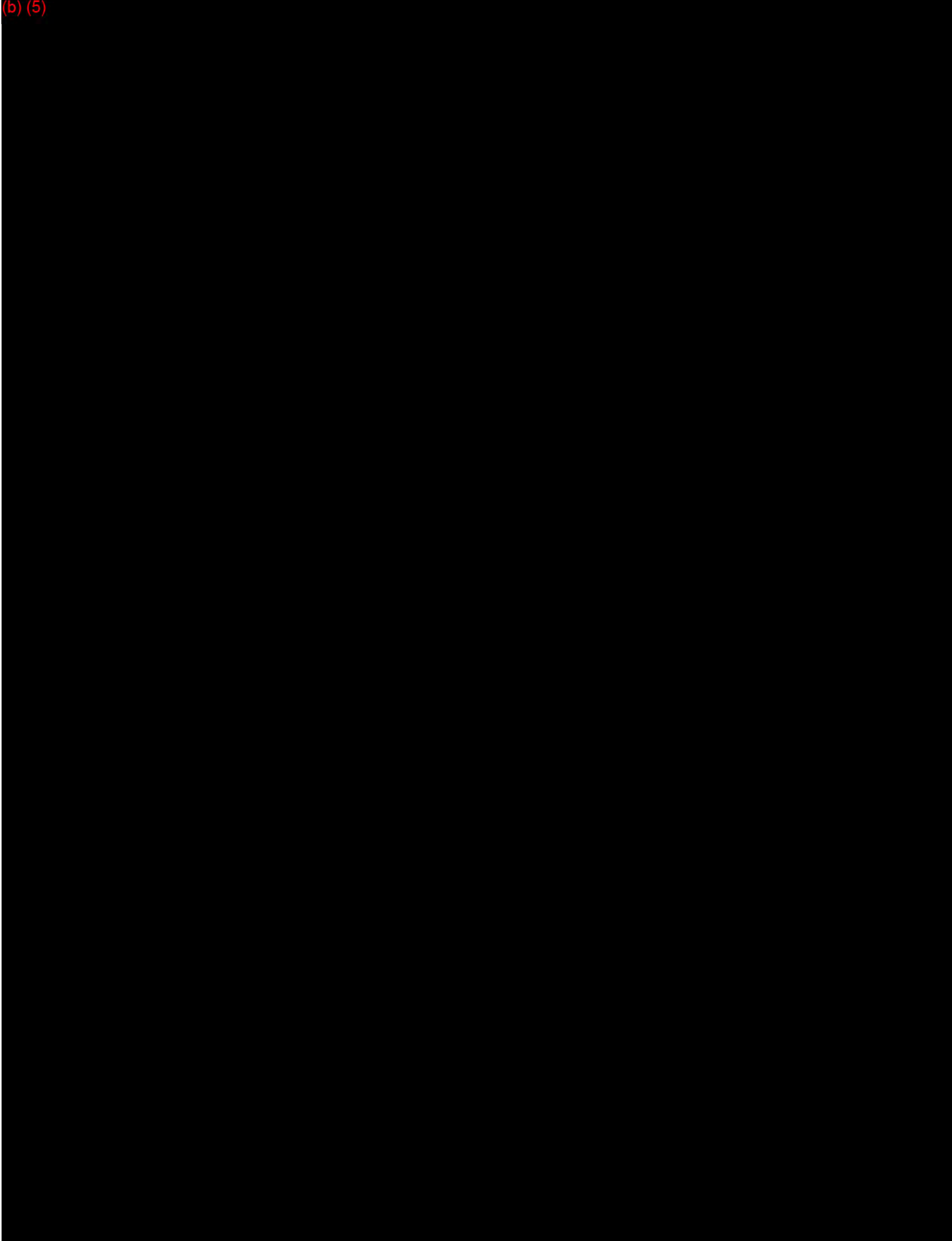


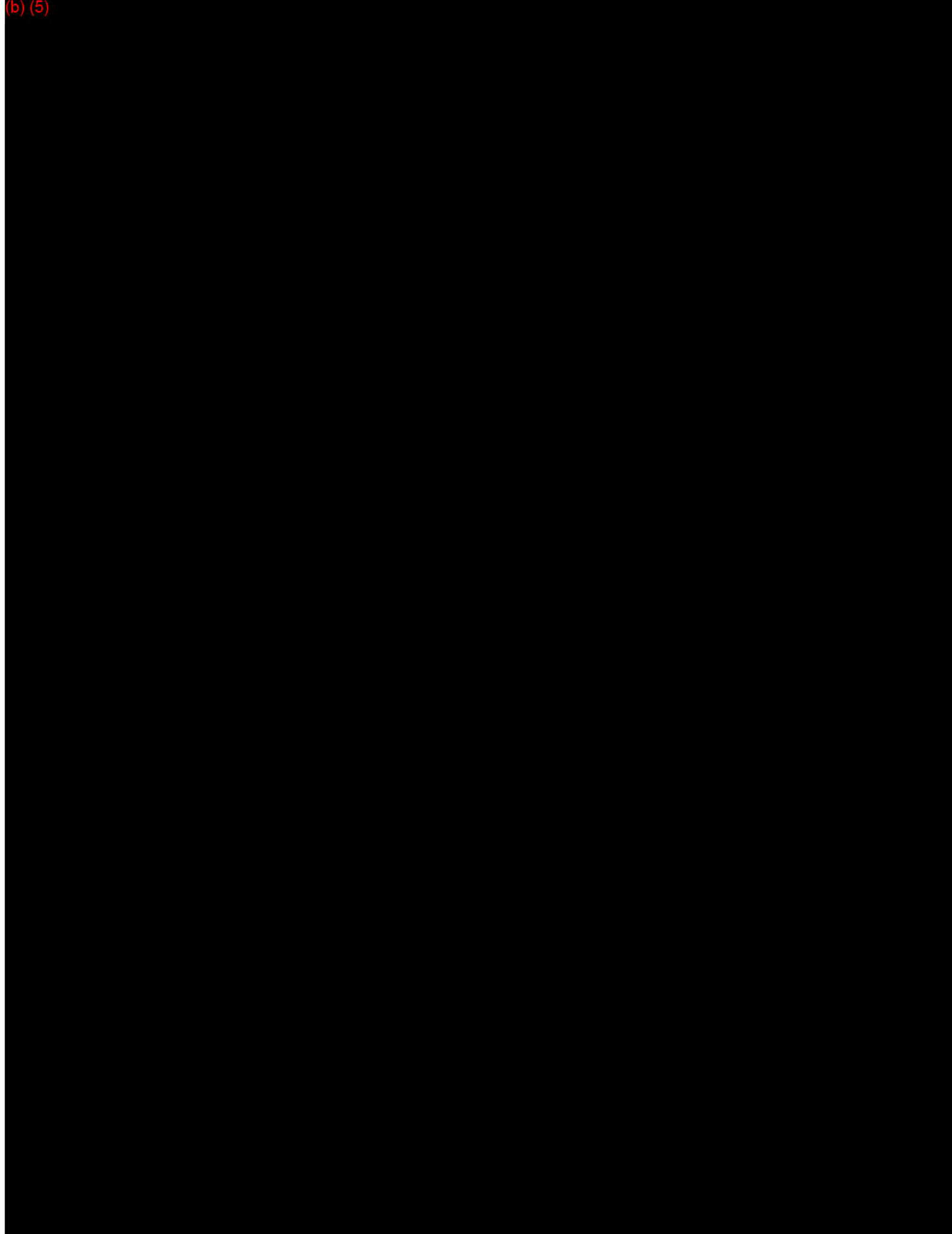


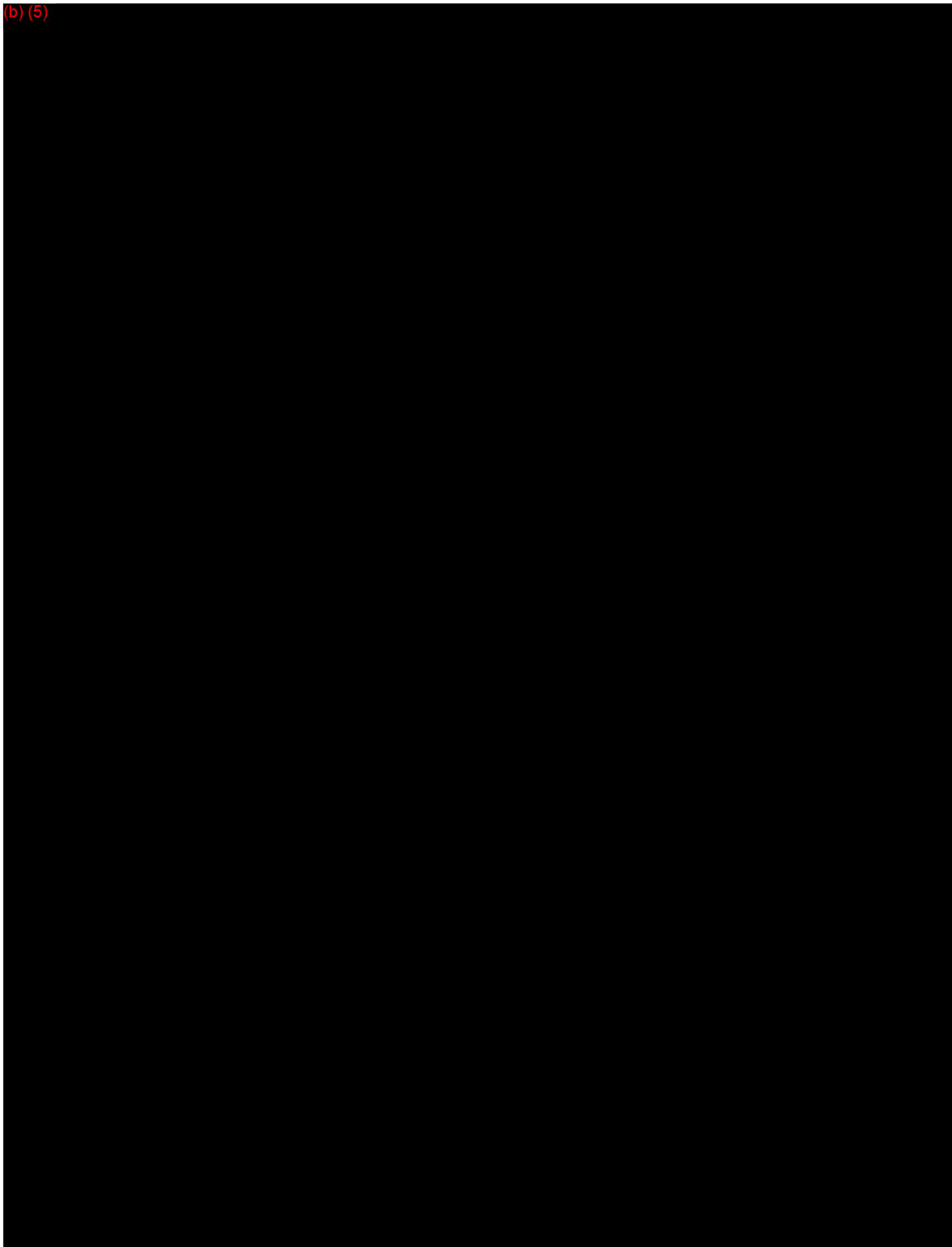


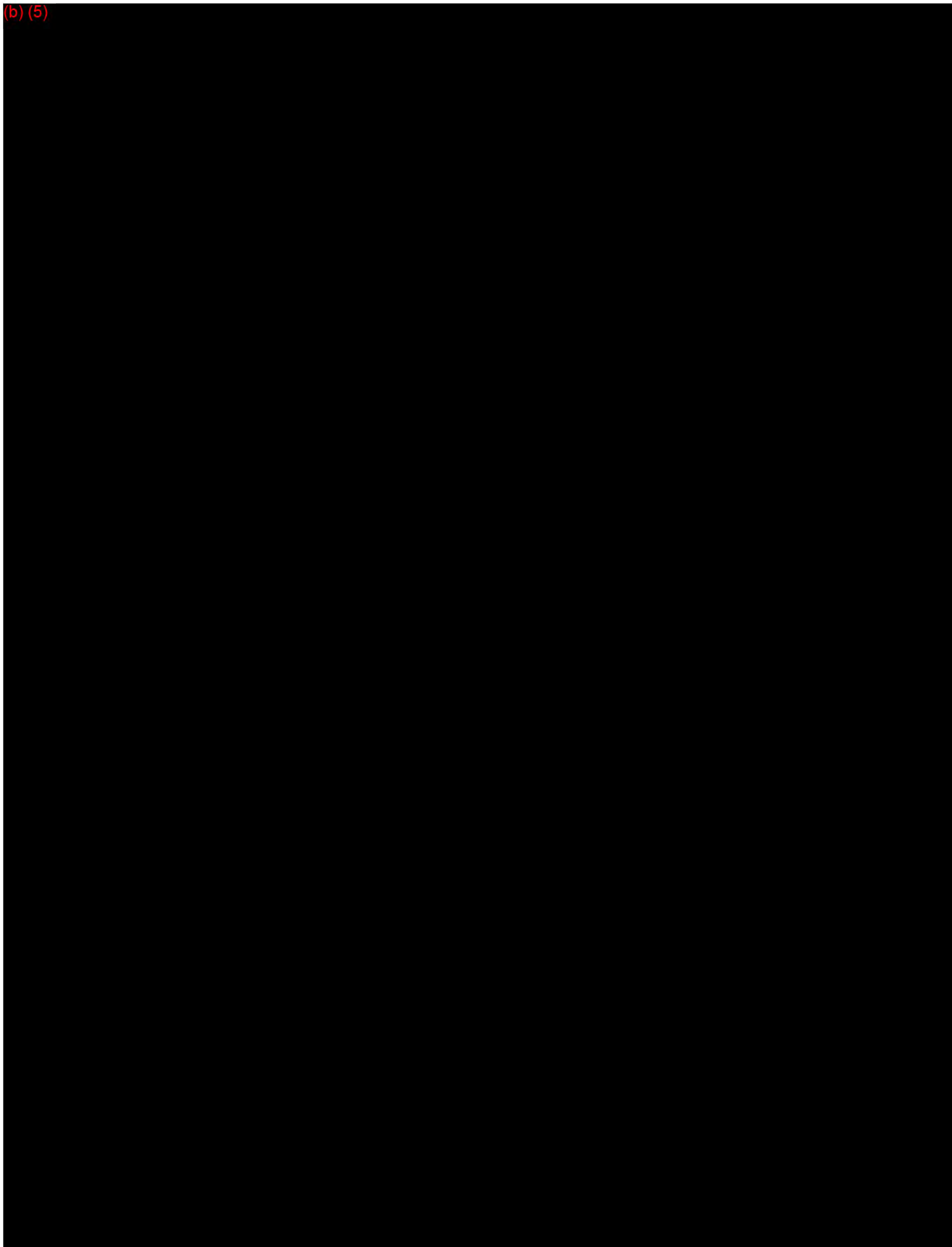


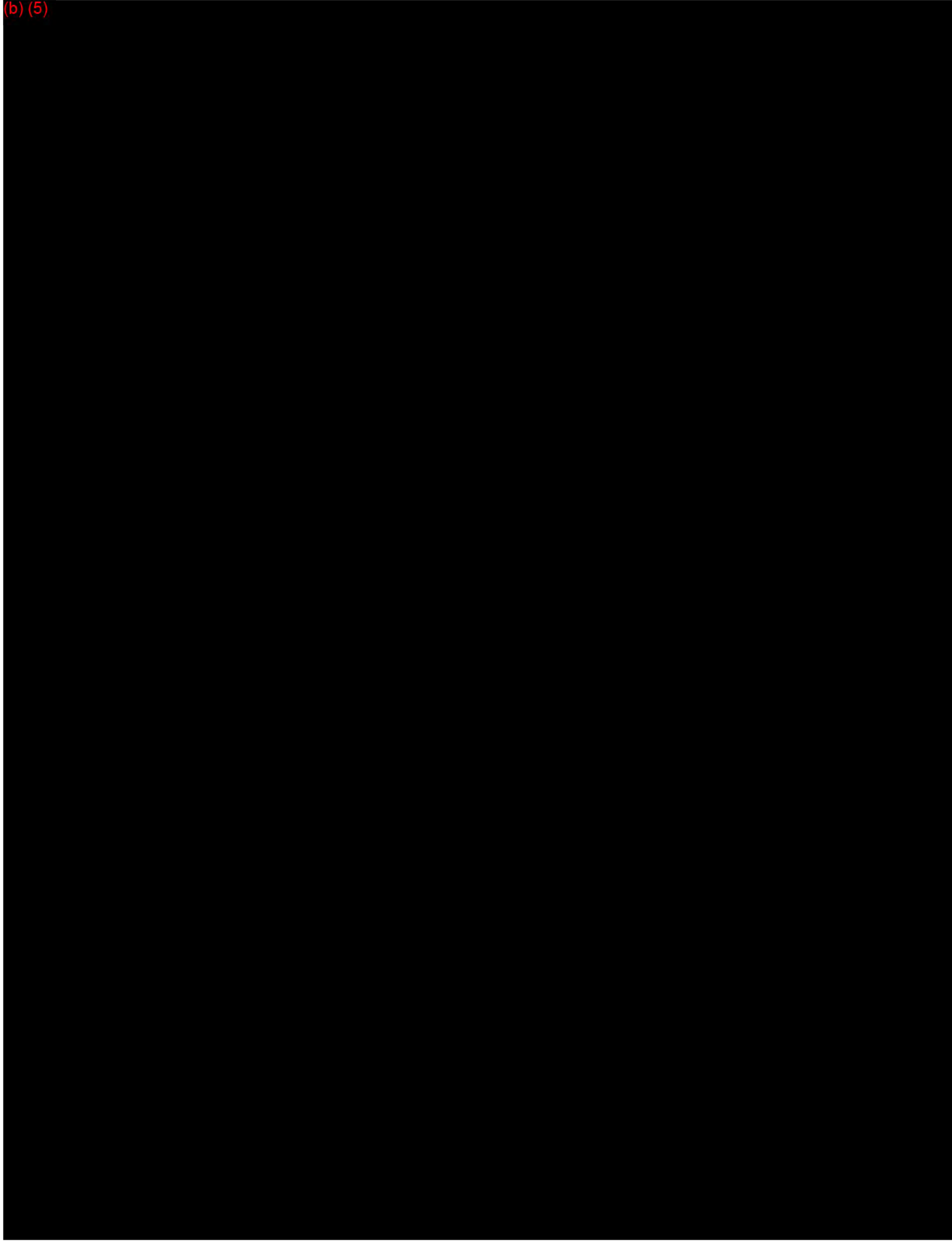


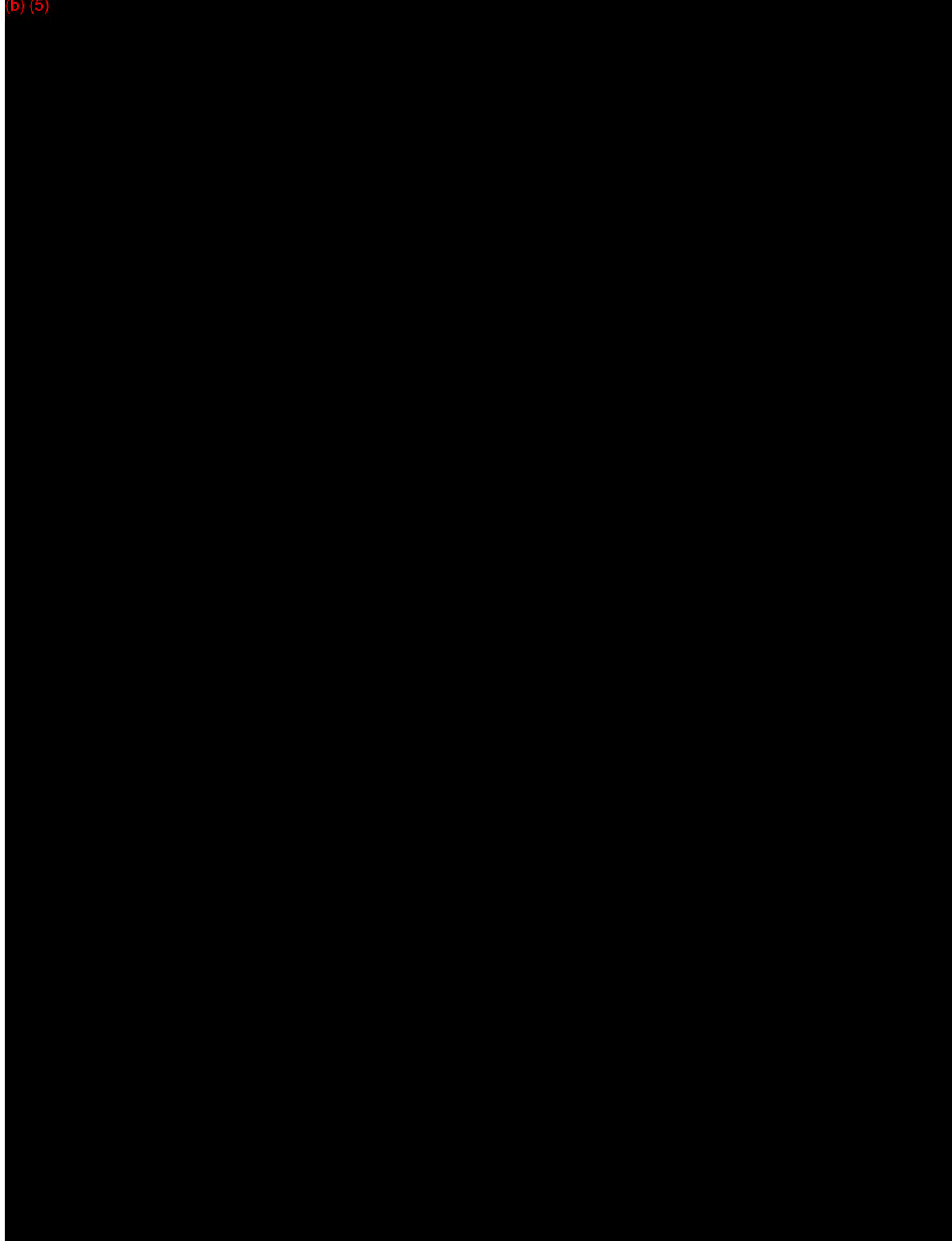


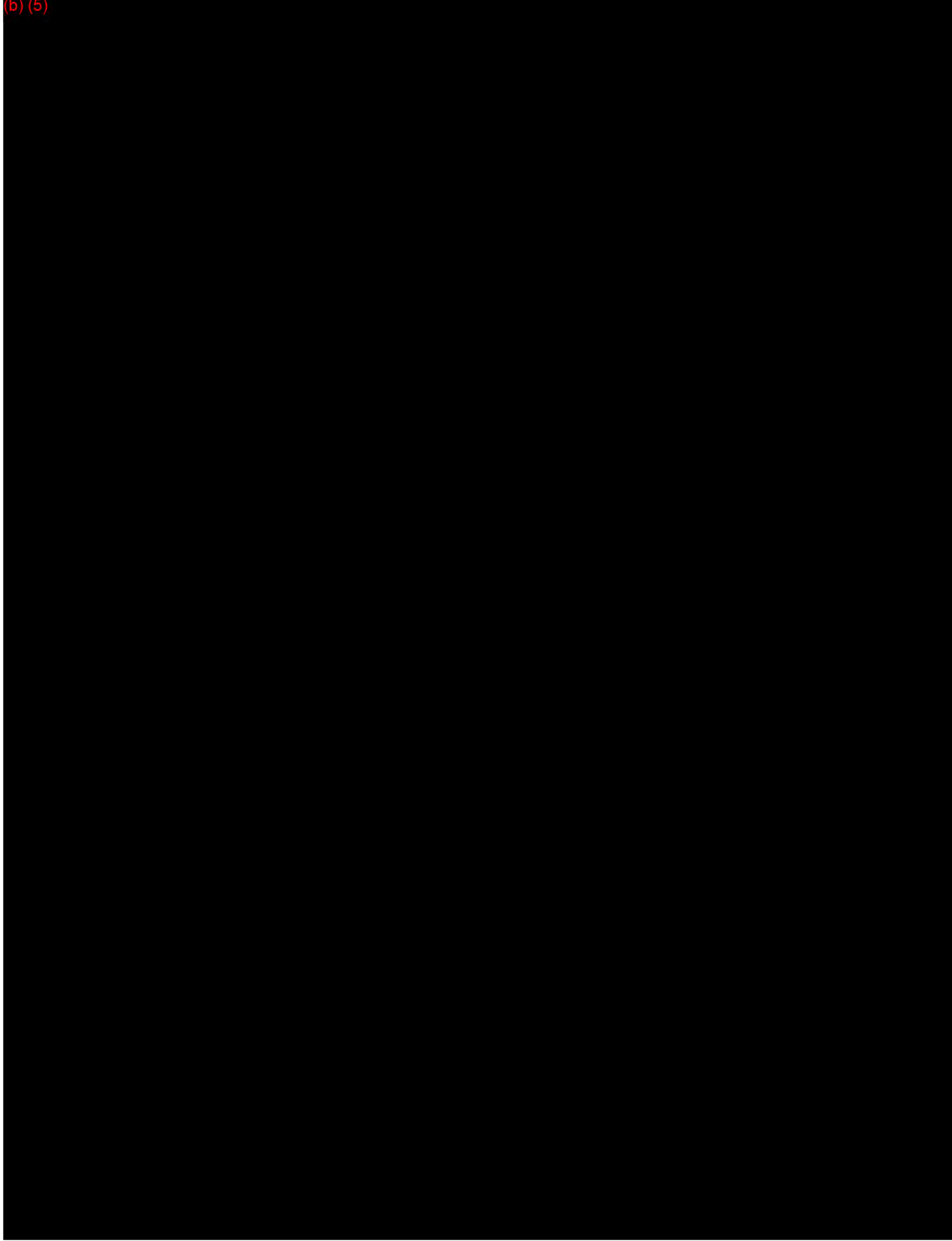




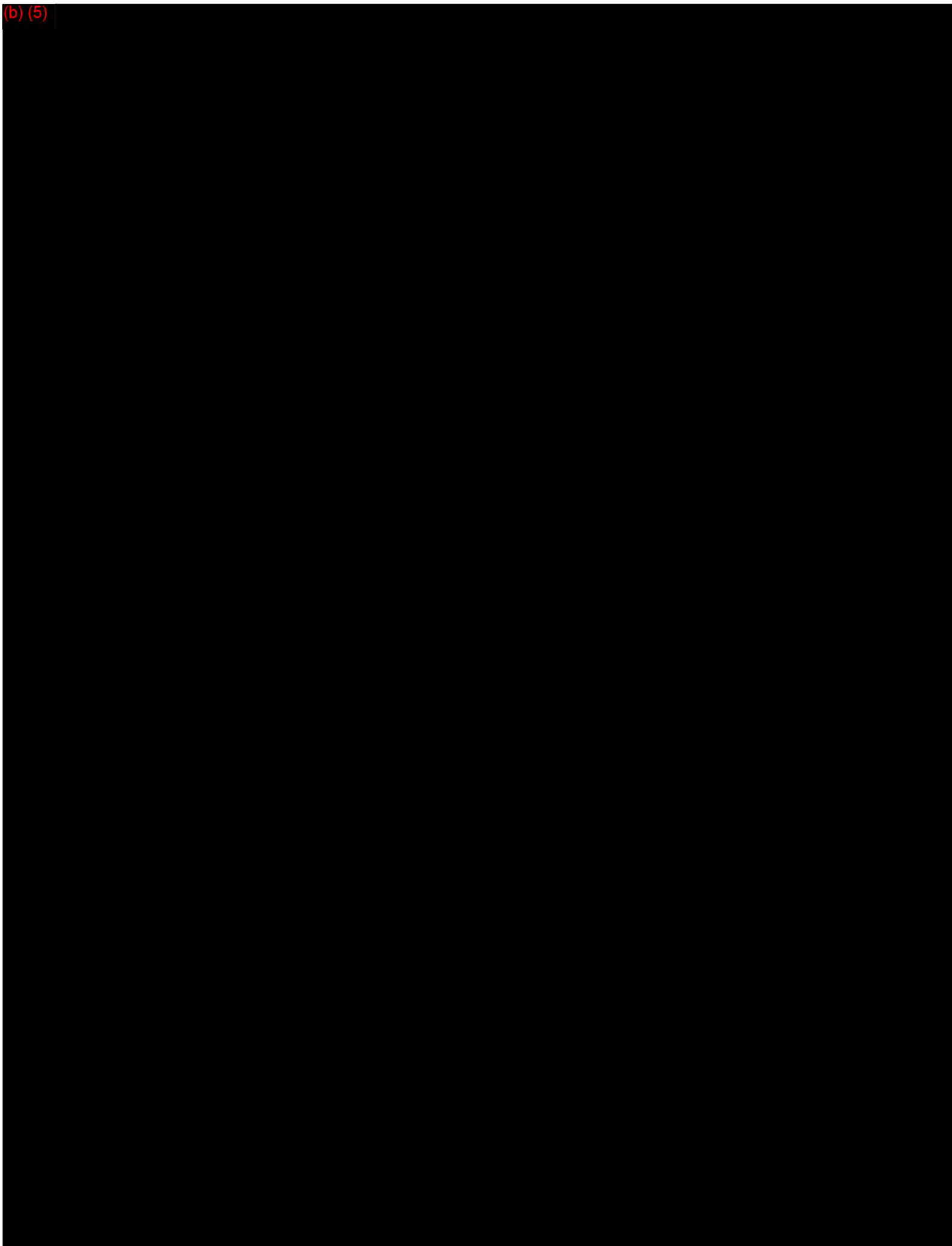


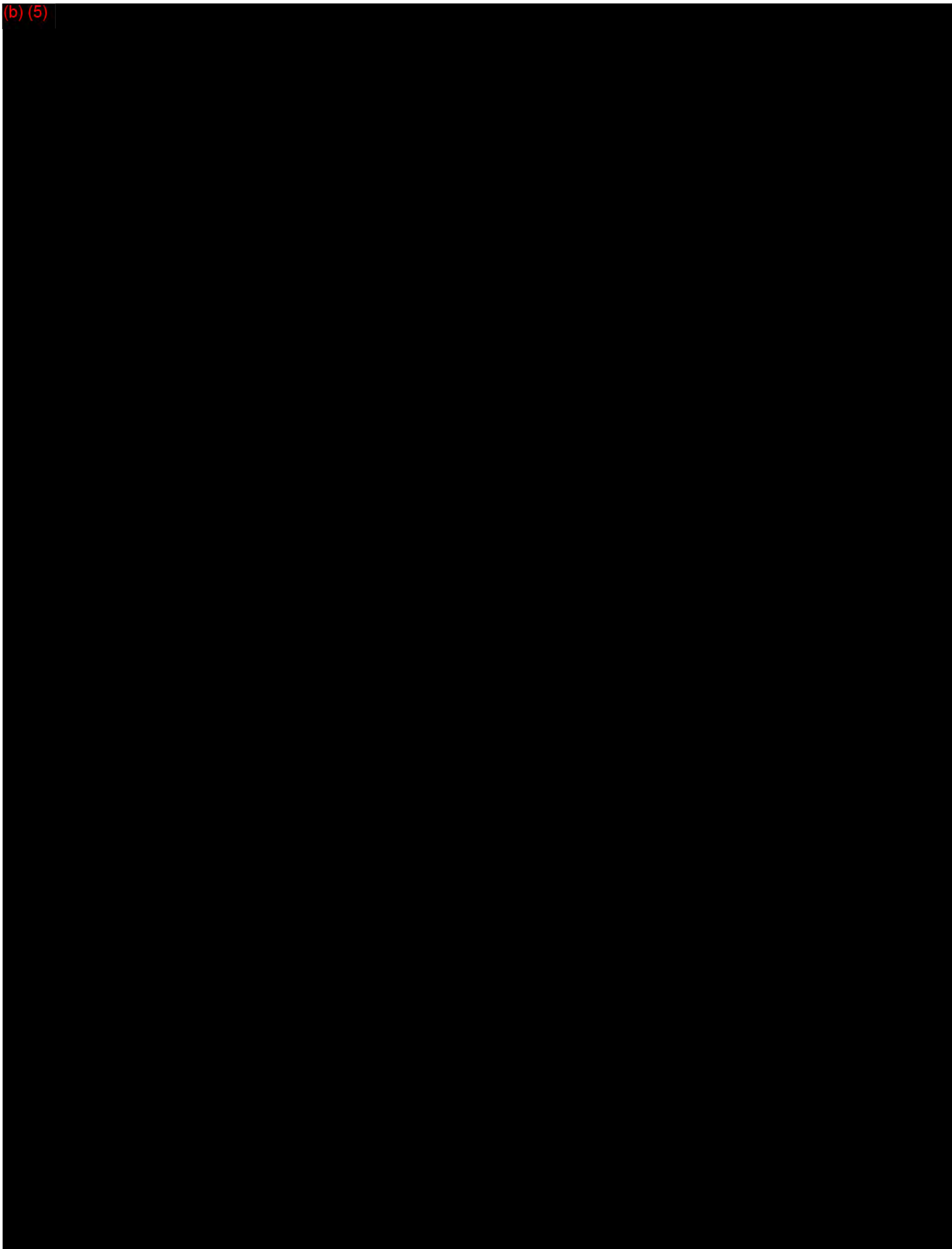


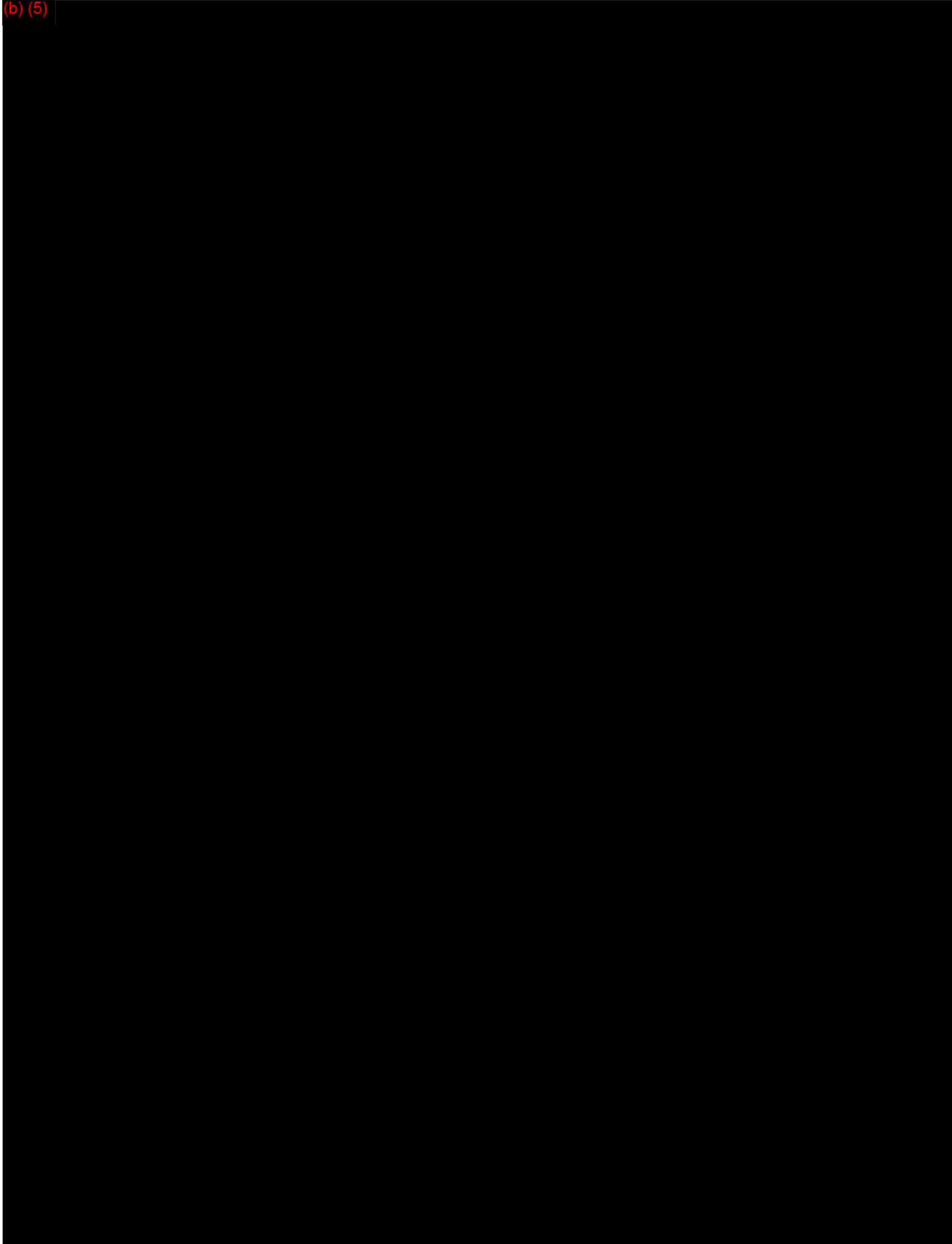


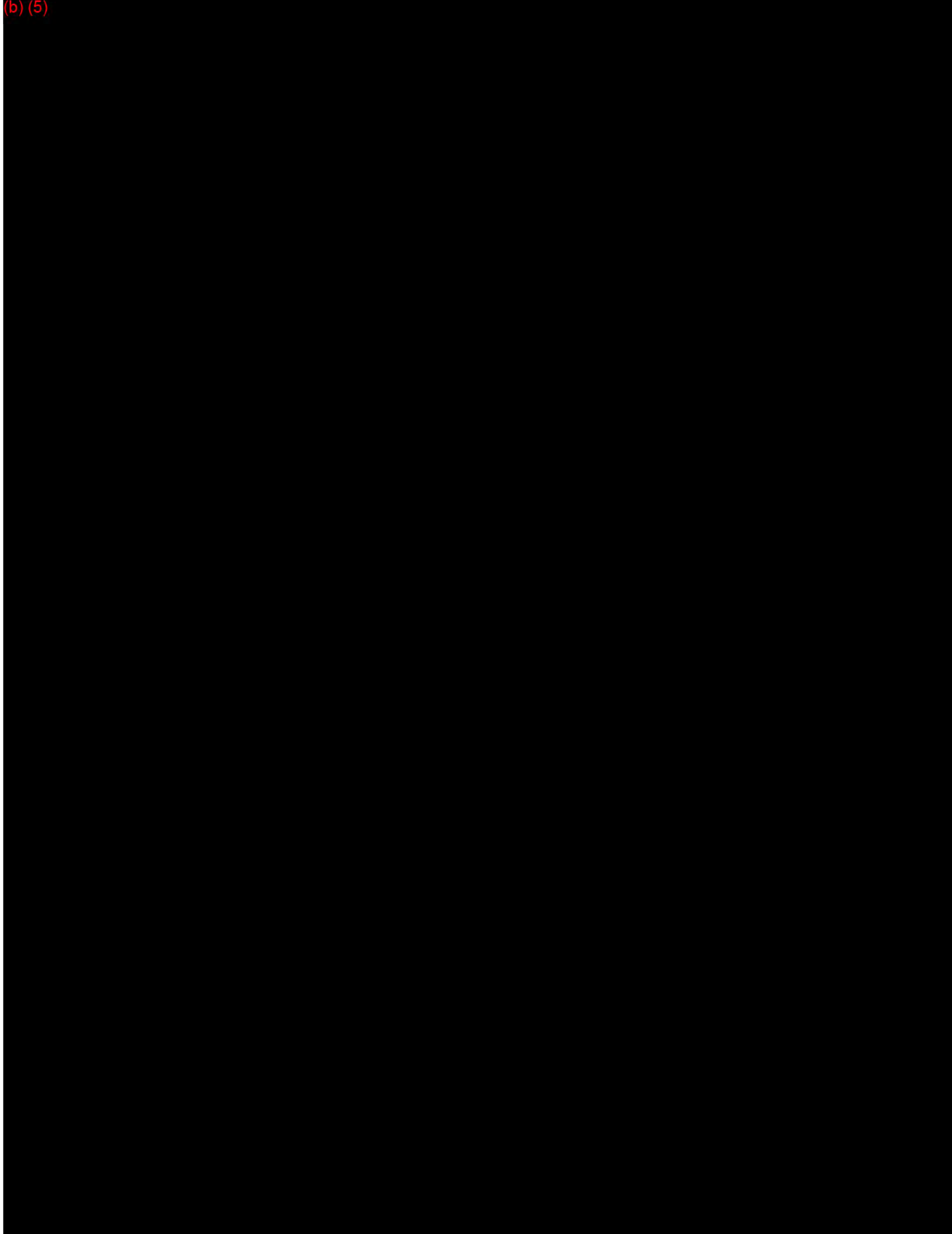


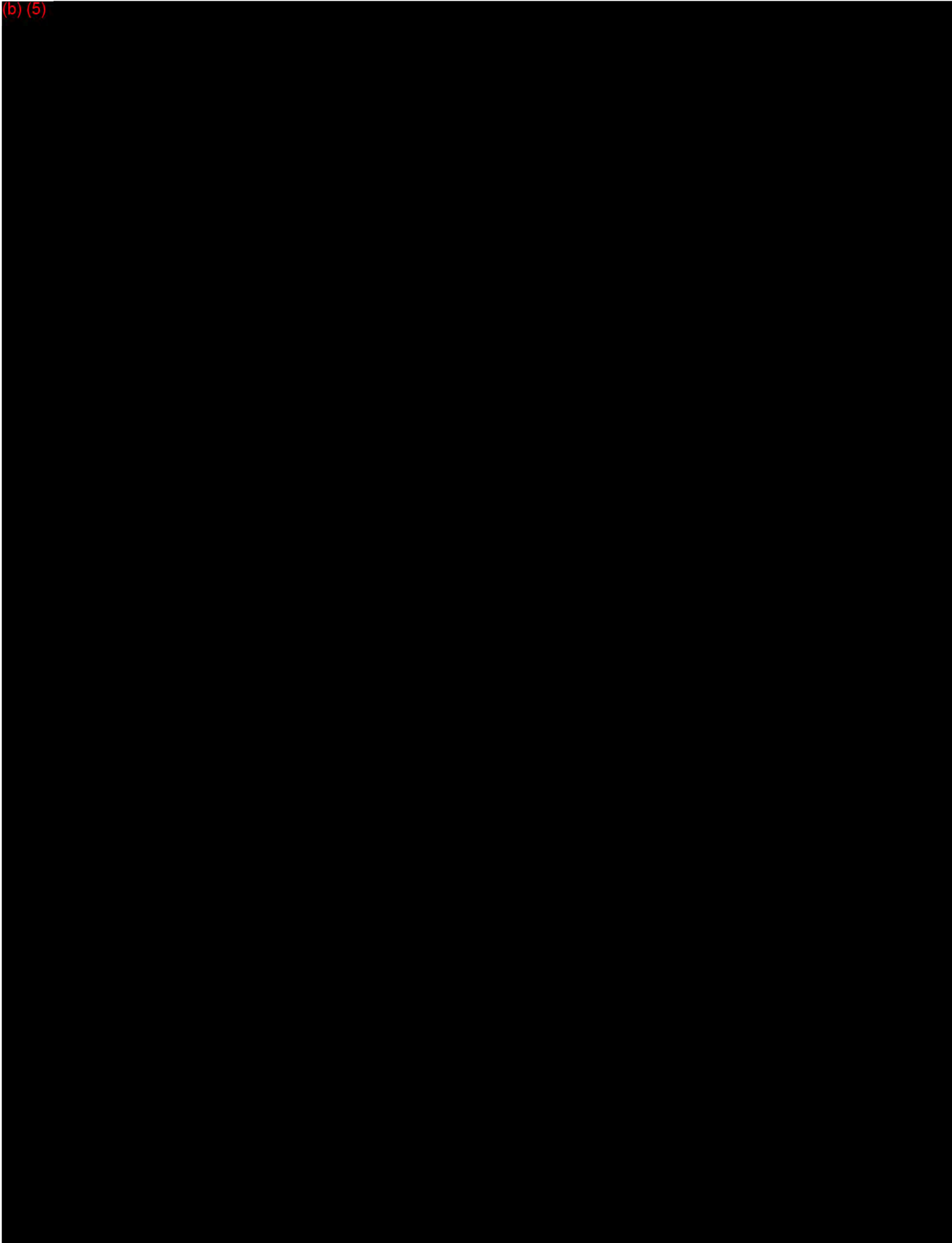


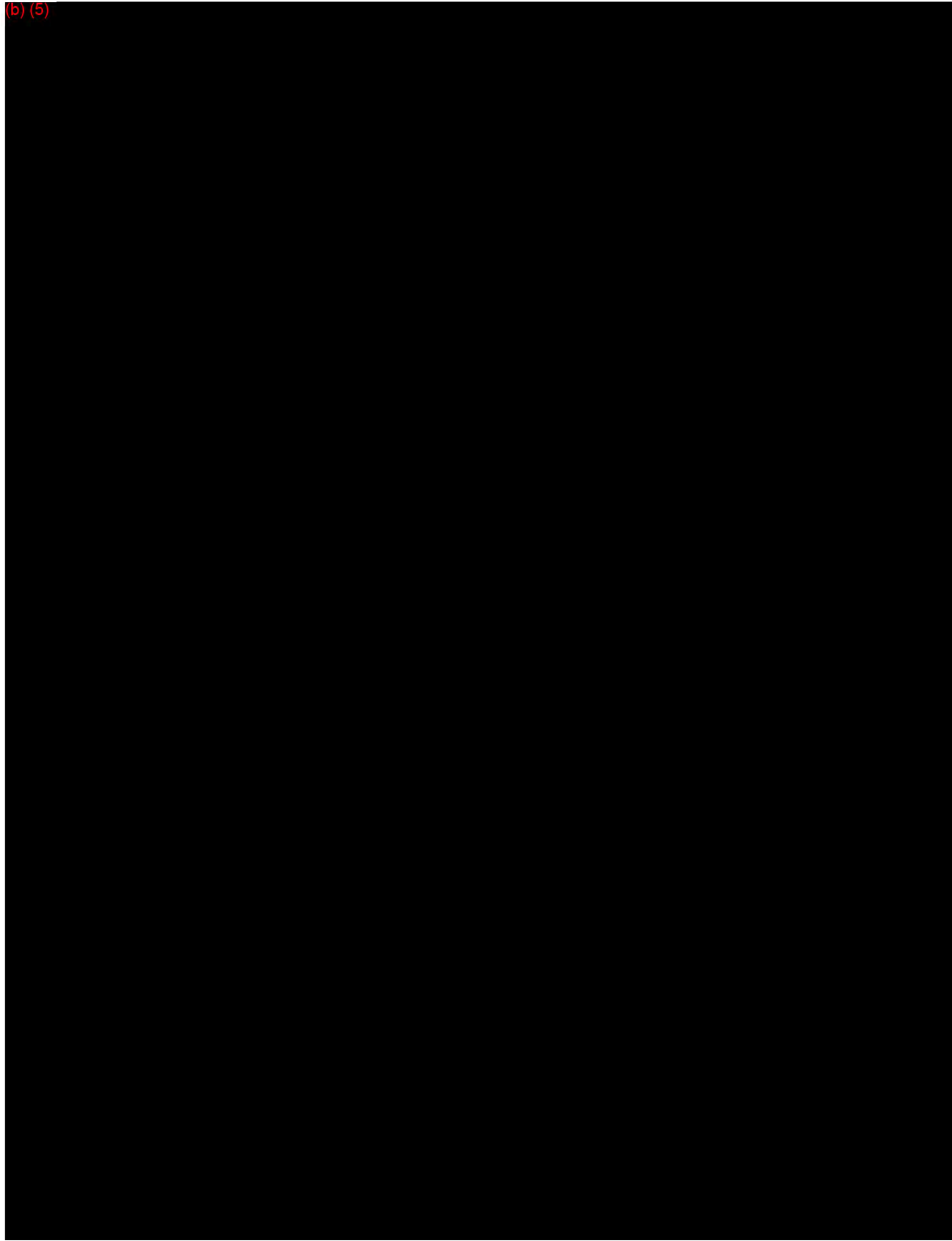












**FW: EO 12866 Review of CEQ NEPA Procedural Provisions  
Prerule - CEQ passback attached - comments due noon 6/6**

---

**From:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**To:** "Neumayr, Mary B. EOP/CEQ" <(b) (6)> "Seale, Viktoria Z. EOP/CEO" <(b) (6)>  
**Cc:** "Smith, Katherine R. EOP/CEQ" <(b) (6)>  
**Date:** Sun, 03 Jun 2018 22:11:47 -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)

FYI...

**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Friday, June 1, 2018 11:18 AM  
**To:** Wold, Theo J. EOP/WHO <(b) (6)> Jain, Varun M. EOP/OMB <(b) (6)> Upadhyaya, Shraddha A. EOP/OMB <(b) (6)> Thomas, Amanda L. EOP/OMB <(b) (6)> Wackler, Ted M. EOP/OSTP <(b) (6)> Salvi, Mary E. EOP/WHO <(b) (6)> White, Peter J. EOP/WHO <(b) (6)> Smith, Ja'Ron K. EOP/WHO <(b) (6)> Starling, Ray A. EOP/WHO <(b) (6)> Brooke, Francis J. EOP/WHO <(b) (6)> Fitzgerald, Timothy W. EOP/CEA <(b) (6)> Abajian, Xander C. EOP/CEA <(b) (6)> Pinkos, Stephen M. EOP/OVP <(b) (6)> Hickey, Mike J. EOP/OMB <(b) (6)> Burgess, Scott H. EOP/OMB <(b) (6)> Winters, Paul A. EOP/OMB <(b) (6)> Derentz, Landon R. EOP/NSC <(b) (6)> Abbey, Tristan C. EOP/NSC <(b) (6)> Laing, Sally S. EOP/USTR <Sally\_S\_Laing@ustr.eop.gov>; Patel, Mayur R. EOP/USTR <Mayur\_R\_Patel@ustr.eop.gov>; Stradtman, Jennifer A. EOP/USTR <Jennifer\_A\_Stradtman@ustr.eop.gov>; Miller, Ashley A. EOP/USTR <Ashley\_A\_Miller@ustr.eop.gov>; Dougherty, Emily I. EOP/USTR <Emily\_I\_Dougherty@ustr.eop.gov>; Moran, John S. EOP/WHO <(b) (6)> Palmieri, Rosario A. EOP/OMB <(b) (6)> Laity, Jim A. EOP/OMB <(b) (6)> Prandoni, Christopher D. EOP/CEQ <(b) (6)> Trick, Bryant P. EOP/USTR <Bryant\_Trick@ustr.eop.gov>; Abrams, Andrew D. EOP/OMB <(b) (6)> Crutchfield, Craig C. EOP/OMB <(b) (6)> McDonald, Christine A. EOP/OMB <(b) (6)> Roach, Emma K. EOP/OMB <(b) (6)> Burnett, Ben D. EOP/OMB <(b) (6)>

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(b) (6)

Cc: Szabo, Aaron L. EOP/CEQ (b) (6)

Subject: RE: EO 12866 Review of CEQ NEPA Procedural Provisions Prerule - CEQ passback attached - comments due noon 6/6

All, Attached is CEQs passback to interagency comments on the NEPA ANPRM. Please let me know if you have any follow-up comments by noon on Wednesday, June 6<sup>th</sup>. Thanks, Chad

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(b) (6) Lucas, Adrienne E. EOP/OMB

(b) (6)

Cc: Szabo, Aaron L. EOP/CEQ (b) (6) Seale, Viktoria Z. EOP/CEQ

(b) (6) Mary B. EOP/CEQ Neumayr (b) (6)

(b) (6)

Subject: EO 12866 Review of CEQ NEPA Procedural Provisions Prerule - comments due COB on 5/14



All,

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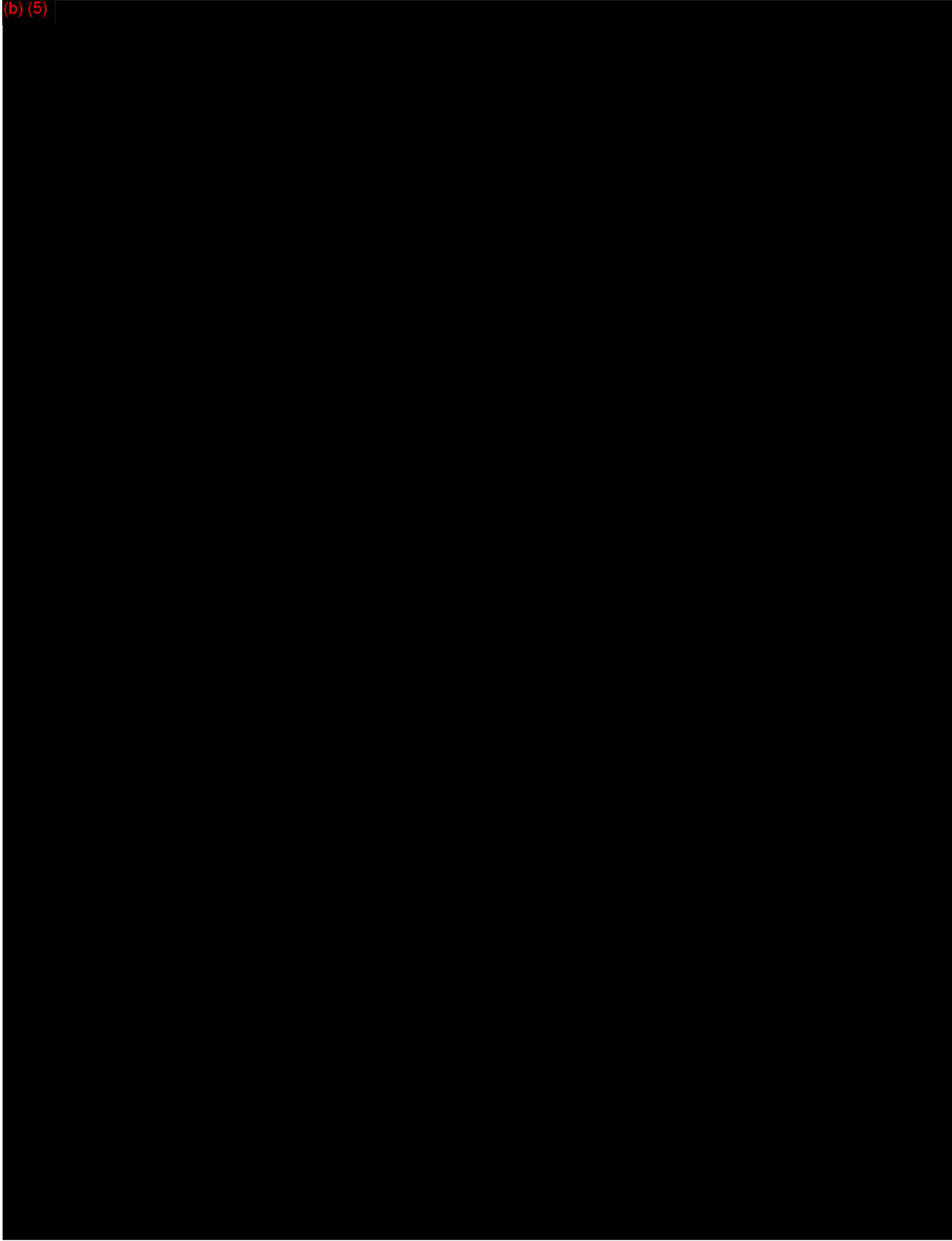
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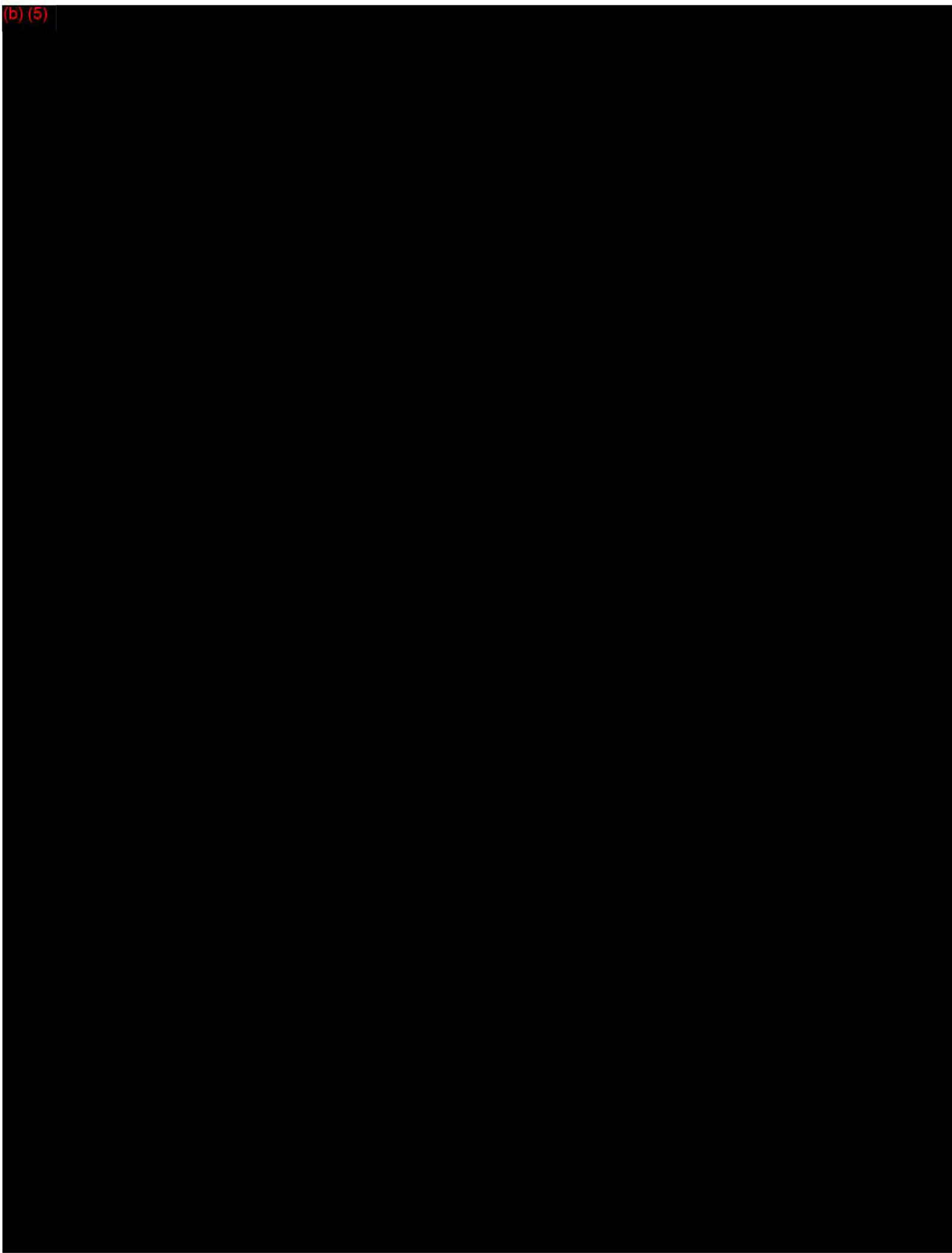
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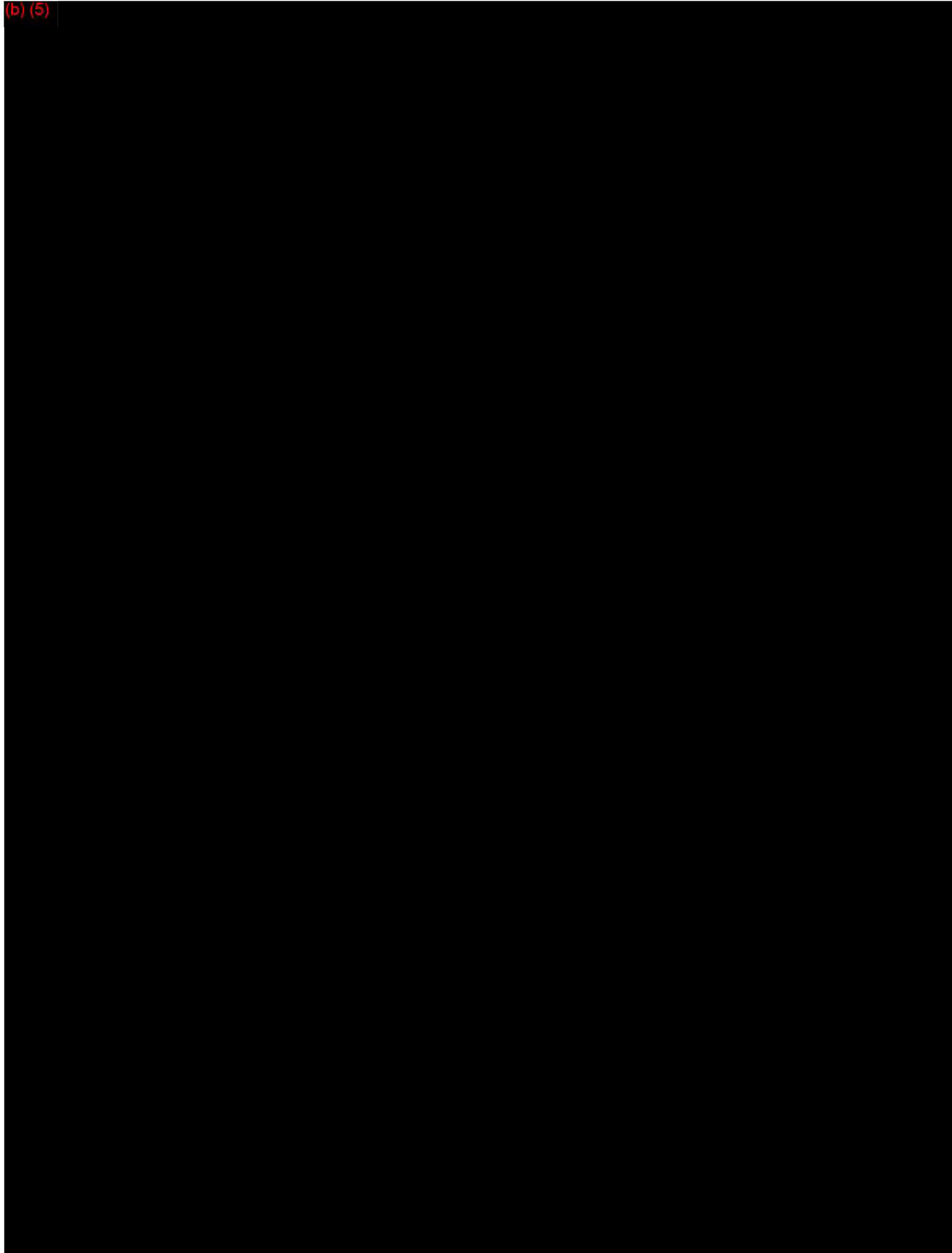
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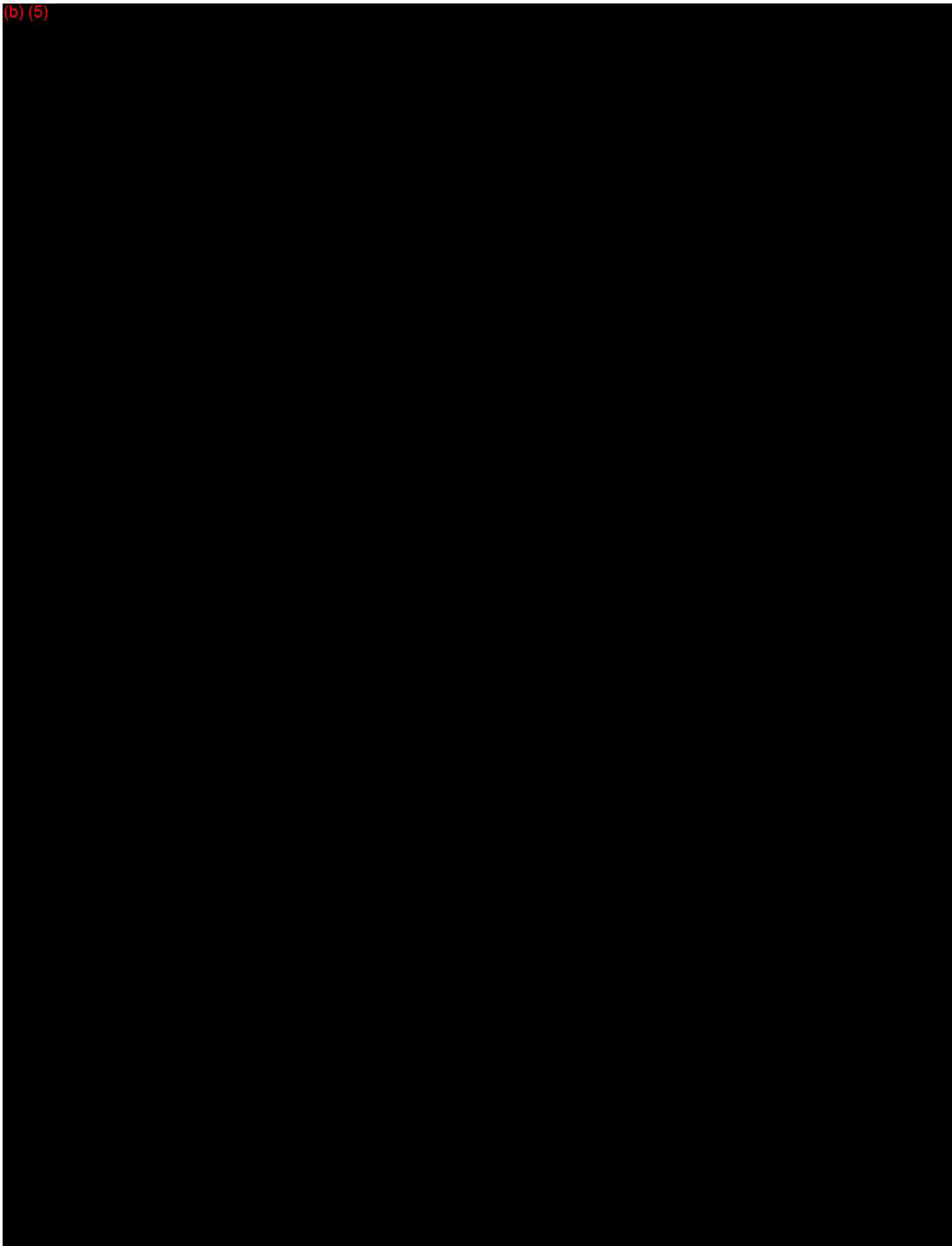
Chad Whiteman  
Natural Resources and Environment Branch | Office of Information and Regulatory  
Affairs  
Office of Management and Budget | Executive Office of the President  
202-395-4718

(b) (6)

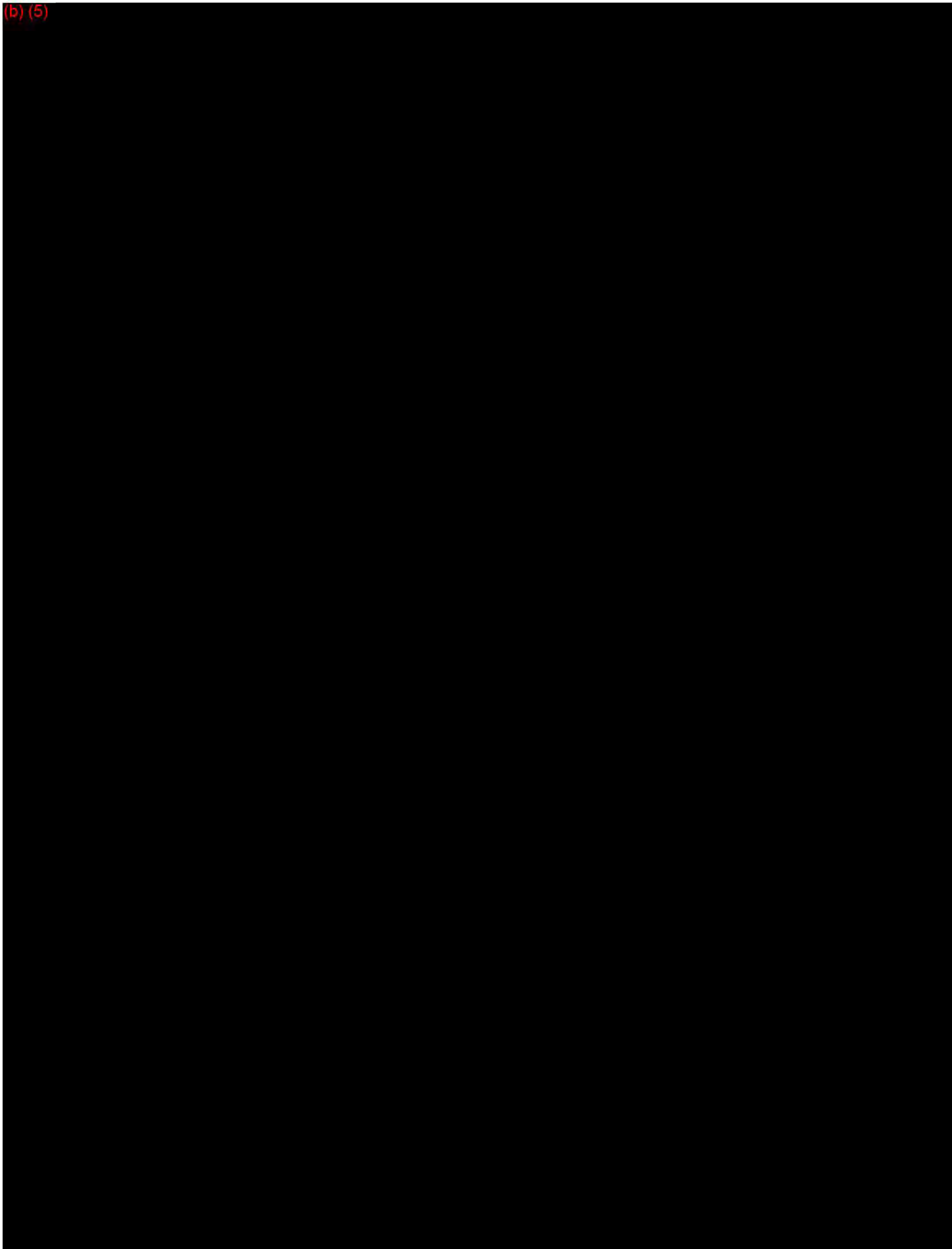


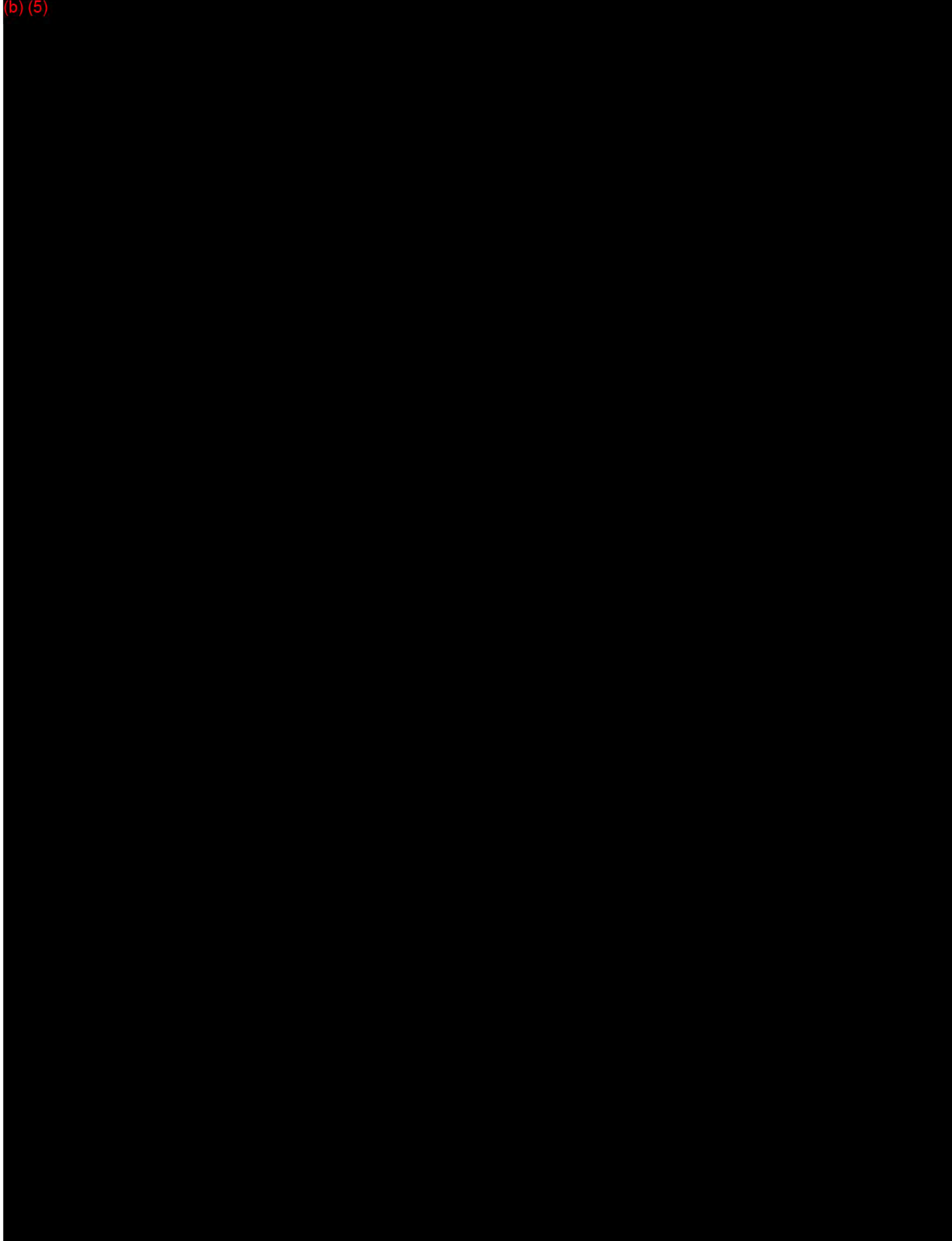




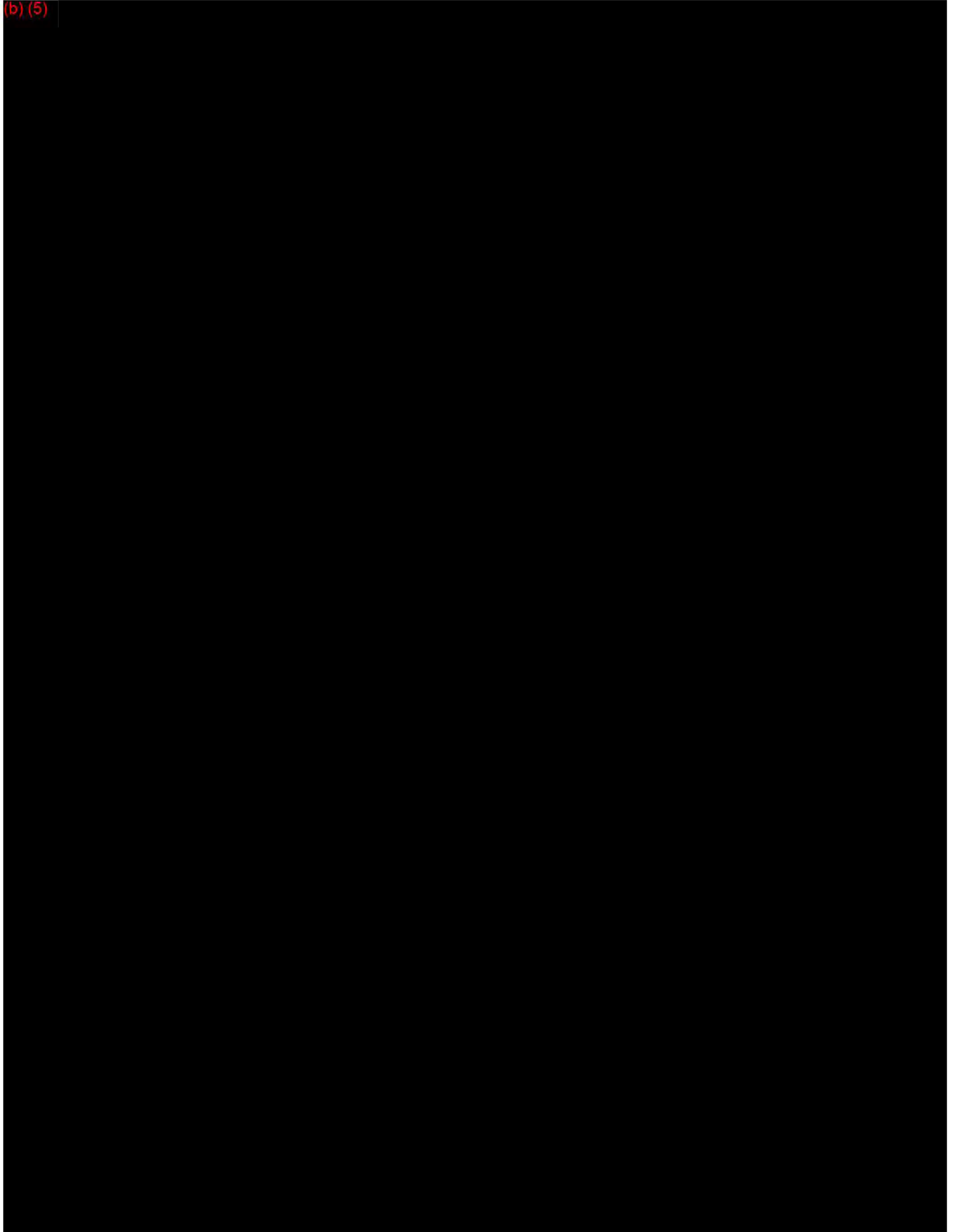


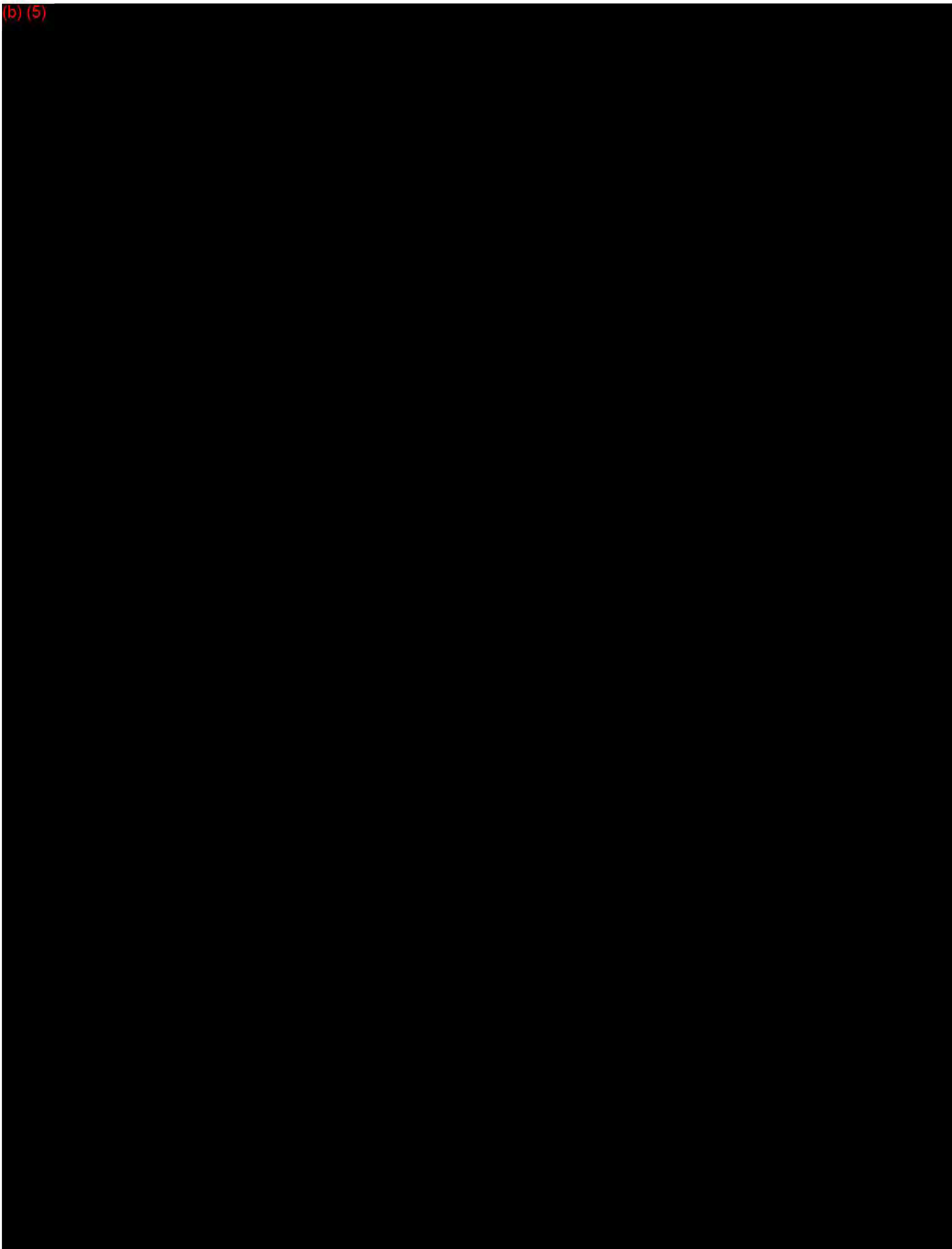


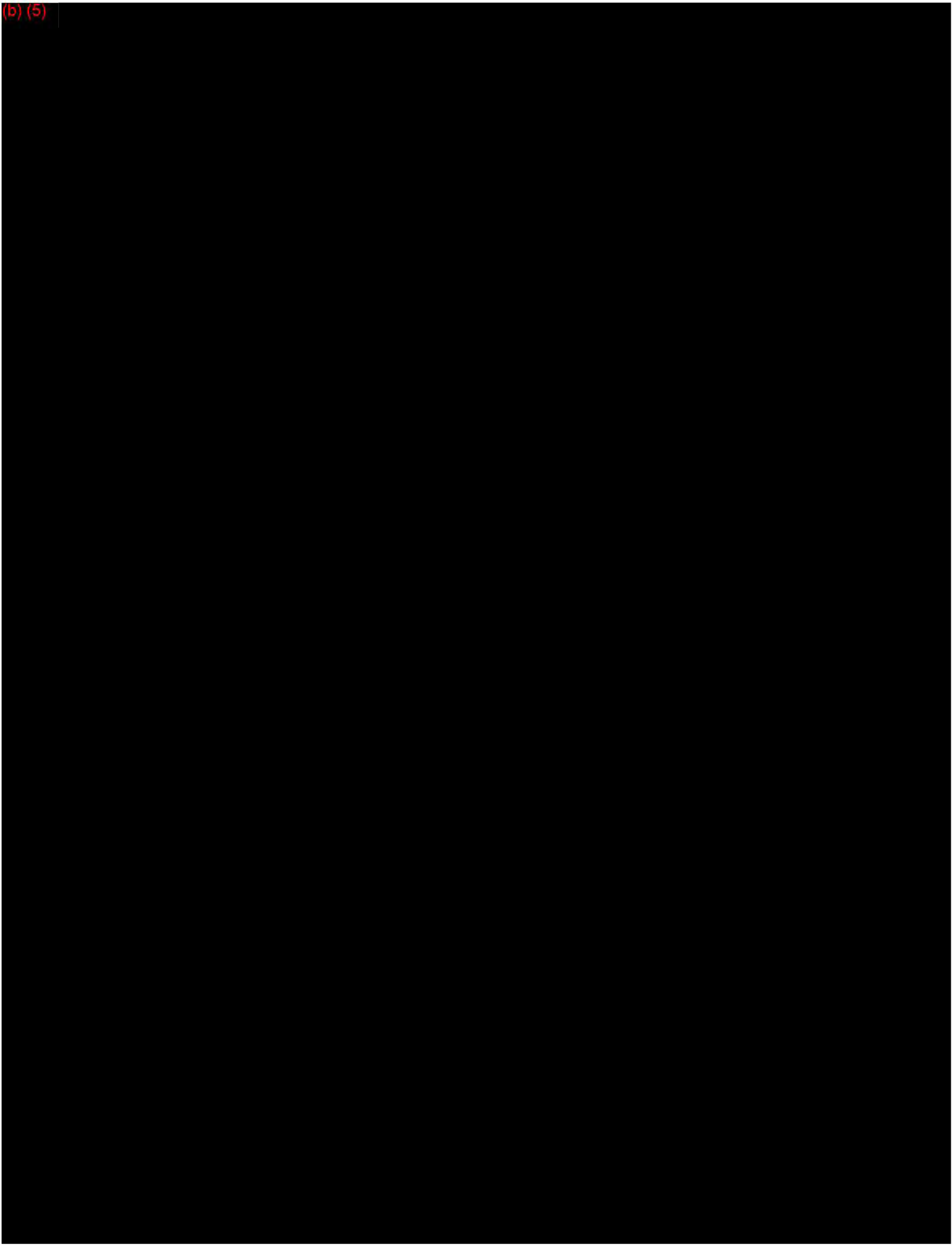


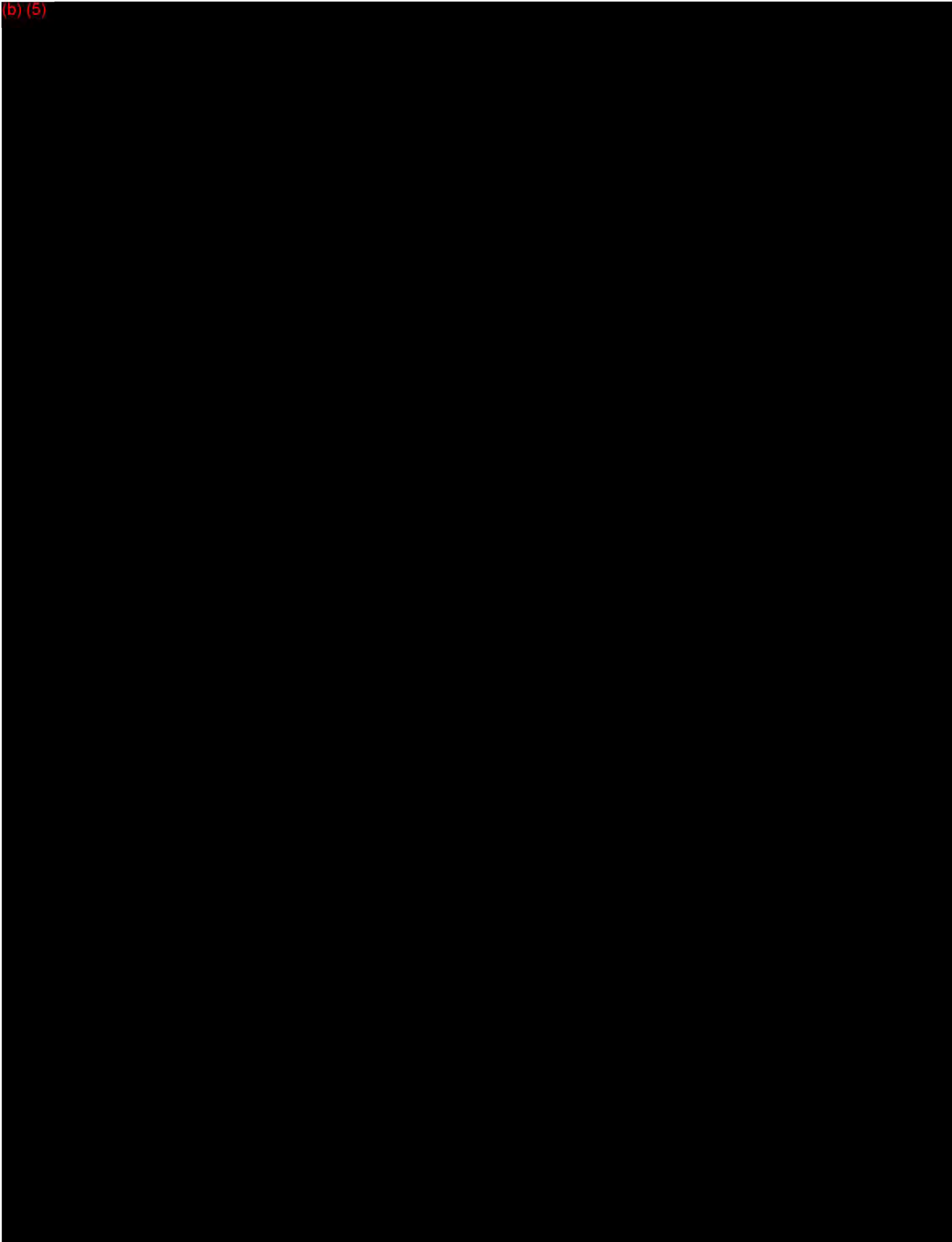


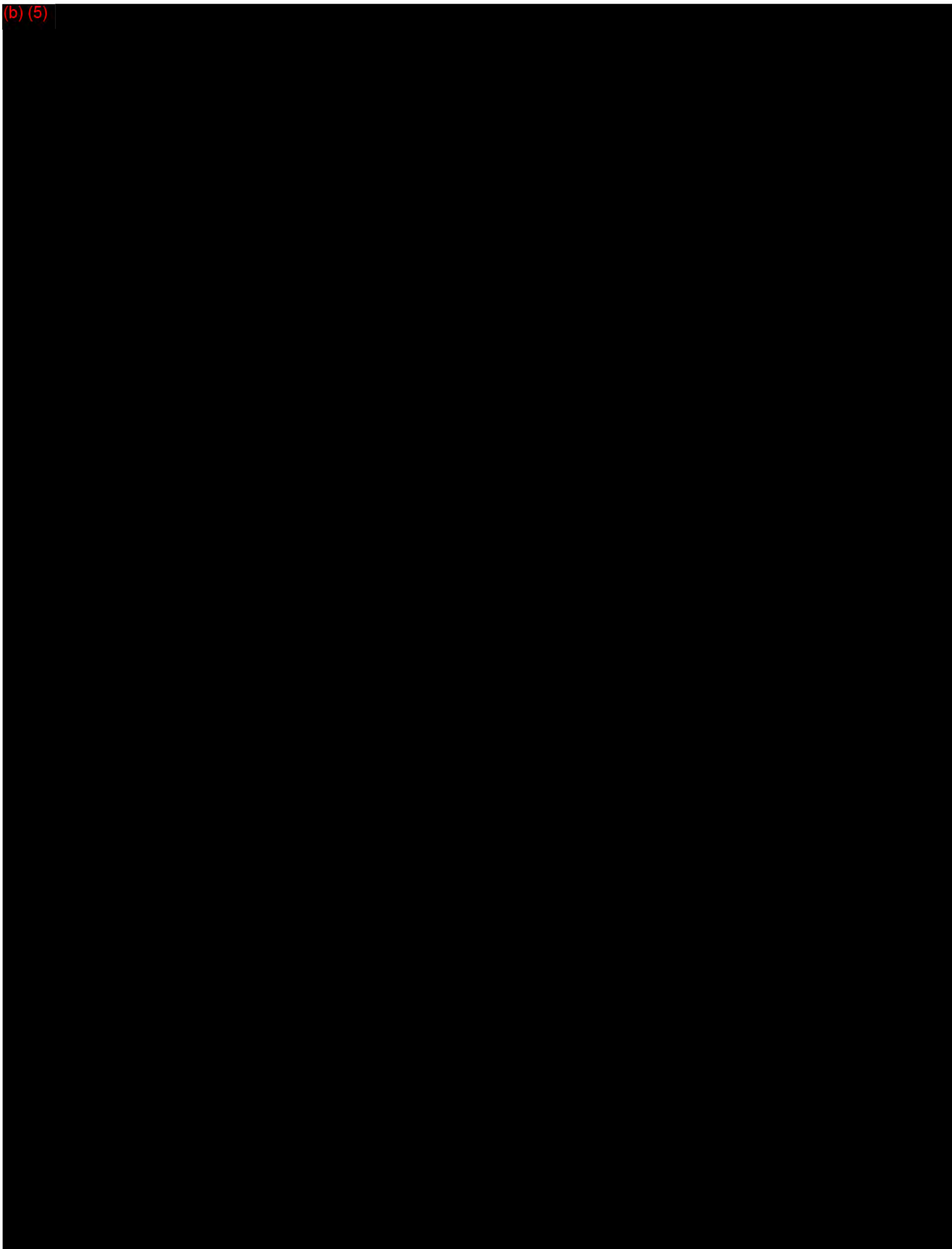


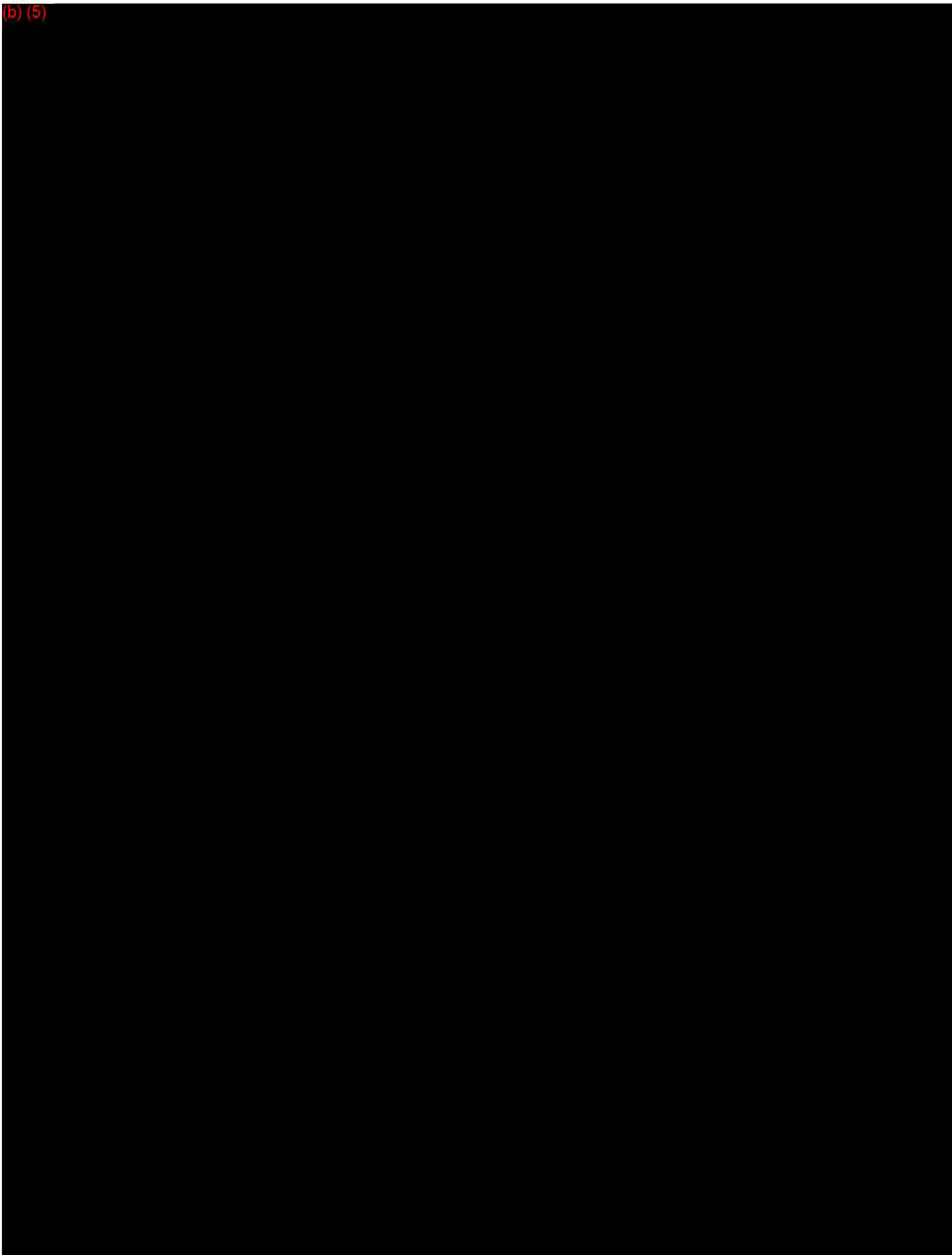


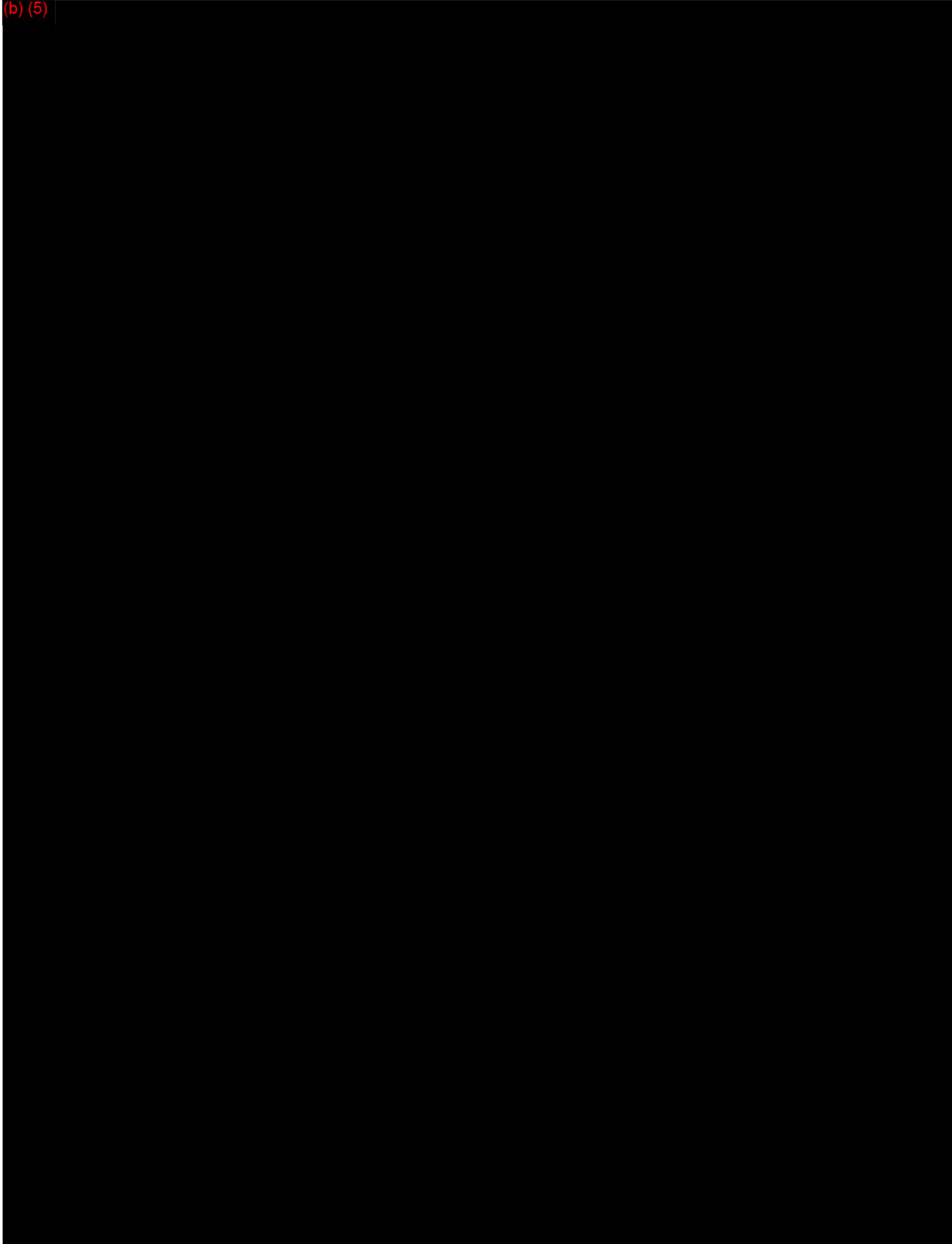


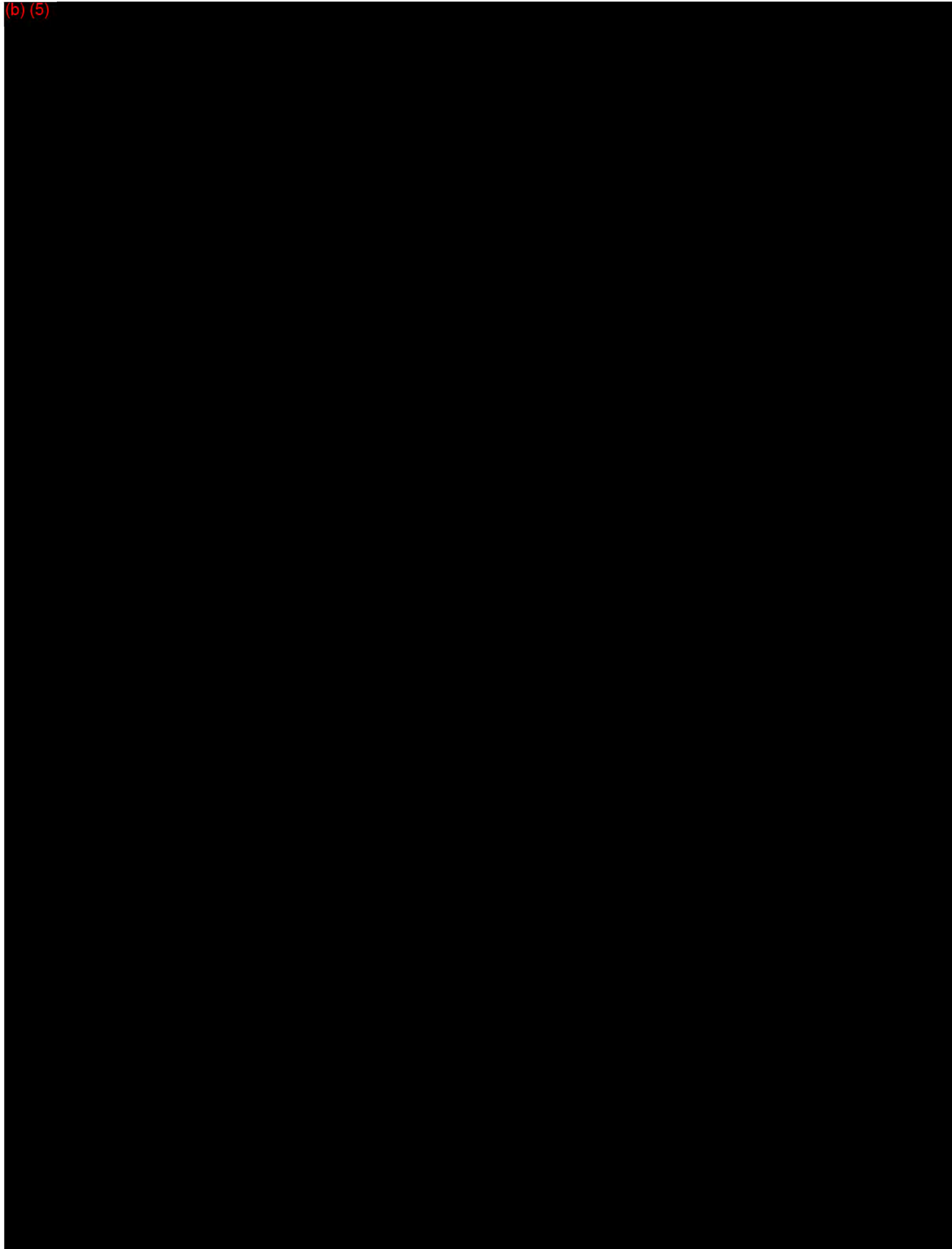




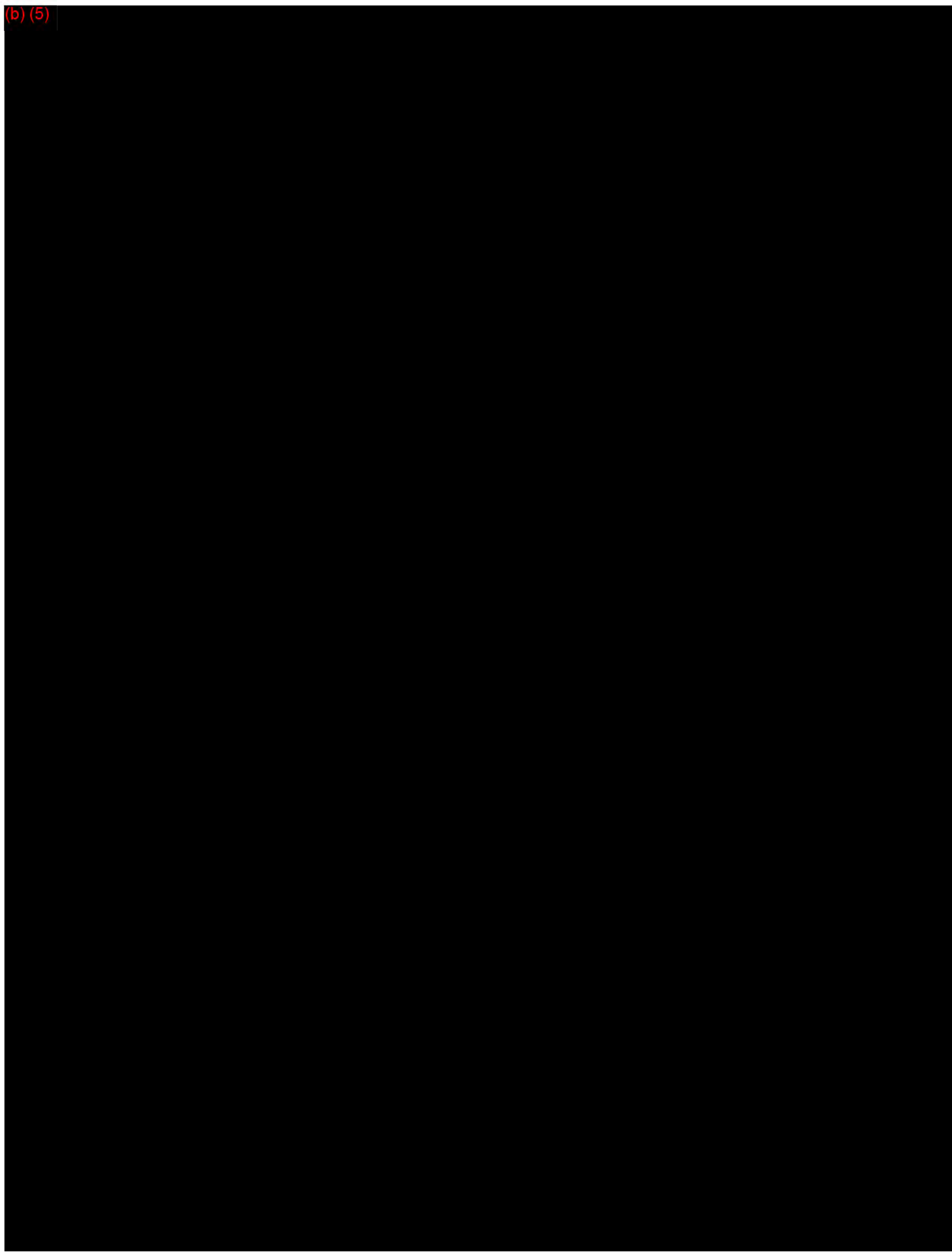


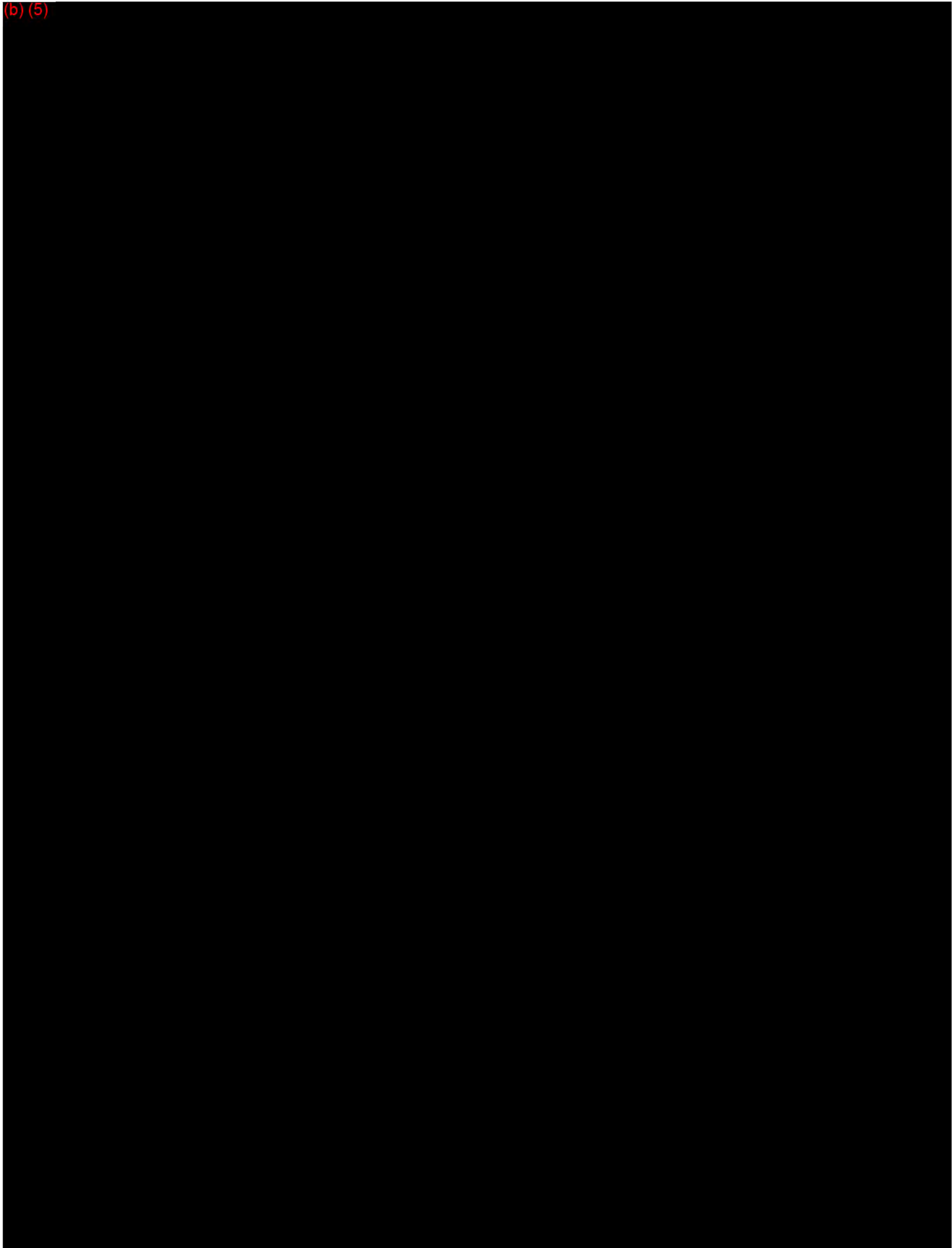


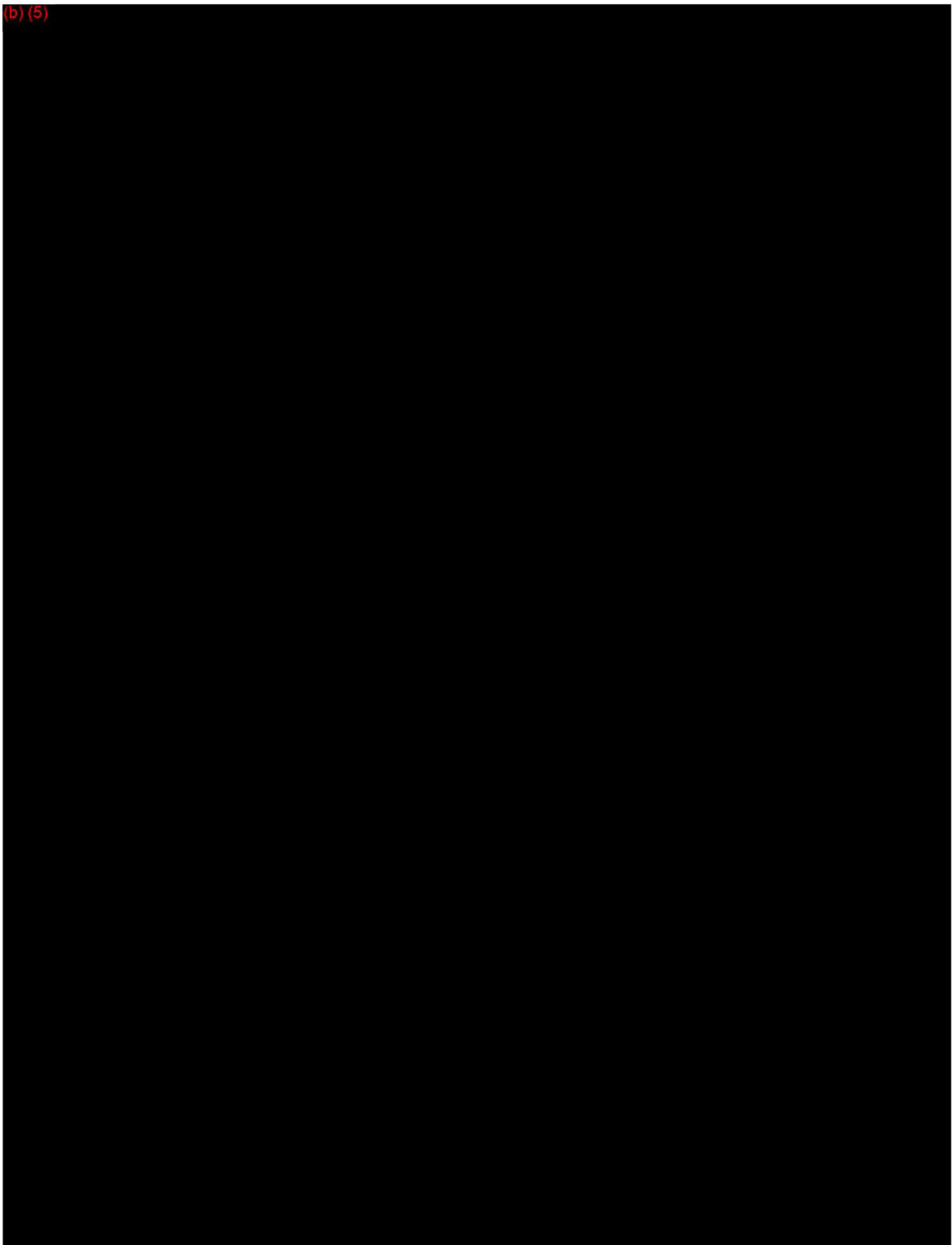


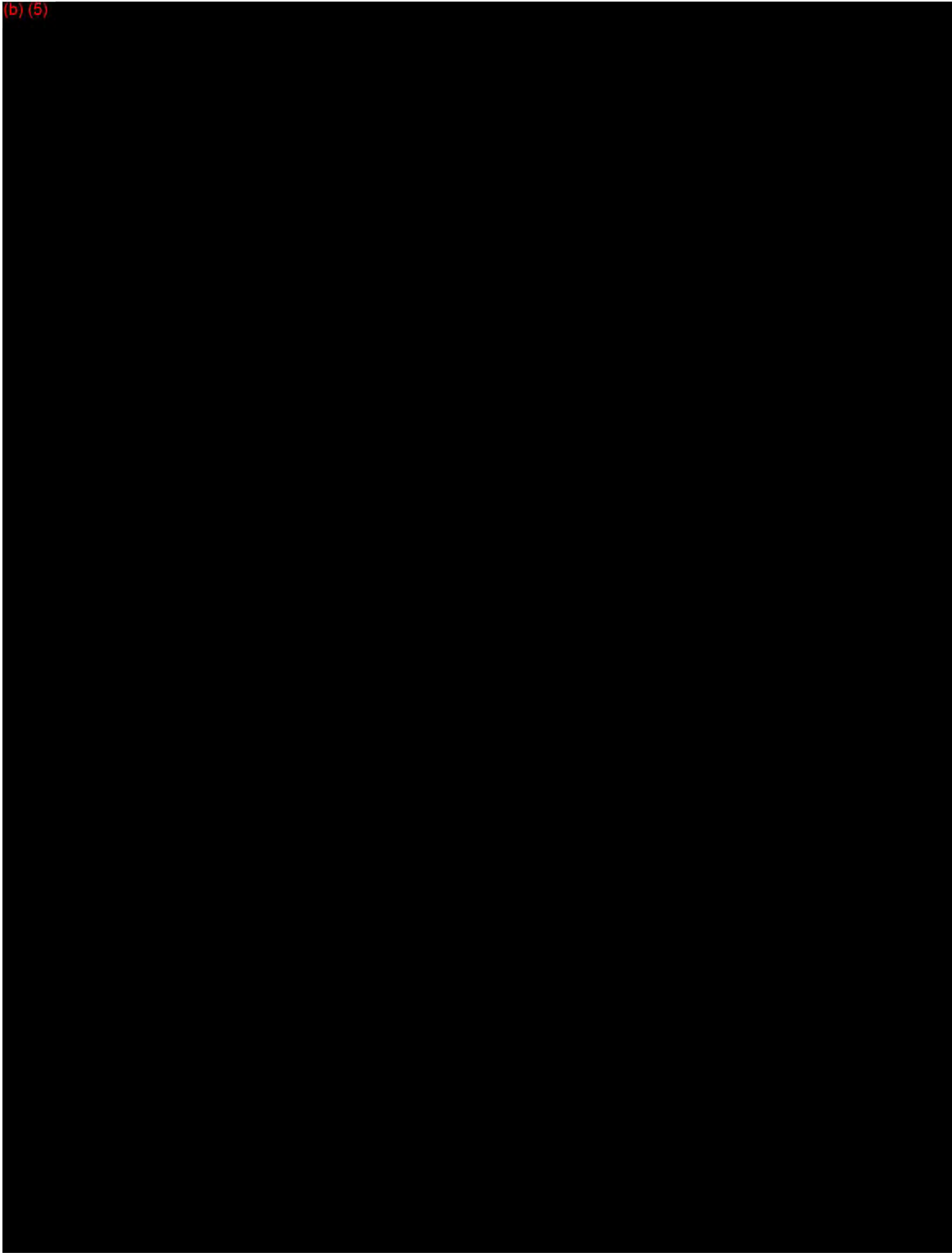


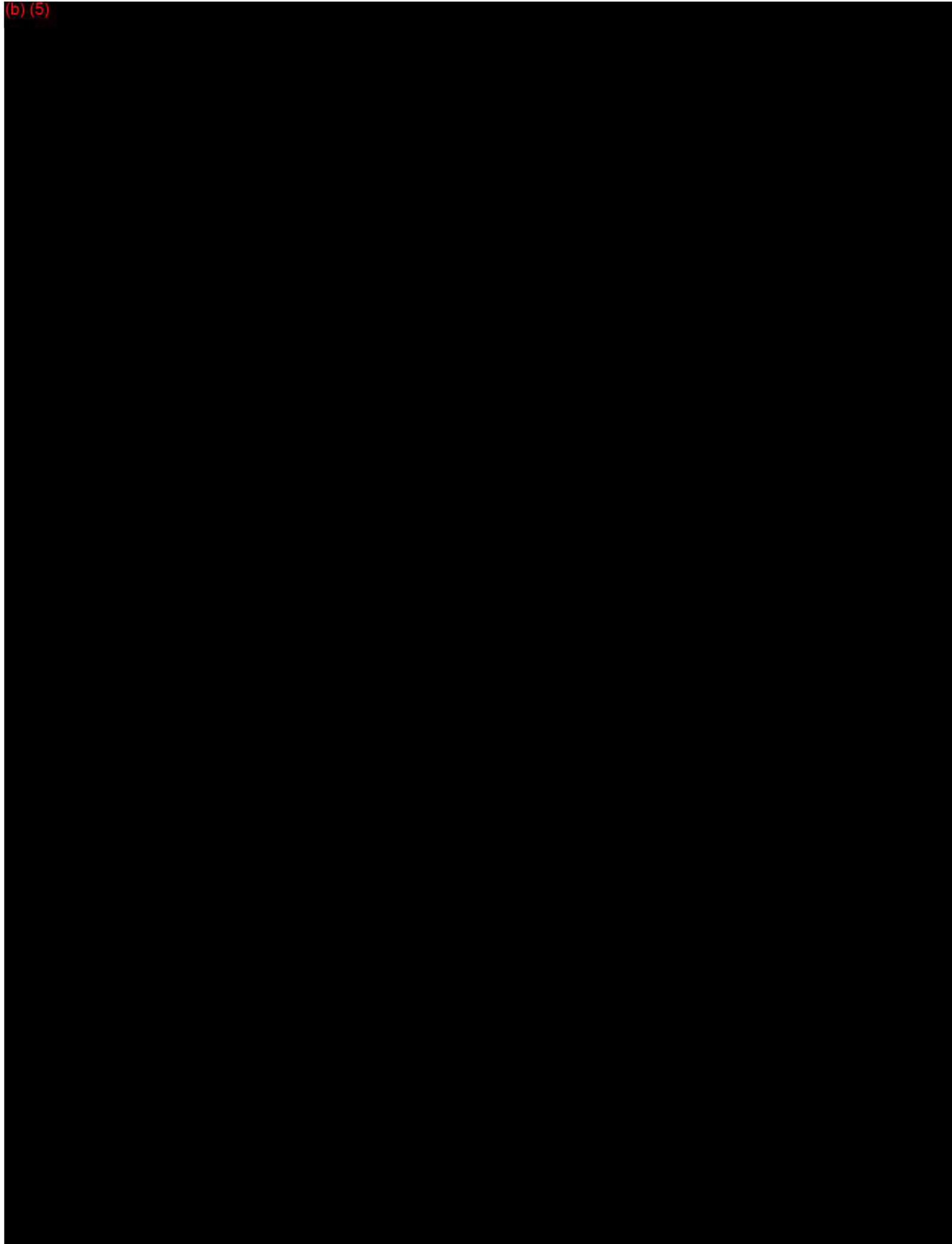


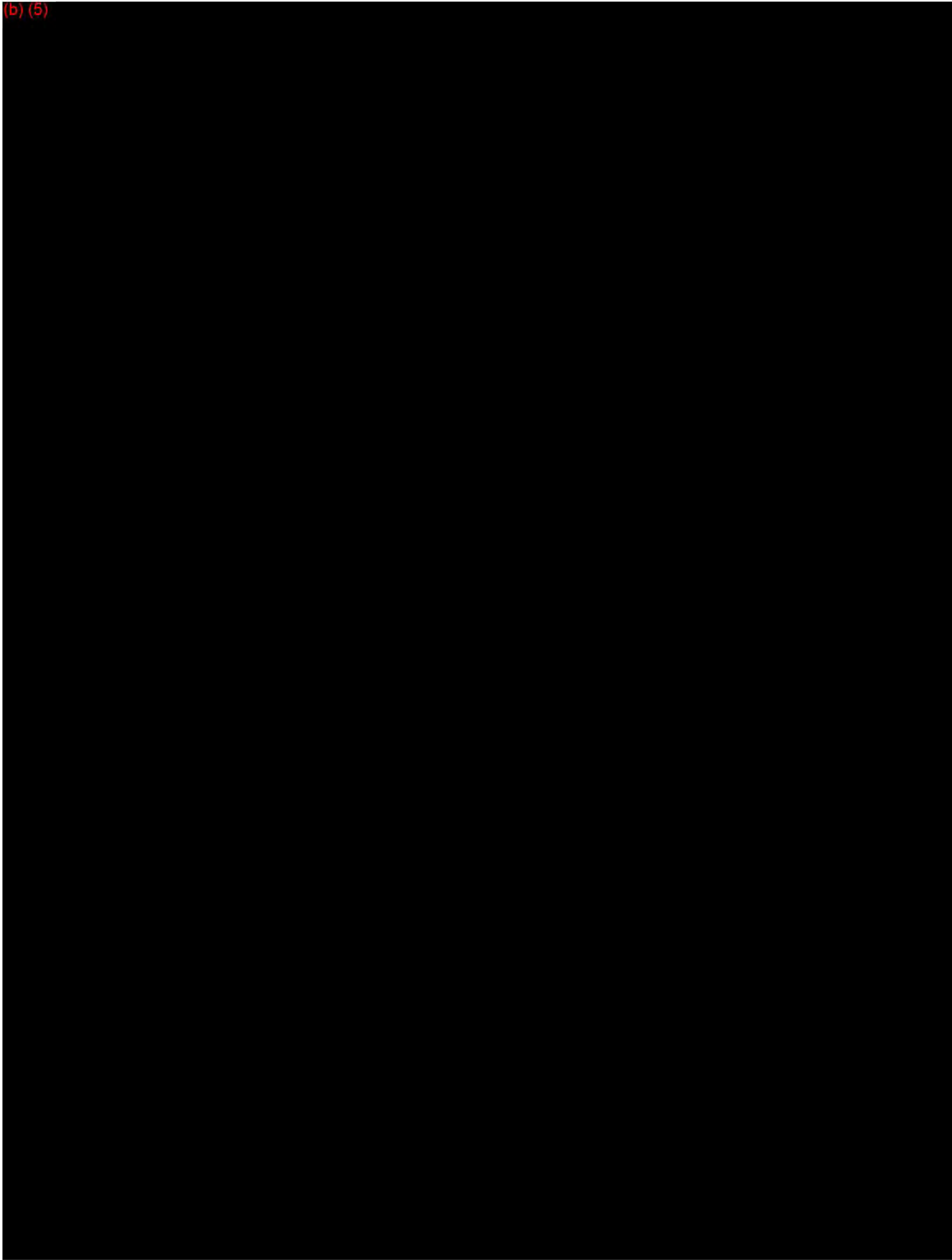


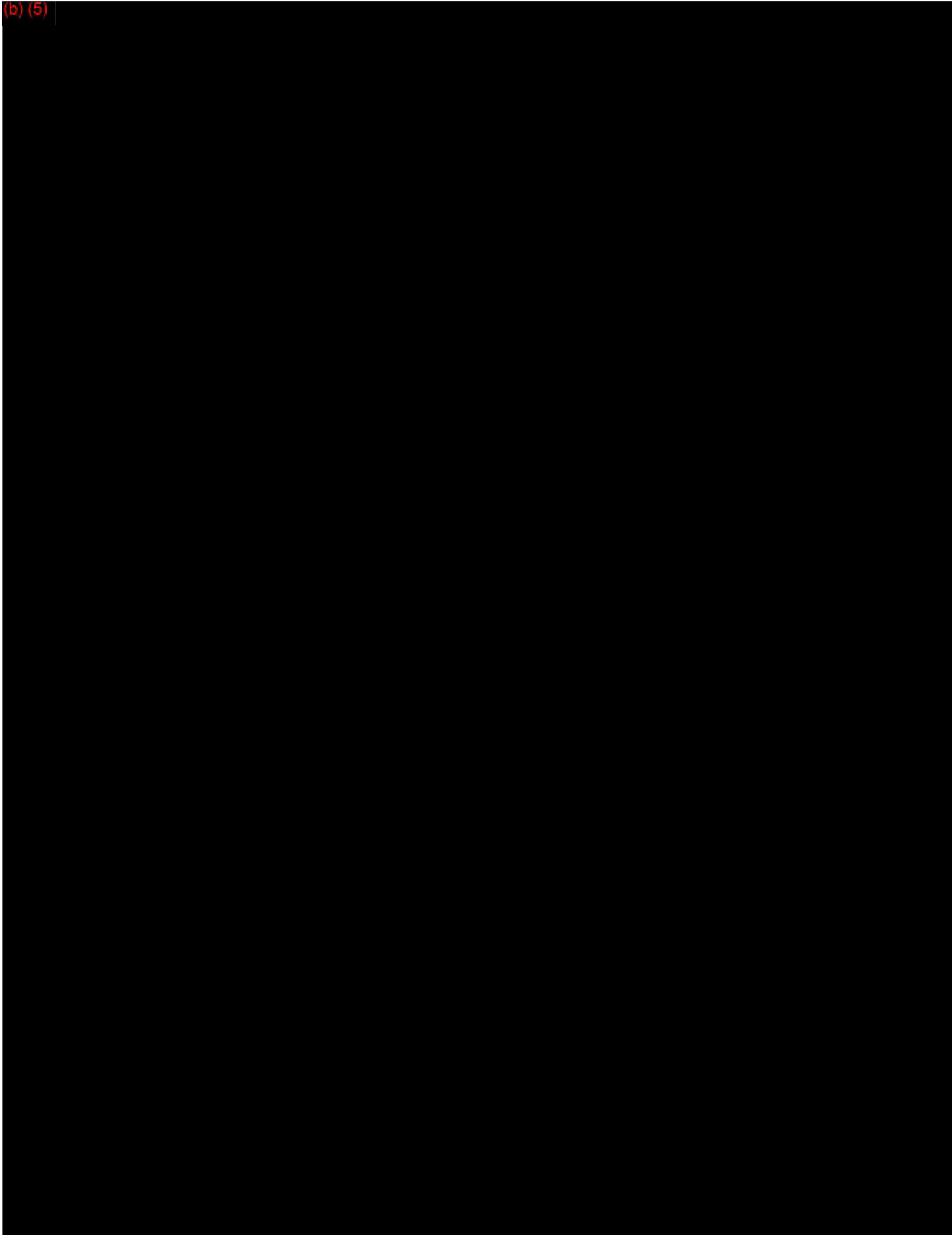


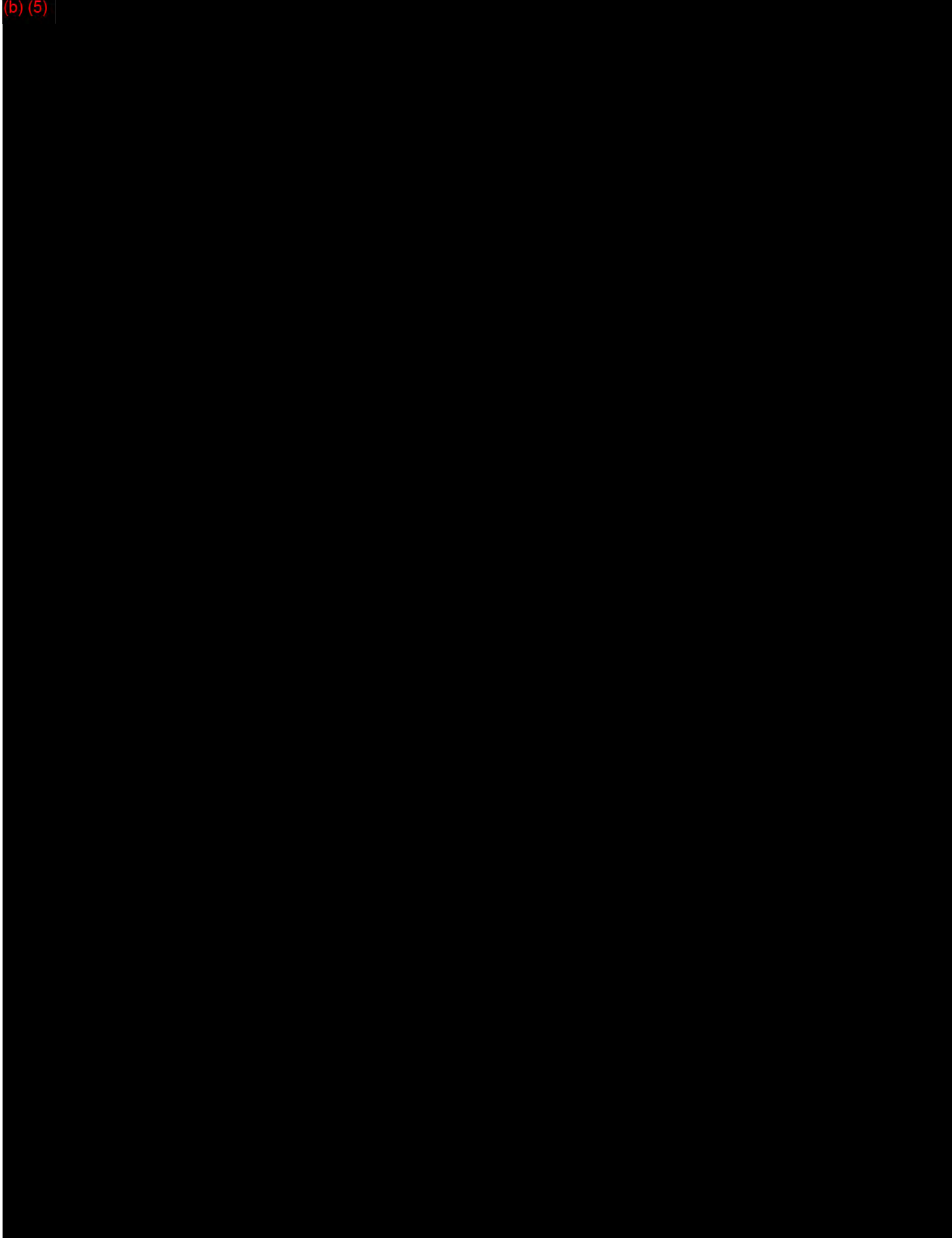




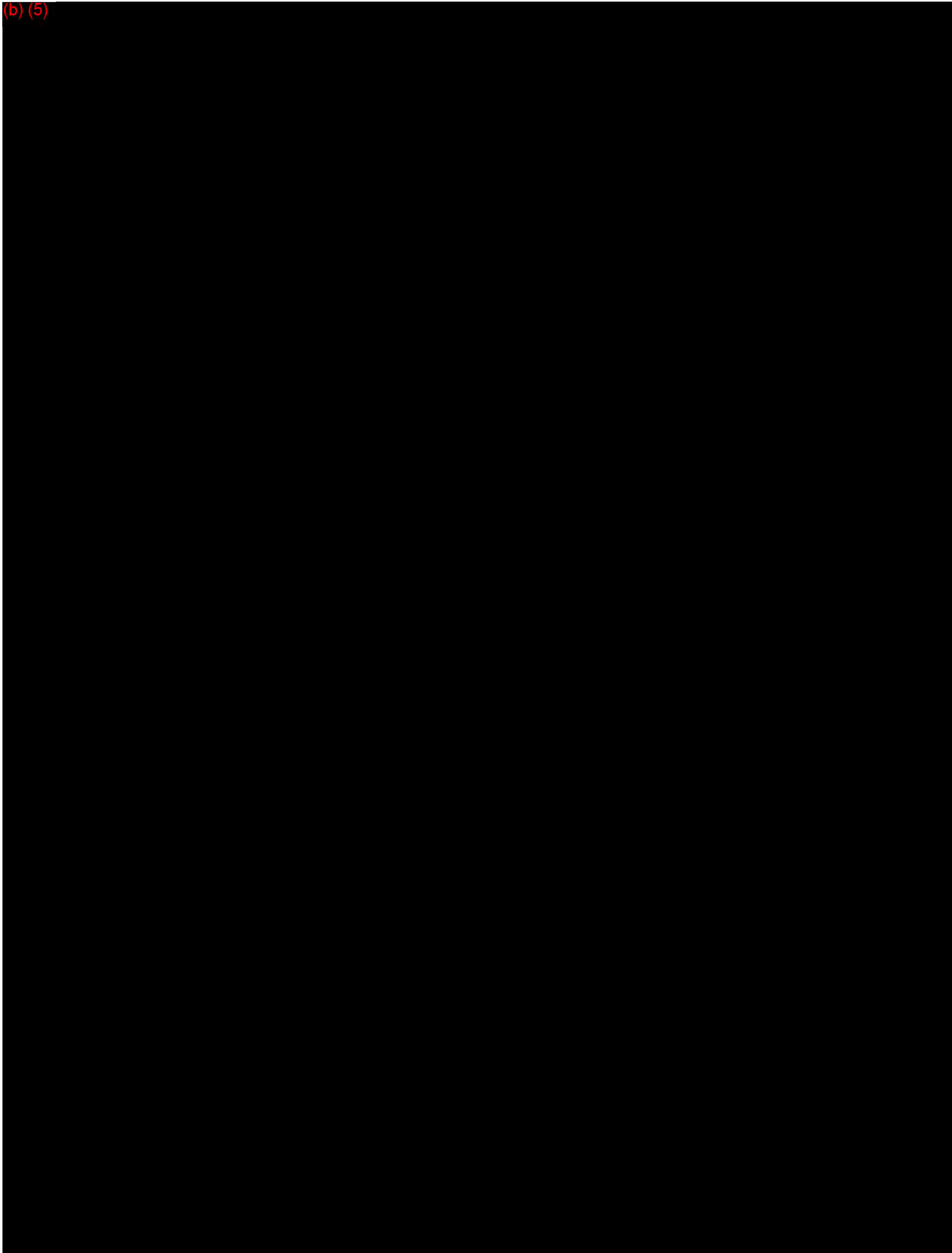


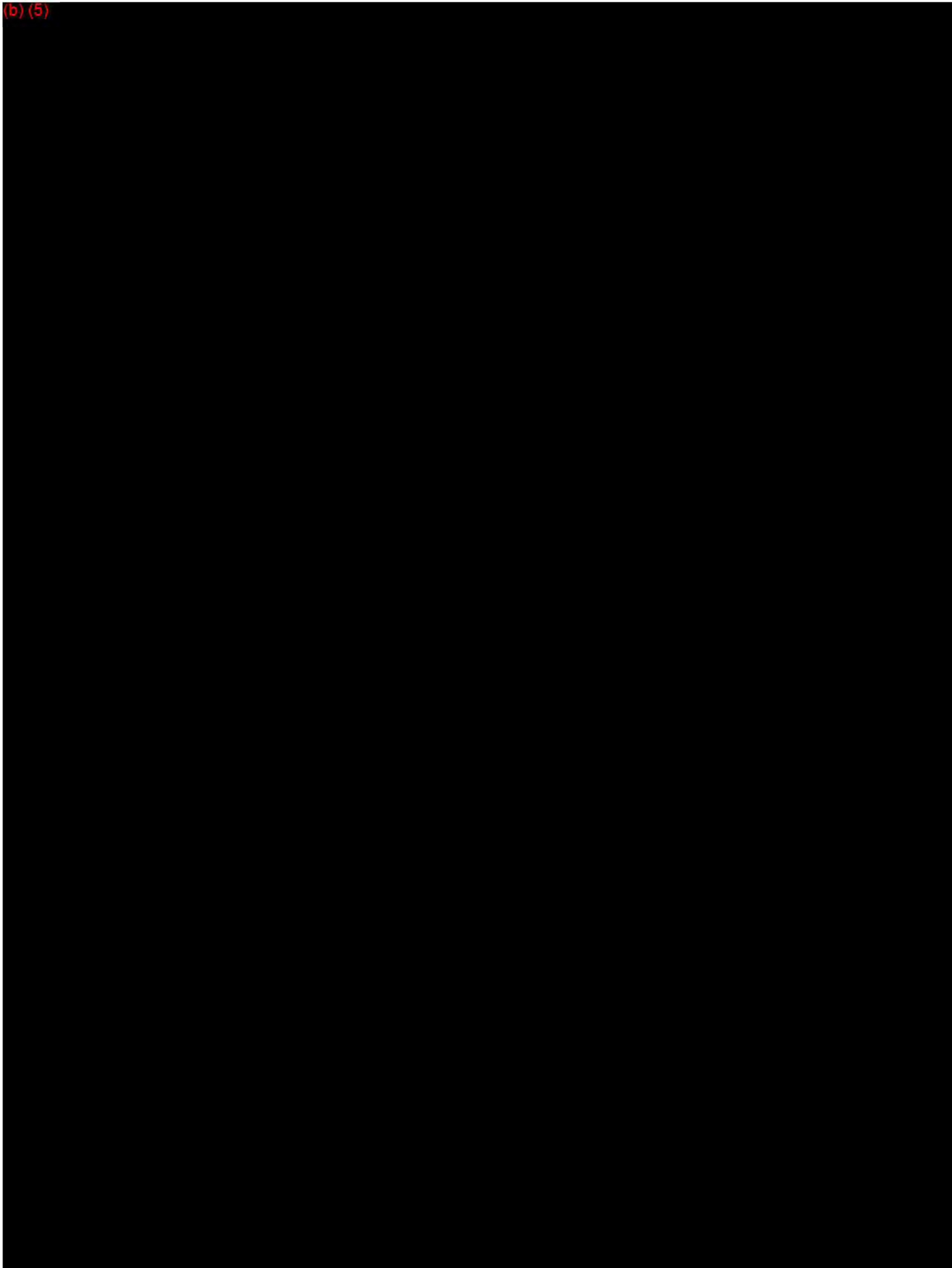


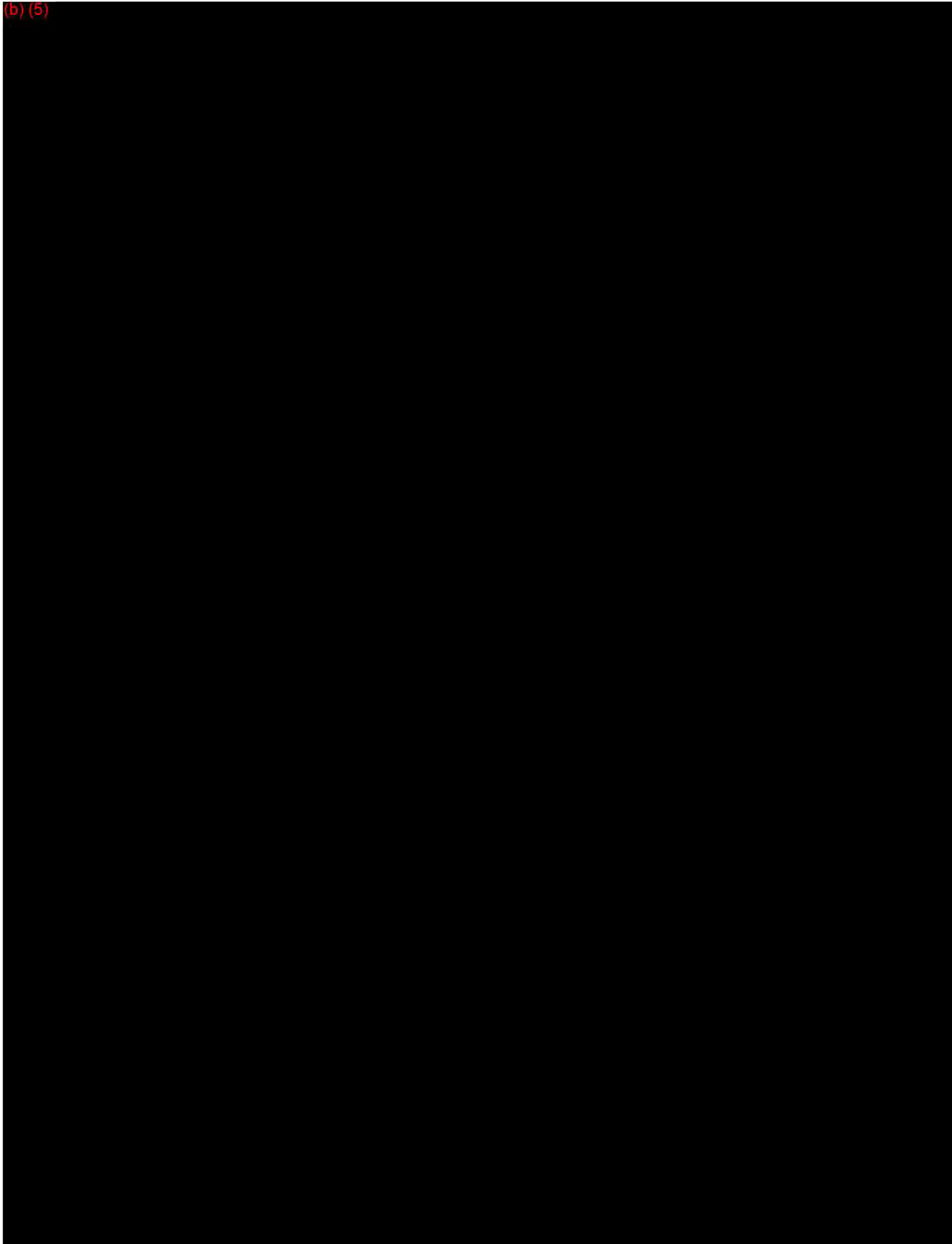


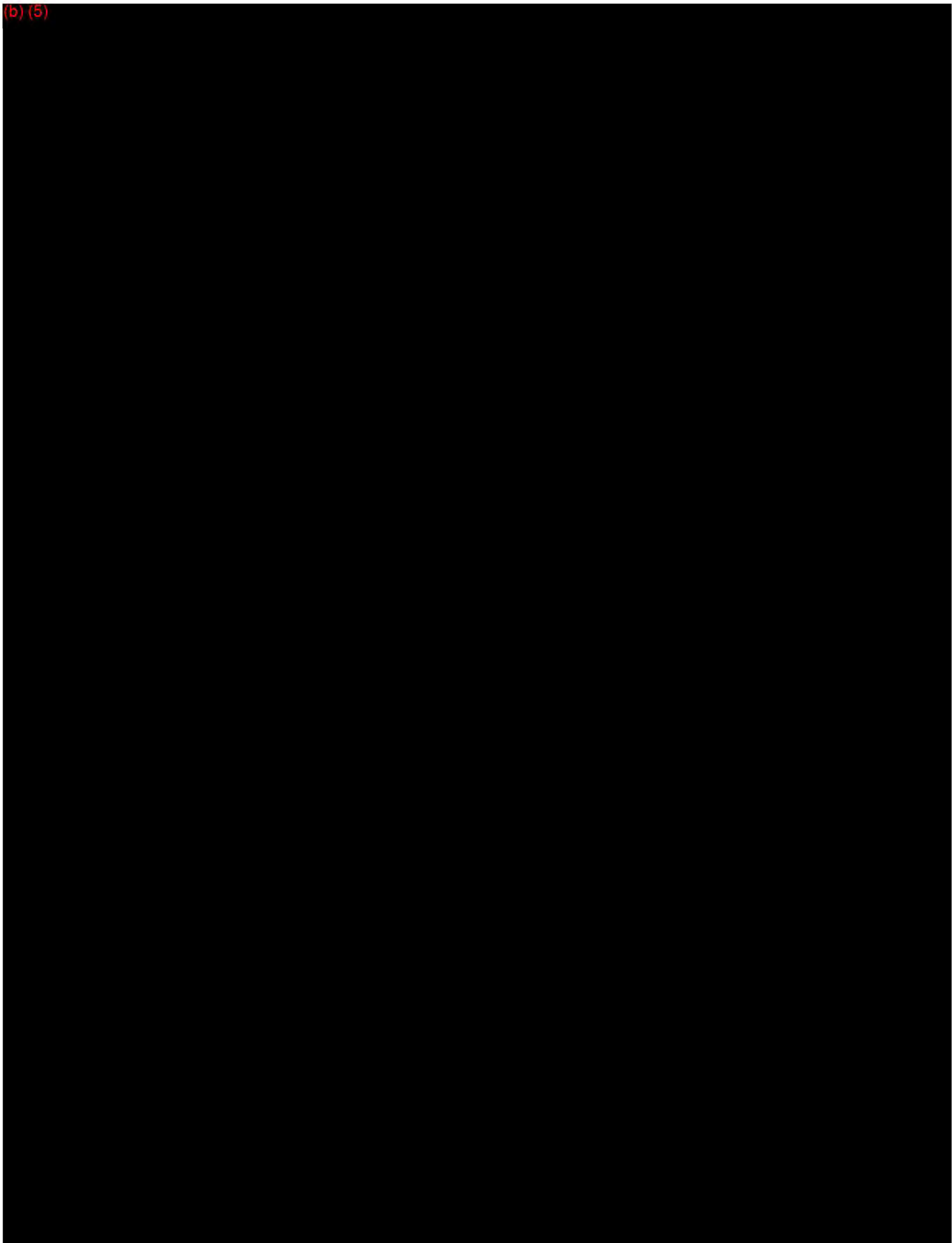












## ANPR information...

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**From** "Pettigrew, Theresa L. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=579eb754b4c34f0e8e46d1fb4cd708d7-pe">

**To:** matt\_leggett@epw.senate.gov

**Date:** Mon, 18 Jun 2018 16:26:23 -0400

---

Hello, Matt -

I wanted to follow up on this. Here is some info below. The 30 day comment period will start after this appears in the FR. Thank you.

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

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

# ANPRM

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

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

**Date:** Mon, 18 Jun 2018 15:48:37 -0400

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

(b) (6) (desk)

(b) (6)

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

## RE: Comment from CEQ?

---

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

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

**Date:** Mon, 18 Jun 2018 15:54:34 -0400

Hey Nick,

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

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

Dan

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

Sure: 202-446-0437

**From:** Schneider, Daniel J. EOP/CEQ [mailto:(b) (6)]  
**Sent:** Monday, May 21, 2018 10:46 AM  
**To:** Nick Sobczyk <nsobczyk@eenews.net>  
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Are there any specific areas of the NEPA regulations that are ripe for reform?

Do you think the FAST Act and MAP-21 provide a model for streamlining/change?

How will the current lack of Senate-confirmed political leadership affect how CEQ handles the potential regulatory changes?

How many public comments is CEQ expecting to get?

Best,  
Nick

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**Sent:** Friday, May 18, 2018 12:49 PM  
**To:** Nick Sobczyk <nsobczyk@eenews.net>  
**Subject:** RE: Comment from CEQ?

Hey Nick, still checking in on this.

Dan

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

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

Hey Nick,

What's your timing on this?

Dan

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



Hey Dan,

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

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

Best,  
Nick

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**From:** Schneider, Daniel J. EOP/CEQ [mailto:(b) (6)]  
**Sent:** Monday, May 07, 2018 3:16 PM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

Hey Nick,

On background, attributable to a CEQ Spokesman:

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

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

Hope that helps,

Dan

---

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Monday, May 7, 2018 2:27 PM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] Comment from CEQ?

Hi Dan,

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

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

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

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

Thanks!

Nick Sobczyk  
E&E News reporter  
[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)  
Office: 202-446-0437  
Cell: (b) (6)  
[@nick\\_sobczyk](https://twitter.com/nick_sobczyk)

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

## [EXTERNAL] RE: Comment from CEQ?

---

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

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

**Date:** Tue, 19 Jun 2018 11:36:56 -0400

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

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

**Sent:** Tuesday, June 19, 2018 11:35 AM

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

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

On background, attributable to a CEQ spokesman.

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

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

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

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

**Sent:** Tuesday, June 19, 2018 11:18 AM

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

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

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

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

**Sent:** Tuesday, June 19, 2018 10:32 AM

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

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

Hey Nick, what's your deadline?

Dan

---

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Tuesday, June 19, 2018 9:52 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Good Morning Dan,

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

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

Best,  
Nick

---

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

Hey Nick,

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

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E&E News reporter

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

Office: 202-446-0437

Cell: (b) (6)

[@nick\\_sobczyk](#)

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

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

Nick

---

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

Hey Nick,

What's your timing on this?

Dan

---

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

Hey Dan,

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

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

Best,  
Nick

---

**From:** Schneider, Daniel J. EOP/CEQ [[\(b\) \(6\)](mailto:(b) (6))]  
**Sent:** Monday, May 07, 2018 3:16 PM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

Hey Nick,

On background, attributable to a CEQ Spokesman:

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

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

Hope that helps,

Dan

---

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Monday, May 7, 2018 2:27 PM

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

Hi Dan,

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

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

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

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

Thanks!

Nick Sobczyk  
E&E News reporter  
[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)  
Office: 202-446-0437  
Cell: (b) (6)  
[@nick\\_sobczyk](https://twitter.com/nick_sobczyk)

**E&E NEWS**

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

# Fwd: White House Targets NEPA Implementation Regs for Revision

---

**From:** "Prandoni, Christopher D. EOP/CEQ" <"/o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=8c7259a79a094fb8b901a30a5c698949-pr">  
**To:** "Neumayr, Mary B. EOP/CEQ" <(b) (6)> "Pettigrew, Theresa L. EOP/CEQ" <(b) (6)>  
**Date:** Wed, 20 Jun 2018 18:39:29 -0400

---

Sent from my iPhone

Begin forwarded message:

**From:** "Small, Jeff" <[Jeff.Small@mail.house.gov](mailto:Jeff.Small@mail.house.gov)>  
**Date:** June 20, 2018 at 6:31:25 PM EDT  
**To:** "Prandoni, Christopher D. EOP/CEQ" <(b) (6)>  
**Subject:** FW: White House Targets NEPA Implementation Regs for Revision

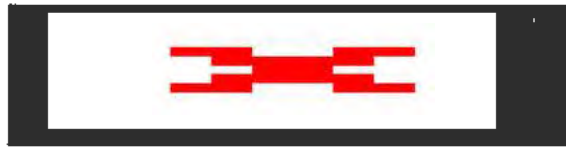
FYI. Thanks again for meeting yesterday!

**Jeff Small**  
*Executive Director | Congressional Western Caucus*  
*Senior Advisor | Congressman Paul A. Gosar, D.D.S.*  
2057 Rayburn HOB | Washington, DC 20515  
(202) 225-2315 main  
[jeff.small@mail.house.gov](mailto:jeff.small@mail.house.gov)



---

**From:** Congressional Western Caucus [<mailto:WesternCaucus@mail.house.gov>]  
**Sent:** Wednesday, June 20, 2018 5:17 PM  
**To:** Small, Jeff  
**Subject:** White House Targets NEPA Implementation Regs for Revision



For Immediate Release  
Contact: Tanner Hanson

Date: June 20, 2018  
[Tanner.Hanson@mail.house.gov](mailto:Tanner.Hanson@mail.house.gov)

## White House Takes Up NEPA Implementation Rules Caucus: 'Revisions should remove bureaucratic hurdles'



WASHINGTON, D.C. – Today, Members of the Congressional Western Caucus including Chairman **Paul Gosar (AZ-04)**, House Committee on Natural Resources Chairman **Rob Bishop (UT-01)**, Vice Chairman for Indian Affairs and Oceans **Don Young (AK-At Large)**, Chief Infrastructure and Forestry Officer **Bruce Westerman (AR-04)** and Congressman **Doug LaMalfa (CA-01)** released statements after the White House's Council on Environmental Quality published an advanced notice of proposed rulemaking indicating its intent to consider revising regulations governing implementation of the National Environmental Policy Act (NEPA):

**Congressman Gosar** said, "Issued in 1978 and amended in 1986, the Executive's NEPA regulations governing the law's implementation have barely been touched since they were first put in place. Given how much we have learned about how the law plays out in practice since then - and how impactful these regulations are - this fact borders on outrageous. Accordingly, we look forward to working with the White House's Council on Environmental Quality and other relevant federal entities to ensure that NEPA is implemented in a maximally efficient way. This restrictive law has been made far more onerous by executive decisions to bureaucratize rather than streamline its implementation, and it bodes well for our great companies and economy to see the President taking action here."

**Congressman Rob Bishop** stated, "NEPA's arbitrary and burdensome mandates are slowing infrastructure progress in the United States while doing little to actually improve environmental outcomes. I'm thankful CEQ and the Trump administration are serious about bringing our federal environmental review process into the 21<sup>st</sup> century, and today's action is critical step forward. My Committee will be working closely with CEQ and agency leadership to create a more logical NEPA enforcement process based on timely, transparent decision-making that yields better results for the economy and environment."

**Congressman Don Young** said, "NEPA is an important tool; however, in recent years it has become a method to delay and stall development projects. The current process can take a decade

or more to complete thanks to litigious environmental groups. These delays are not necessary for producing accurate environmental assessments. I am pleased that this administration has prioritized fixing the NEPA process so that proposals can be streamlined and receive a decision in a reasonable timeframe."

**Congressman Westerman** stated, "While the National Environmental Protection Act (NEPA) at its core is a vital piece of America's environmental policy, over the past four decades, the law has morphed into a bureaucratic nightmare, harming both our lands and our economy with layers and layers of costly regulation. It now takes our government over five years to complete an environmental impact statement, while other modern countries like Germany and Australia can complete similar studies in no more than two years. It is high time that CEQ reviews this policy, and a major revision will be essential to ensure America's future success."

**Congressman LaMalfa** concluded, "NEPA's review processes are severely outdated, and as a result, it often takes years – even decades – for important infrastructure projects to be approved. We've witnessed this problem countless times in Northern California, and I'm glad the Trump Administration and CEQ have recognized the issue and taken steps to modernize the environmental review process. This is about scaling back unnecessary bureaucracy and increasing efficiency between agencies so that we can actually build important new infrastructure in a timely manner. I look forward to reviewing the proposed changes after conclusion of the comment period."

#### **Background:**

Today, the Council on Environmental Quality (CEQ) published an [advanced notice of proposed rulemaking](#) in the Federal Register announcing it is considering updating its implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA). According to CEQ, "Over the past four decades, CEQ has issued numerous guidance documents but has amended its regulations substantively only once."

In the notice, CEQ poses 20 individual questions concerning various aspects of the NEPA process and regulation that public commenters have 30 days to respond to. The questions are divided into sections, including those on the current NEPA process, the scope of NEPA reviews and the general NEPA process. More specific questions, including those pertaining to public input into NEPA, proper inter-agency procedures and others are included therein.

The Administration is likely to take further action at the conclusion of this 30-day public comment period by releasing draft changes to NEPA regulations, which will also be subject to public comment.

The extent to which NEPA has managed to sidestep improvements through substantial reform has not gone unnoticed in Congress, and many Members of the Western Caucus have led the charge in approaching reform at the statutory level. In a House Committee on Natural Resources [hearing on May 28, 2014](#), the Committee noted that "...Germany, Canada, and Australia are all able to approve most major infrastructure projects within two years. By contrast, a major infrastructure or energy project in the United States can undergo a decade of

environmental review with no guarantee that the project will ever be approved.”

With the advent of the Trump Administration and its emphasis on bureaucratic and regulatory streamlining, the issue of NEPA reform is now gaining significant traction across the government and industry. Western Caucus members anticipate important revisions to NEPA statute and implementation during the Trump Administration, including streamlining the inter-agency process, consolidation of reviews and decisions at the federal, state, tribal and local government levels across time, improving timing efficiencies and reducing the overall quantity of provisions, mandates and documents which comprise a NEPA analysis.

###

[WEBSITE](#) / [UNSUBSCRIBE](#)





# FW: White House Targets NEPA Implementation Regs for Revision

---

**From:** "Small, Jeff" <jeff.small@mail.house.gov>

**To:** "Prandoni, Christopher D. EOP/CEQ" <(b) (6)>

**Date:** Wed, 20 Jun 2018 18:31:25 -0400

FYI. Thanks again for meeting yesterday!

**Jeff Small**

*Executive Director | Congressional Western Caucus*

*Senior Advisor | Congressman Paul A. Gosar, D.D.S.*

2057 Rayburn HOB | Washington, DC 20515

(202) 225-2315 main

[jeff.small@mail.house.gov](mailto:jeff.small@mail.house.gov)



---

**From:** Congressional Western Caucus [mailto:WesternCaucus@mail.house.gov]

**Sent:** Wednesday, June 20, 2018 5:17 PM

**To:** Small, Jeff

**Subject:** White House Targets NEPA Implementation Regs for Revision



**For Immediate Release**  
Contact: Tanner Hanson

**Date:** June 20, 2018  
Tanner.Hanson@mail.house.gov

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###

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## RE: Mail

---

**From:** "McLaurin, Juschelle D. EOP/CEQ" <(b) (6)>  
**To:** "Neumayr, Mary B. EOP/CEQ" <(b) (6)>  
**Cc:** "Boling, Ted A. EOP/CEQ" (b) (6) "Drummond, Michael R. EOP/CEQ" (b) (6)  
**Date:** Mon, 25 Jun 2018 16:23:51 -0400  
**Attachments:** Neumayr-Boling D. VanSee Hei- GT Mehan Re Regulation Coment on Docket : CE....pdf (315.97 kB)

Sorry I realized I did not add the document and I left Katherine off. The original is in your mailbox.

**From:** McLaurin, Juschelle D. EOP/CEQ  
**Sent:** Monday, June 25, 2018 2:58 PM  
**To:** Neumayr, Mary B. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** Mail

Hello Mary,

Send to Edward Boling and shared with Michael Drummond in his absence.

Juschelle

Juschelle D. McLaurin  
Administrative Assistant  
730 Jackson Place NW  
Washington, DC 20503  
(b) (6) Office  
(b) (6) Cell



June 25, 2018

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

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

Dear Ms. Neumayr,

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

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

Thank you for consideration of our request.

Sincerely,

Diane VanDe Hei  
Chief Executive Officer  
Association of Metropolitan Water Agencies

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

## FW: Mail

---

**From:** "Drummond, Michael R. EOP/CEQ" <"o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=a0bc62c0a5454e6fb7a1be504b7d284a-dr">  
**To:** "Mansoor, Yarden M. EOP/CEQ" <(b) (6)>  
**Date:** Mon, 25 Jun 2018 16:26:47 -0400  
**Attachments:** Neumayr-Boling D. VanSee Hei- GT Mehan Re Regulation Coment on Docket CE....pdf (315.97 kB)

To be added to the tracking spreadsheet.

---

**From:** Neumayr, Mary B. EOP/CEQ  
**Sent:** Monday, June 25, 2018 4:26 PM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Cc:** Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** FW: Mail

---

**From:** McLaurin, Juschelle D. EOP/CEQ  
**Sent:** Monday, June 25, 2018 4:24 PM  
**To:** Neumayr, Mary B. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** RE: Mail

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Juschelle

Juschelle D. McLaurin  
Administrative Assistant  
730 Jackson Place NW  
Washington, DC 20503

(b) (6) Office

(b) (6) Cell





June 25, 2018

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

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Chief Executive Officer  
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G. Tracy Mehan, III  
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**To:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**Cc:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**Date:** Mon, 25 Jun 2018 16:25:48 -0400  
**Attachments:** Neumayr-Boling D. VanSee Hei- GT Mehan Re Regulation Comment on Docket  
: CE....pdf (315.97 kB)

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Juschelle

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Administrative Assistant  
730 Jackson Place NW  
Washington, DC 20503  
(b) (6) Office  
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June 25, 2018

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Chief of Staff  
Council on Environmental Quality  
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Sincerely,

Diane VanDe Hei  
Chief Executive Officer  
Association of Metropolitan Water Agencies

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

## Re: Q&As for your review

---

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

**To:** Janet Pfleeger - Y <janet.pfleeger@gsa.gov>

Karen Hanley - Y <karen.hanley@gsa.gov>, "Osterhues, Marlys A. EOP/CEQ"  
<(b) (6)> Amber Levofsky - Y  
<amber.levofsky@gsa.gov>, Kavita Vaidyanathan - AY-DETAILEE

**Cc:** <kavita.vaidyanathan@gsa.gov>, "Sharp, Thomas L. EOP/CEQ"  
<(b) (6)> "Scott (Robert) Hillkirk - AY-C"  
<scott.hillkirk@gsa.gov>, "Drummond, Michael R. EOP/CEQ"  
<(b) (6)>

**Date:** Tue, 26 Jun 2018 19:54:48 -0400

**Attachments** Draft Question and Answer for Senate Roundtable 6-25-18- clean (2)AFC.docx  
:  
(48.65 kB)

I have added some suggestions on top of Janet's edits.

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

On Tue, Jun 26, 2018 at 4:54 PM, Janet Pfleeger - Y <[janet.pfleeger@gsa.gov](mailto:janet.pfleeger@gsa.gov)> wrote:

Marlys,

Please see edits discussed this afternoon to pages 2 and 5. I want to add these to Angie's binder as soon as CEQ is done with your edits from this afternoon so please "reply all" when you distribute later today.

Thanks!

Janet

**Janet Pfleeger**  
Deputy Director  
Federal Permitting Improvement Steering Council  
Office of the Executive Director (FPISC-OED)  
[janet.pfleeger@fpisc.gov](mailto:janet.pfleeger@fpisc.gov)  
(202) 714-7288  
1800 F St, NW  
Washington, DC 20405

On Mon, Jun 25, 2018 at 1:46 PM, Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)> wrote:  
Good afternoon everyone,

Please find some comments/edits for the Roundtable Q&As attached.

(b) (5)

On Thu, Jun 21, 2018 at 5:10 PM, Angela Colamaria - Y-D <[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)> wrote:  
All,

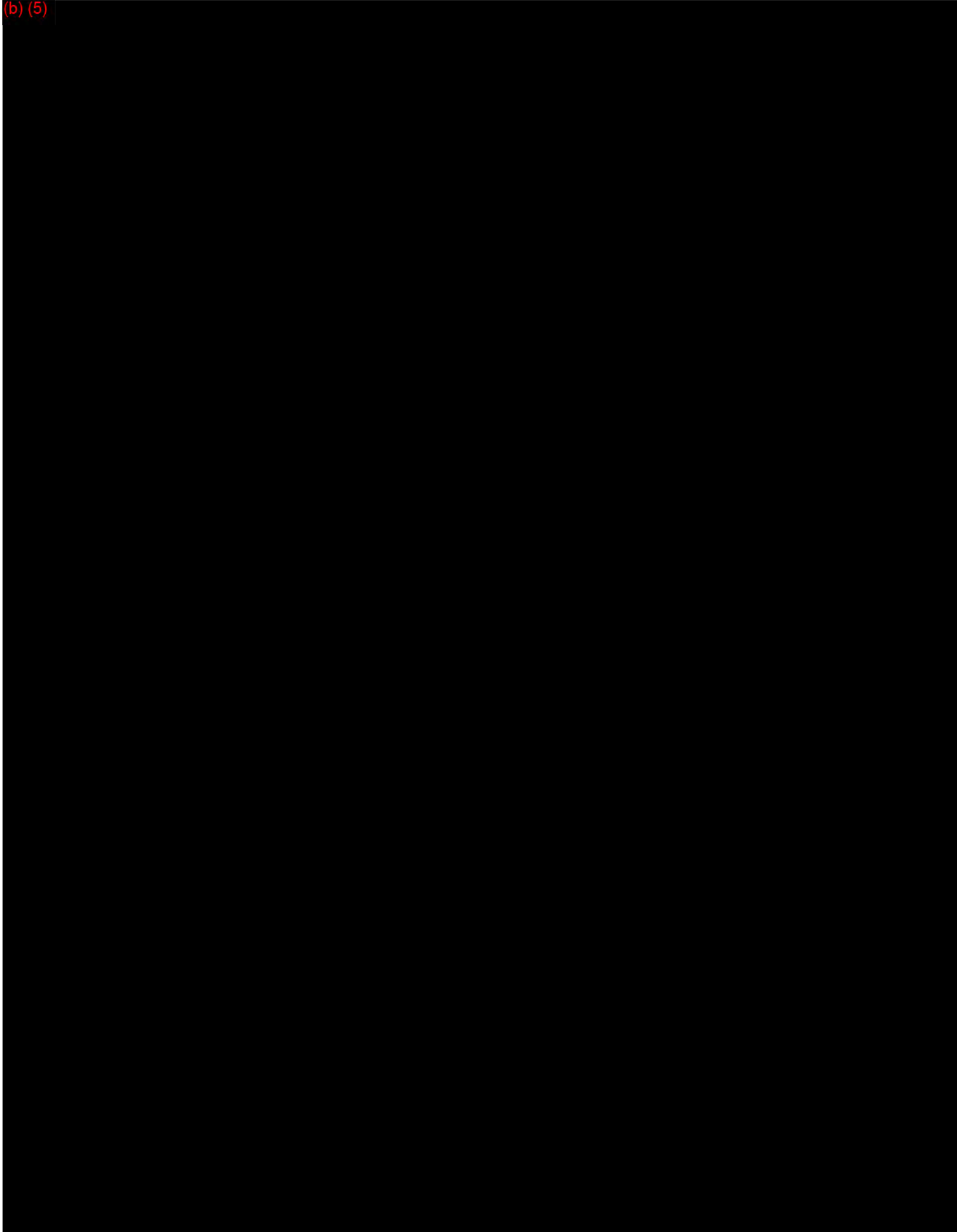
I haven't had time to read the actual answers yet, but I did put a few comment balloons to grab your attention as you review. Please add additional Q&A's and provide edits/answers to existing Q&A as needed by 4 pm tomorrow and send to Karen. (b) (5)

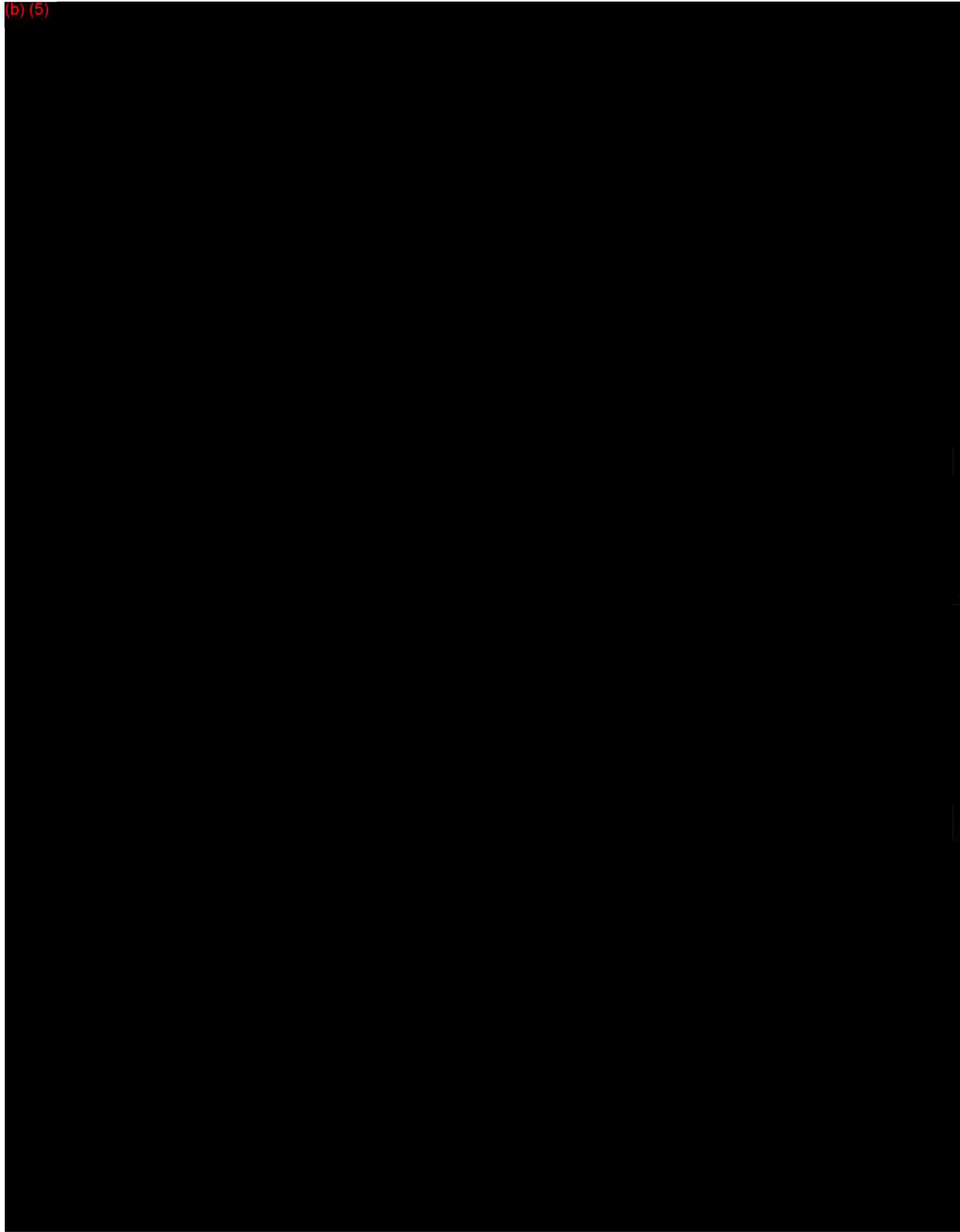
Thanks,  
Angie

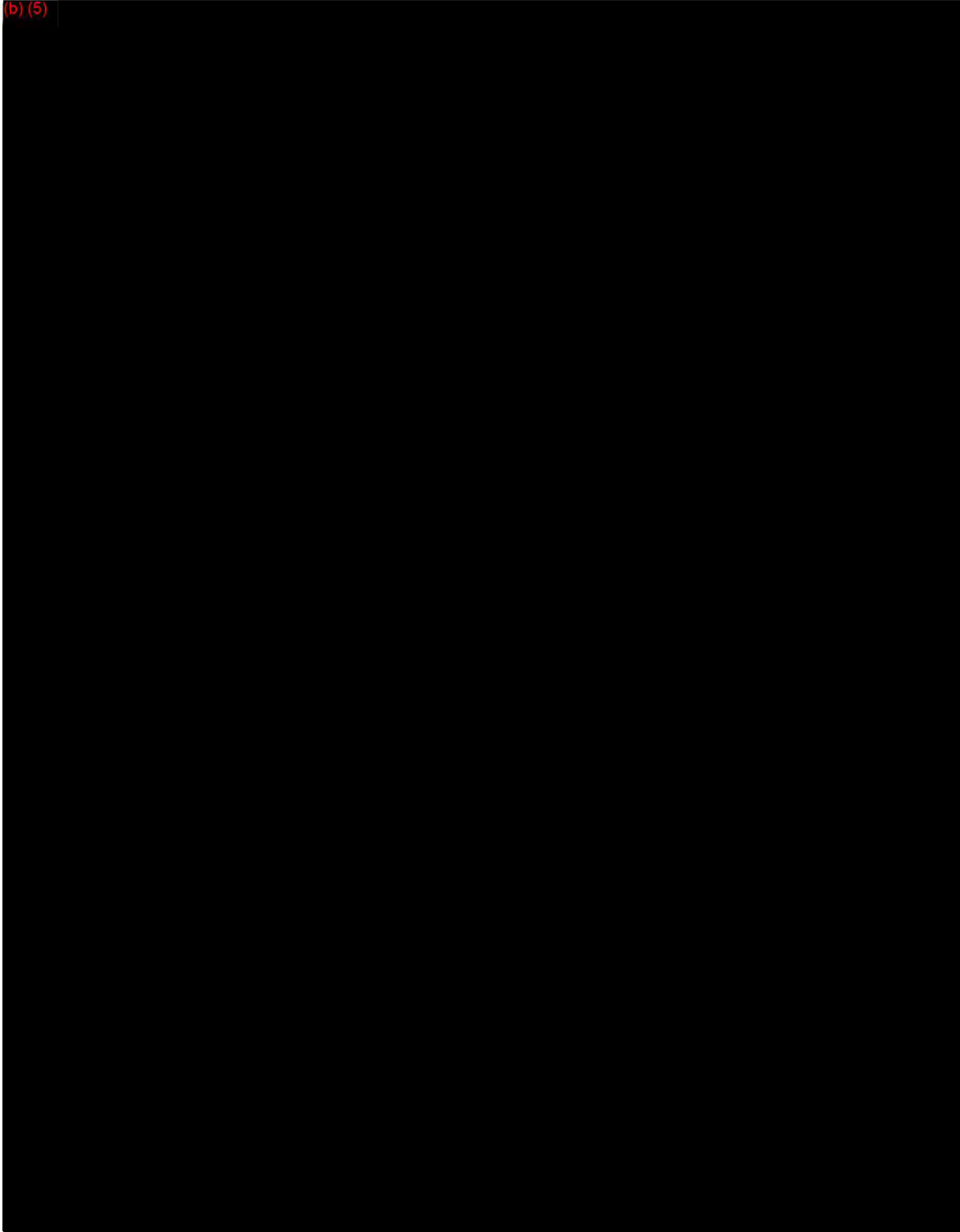
**Angela F. Colamaria**  
Acting Executive Director  
Office of the Executive Director (FPISC-OED)  
Federal Permitting Improvement Steering Council  
[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)  
202.705.1639  
1800 F St. NW  
Washington, DC 20405

--

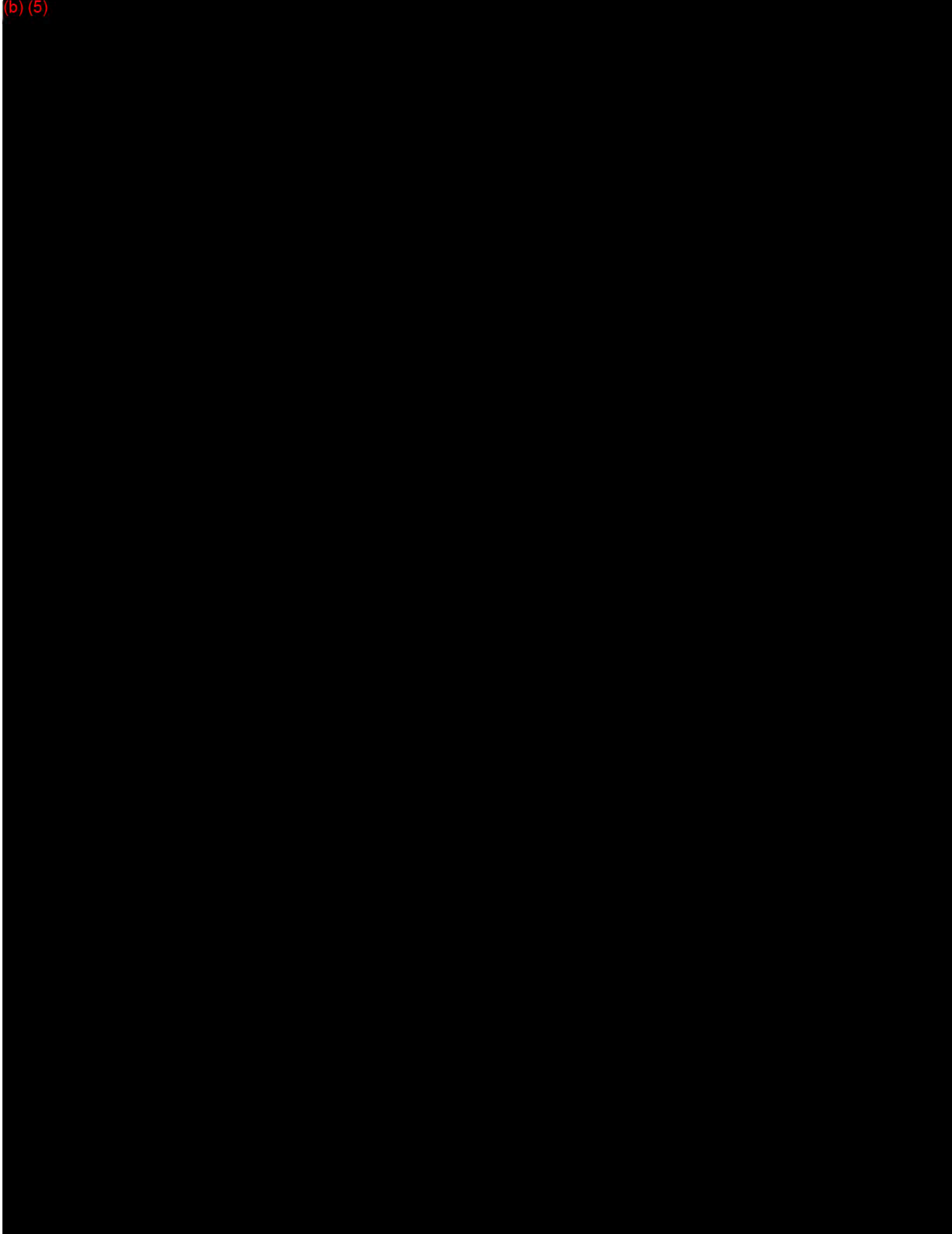
Karen A. Hanley  
Senior Environmental Policy Advisor, Federal Permitting Improvement Steering Council (FPISC), GSA  
Deputy Associate Director for NEPA, Council on Environmental Quality (CEQ)  
Phone (b) (6)

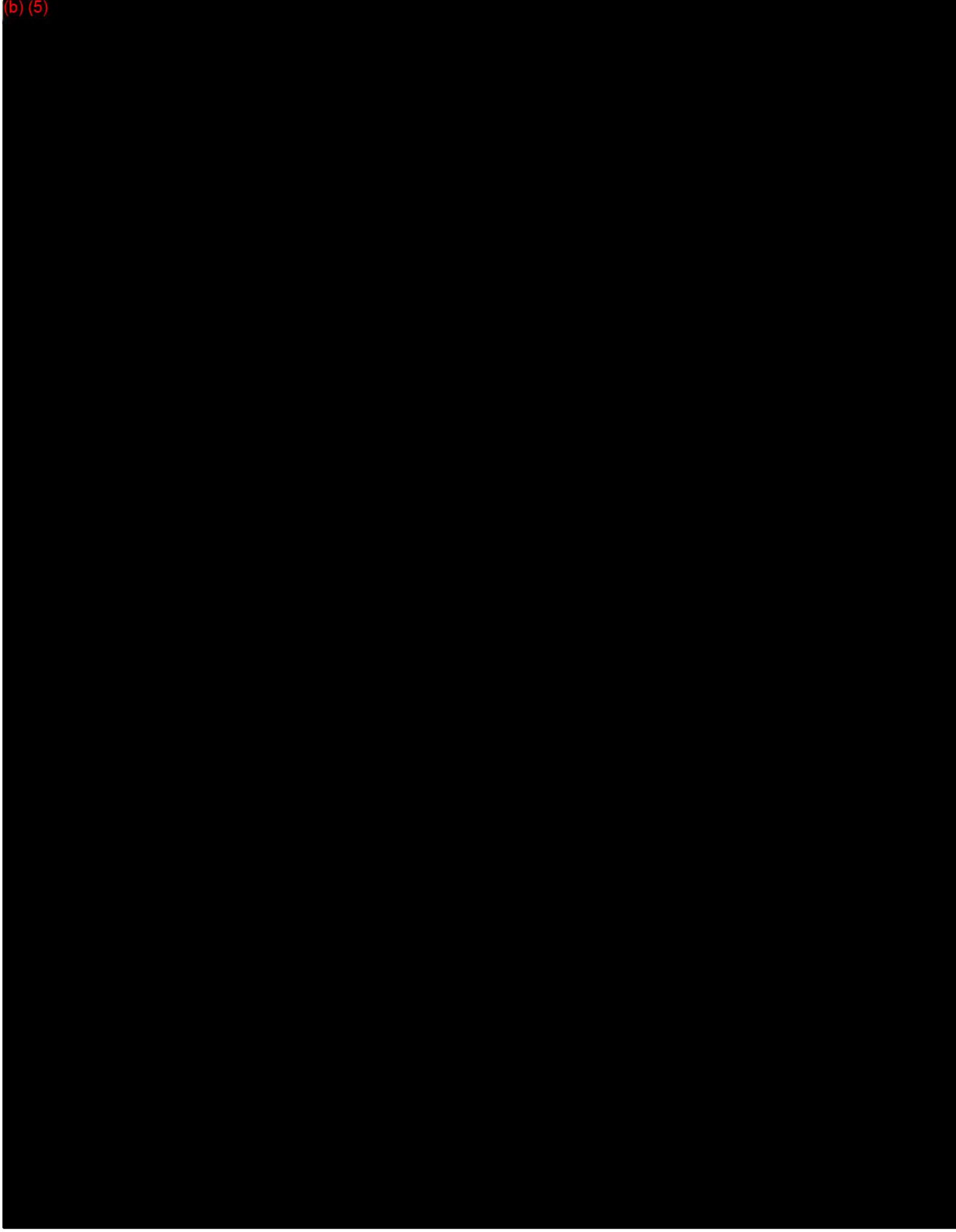


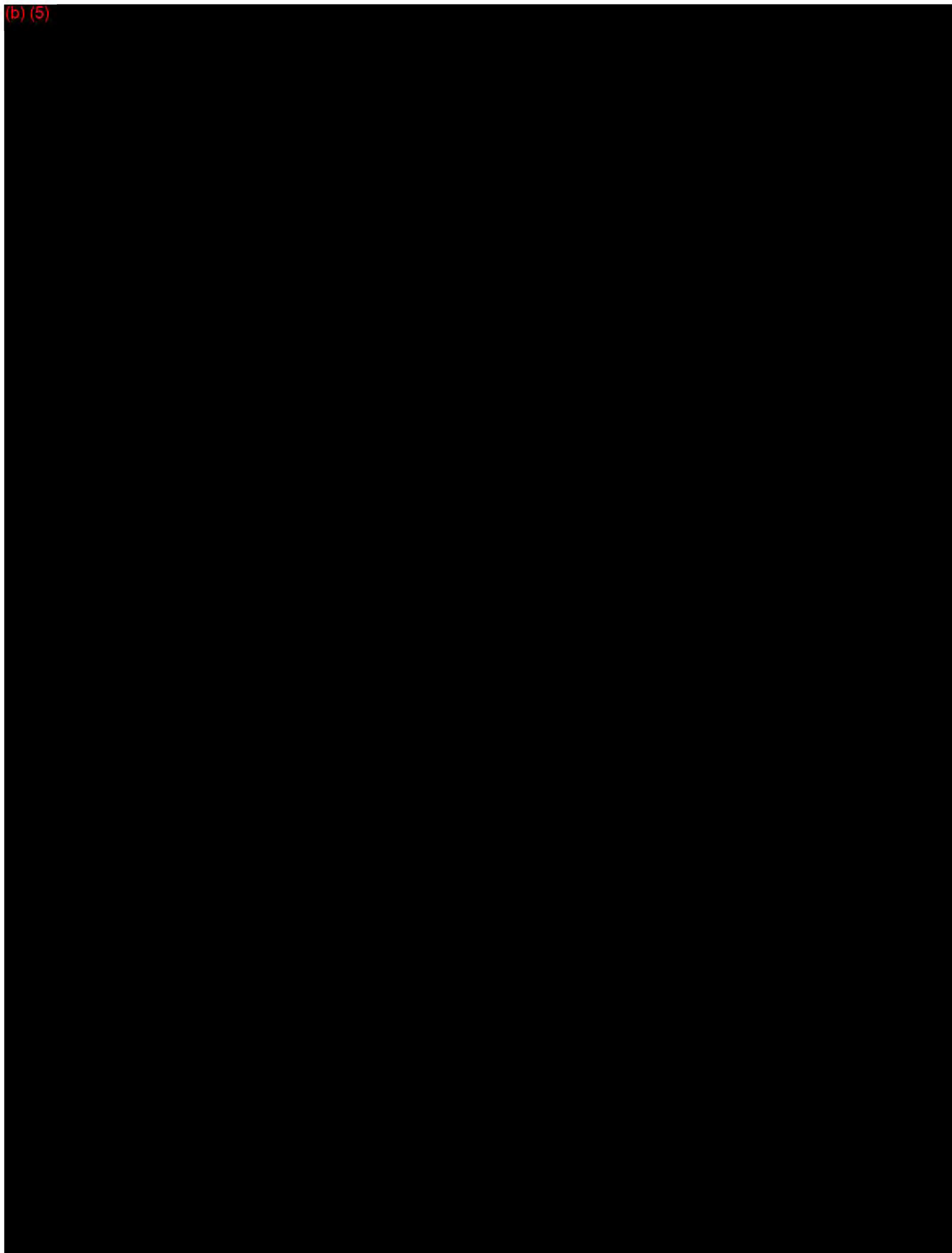


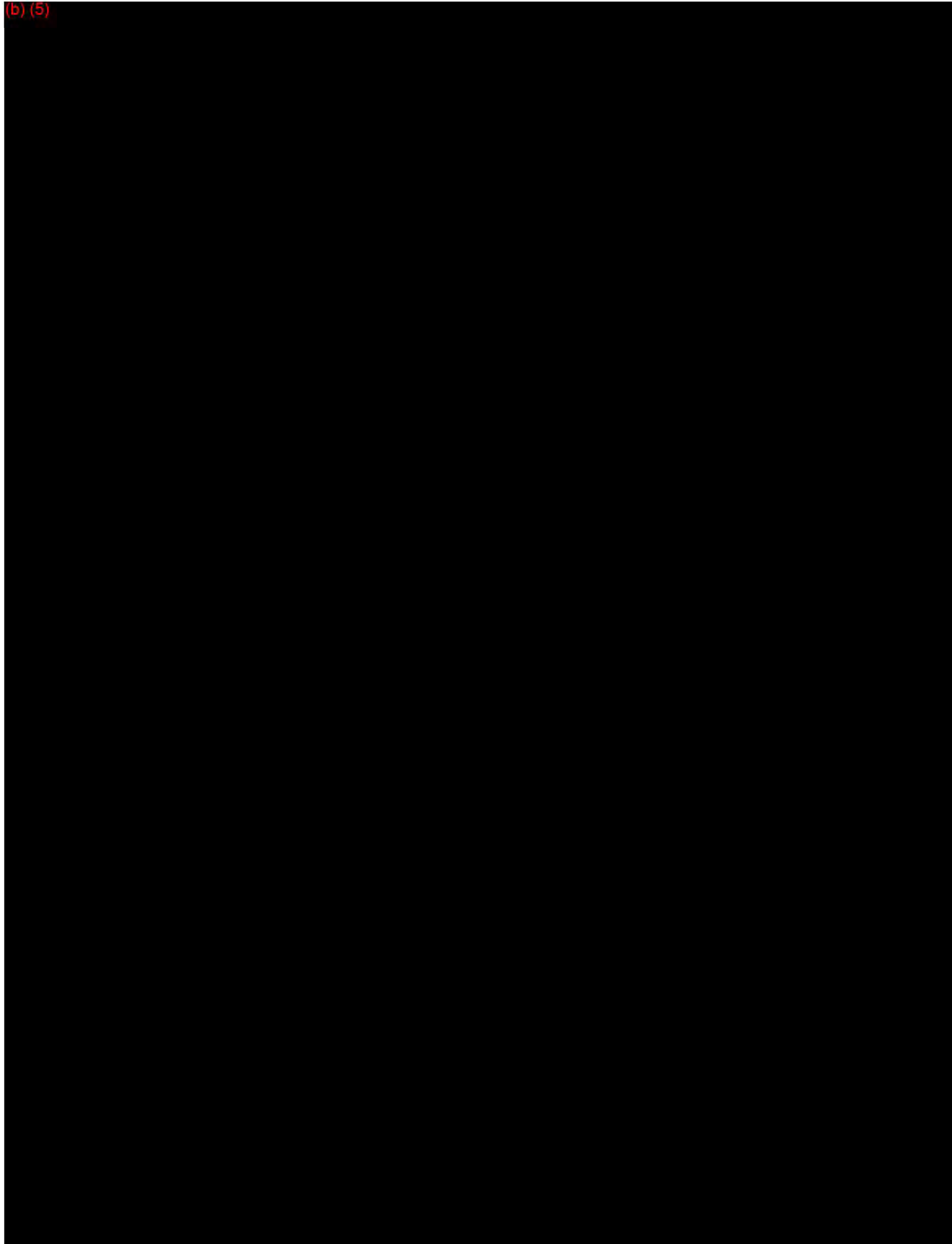


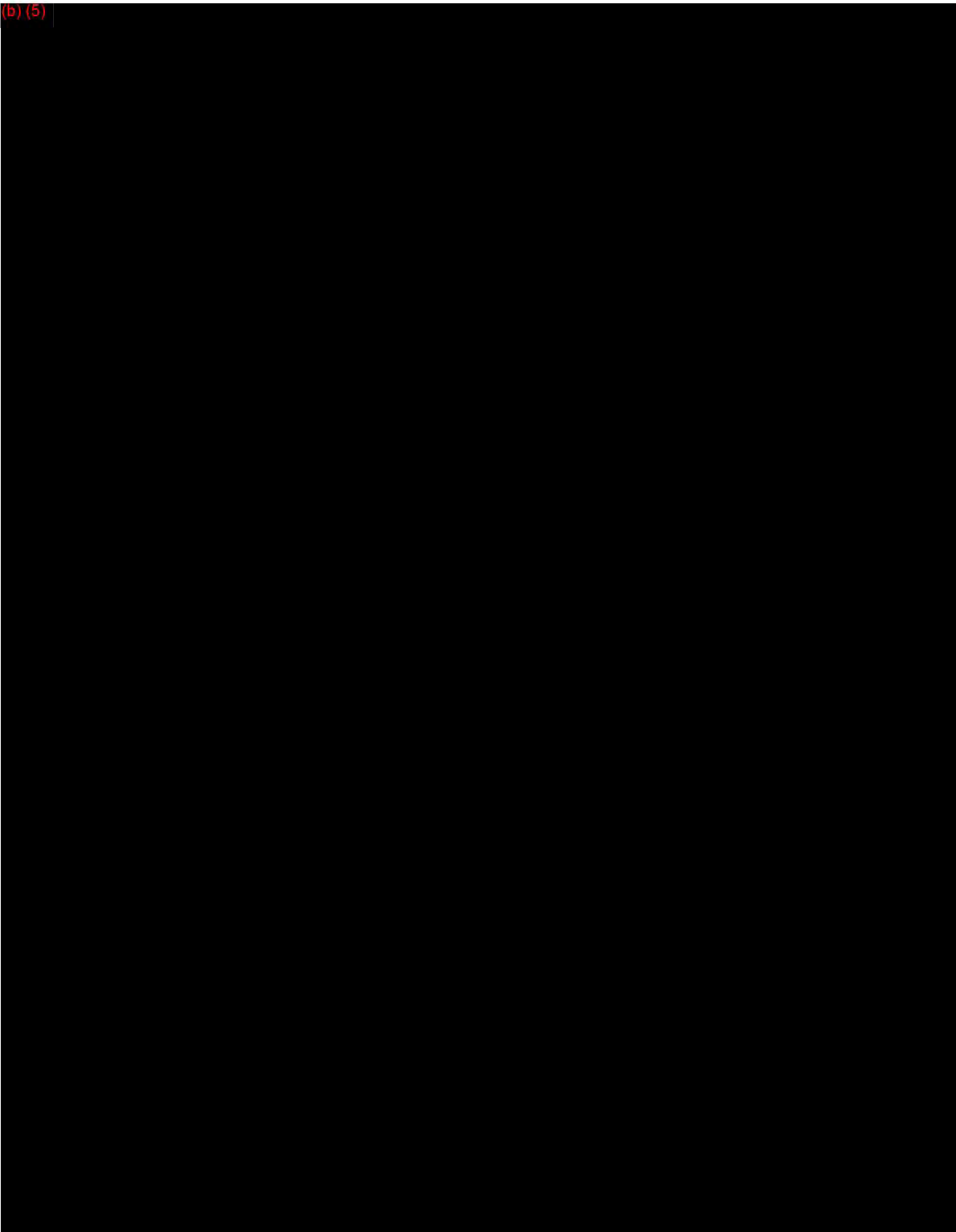












## Re: Q&As for your review

---

**From:** Janet Pfleeger - Y <janet.pfleeger@gsa.gov>

**To:** Karen Hanley - Y <karen.hanley@gsa.gov>, "Osterhues, Marlys A. EOP/CEQ" <(b) (6)>

Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>, Amber Levofsky - Y <amber.levofsky@gsa.gov>, Kavita Vaidyanathan - AY-DETAILEE <kavita.vaidyanathan@gsa.gov>, "Sharp, Thomas L. EOP/CEQ" <(b) (6)> "Scott (Robert) Hillkirk - AY-C" <scott.hillkirk@gsa.gov>

**Cc:**

**Date:** Tue, 26 Jun 2018 16:54:20 -0400

### Attachments

Draft Question and Answer for Senate Roundtable 6-25-18- clean.docx (44.17 kB)

Marlys,

Please see edits discussed this afternoon to pages 2 and 5. I want to add these to Angie's binder as soon as CEQ is done with your edits from this afternoon so please "reply all" when you distribute later today.

Thanks!

Janet

Janet Pfleeger  
Deputy Director  
Federal Permitting Improvement Steering Council  
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[janet.pfleeger@fpisc.gov](mailto:janet.pfleeger@fpisc.gov)  
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On Mon, Jun 25, 2018 at 1:46 PM, Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)> wrote:  
Good afternoon everyone,

Please find some comments/edits for the Roundtable Q&As attached.

(b) (5)

On Thu, Jun 21, 2018 at 5:10 PM, Angela Colamaria - Y-D <[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)> wrote:  
All,

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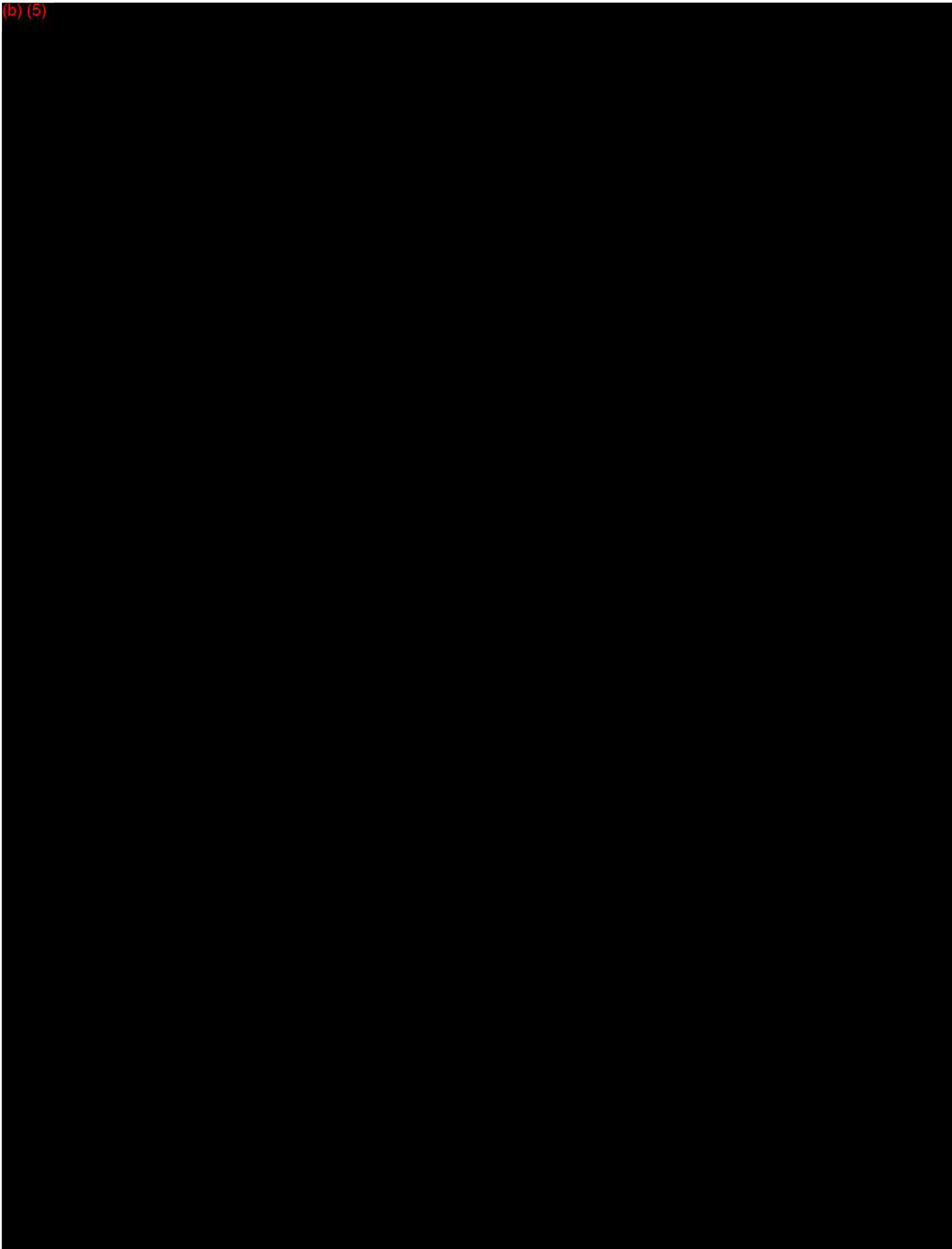
and send to Karen. (b) (5)

Thanks,  
Angie

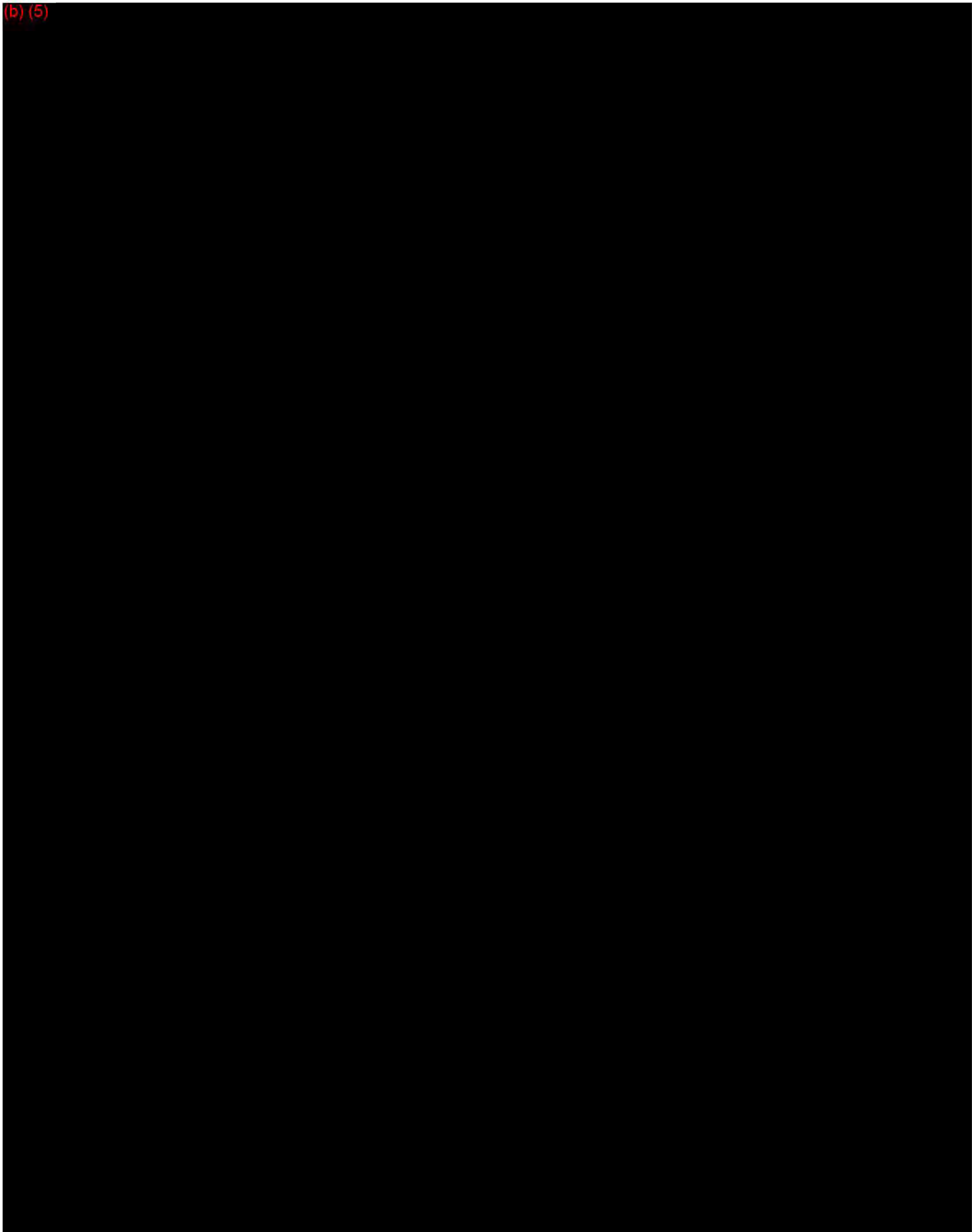
**Angela F. Colamaria**  
Acting Executive Director  
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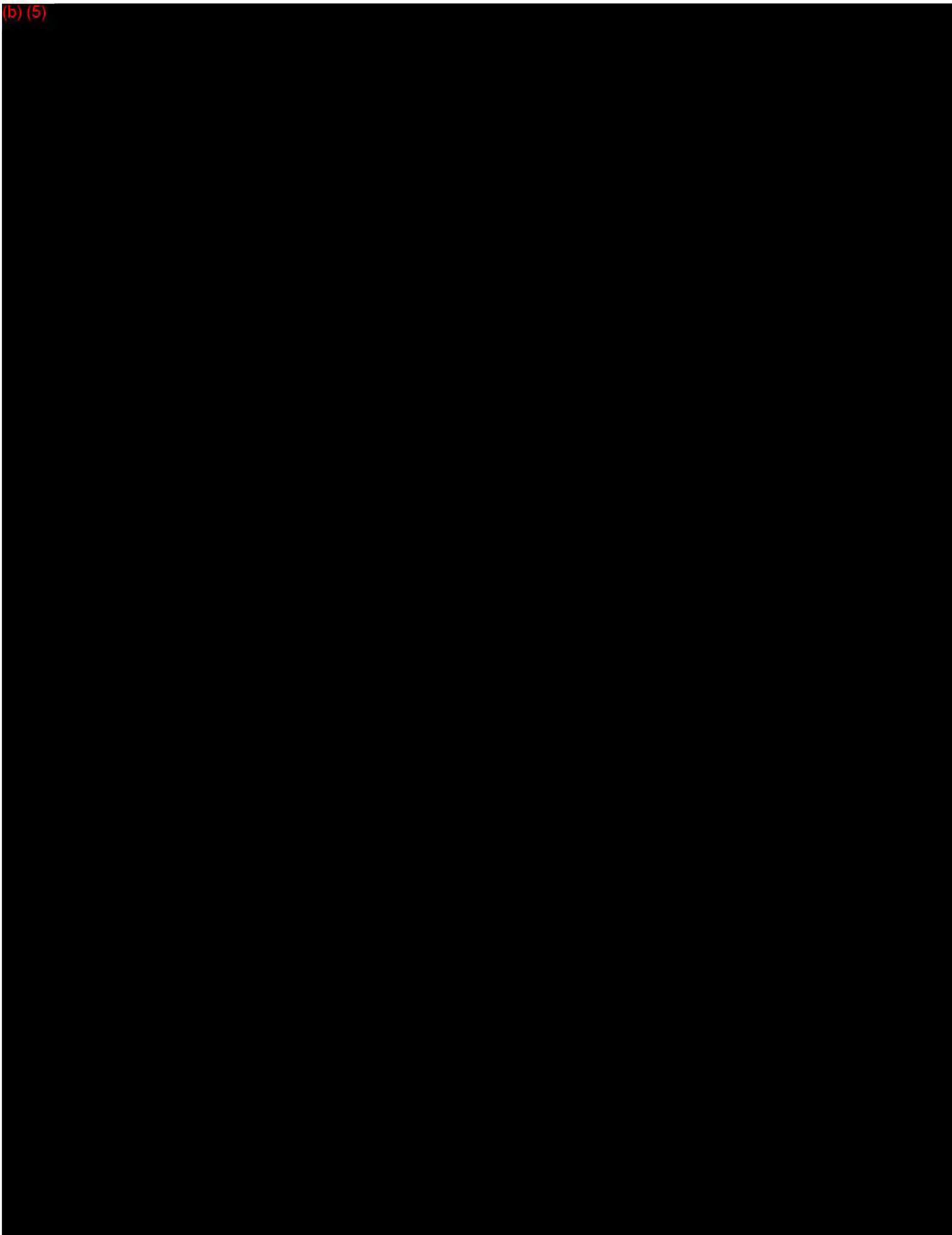
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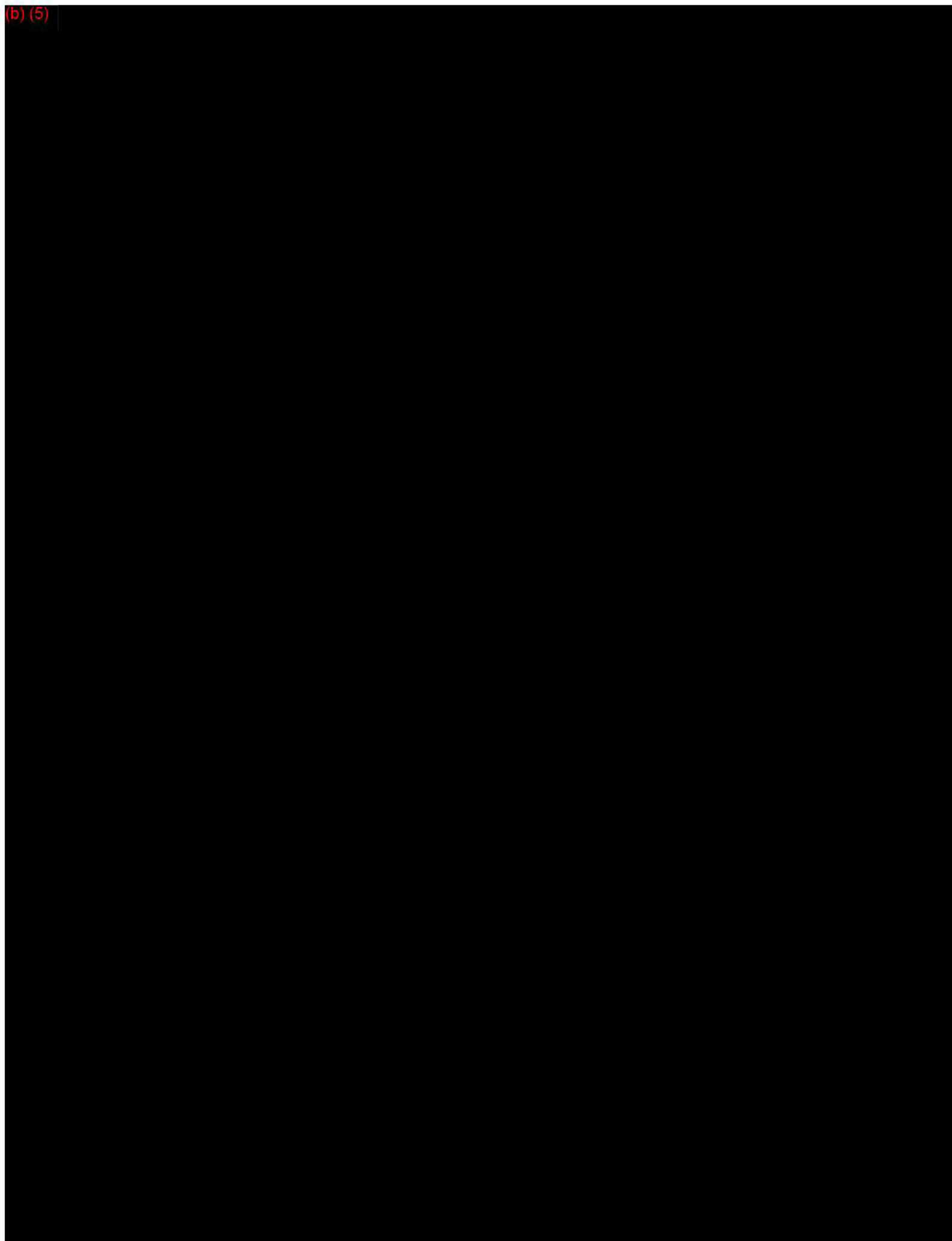
Karen A. Hanley  
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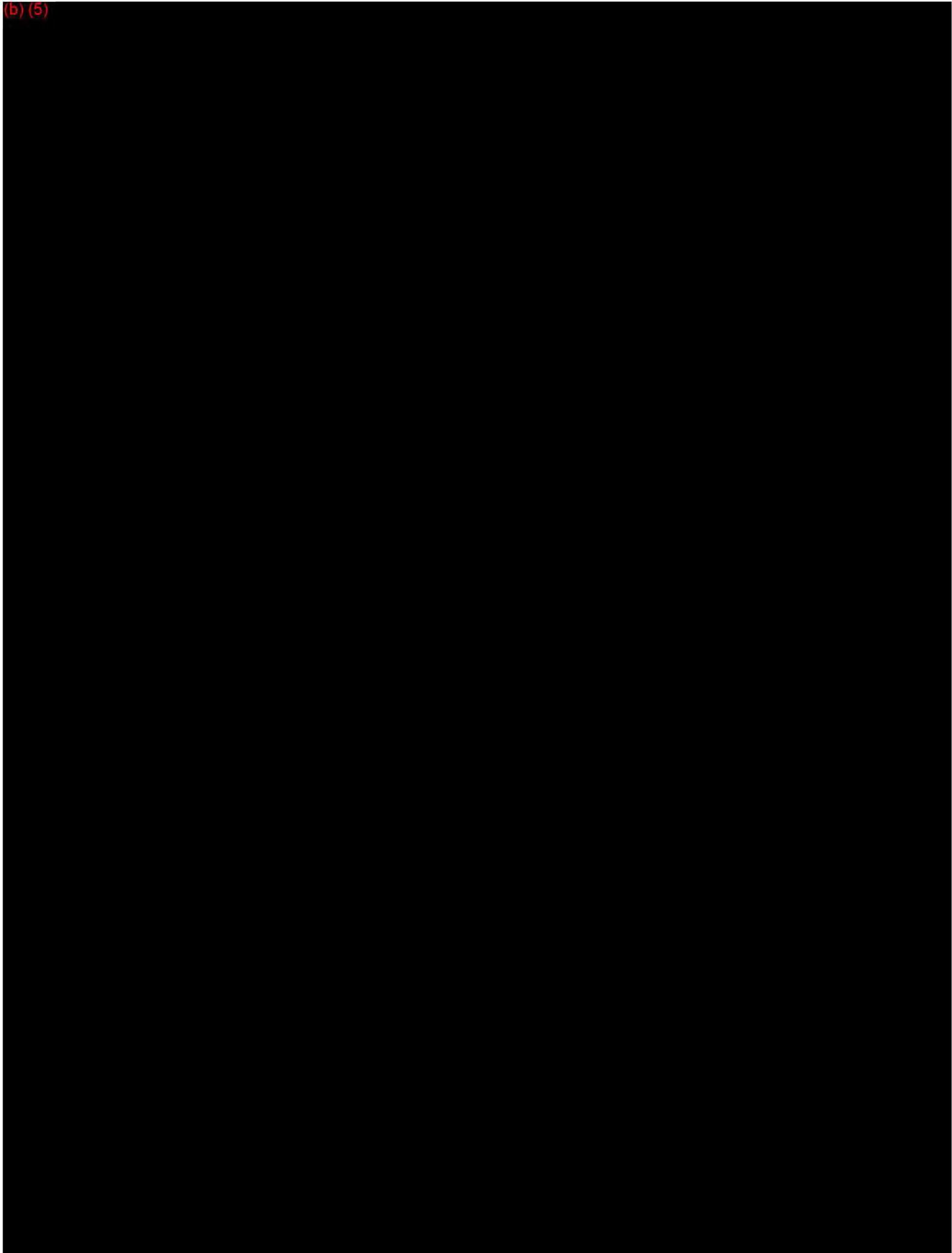


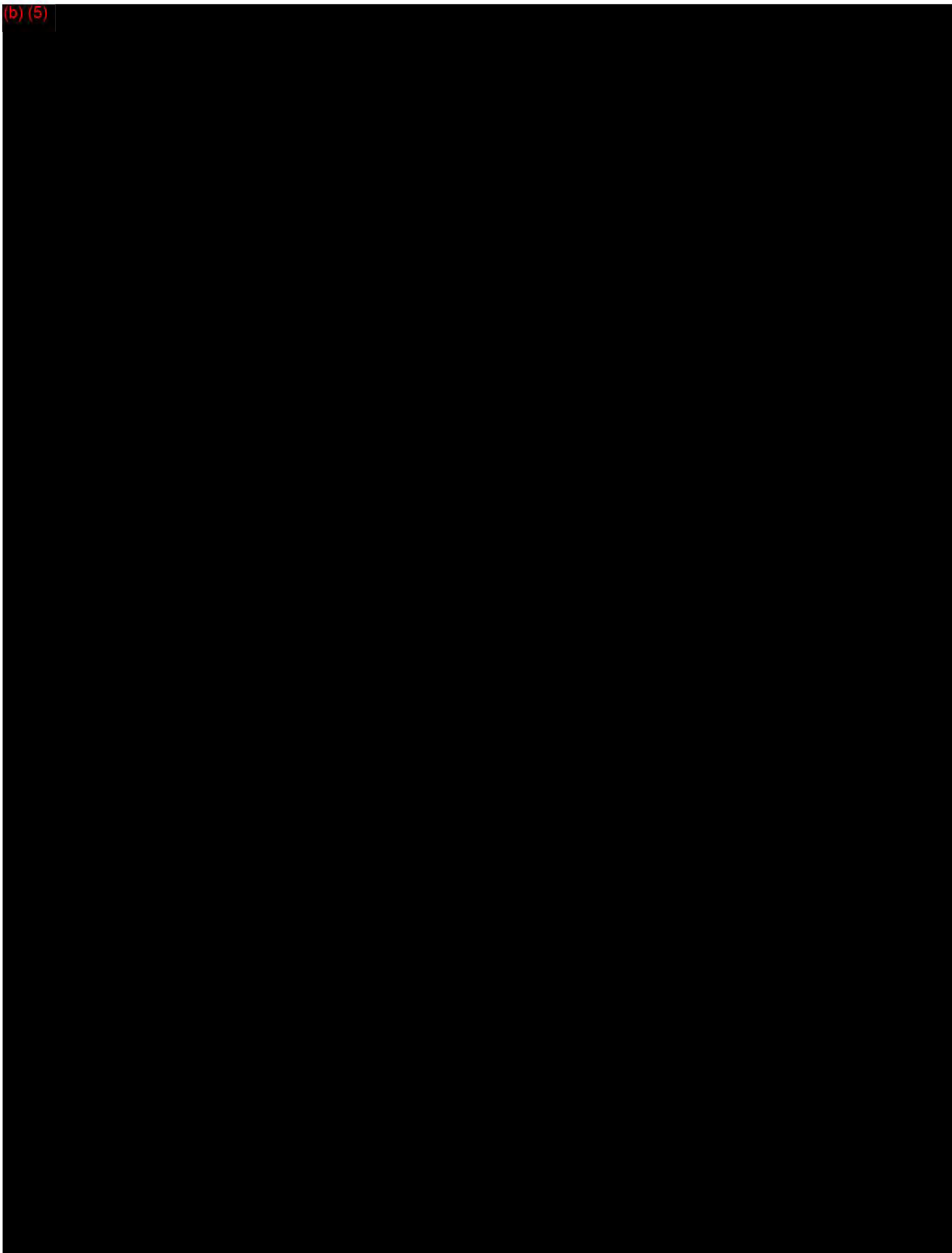


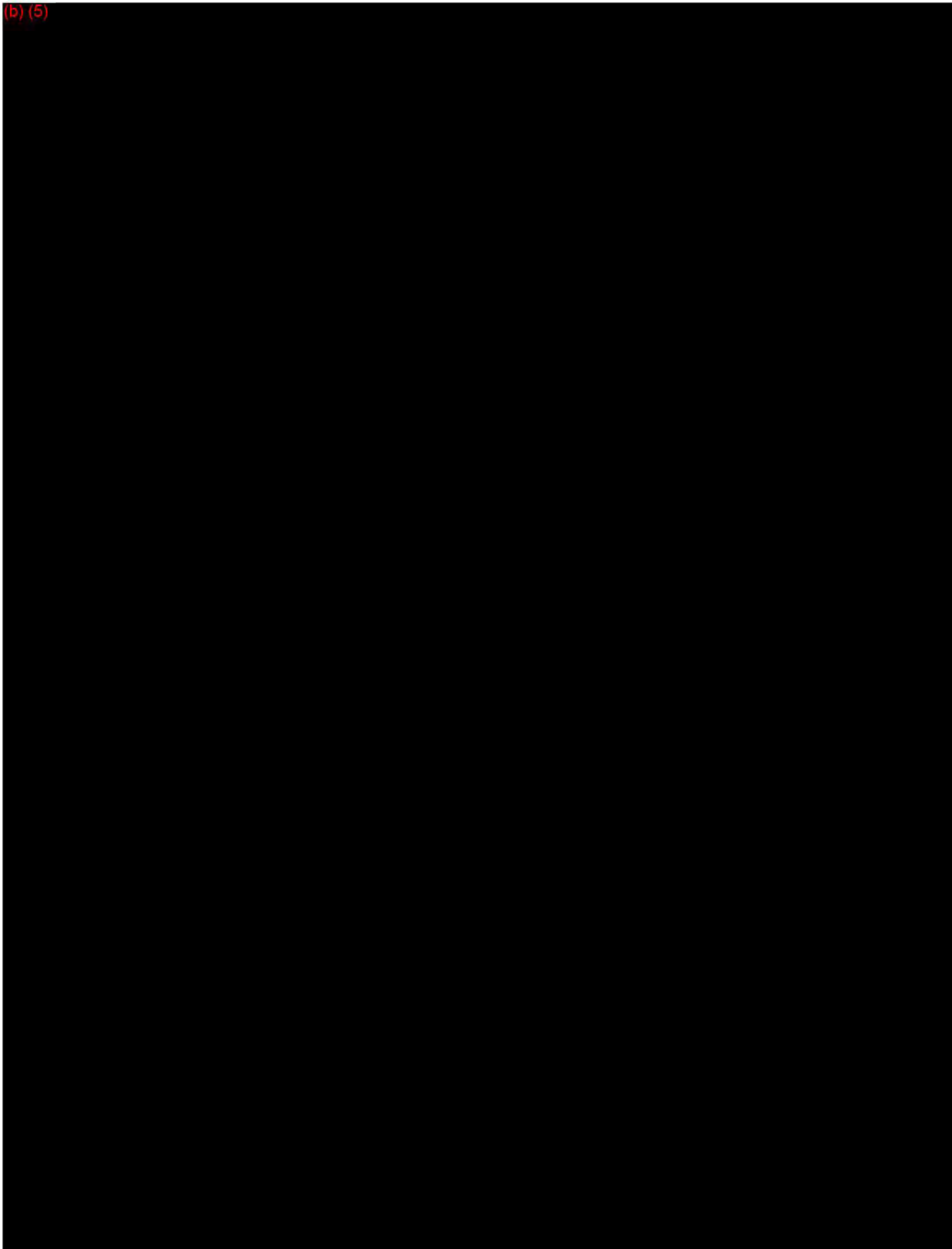


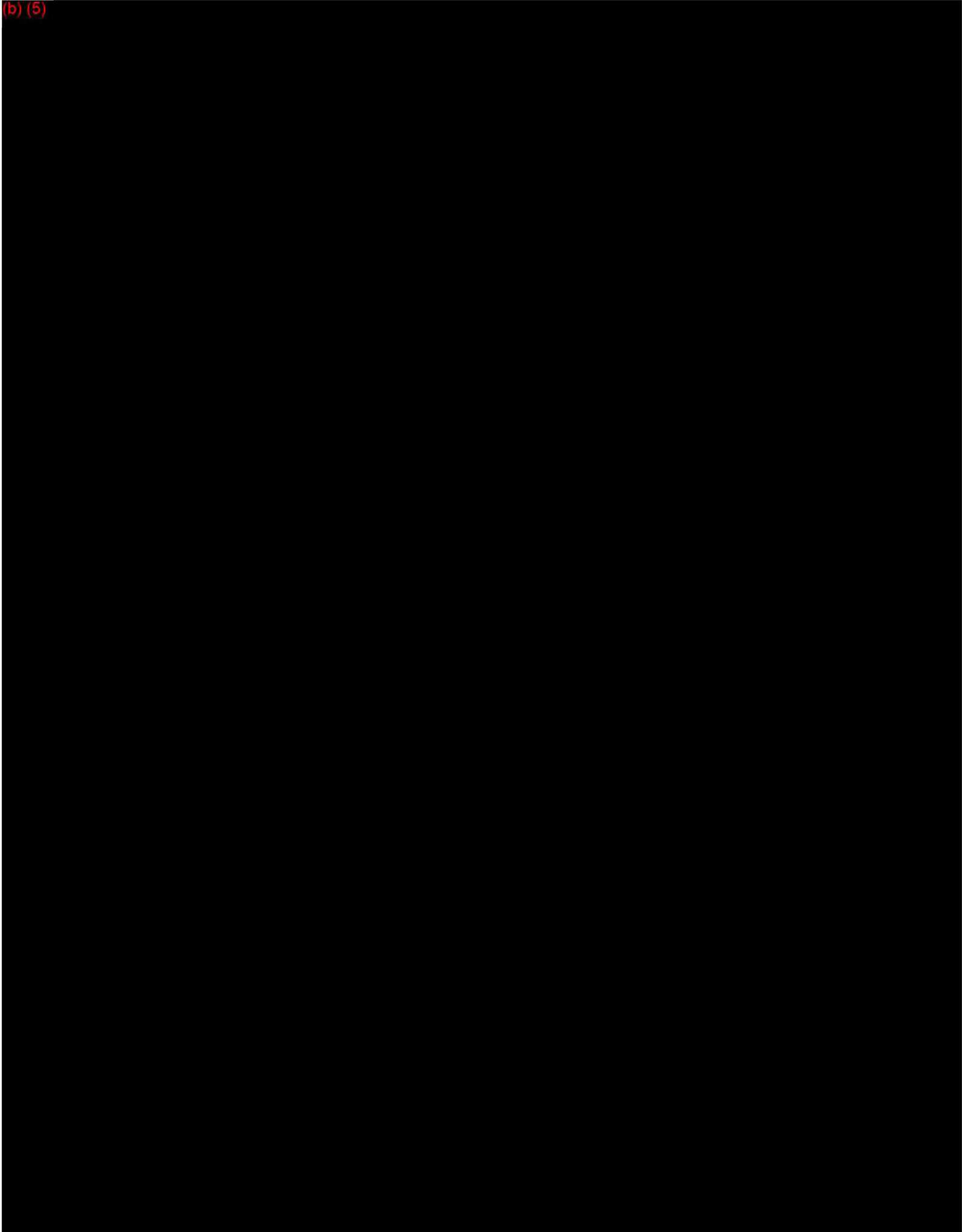


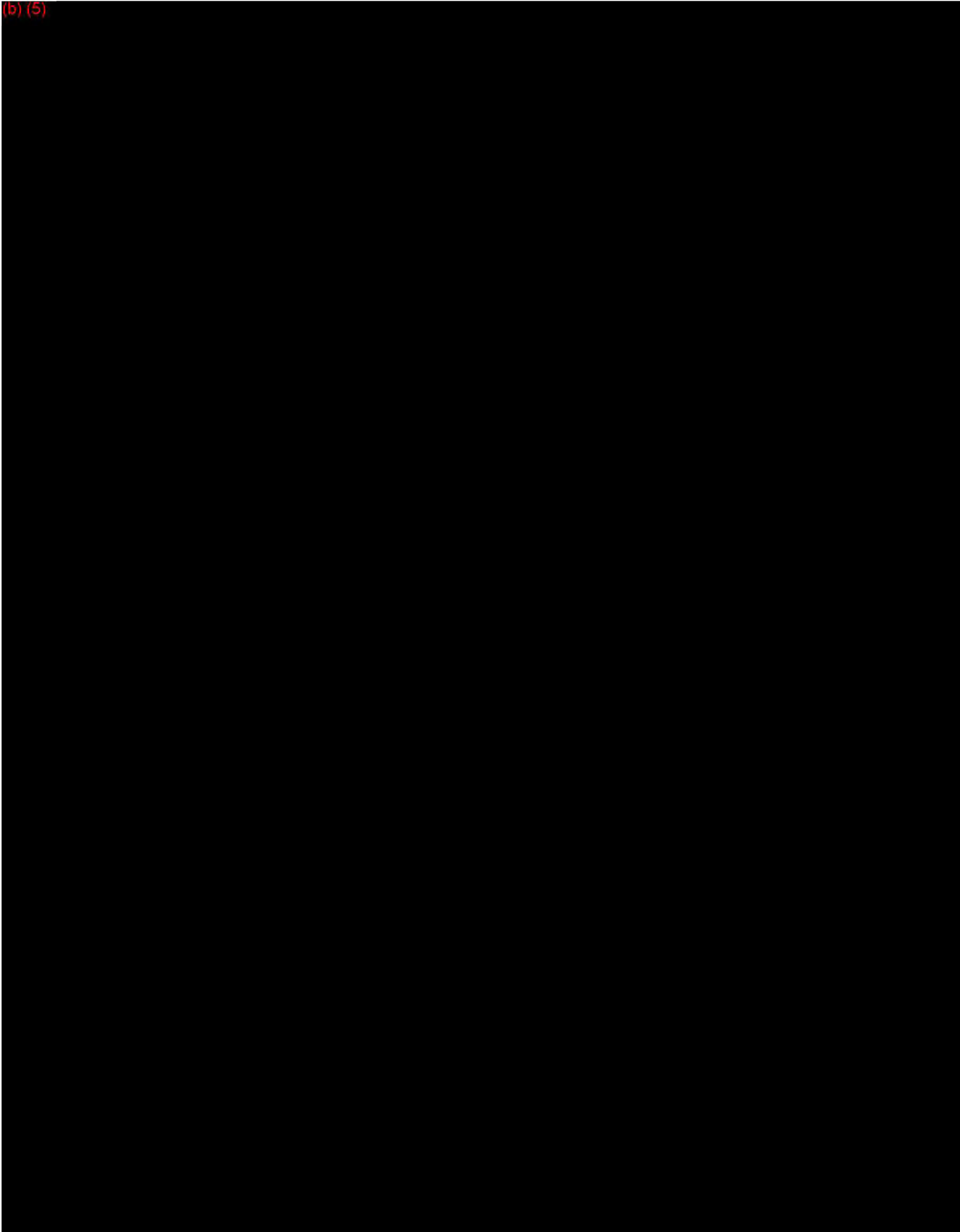














## FW: Mail

---

**From:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**To:** "Smith, Katherine R. EOP/CEQ" <(b) (6)>  
**Date:** Tue, 26 Jun 2018 11:38:46 -0400  
**Attachments:** Neumayr-Boling D. VanSee Hei- GT Mehan Re Regulation Coment on Docket  
: CE....pdf (315.97 kB)

FYI

**From:** McLaurin, Juschelle D. EOP/CEQ  
**Sent:** Monday, June 25, 2018 4:24 PM  
**To:** Neumayr, Mary B. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ  
<(b) (6)>  
**Subject:** RE: Mail

Sorry I realized I did not add the document and I left Katherine off. The original is in your mailbox.

**From:** McLaurin, Juschelle D. EOP/CEQ  
**Sent:** Monday, June 25, 2018 2:58 PM  
**To:** Neumayr, Mary B. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ  
<(b) (6)>  
**Subject:** Mail

Hello Mary,

Send to Edward Boling and shared with Michael Drummond in his absence.

Juschelle

Juschelle D. McLaurin  
Administrative Assistant  
730 Jackson Place NW  
Washington, DC 20503  
(b) (6) Office  
(b) (6) Cell



June 25, 2018

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

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

Dear Ms. Neumayr,

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

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

Thank you for consideration of our request.

Sincerely,

Diane VanDe Hei  
Chief Executive Officer  
Association of Metropolitan Water Agencies

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

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

---

**From:** Kameran Onley <konley@tnc.org>  
**To:** "Drummond, Michael R. EOP/CEQ" (b) (6)  
**Date:** Tue, 26 Jun 2018 14:15:32 -0400  
**Attachments:** TNC NEPA Comment Period Extension Request 06 26 2018.pdf (82.97 kB)

Good afternoon, Mr. Drummond

We received the *Out of Office* message from Mr. Boling and are forwarding our request to you.

Best,  
Kameran

**From:** Kameran Onley  
**Sent:** Tuesday, June 26, 2018 1:01 PM  
**To:** (b) (6) <(b) (6)>  
**Subject:** Request for Sixty-day Extension for Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (Docket No. CEQ-2018-0001)

Dear Mr. Boling:

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


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

Because of its broad application to federal actions, strong commitment to public engagement, and pathways for scientific input to inform and improve our decision making, the National Environmental Policy Act (NEPA), as implemented by CEQ regulations, is one of the most important bedrock

environmental laws in the United States. Given the importance of NEPA and implementing regulations, and the complexity of the issues implicated by the questions posed in the ANPRM, I am requesting an extension of the public comment period.

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

Sincerely,



**Please consider the environment before printing this email.**

**Kameran L. Onley**  
*Director, U.S. Government  
Relations*  
[konley@tnc.org](mailto:konley@tnc.org)  
+1 703 841 4229

**The Nature Conservancy**  
Worldwide Office  
4245 N. Fairfax Drive, Suite  
100  
Arlington, VA  
United States



[nature.org](http://nature.org)



Kameran Onley  
Director  
U.S. Government Relations  
The Nature Conservancy  
4245 N. Fairfax Drive  
Arlington, VA 22203-1606

Tel (703) 841-4229  
Fax (703) 841-7400

konley@tnc.org  
nature.org

June 26, 2018

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

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

Dear Mr. Boling:

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

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Sincerely,

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

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

## FW: Q&As for your review

---

**From:** "Barnett, Steven W. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=2e9fa21939394821b946485a90c4cb4e-ba">  
**To:** "Sharp, Thomas L. EOP/CEQ" <(b) (6)>  
**Date:** Wed, 27 Jun 2018 10:32:12 -0400  
**Attachments**  
: Draft Question and Answer for Senate Roundtable 6.27 swb CLEAN.docx (25.68 kB)

**From:** Barnett, Steven W. EOP/CEQ  
**Sent:** Wednesday, June 27, 2018 10:10 AM  
**To:** 'Angela Colamaria - Y-D' <angela.colamaria@fpisc.gov>  
**Cc:** Osterhues, Marlys A. EOP/CEQ <(b) (6)>  
**Subject:** RE: Q&As for your review

Angie,

Please find attached Alex's revised Q&As.

Steven

**From:** Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>  
**Sent:** Wednesday, June 27, 2018 9:43 AM  
**To:** Osterhues, Marlys A. EOP/CEQ <(b) (6)>  
**Cc:** Janet Pfleeger - Y <janet.pfleeger@gsa.gov>; Barnett, Steven W. EOP/CEQ <(b) (6)>  
**Subject:** Re: Q&As for your review

(b) (5)



(b) (5)



**Angela F. Colamaria**

Acting Executive Director

Office of the Executive Director (FPISC-OED)

Federal Permitting Improvement Steering Council

[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)

202.705.1639

1800 F St. NW

Washington, DC 20405

On Tue, Jun 26, 2018 at 11:11 PM, Osterhues, Marlys A. EOP/CEQ

<(b) (6)> wrote:

Thanks Angie. Steven and I are going to wrap our work on the Q&As in the morning and will share what we have.

**From:** Angela Colamaria - Y-D <[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)>

**Sent:** Tuesday, June 26, 2018 7:55 PM

**To:** Janet Pfleeger - Y <[janet.pfleeger@gsa.gov](mailto:janet.pfleeger@gsa.gov)>

**Cc:** Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)>; Osterhues, Marlys A. EOP/CEQ

<(b) (6)> Amber Levofsky - Y <[amber.levofsky@gsa.gov](mailto:amber.levofsky@gsa.gov)>; Kavita

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<(b) (6)> Scott (Robert) Hillkirk - AY-C <[scott.hillkirk@gsa.gov](mailto:scott.hillkirk@gsa.gov)>; Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** Re: Q&As for your review

I have added some suggestions on top of Janet's edits.

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Acting Executive Director  
Office of the Executive Director (FPISC-OED)  
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Janet Pfleeger  
Deputy Director  
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Please find some comments/edits for the Roundtable Q&As attached.

(b) (5)  
[Redacted text block]



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All,

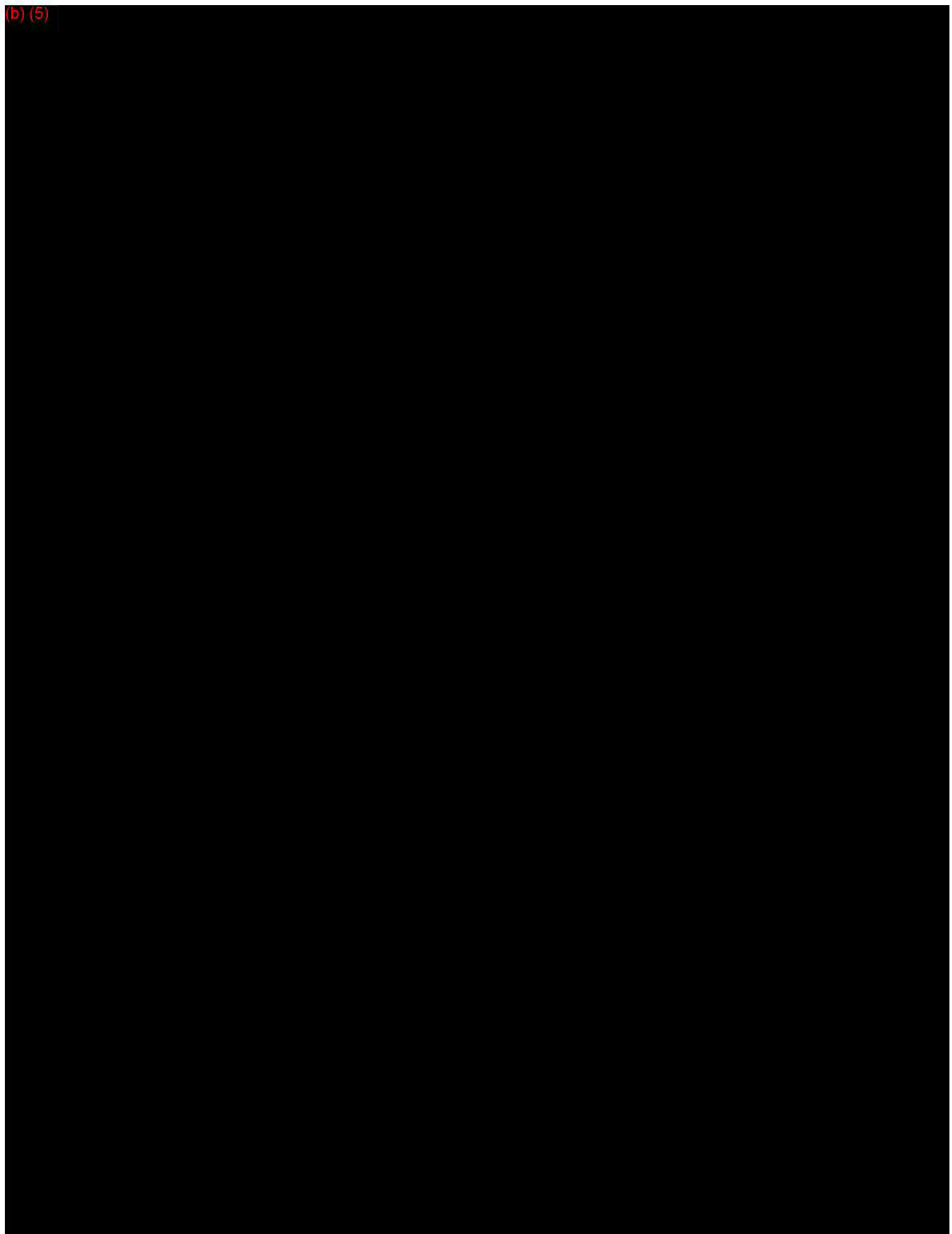
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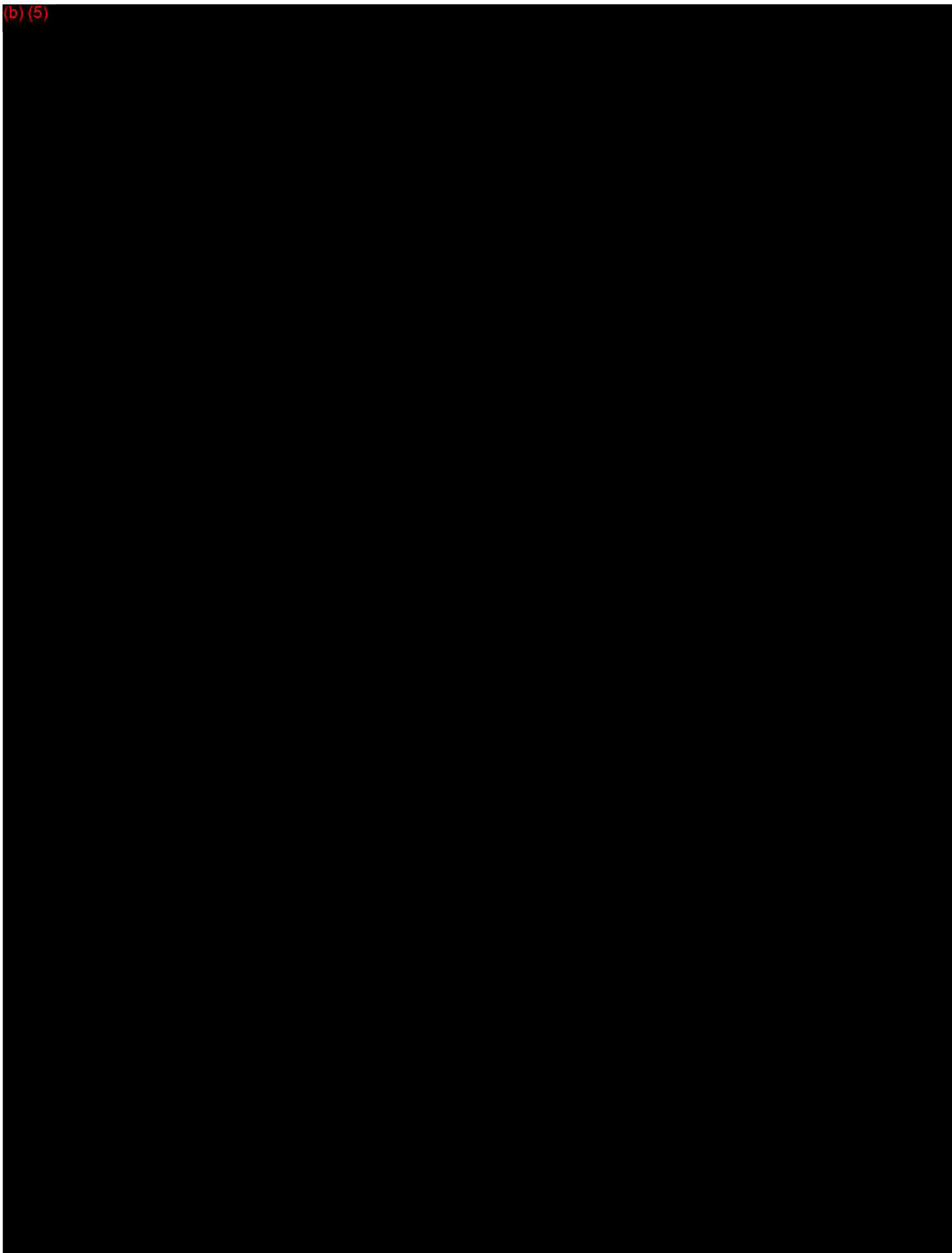
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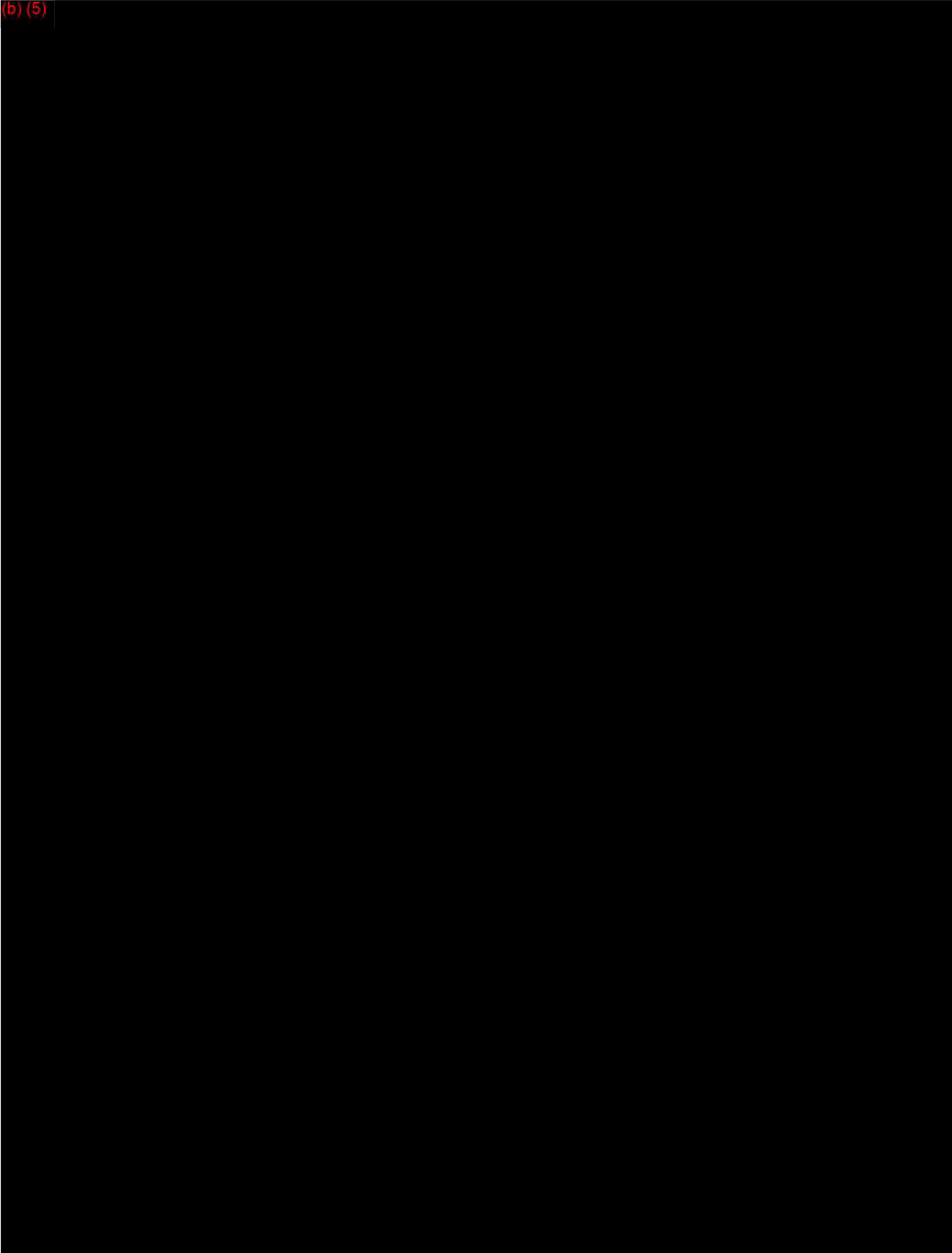
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--

Karen A. Hanley  
Senior Environmental Policy Advisor, Federal Permitting Improvement Steering Council (FPISC), GSA  
Deputy Associate Director for NEPA, Council on Environmental Quality (CEQ)  
Phone: (b) (6)







## RE: Q&As for your review

---

**From:** "Barnett, Steven W. EOP/CEQ" <(b) (6)>  
**To:** Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>  
**Cc:** "Osterhues, Marlys A. EOP/CEQ" <(b) (6)>  
**Date:** Wed, 27 Jun 2018 10:09:36 -0400  
**Attachments:** Draft Question and Answer for Senate Roundtable 6.27 swb CLEAN.docx (25.68 kB)

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**Subject:** Re: Q&As for your review

(b) (5)



(b) (5)

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**To:** Janet Pfleeger - Y <[janet.pfleeger@gsa.gov](mailto:janet.pfleeger@gsa.gov)>

**Cc:** Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)>; Osterhues, Marlys A. EOP/CEQ

<(b) (6)> Amber Levofsky - Y <[amber.levofsky@gsa.gov](mailto:amber.levofsky@gsa.gov)>; Kavita

Vaidyanathan - AY-DETAILEE <[kavita.vaidyanathan@gsa.gov](mailto:kavita.vaidyanathan@gsa.gov)>; Sharp, Thomas L. EOP/CEQ

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**Subject:** Re: Q&As for your review

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Janet

**Janet Pfleeger**  
Deputy Director  
Federal Permitting Improvement Steering Council  
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(b) (5) [REDACTED]

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Thanks,  
Angie

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

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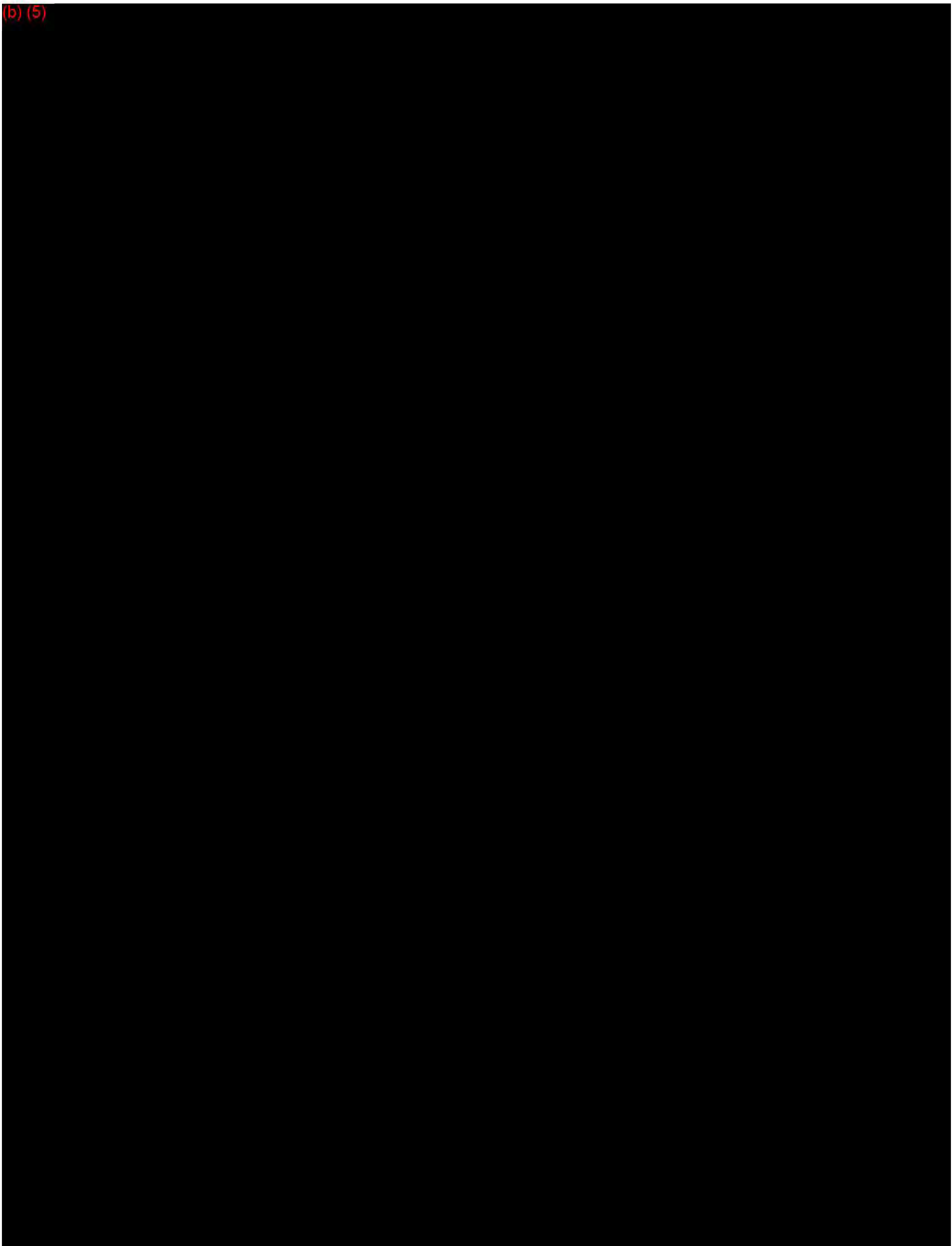
--  
Karen A. Hanley  
Senior Environmental Policy Advisor, Federal Permitting Improvement Steering Council (FPISC), GSA  
Deputy Associate Director for NEPA, Council on Environmental Quality (CEQ)  
Phone: (b) (6)

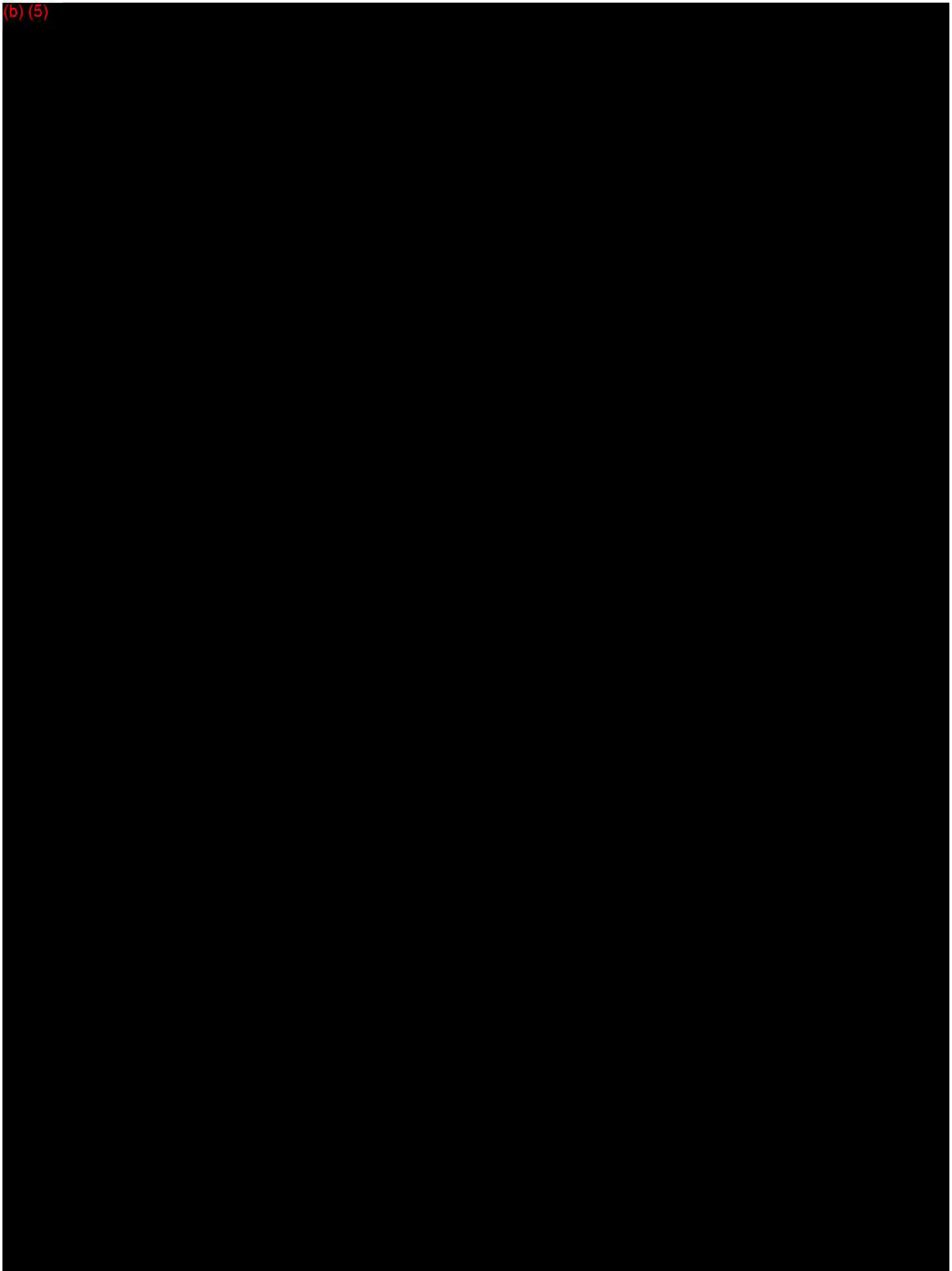
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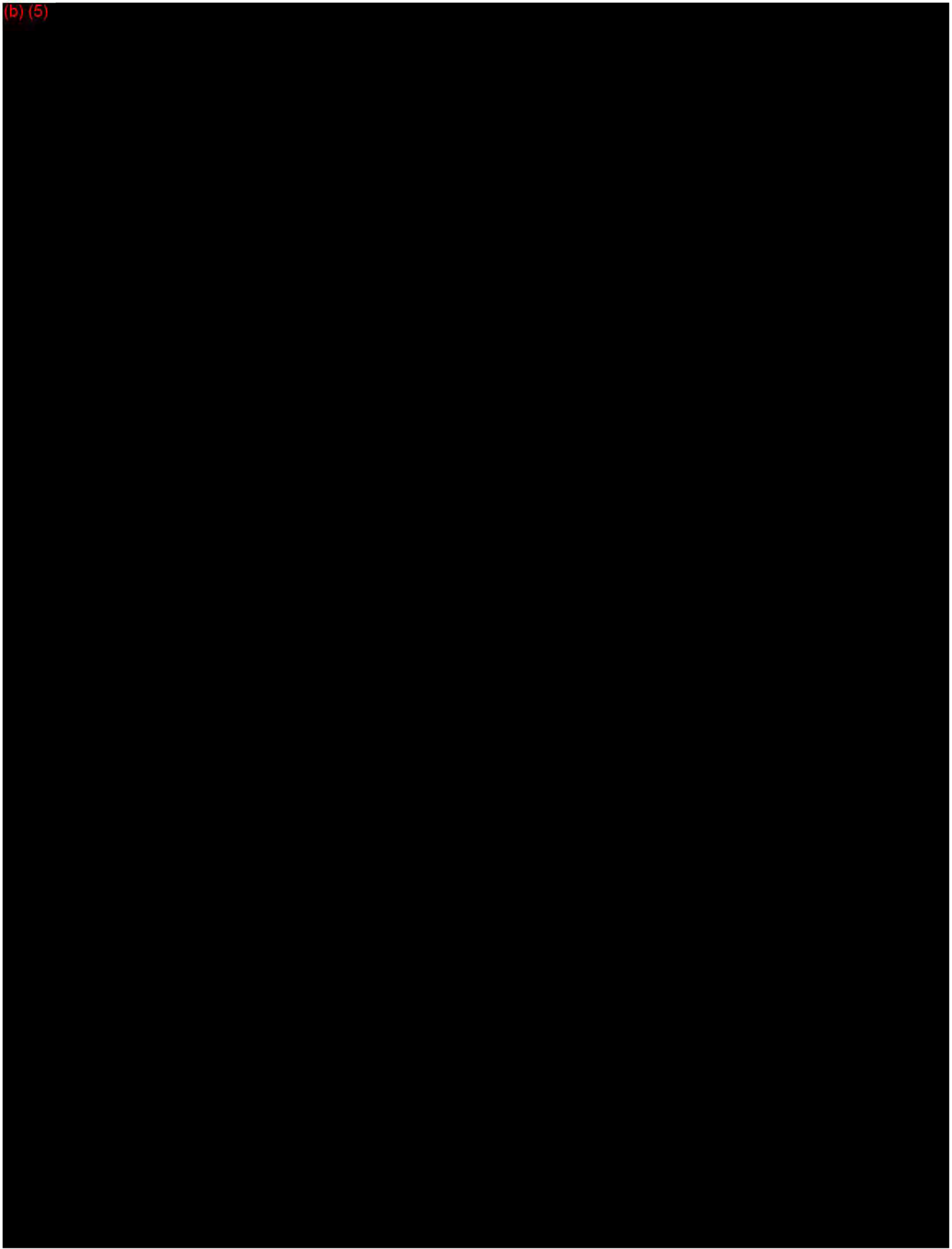
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## RE: Mail

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**From:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
:  
"Neumayr, Mary B. EOP/CEQ" <(b) (6)> "Smith, Katherine R. EOP/CEQ" <(b) (6)> "Szabo, Aaron L. EOP/CEQ" <(b) (6)> "McLaurin, Juschelle D. EOP/CEQ" <(b) (6)> "Green, Mary A. EOP/CEQ" <(b) (6)>  
**To:**  
**Cc:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**Date:** Wed, 27 Jun 2018 08:37:42 -0400

Just so everyone knows, regarding ANPR correspondence that arrives here physically:

Someone on the NEPA Team (me, for now) picks up the scanned originals from Ted's mailbox, enters them into a spreadsheet characterizing the content, and retains the originals (in a folder on the extra desk next to mine).

Yardena

**From:** Drummond, Michael R. EOP/CEQ  
**Sent:** Monday, June 25, 2018 4:27 PM  
**To:** Mansoor, Yardena M. EOP/CEQ <(b) (6)>  
**Subject:** FW: Mail

To be added to the tracking spreadsheet.

**From:** Neumayr, Mary B. EOP/CEQ  
**Sent:** Monday, June 25, 2018 4:26 PM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Cc:** Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** FW: Mail

**From:** McLaurin, Juschelle D. EOP/CEQ  
**Sent:** Monday, June 25, 2018 4:24 PM  
**To:** Neumayr, Mary B. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** RE: Mail

Sorry I realized I did not add the document and I left Katherine off. The original is in your mailbox.

**From:** McLaurin, Juschelle D. EOP/CEQ  
**Sent:** Monday, June 25, 2018 2:58 PM  
**To:** Neumayr, Mary B. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** Mail

Hello Mary,

Send to Edward Boling and shared with Michael Drummond in his absence.

Juschelle

Juschelle D. McLaurin  
Administrative Assistant  
730 Jackson Place NW  
Washington, DC 20503  
(b) (6) Office  
(b) (6) Cell

## FW: Q&As for your review

---

**From:** "Osterhues, Marlys A. EOP/CEQ" <"/o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=b7e9898c6a8e463cb2a7da10b55ed6af-os">  
**To:** "Barnett, Steven W. EOP/CEQ" <(b) (6)>  
**Date:** Wed, 27 Jun 2018 09:30:49 -0400  
**Attachments** Draft Question and Answer for Senate Roundtable 6-25-18- clean (2)AFC.docx : (48.65 kB)

---

**From:** Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>  
**Sent:** Tuesday, June 26, 2018 7:55 PM  
**To:** Janet Pfleeger - Y <janet.pfleeger@gsa.gov>  
**Cc:** Karen Hanley - Y <karen.hanley@gsa.gov>; Osterhues, Marlys A. EOP/CEQ <(b) (6)>; Amber Levofsky - Y <amber.levofsky@gsa.gov>; Kavita Vaidyanathan - AY-DETAILEE <kavita.vaidyanathan@gsa.gov>; Sharp, Thomas L. EOP/CEQ <(b) (6)>; Scott (Robert) Hillkirk - AY-C <scott.hillkirk@gsa.gov>; Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** Re: Q&As for your review

I have added some suggestions on top of Janet's edits.

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

On Tue, Jun 26, 2018 at 4:54 PM, Janet Pfleeger - Y <[janet.pfleeger@gsa.gov](mailto:janet.pfleeger@gsa.gov)> wrote:

---

Marlys,  
Please see edits discussed this afternoon to pages 2 and 5. I want to add these to Angie's binder as soon as CEQ is done with your edits from this afternoon so please "reply all" when you distribute later today.  
Thanks!

---

Janet

Janet Pfleeger  
Deputy Director  
Federal Permitting Improvement Steering Council  
Office of the Executive Director (FPISC-OED)  
[janet.pfleeger@fpisc.gov](mailto:janet.pfleeger@fpisc.gov)  
(202) 714-7288  
1800 F St, NW  
Washington, DC 20405

On Mon, Jun 25, 2018 at 1:46 PM, Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)> wrote:

---

Good afternoon everyone,

Please find some comments/edits for the Roundtable Q&As attached.

(b) (5)  
[Redacted]

On Thu, Jun 21, 2018 at 5:10 PM, Angela Colamaria - Y-D <[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)> wrote:

---

All,

I haven't had time to read the actual answers yet, but I did put a few comment balloons to grab your attention as you review. Please add additional Q&A's and provide edits/answers to existing Q&A as needed by 4 pm tomorrow and send to Karen. (b) (5)  
[Redacted]

Thanks,  
Angie

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

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Karen A. Hanley

Senior Environmental Policy Advisor, Federal Permitting Improvement Steering Council (FPISC), GSA

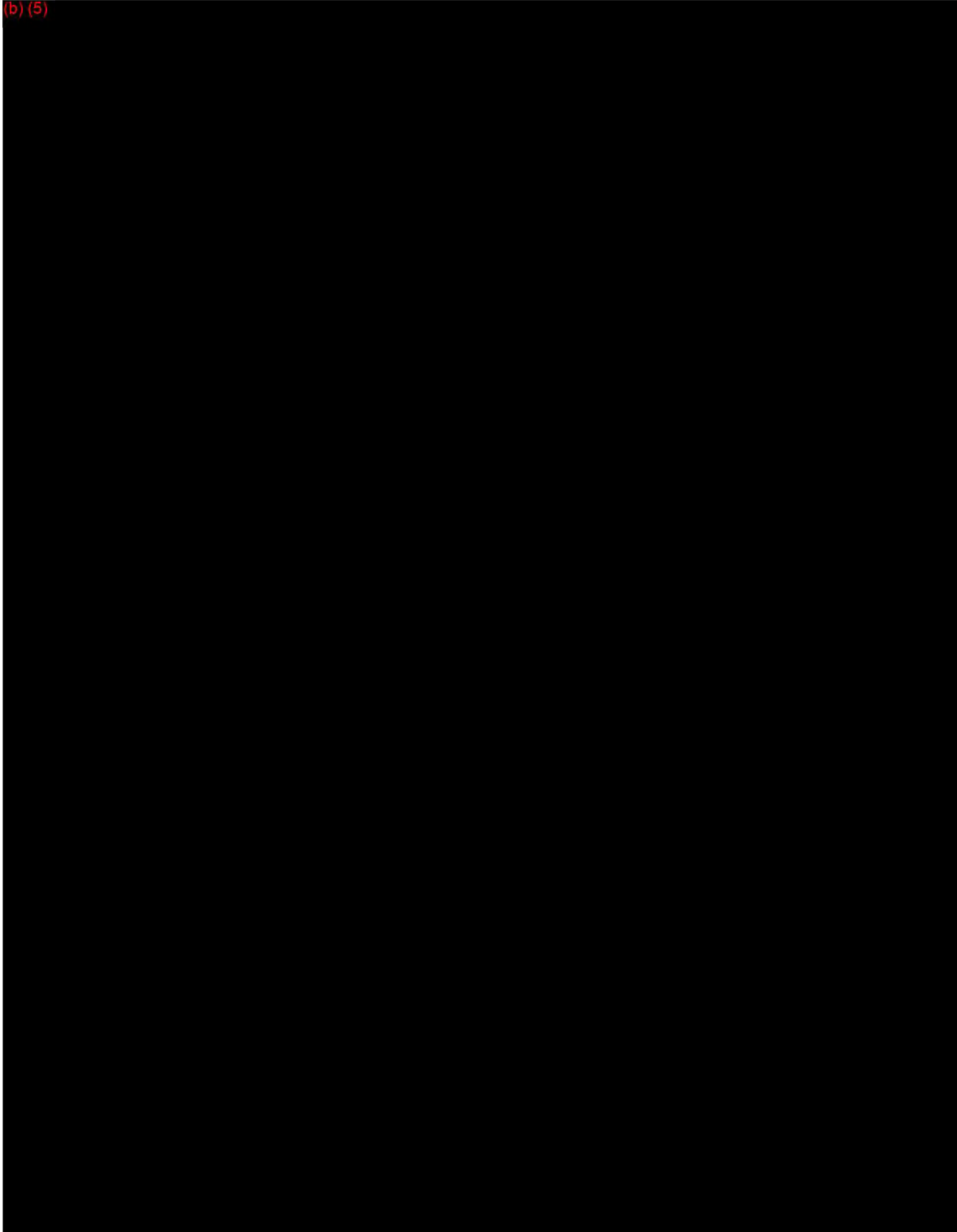
Deputy Associate Director for NEPA, Council on Environmental Quality (CEQ)

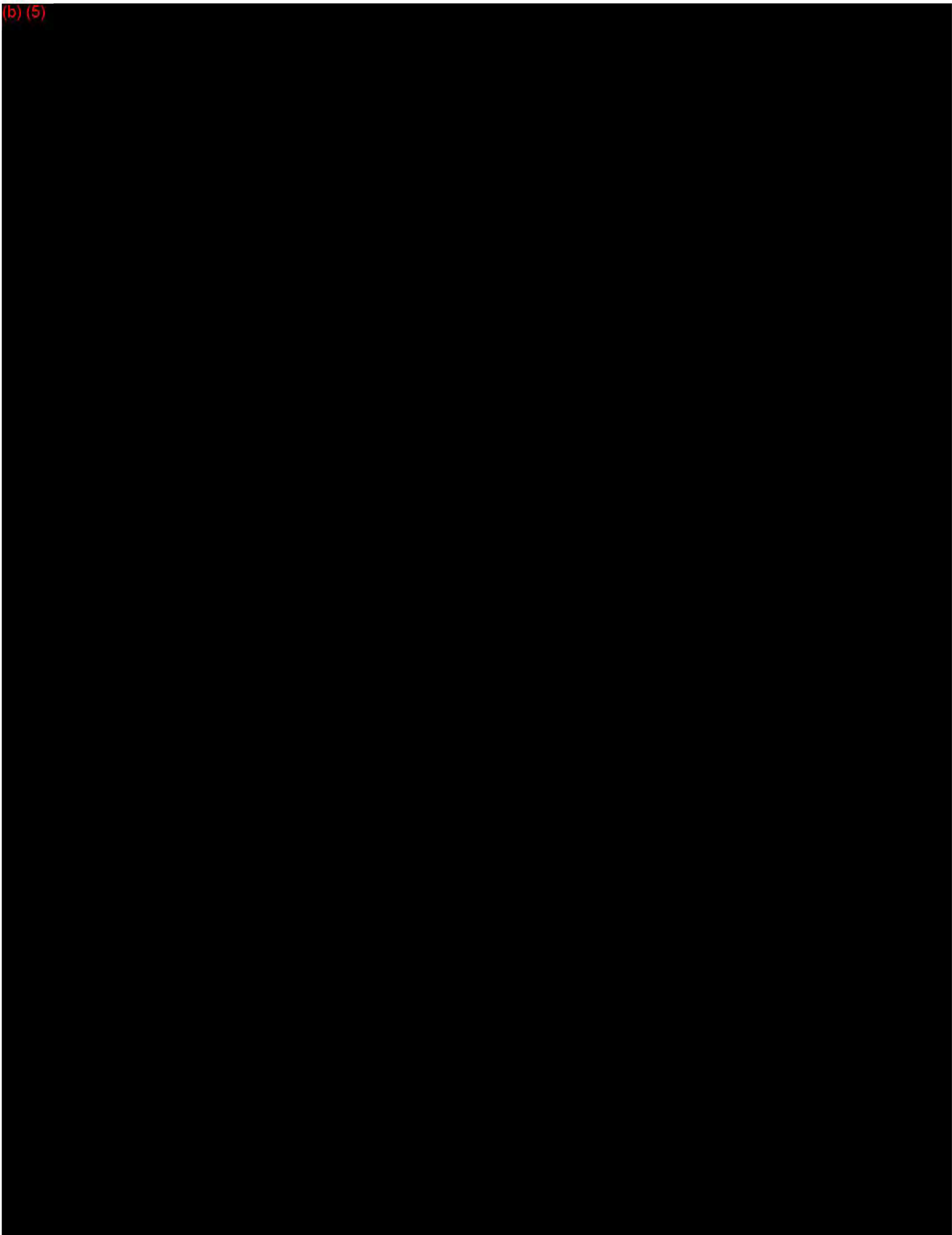
Phone: (b) (6)

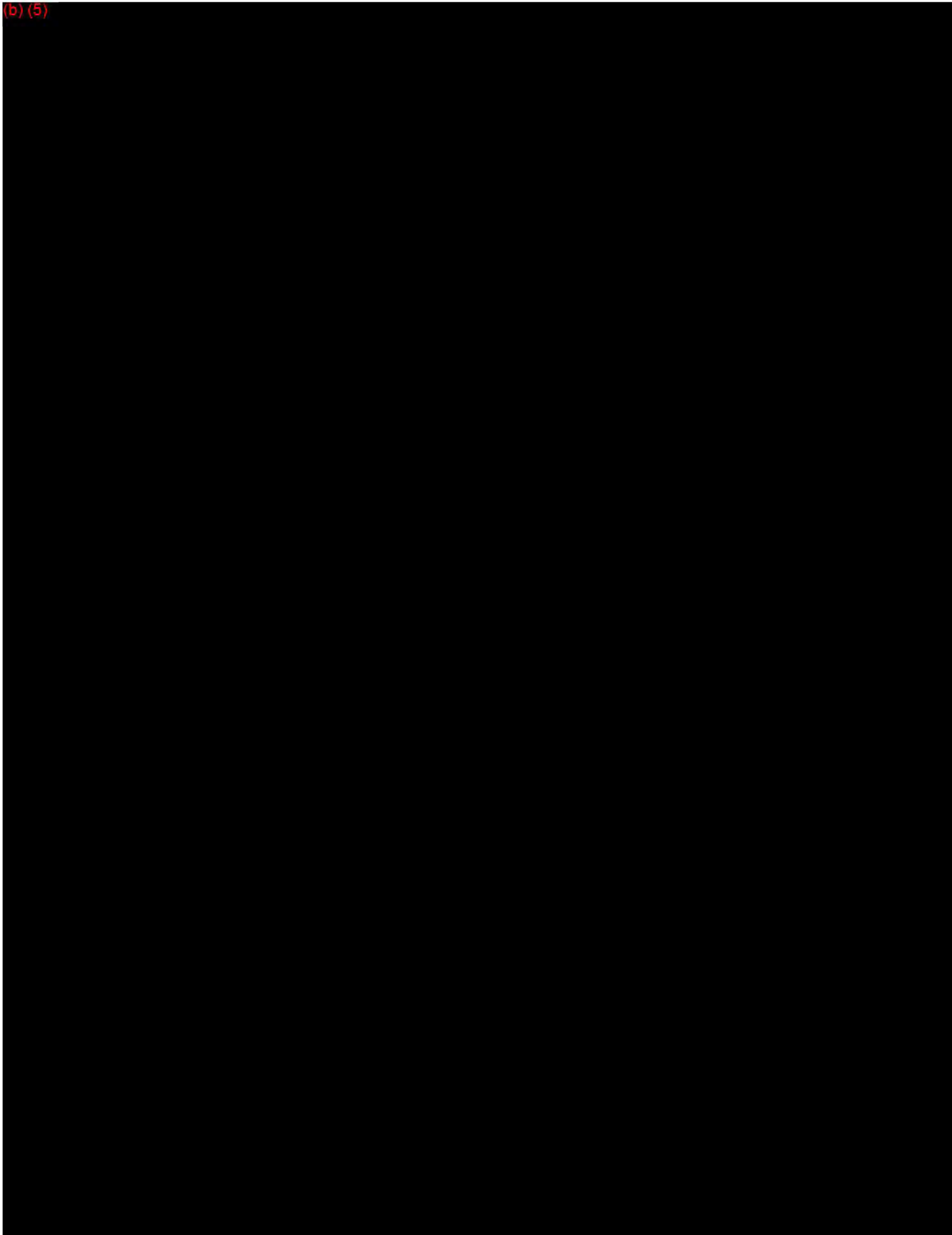
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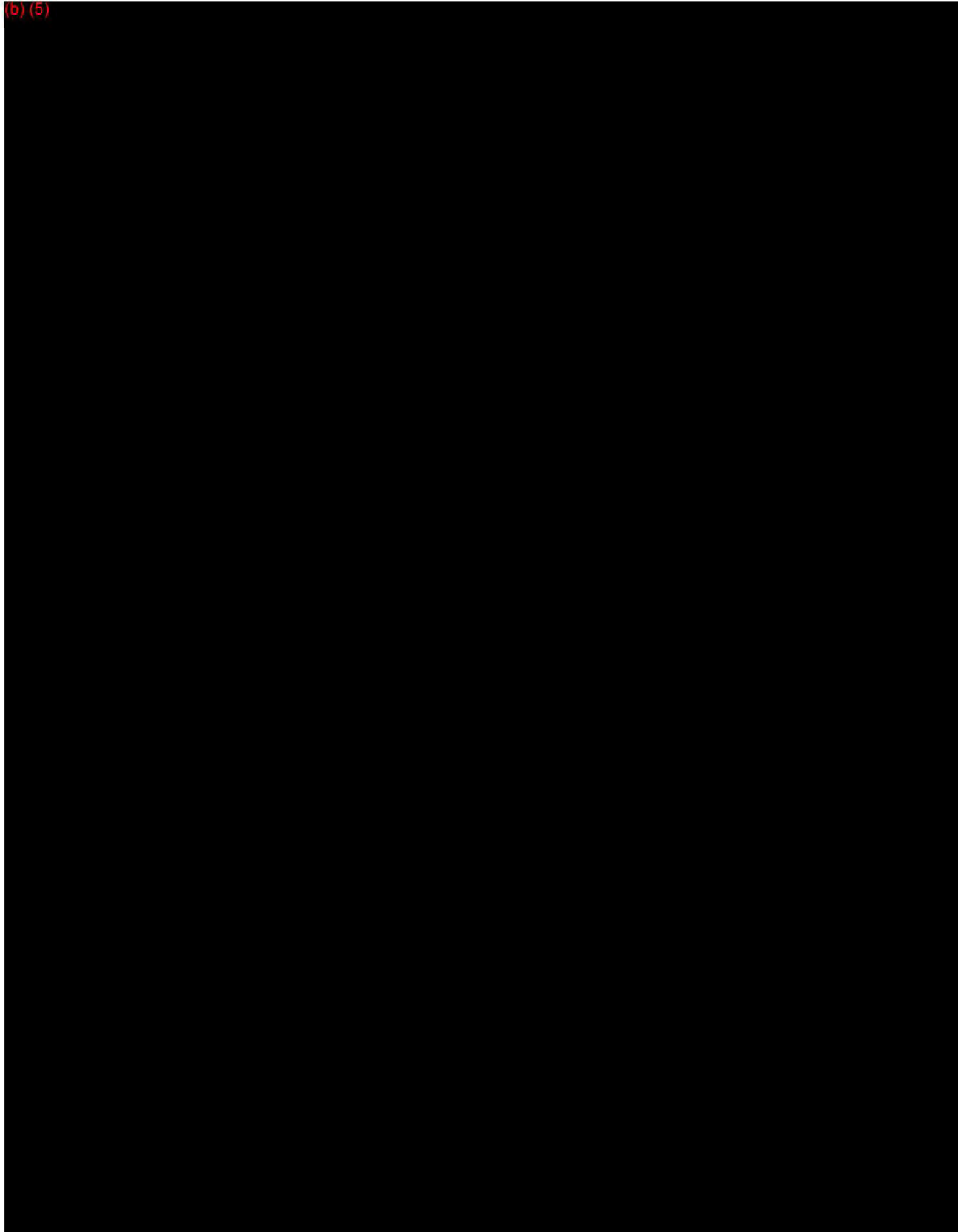
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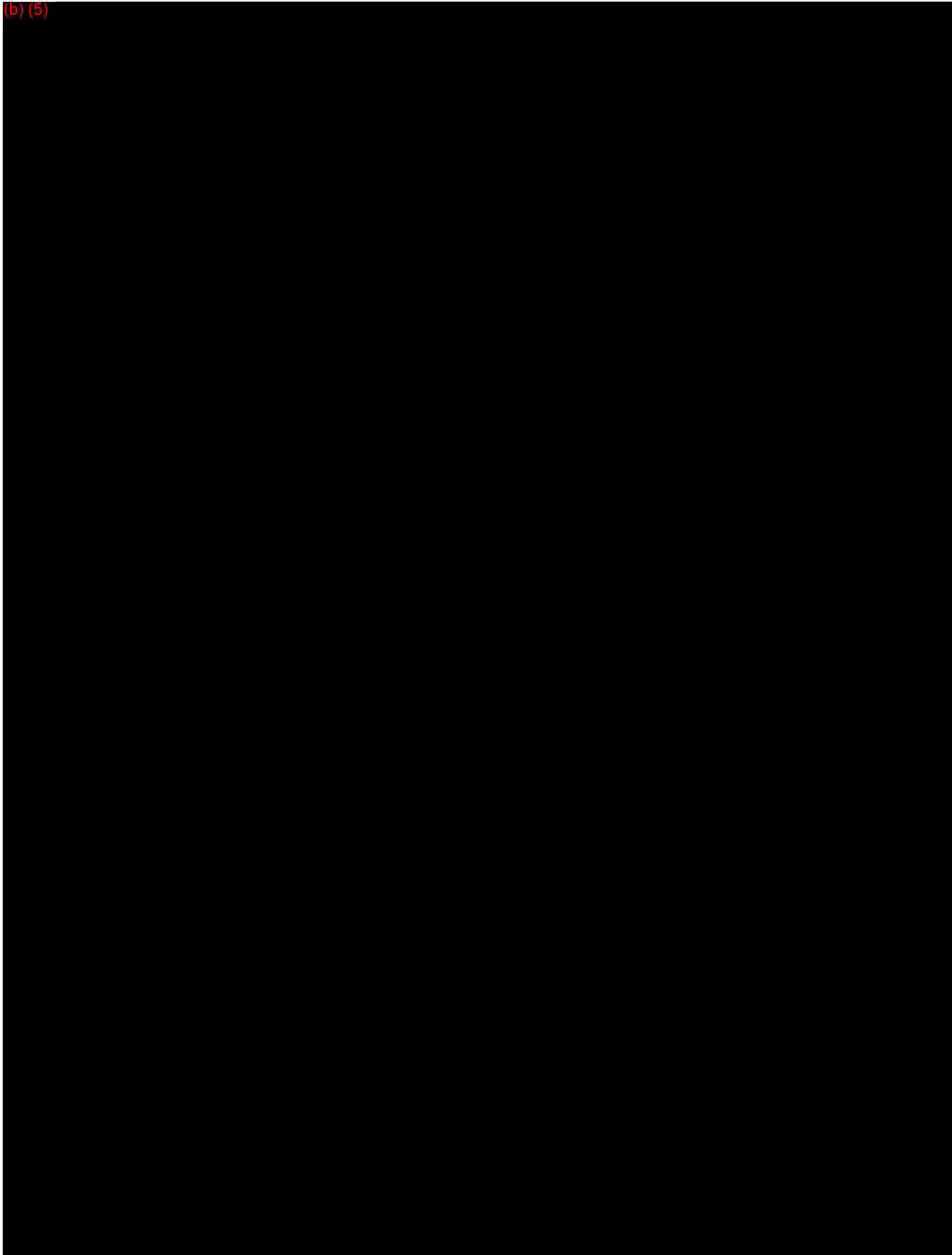


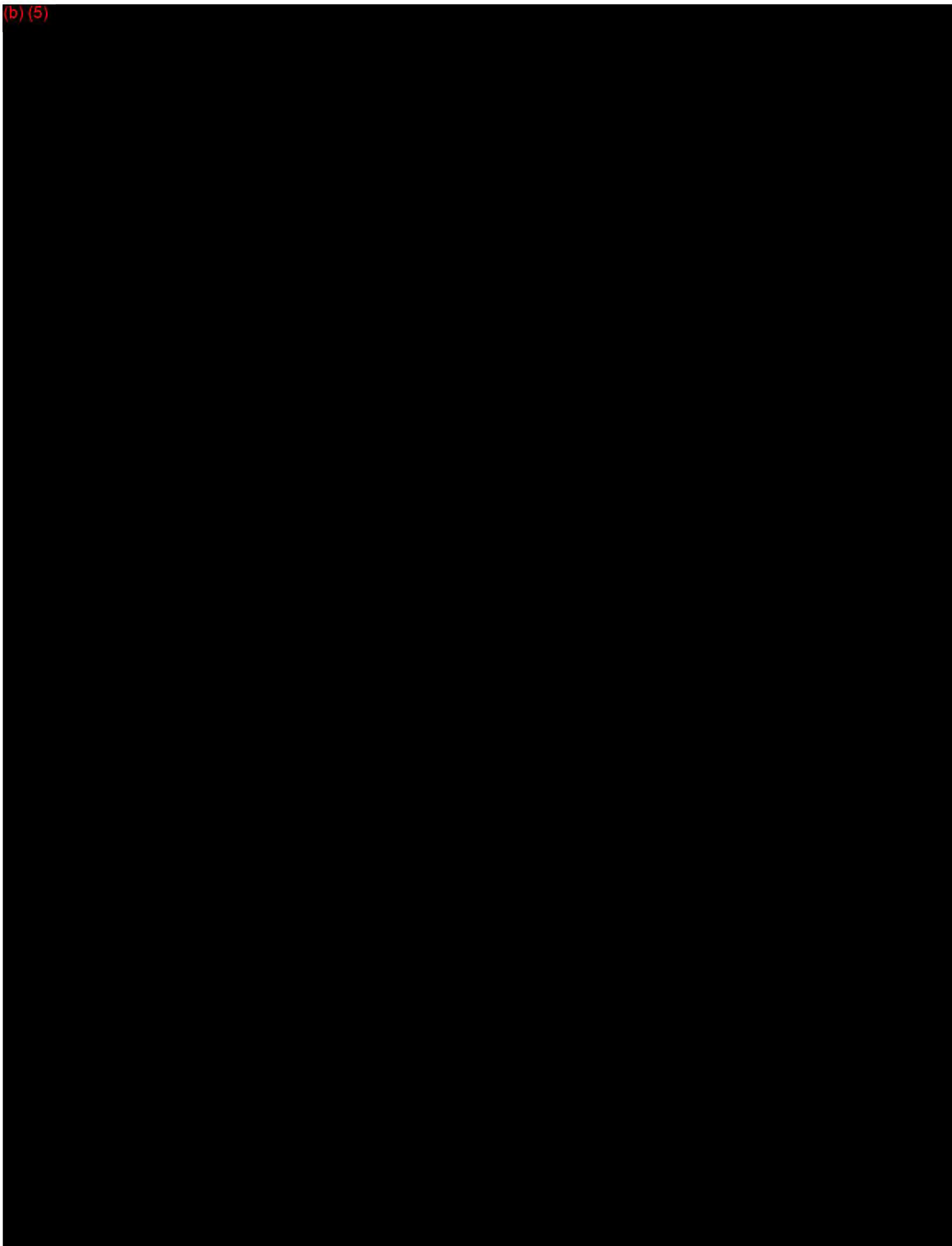


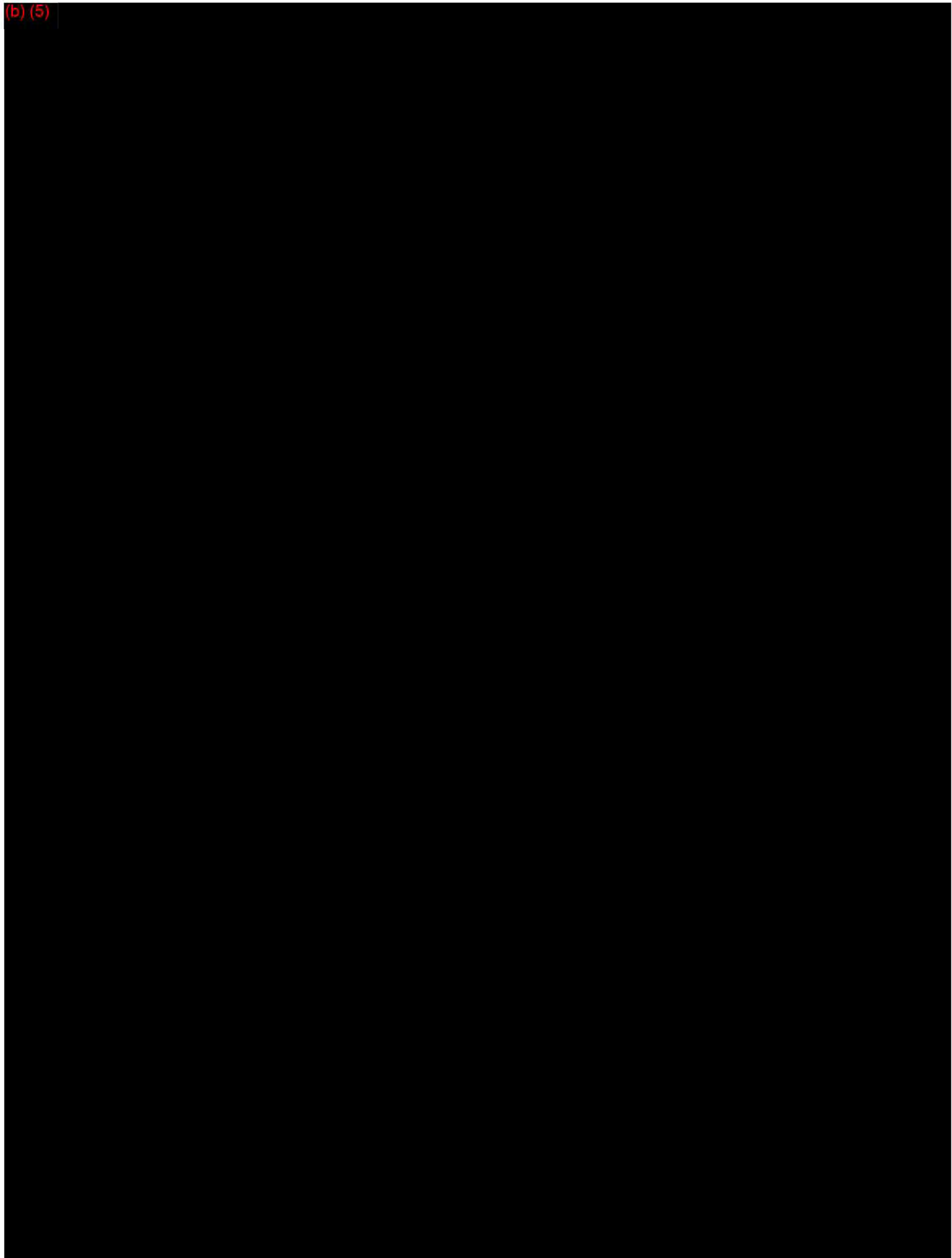


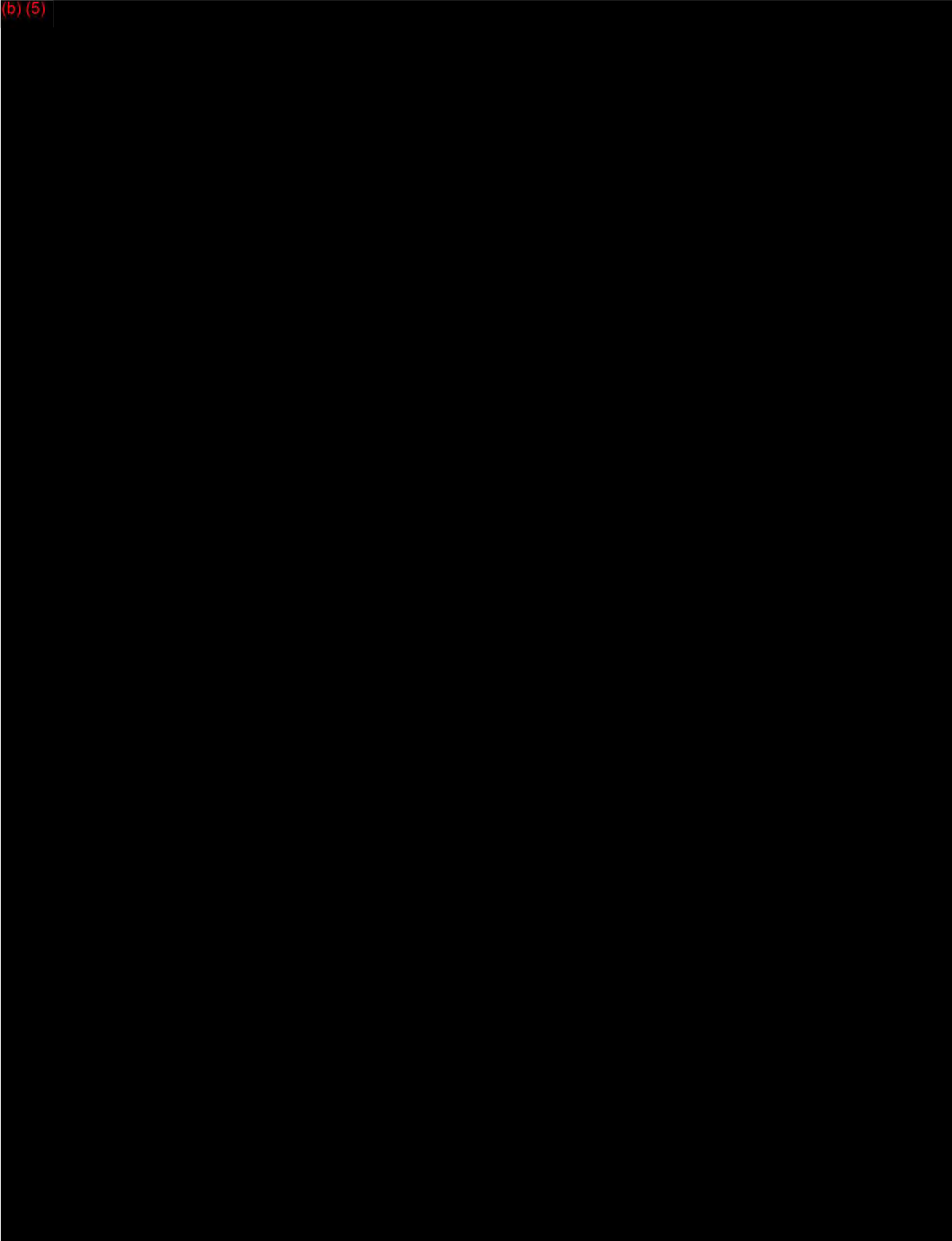














## FW: Q&As for your review

---

**From:** "Osterhues, Marlys A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=b7e9898c6a8e463cb2a7da10b55ed6af-os">  
**To:** "Barnett, Steven W. EOP/CEQ" <(b) (6)>  
**Date:** Wed, 27 Jun 2018 09:30:31 -0400  
**Attachments**  
: Draft Question and Answer for Senate Roundtable 6-25-18- clean.docx (44.17 kB)

---

**From:** Janet Pfleeger - Y <janet.pfleeger@gsa.gov>  
**Sent:** Tuesday, June 26, 2018 4:54 PM  
**To:** Karen Hanley - Y <karen.hanley@gsa.gov>; Osterhues, Marlys A. EOP/CEQ <(b) (6)>  
**Cc:** Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>; Amber Levofsky - Y <amber.levofsky@gsa.gov>; Kavita Vaidyanathan - AY-DETAILEE <kavita.vaidyanathan@gsa.gov>; Sharp, Thomas L. EOP/CEQ <(b) (6)> Scott (Robert) Hillkirk - AY-C <scott.hillkirk@gsa.gov>  
**Subject:** Re: Q&As for your review

Marlys,  
Please see edits discussed this afternoon to pages 2 and 5. I want to add these to Angie's binder as soon as CEQ is done with your edits from this afternoon so please "reply all" when you distribute later today.  
Thanks!  
Janet

Janet Pfleeger  
Deputy Director  
Federal Permitting Improvement Steering Council  
Office of the Executive Director (FPISC-OED)  
[janet.pfleeger@fpisc.gov](mailto:janet.pfleeger@fpisc.gov)  
(202) 714-7288  
1800 F St, NW  
Washington, DC 20405

On Mon, Jun 25, 2018 at 1:46 PM, Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)> wrote:

---

Good afternoon everyone,

Please find some comments/edits for the Roundtable Q&As attached.

(b) (5)

On Thu, Jun 21, 2018 at 5:10 PM, Angela Colamaria - Y-D <[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)> wrote:

---

All,

I haven't had time to read the actual answers yet, but I did put a few comment balloons to grab your attention as you review. Please add additional Q&A's and provide edits/answers to existing Q&A as needed by 4 pm tomorrow and send to Karen. (b) (5)

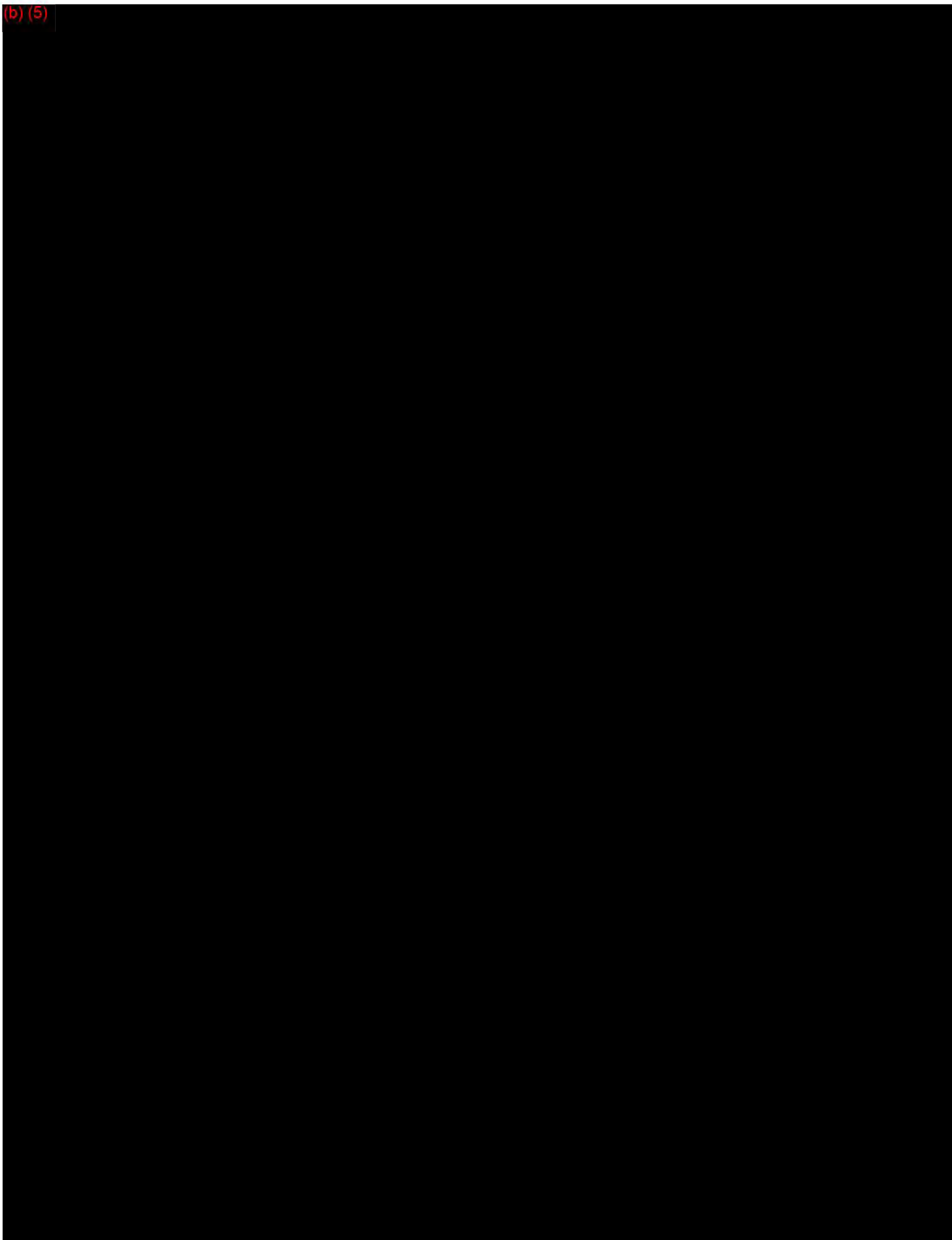
Thanks,  
Angie

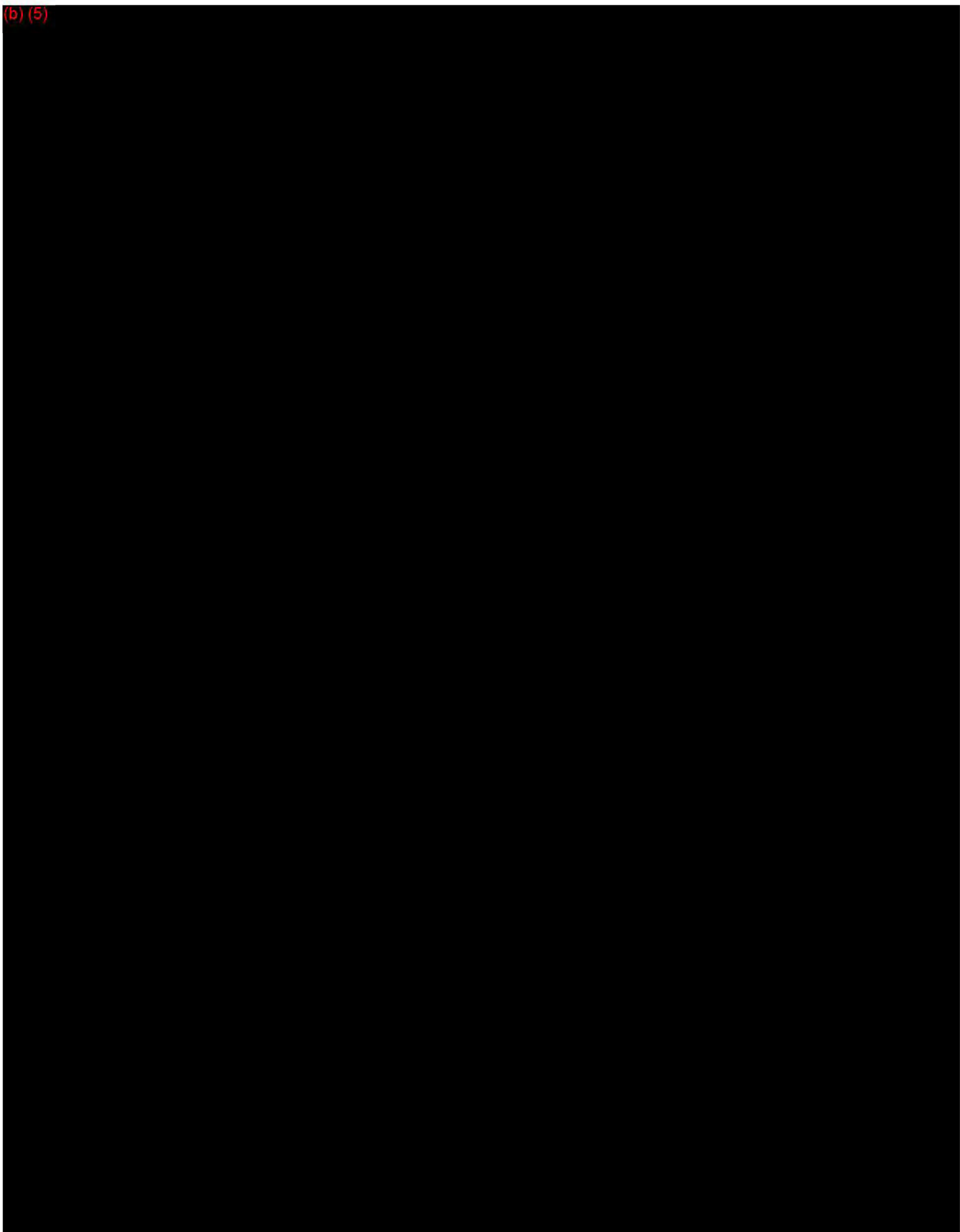
**Angela F. Colamaria**  
Acting Executive Director  
Office of the Executive Director (FPISC-OED)  
Federal Permitting Improvement Steering Council  
[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)  
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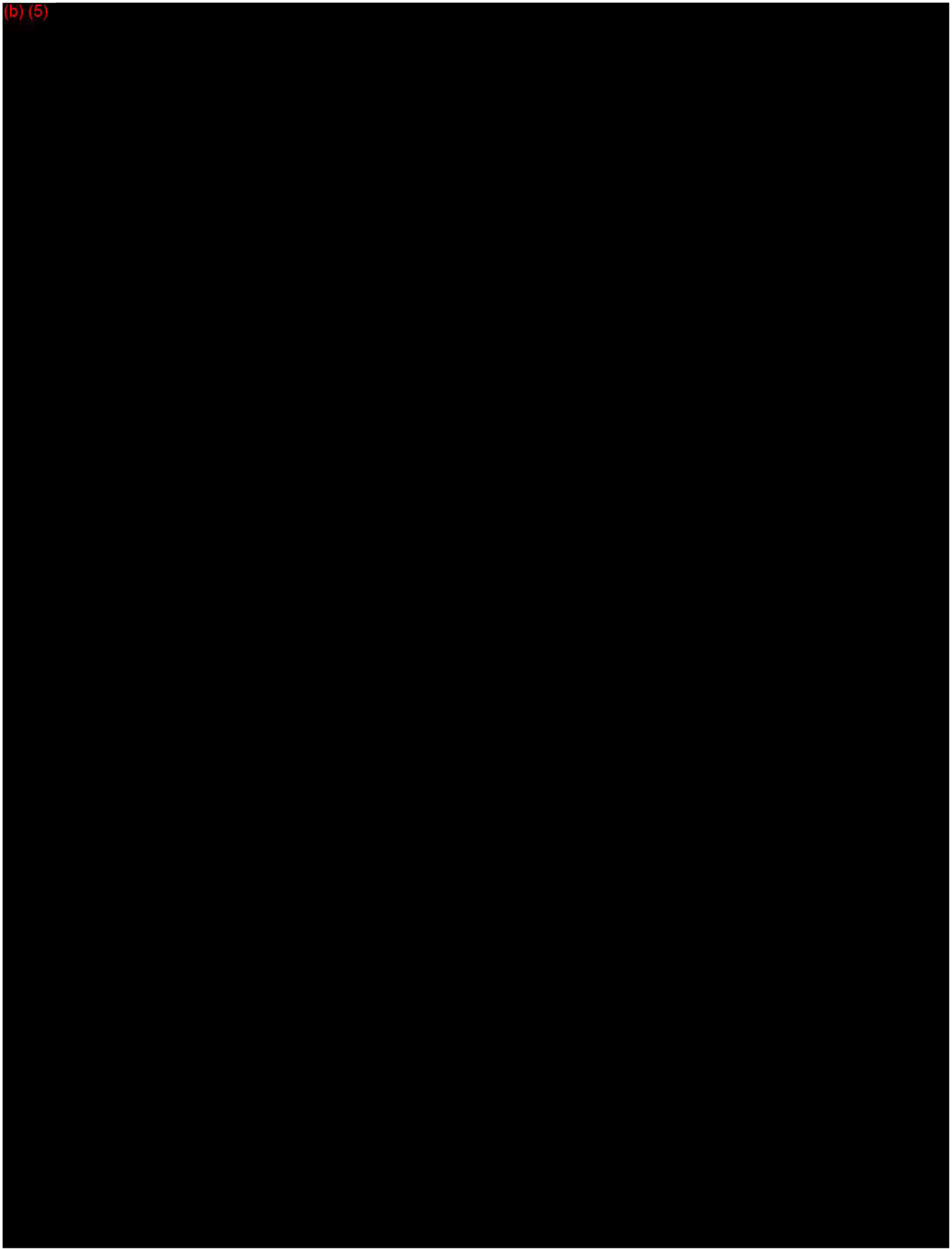
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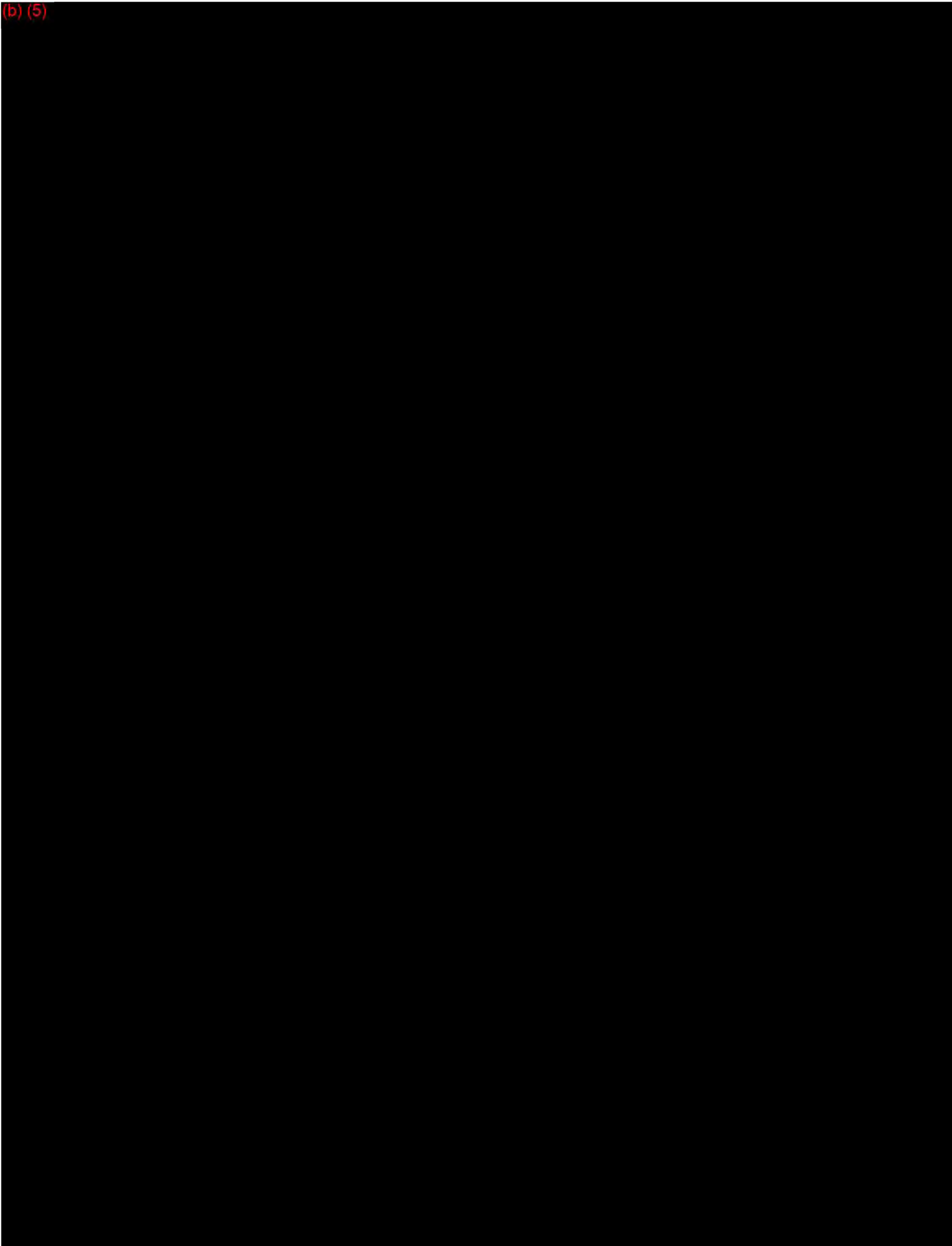
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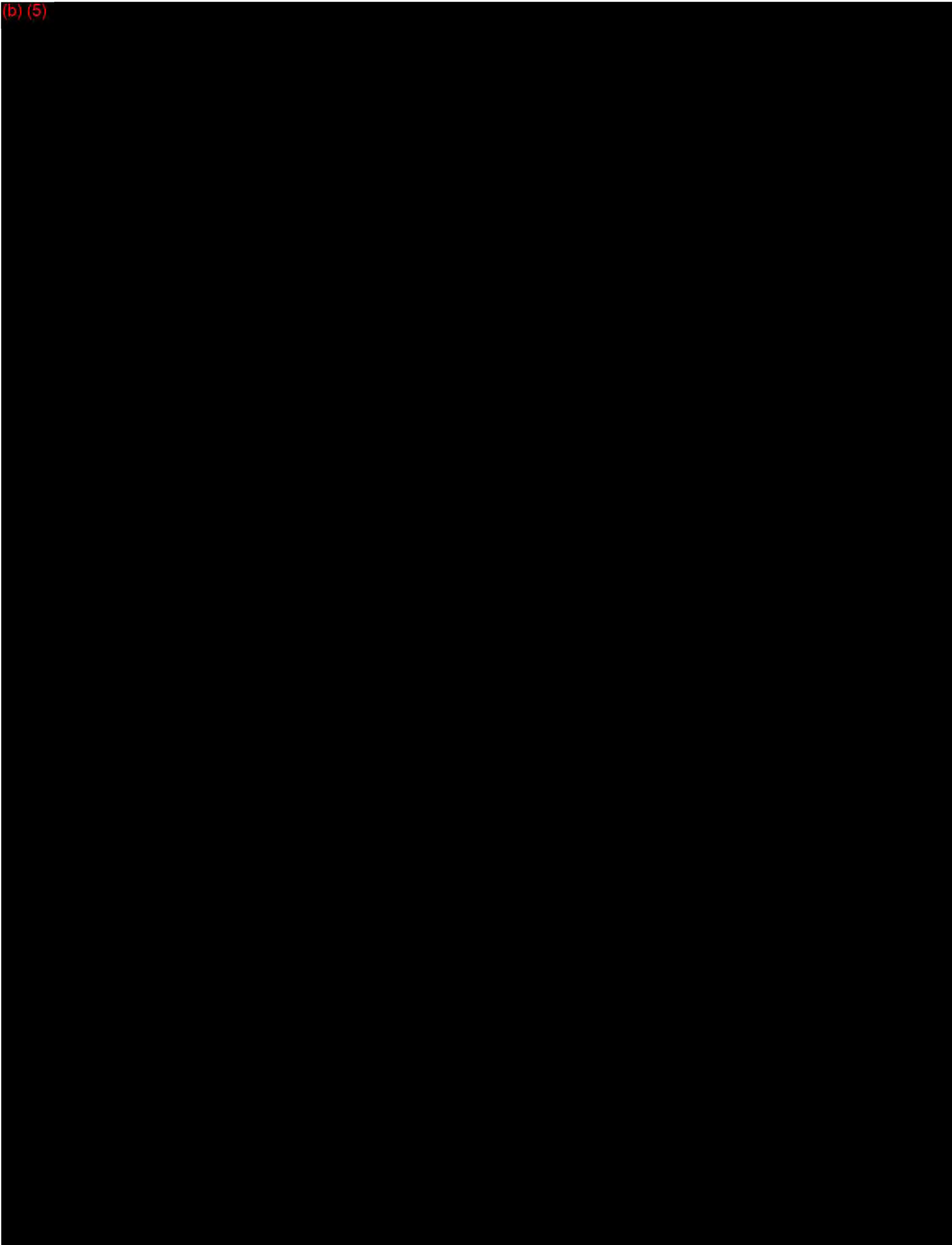
Karen A. Hanley  
Senior Environmental Policy Advisor, Federal Permitting Improvement Steering Council (FPISC), GSA  
Deputy Associate Director for NEPA, Council on Environmental Quality (CEQ)  
Phone: (b) (6)

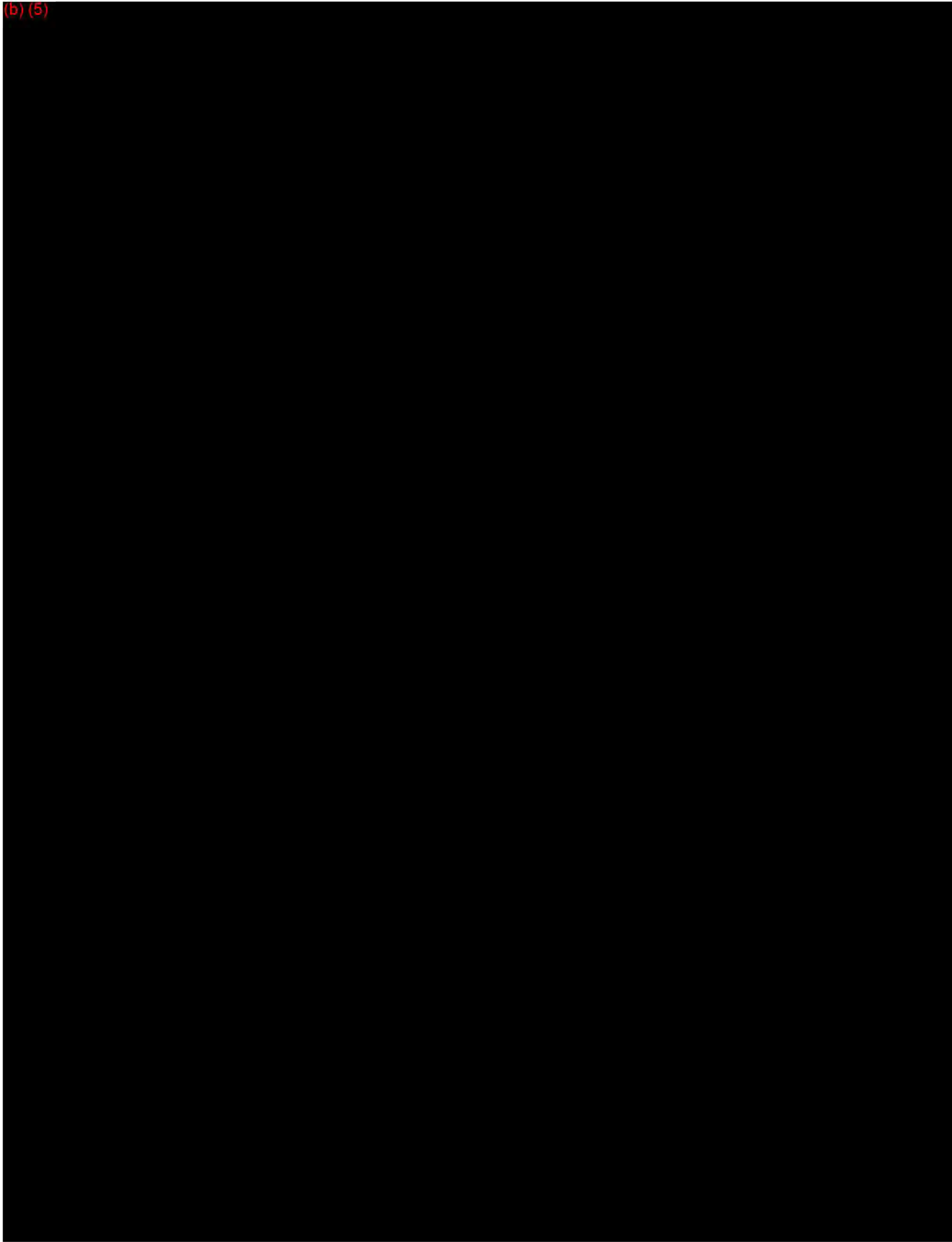




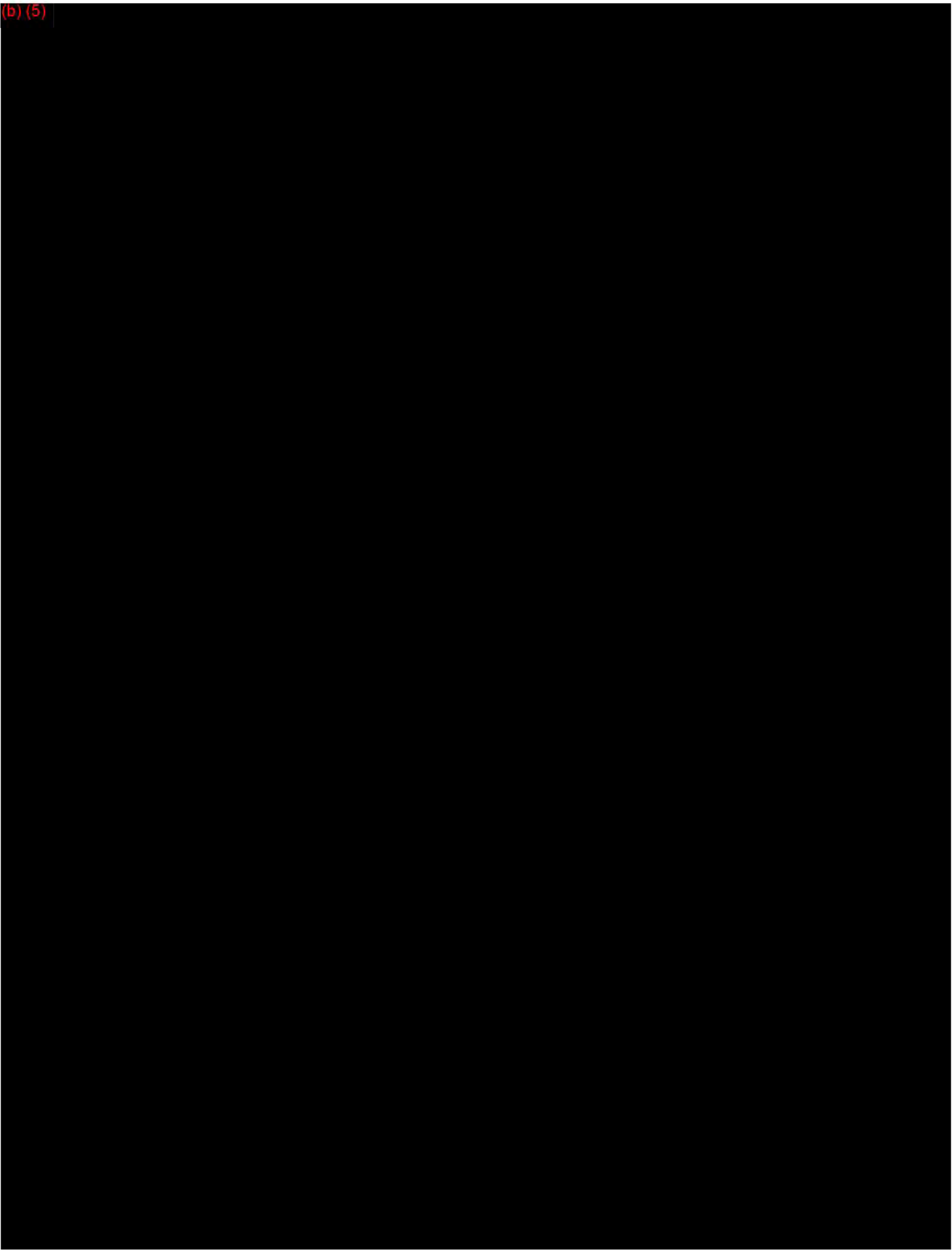


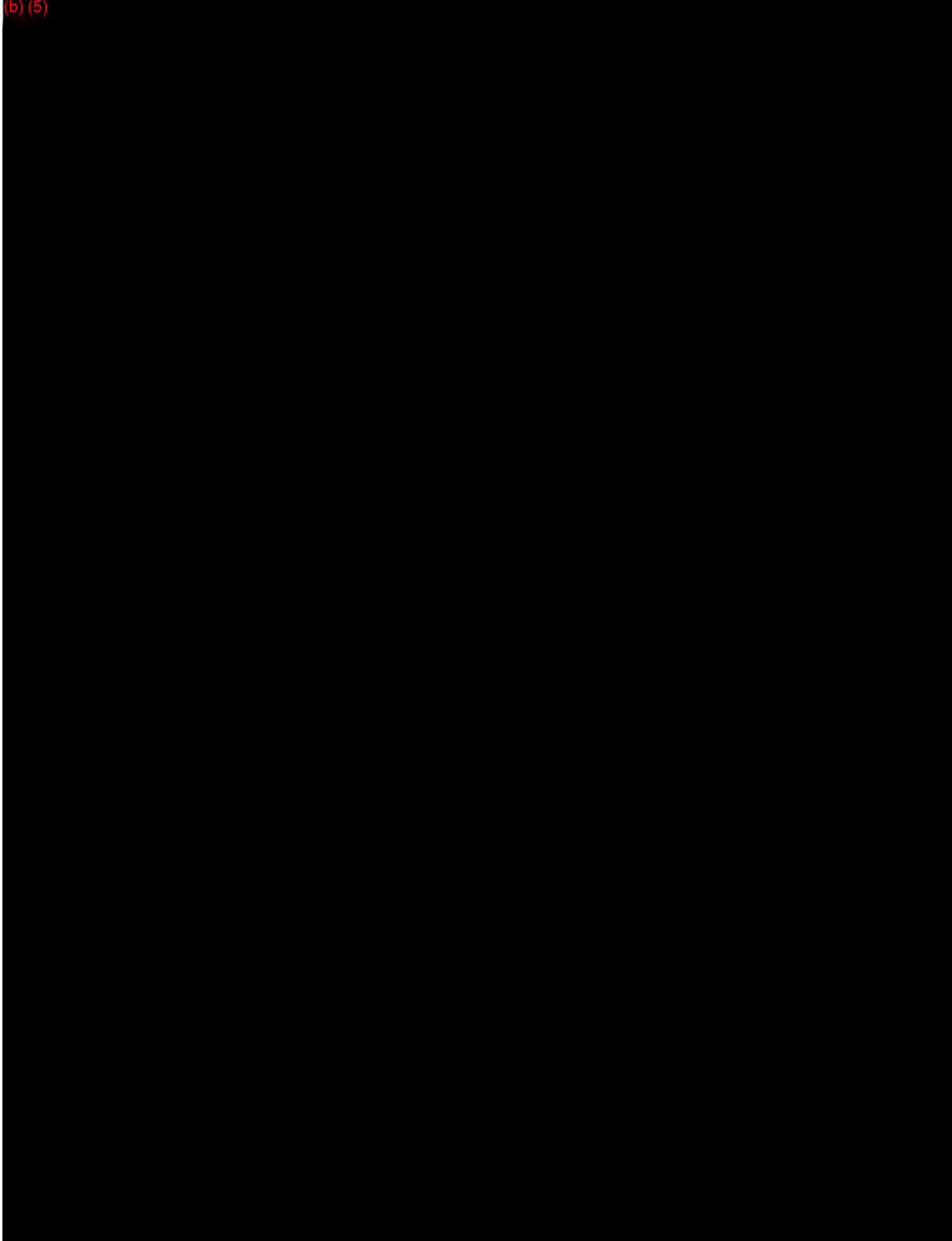


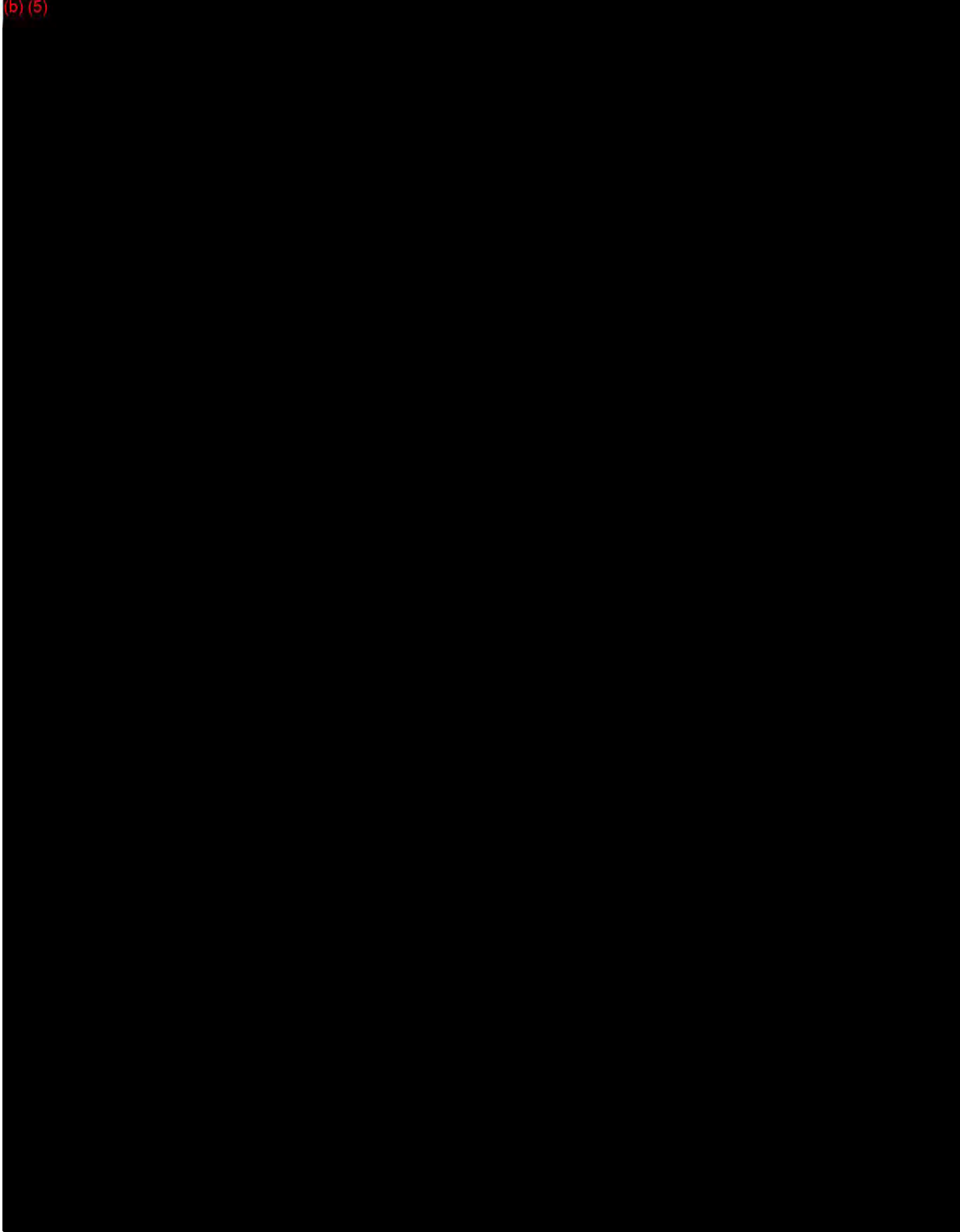












## RE: ANPRM

---

**From:** "Hass, Jennifer" <jennifer.hass@hq.dhs.gov>

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

**Date:** Mon, 02 Jul 2018 13:29:14 -0400

Thanks, Michael. Very helpful!

Jen

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

**Sent:** Monday, July 2, 2018 1:05 PM

**To:** Hass, Jennifer <jennifer.hass@hq.dhs.gov>

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

**Subject:** Re: ANPRM

No additional info at this time. Please stay tuned. I will communicate with the interagency on comment submission from NEPA contacts later this week.

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

On Jul 2, 2018, at 10:19 AM, Hass, Jennifer <jennifer.hass@hq.dhs.gov> wrote:

Ted or Michael,

Has a timeline or additional guidance been distributed for the interagency participation portion of the ADPRM for the NEPA Regulations? I came into the Federal NEPA contacts meeting a bit late (actually was pulled out and able to return later than I had hoped) and am worried I may have missed a discussion on internal dates outside of the [regulations.gov](http://regulations.gov) process. Do you all have a target date for receiving agency comments?

Thank you,

Jen

### **Jennifer DeHart Hass**

Environmental Planning & Historic Preservation Program Manager

Office of the Chief Readiness Support Officer

Department of Homeland Security

Tel: 202.834.4346

[jennifer.hass@hq.dhs.gov](mailto:jennifer.hass@hq.dhs.gov)

## RE: FOR REVIEW: ANPRM Comment Extension

---

**From:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
**To:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**Cc:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**Date:** Mon, 02 Jul 2018 11:57:27 -0400  
**Attachments:** CEQ NEPA ANPRM\_Comment Period Extension\_06302018 YM comments.docx  
(45.74 kB)

Here are my comments, as tracked changes.

### Highlights:

- (b) (5) [Redacted]
- [Redacted]
- [Redacted]

**From:** Szabo, Aaron L. EOP/CEQ  
**Sent:** Monday, July 2, 2018 10:58 AM  
**To:** Drummond, Michael R. EOP/CEQ <(b) (6)> Mansoor, Yardena M. EOP/CEQ <(b) (6)>  
**Subject:** FOR REVIEW: ANPRM Comment Extension

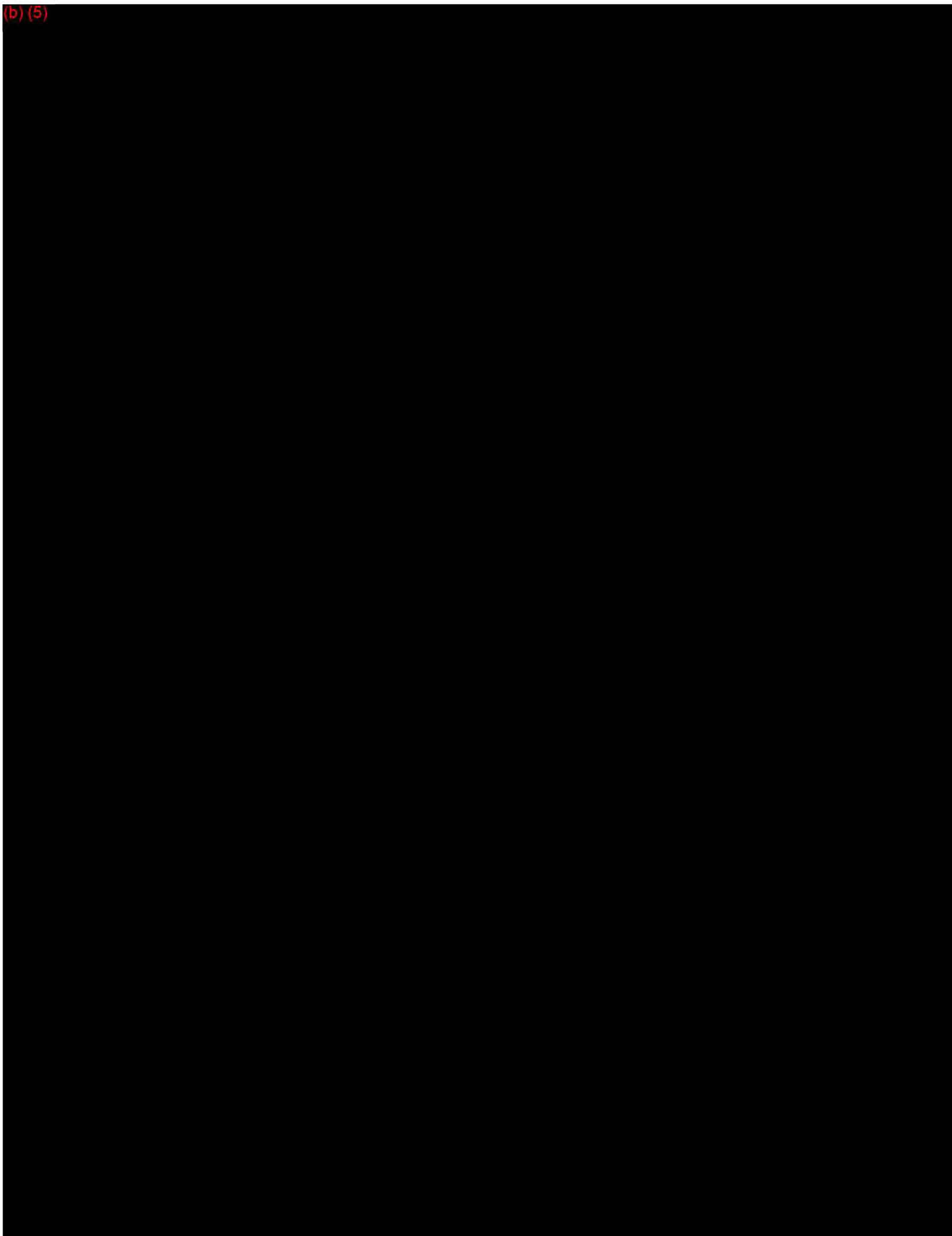
Mike and Yardena,

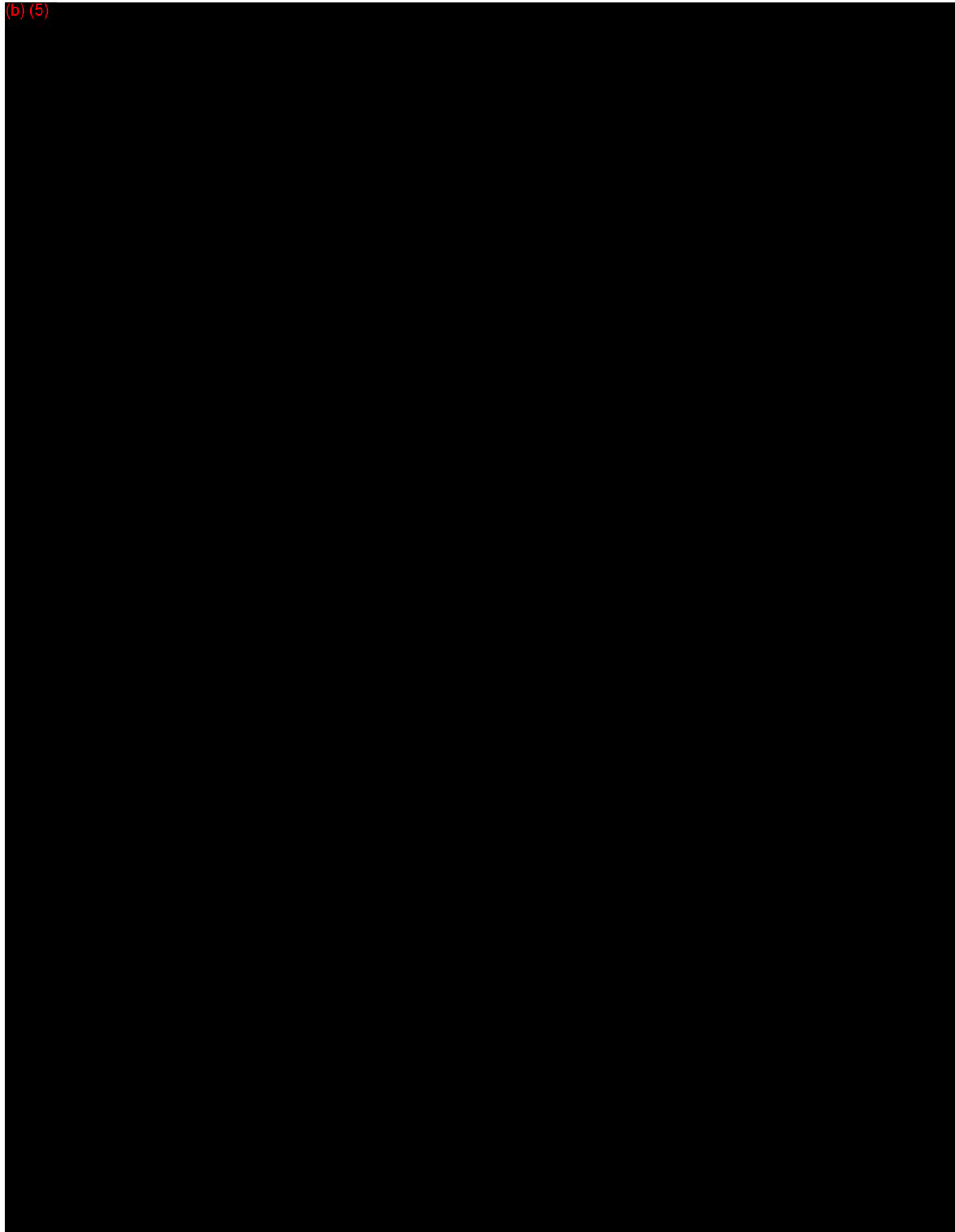
Please see attached for the ANPRM Comment Extension for your review. Please let me know if you have any comments.

Thanks.

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

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







## Re: ANPRM

---

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

**To:** "Hass, Jennifer" <jennifer.hass@hq.dhs.gov>

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

**Date:** Mon, 02 Jul 2018 13:05:18 -0400

---

No additional info at this time. Please stay tuned. I will communicate with the interagency on comment submission from NEPA contacts later this week.

Michael Drummond  
Deputy Associate Director for NEPA  
Council on Environmental Quality

(b) (6)

On Jul 2, 2018, at 10:19 AM, Hass, Jennifer <jennifer.hass@hq.dhs.gov> wrote:

---

Ted or Michael,

Has a timeline or additional guidance been distributed for the interagency participation portion of the ADPRM for the NEPA Regulations? I came into the Federal NEPA contacts meeting a bit late (actually was pulled out and able to return later than I had hoped) and am worried I may have missed a discussion on internal dates outside of the [regulations.gov](http://regulations.gov) process. Do you all have a target date for receiving agency comments?

Thank you,

Jen

### **Jennifer DeHart Hass**

**Environmental Planning & Historic Preservation Program Manager**  
**Office of the Chief Readiness Support Officer**

Department of Homeland Security

Tel: 202.834.4346

[jennifer.hass@hq.dhs.gov](mailto:jennifer.hass@hq.dhs.gov)

# ANPRM

---

**From** "Hass, Jennifer" <jennifer.hass@hq.dhs.gov>  
:

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

**Date:** Mon, 02 Jul 2018 11:17:12 -0400

---

Ted or Michael,

Has a timeline or additional guidance been distributed for the interagency participation portion of the ADPRM for the NEPA Regulations? I came into the Federal NEPA contacts meeting a bit late (actually was pulled out and able to return later than I had hoped) and am worried I may have missed a discussion on internal dates outside of the regulations.gov process. Do you all have a target date for receiving agency comments?

Thank you,

Jen

## **Jennifer DeHart Hass**

**Environmental Planning & Historic Preservation Program Manager**  
**Office of the Chief Readiness Support Officer**  
Department of Homeland Security  
Tel: 202.834.4346  
[jennifer.hass@hq.dhs.gov](mailto:jennifer.hass@hq.dhs.gov)

## FOR REVIEW: ANPRM Comment Extension

---

**From:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**To:** "Drummond, Michael R. EOP/CEQ" (b) (6)  
"Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
**Date:** Mon, 02 Jul 2018 10:58:29 -0400  
**Attachments**  
: CEQ NEPA ANPRM\_Comment Period Extension\_06302018.docx (43.49 kB)

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Mike and Yardena,

Please see attached for the ANPRM Comment Extension for your review. Please let me know if you have any comments.

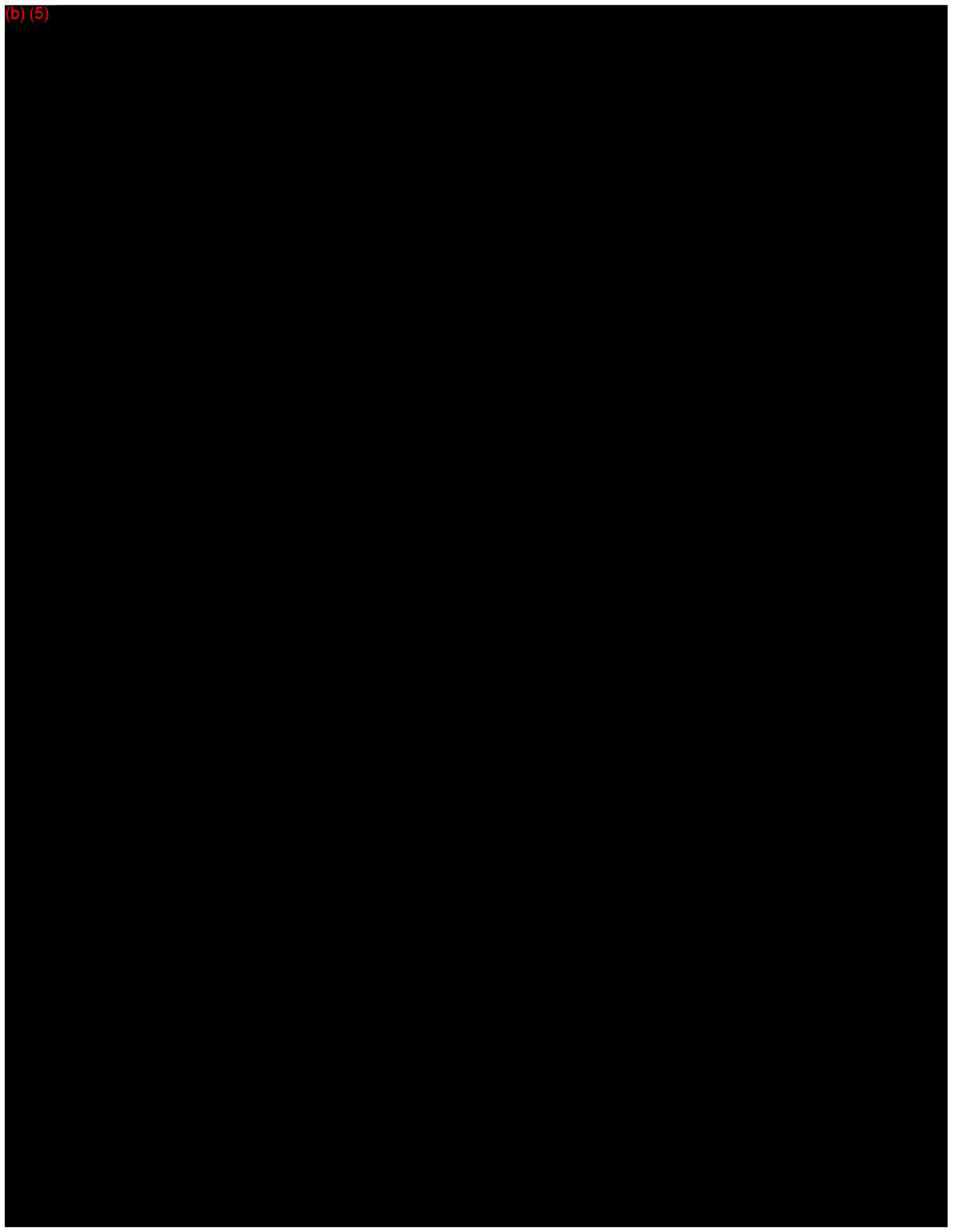
Thanks.

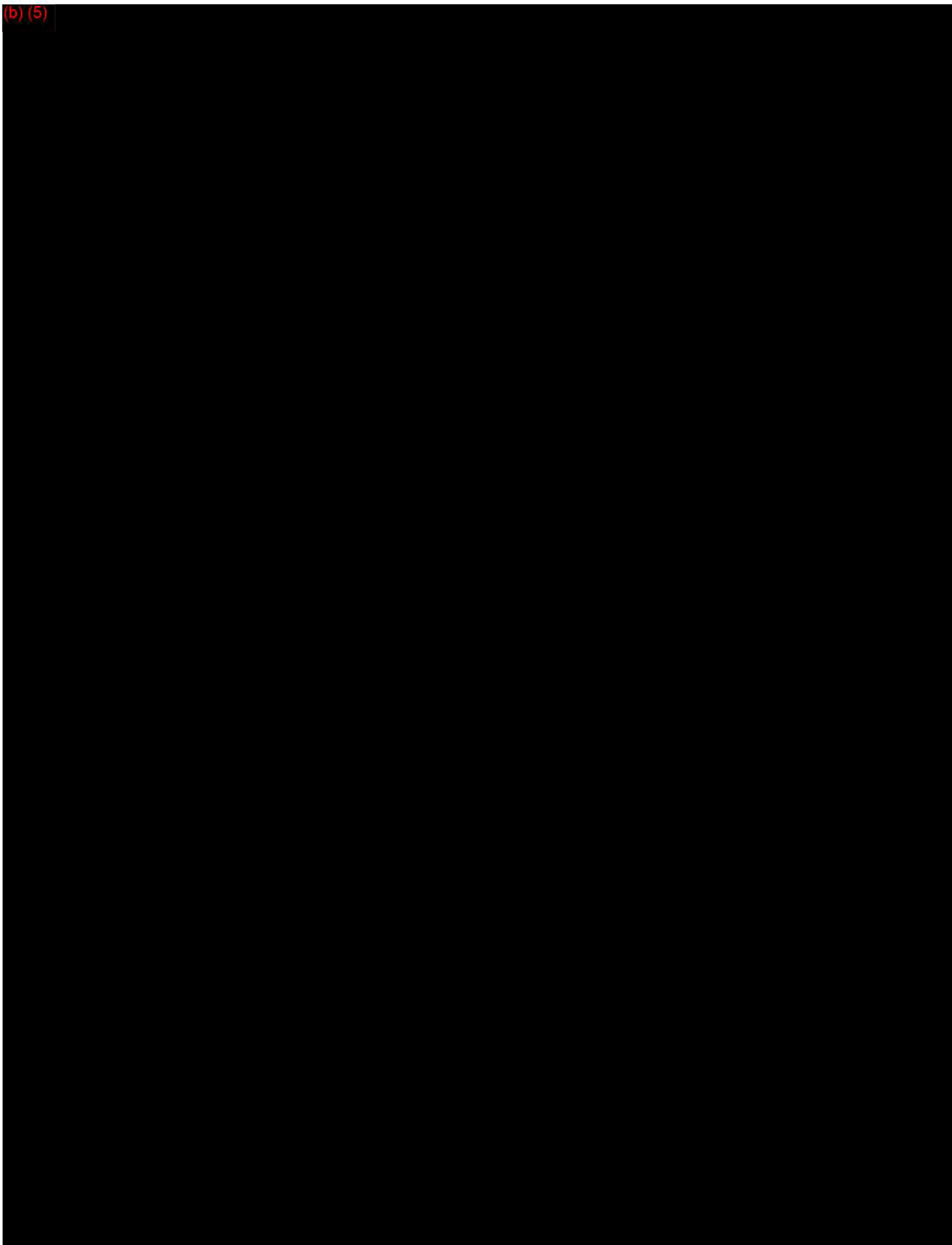
**Aaron L. Szabo**  
Senior Counsel  
Council on Environmental Quality

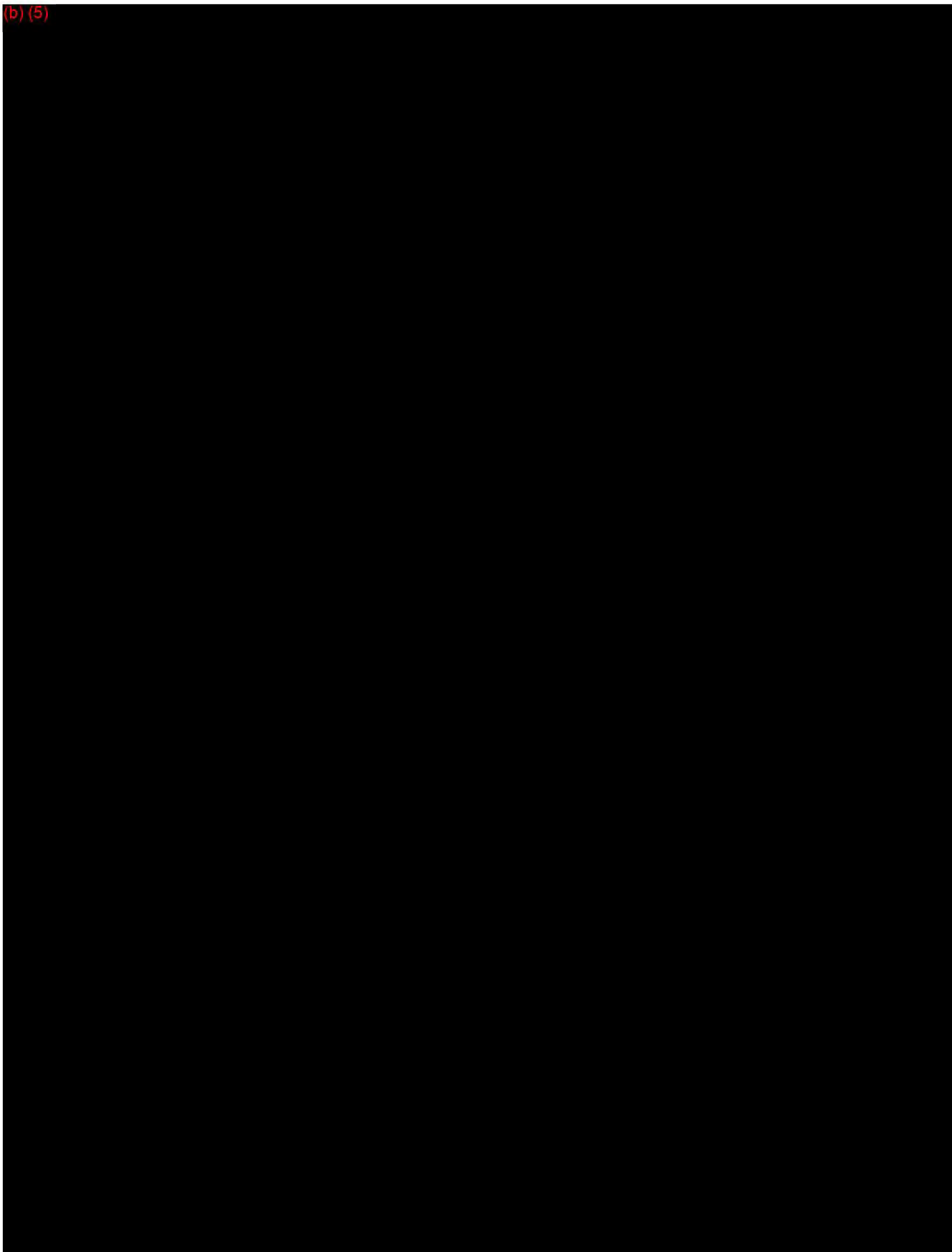
(b) (6) (Desk)

(b) (6) (Cell)

(b) (6)







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

---

From: "Freeman, Denise" <denise.freeman@hq.doe.gov>

dennis.ogden@gsa.gov, elizabeth.e.nelson@aphis.usda.gov, jsmalls@fs.fed.us, michelle.l.gray@aphis.usda.gov, david.a.bergsten@aphis.usda.gov, wendy.f.hall@aphis.usda.gov, caitlin.gregg@ogc.usda.gov, peggy.wade@wdc.usda.gov, 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, everett.bole@foh.hhs.gov, kristen.beckhorn@fda.hhs.gov, meghan.kelley@dot.gov, sarah.carrino@fema.dhs.gov, jennifer.hass@hq.dhs.gov, james.m.potter@hud.gov, barbara.r.britton@hud.gov, sunaree.k.marshall@hud.gov, danielle.l.schopp@hud.gov, joseph.a.baietti@hud.gov, cheryl\_kelly@ios.doi.gov, rebrown@usbr.gov, hzarin@blm.gov, rwinthro@blm.gov, ccunningham@usbr.gov, doug\_wetmore@nps.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>, "Neal, Daria (CRT)" <daria.neal@usdoj.gov>, hassellmd@state.gov, harold.peaks@dot.gov, carolyn.nelson@dot.gov, amy.coyle@dot.gov, krystyna.bednarczyk@dot.gov, antoinette.quagliata@dot.gov, "Boling, Ted A. EOP/CEQ" <(b) (6)>, "Drummond, Michael R. EOP/CEQ" <(b) (6)>, ruhl.suzi@epa.gov, buzzelle.stanley@epa.gov, tejada.matthew@epa.gov, roemele.julie@epa.gov, lee.charles@epa.gov, walter.simone@epa.gov, allen.dana@epa.gov, okorn.barbara@epa.gov, knorr.michele@epa.gov, musumeci.grace@epa.gov, kajumba.ntale@epa.gov, rudnick.barbara@epa.gov, hamis.reggie@epa.gov, poole.elizabeth@epa.gov, jones.kima@epa.gov, kelly.thomasp@epa.gov, dawson.shelly@epa.gov, marshall.tom@epa.gov, brown.deborah@epa.gov, grass.running@epa.gov, phillip.washington@aphis.usda.gov, mbabaliye.theogene@epa.gov, peterson.erik@epa.gov, joanne.wachholder@ferc.gov, kelly.munoz@ferc.gov, robin.griffin@ferc.gov, katrina.scarpato@gsa.gov, carol.schafer@gsa.gov, jeffrey.rikhoff@nrc.gov, "Walters, Carmel I -FS" <carmeliwalters@fs.fed.us>, "Wade, Peggy - RD - St. Paul, MN" <peggy.wade@mn.usda.gov>, "Rountree, Marthea" <routree.marthea@epa.gov>,

To:

Kandilarya Barakat <kandilarya.barakat@ferc.gov>, "Knishkowsky, Jeff - ASCR" <jeff.knishkowsky@ascr.usda.gov>, nowakowski.matt@epa.gov, "Huber, Cynthia (ENRD)" <cynthia.huber@usdoj.gov>, christy\_johnsonhughes@fws.gov, helen.serassio@dot.gov, elaine.baum@ferc.gov, hope.e.gerstler@uscg.mil, shelly.chichester@fema.gov, alan.tabachnick@dot.gov, sheila.ruffin@ferc.gov, velikonjamg@state.gov

**Date:** Thu, 05 Jul 2018 12:26:21 -0400

**Attachments** : CEQ\_ANOPR\_06\_20\_18.pdf (195.85 kB)

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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



requirements, Superfund, Water pollution control, Water supply.

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

**Dated:** May 30, 2018.

**Cosmo Servidio,**

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

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

**BILLING CODE 6560–50–P**

## COUNCIL ON ENVIRONMENTAL QUALITY

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

[Docket No. CEQ–2018–0001]

**RIN: 0331–AA03**

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

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

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

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

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

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

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

**SUPPLEMENTARY INFORMATION:**

## I. Background

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

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

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

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

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

## II. Request for Comment

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

### NEPA Process

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

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

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

### Scope of NEPA Review

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

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

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

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

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

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

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

#### General

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

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

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

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

### III. Statutory and Executive Order Reviews

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

Mary B. Neumayr,

Chief of Staff, Council on Environmental Quality.

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

BILLING CODE 3225-F8-P

### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 105-60

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

RIN 3090-AJ74

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

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

**ACTION:** Proposed rule.

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

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

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

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

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

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

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

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

## FW: Request for Extension of Comment Period on NEPA ANPRM

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**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 07:15:09 -0400  
**Attachments**  
: ANPRM Request for Extension of Public Comment Final.pdf (105.82 kB)

[More for the file](#)

**From:** Stephen Schima <sschima@partnershipproject.org>  
**Sent:** Tuesday, June 26, 2018 11:48 AM  
**To:** Boling, Ted A. EOP/CEQ <(b) (6)>  
**Cc:** Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] Request for Extension of Comment Period on NEPA ANPRM

Ted,

Attached is a request, on behalf of over 350 organizations, asking for an extension of the comment period on the NEPA ANPRM to 90 days.

Please let me know if you have any questions or have difficulty opening the document.

Thanks and I hope all is well,

Stephen Schima  
NEPA Director  
The Partnership Project  
Sschima@partnershipproject.org  
(c) 503-830-5753

*The Partnership Project* A coalition of over twenty national environmental advocacy groups including The Wilderness Society, Natural Resources Defense Council, and Sierra Club united to advance and defend key environmental policies.

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

June 25, 2018

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

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

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

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

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

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

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

Respectfully submitted,

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

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

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

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



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

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

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

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

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

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

---

**From:** "Boling, Ted A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlf)/cn=recipients/cn=eae5b047f871428b9b46baf8afd1176a-bo">  
**To:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**Date:** Sun, 08 Jul 2018 07:14:40 -0400

**Attachments**  
: TNC NEPA Comment Period Extension Request 06 26 2018.pdf (82.97 kB)

[More for the file](#)

**From:** Kameran Onley <konley@TNC.ORG>  
**Sent:** Tuesday, June 26, 2018 1:01 PM  
**To:** Boling, Ted A. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] Request for Sixty-day Extension for Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (Docket No. CEQ-2018-0001)

Dear Mr. Boling:

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

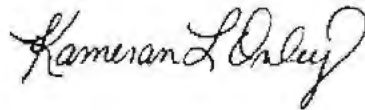
Our mission at The Nature Conservancy is to conserve the lands and waters on which all life depends. Today, we operate in all 50 U.S. states and contribute to conservation outcomes in 72 countries around the world. Environmental laws adopted over the last five decades in the United States have dramatically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

Because of its broad application to federal actions, strong commitment to public engagement, and pathways for scientific input to inform and improve our decision making, the National Environmental Policy Act (NEPA), as implemented by CEQ regulations, is one of the most important bedrock environmental laws in the United States. Given the importance of NEPA and implementing regulations,

and the complexity of the issues implicated by the questions posed in the ANPRM, I am requesting an extension of the public comment period.

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

Sincerely,



Please consider the environment before printing this email.

**Kameron L. Onley**  
*Director, U.S. Government  
Relations*  
[konley@tnc.org](mailto:konley@tnc.org)  
+1 703 841 4229

**The Nature Conservancy**  
Worldwide Office  
4245 N. Fairfax Drive, Suite  
100  
Arlington, VA  
United States



[nature.org](http://nature.org)



Kameran Onley  
Director  
U.S. Government Relations  
The Nature Conservancy  
4245 N. Fairfax Drive  
Arlington, VA 22203-1606

Tel (703) 841-4229  
Fax (703) 841-7400

konley@tnc.org  
nature.org

June 26, 2018

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

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

Dear Mr. Boling:

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

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

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

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

Sincerely,

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

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



**FW: CEQ / Update to the Regulations for Implementing the  
Procedural Provisions of the National Environmental Policy Act,  
Docket ID No. CEQ-2018-0001**

---

**From:** "Boling, Ted A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdl)/cn=recipients/cn=eae5b047f871428b9b46baf8afd1176a-bo">  
**To:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**Date:** Sun, 08 Jul 2018 07:06:36 -0400  
**Attachments**  
: 2018.06.27 WUWC Letter Requesting Extentsion on ANPRM Period.pdf (41.39 kB)

[More for the file](#)

**From:** Pais, Sheri (Perkins Coie) <SPais@perkinscoie.com>  
**Sent:** Thursday, June 28, 2018 9:31 AM  
**To:** Boling, Ted A. EOP/CEQ <(b) (6)>  
**Cc:** Baur, Don (Perkins Coie) <DBaur@perkinscoie.com>; mcarlin@sflower.org  
**Subject:** [EXTERNAL] CEQ / Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, Docket ID No. CEQ-2018-0001

Mr. Boling,

Attached please find a copy of a letter we submitted on the regulations.gov docket yesterday, for the Western Urban Water Coalition (WUWC), requesting a 60-day extension of the comment period for the above referenced docket.

Thank you for your consideration of this letter and please let us know if you have any questions.

Best,

Sheri

**Sheri Pais | Perkins Coie LLP**  
SENIOR PARALEGAL  
700 Thirteenth Street, N.W. Suite 600  
Washington, DC 20005-3960  
D. +1.202.654.1735  
F. +1.202.654.6211  
E. [SPais@perkinscoie.com](mailto:SPais@perkinscoie.com)

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.



June 27, 2018

**Submitted via Federal eRulemaking Portal**

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

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

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

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

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

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

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

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

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

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

Sincerely,



Michael P. Carlin  
Chairman

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

## Fwd: Q&As for your review

---

**From:** "Herrgott, Alex H. EOP/CEQ" <(b) (6)>  
**To:** "Smith, Katherine R. EOP/CEQ" <(b) (6)> "Schneider, Daniel J. EOP/CEQ" <(b) (6)> "Pettigrew, Theresa L. EOP/CEQ" <(b) (6)>  
**Date:** Tue, 10 Jul 2018 17:43:58 -0400  
**Attachments**  
: Draft Question and Answer for Senate Roundtable 6.27 swb CLEAN.docx (25.68 kB)

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Sent from my iPhone

Begin forwarded message:

**From:** "Sharp, Thomas L. EOP/CEQ" <(b) (6)>  
**Date:** July 10, 2018 at 5:31:18 PM EDT  
**To:** "Herrgott, Alex H. EOP/CEQ" <(b) (6)> "Pettigrew, Theresa L. EOP/CEQ" <(b) (6)>  
**Subject:** FW: Q&As for your review

By request

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

**From:** Barnett, Steven W. EOP/CEQ  
**Sent:** Wednesday, June 27, 2018 10:32 AM  
**To:** Sharp, Thomas L. EOP/CEQ <(b) (6)>  
**Subject:** FW: Q&As for your review

**From:** Barnett, Steven W. EOP/CEQ  
**Sent:** Wednesday, June 27, 2018 10:10 AM  
**To:** 'Angela Colamaria - Y-D' <[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)>

**Cc:** Osterhues, Marlys A. EOP/CEQ <(b) (6)>  
**Subject:** RE: Q&As for your review

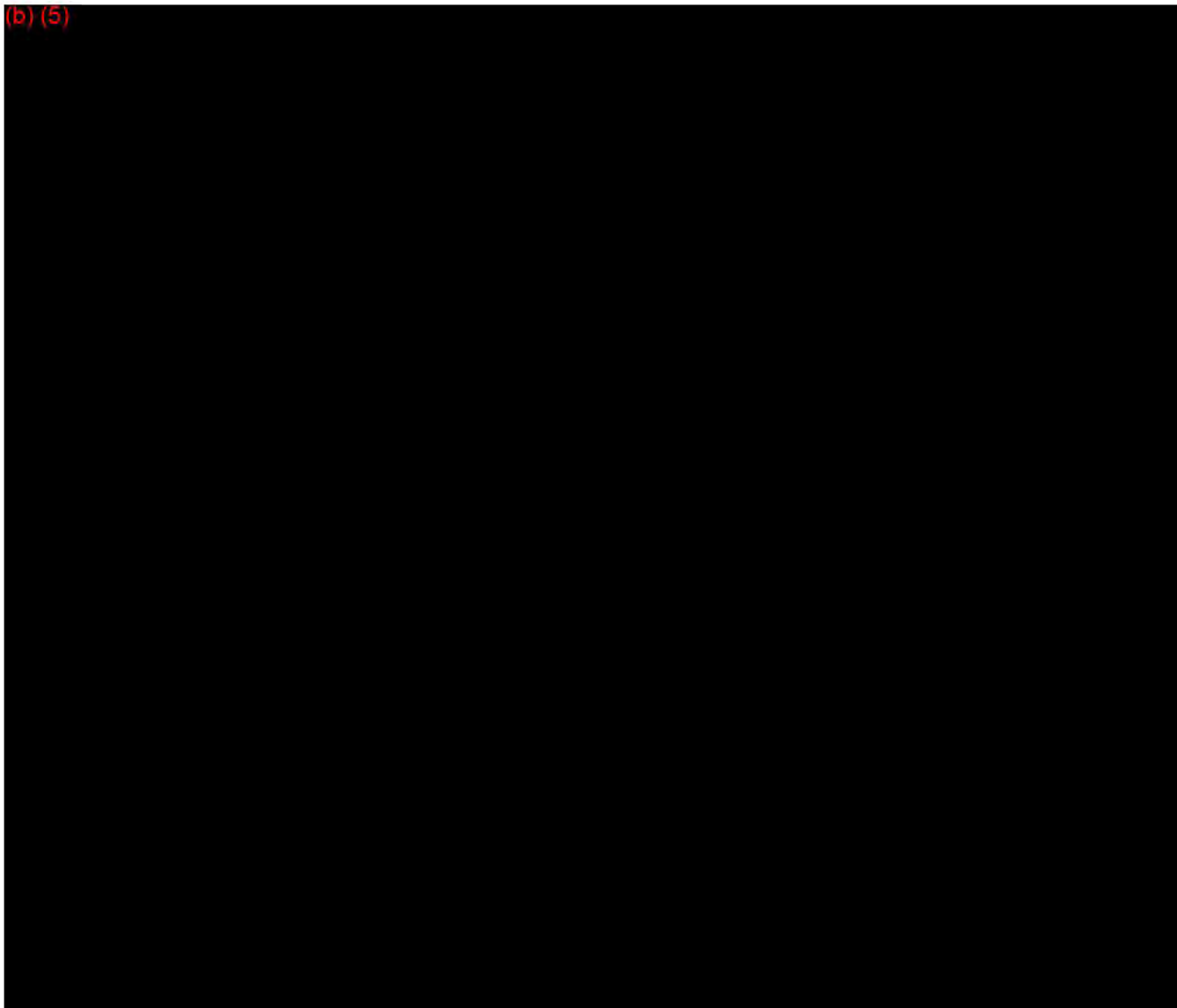
Angie,

Please find attached Alex's revised Q&As.

Steven

**From:** Angela Colamaria - Y-D <[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)>  
**Sent:** Wednesday, June 27, 2018 9:43 AM  
**To:** Osterhues, Marlys A. EOP/CEQ <(b) (6)>  
**Cc:** Janet Pfleeger - Y <[janet.pfleeger@gsa.gov](mailto:janet.pfleeger@gsa.gov)>; Barnett, Steven W. EOP/CEQ <(b) (6)>  
**Subject:** Re: Q&As for your review

(b) (5)



(b) (5)

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

On Tue, Jun 26, 2018 at 11:11 PM, Osterhues, Marlys A. EOP/CEQ

<(b) (6)> wrote:

Thanks Angie. Steven and I are going to wrap our work on the Q&As in the morning and will share what we have.

**From:** Angela Colamaria - Y-D <[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)>

**Sent:** Tuesday, June 26, 2018 7:55 PM

**To:** Janet Pfleeger - Y <[janet.pfleeger@gsa.gov](mailto:janet.pfleeger@gsa.gov)>

**Cc:** Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)>; Osterhues, Marlys A. EOP/CEQ

<(b) (6)> Amber Levofsky - Y <[amber.levofsky@gsa.gov](mailto:amber.levofsky@gsa.gov)>; Kavita Vaidyanathan - AY-DETAILEE <[kavita.vaidyanathan@gsa.gov](mailto:kavita.vaidyanathan@gsa.gov)>; Sharp, Thomas L. EOP/CEQ

<(b) (6)> Scott (Robert) Hillkirk - AY-C <[scott.hillkirk@gsa.gov](mailto:scott.hillkirk@gsa.gov)>;

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

**Subject:** Re: Q&As for your review

I have added some suggestions on top of Janet's edits.

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

On Tue, Jun 26, 2018 at 4:54 PM, Janet Pfleeger - Y <[janet.pfleeger@gsa.gov](mailto:janet.pfleeger@gsa.gov)> wrote:

Marlys,

Please see edits discussed this afternoon to pages 2 and 5. I want to add these to Angie's binder as soon as CEQ is done with your edits from this afternoon so please "reply all" when you distribute later today.

Thanks!

Janet

Janet Pfleeger  
Deputy Director  
Federal Permitting Improvement Steering Council  
Office of the Executive Director (FPISC-OED)  
[janet.pfleeger@fpisc.gov](mailto:janet.pfleeger@fpisc.gov)  
(202) 714-7288  
[1800 F St, NW](#)  
[Washington, DC 20405](#)

On Mon, Jun 25, 2018 at 1:46 PM, Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)> wrote:

Good afternoon everyone,

Please find some comments/edits for the Roundtable Q&As attached.

(b) (5) [REDACTED]

On Thu, Jun 21, 2018 at 5:10 PM, Angela Colamaria - Y-D  
<[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)> wrote:

All,

I haven't had time to read the actual answers yet, but I did put a few comment balloons to grab your attention as you review. Please add additional Q&A's and provide edits/answers to existing Q&A as needed by 4 pm tomorrow and send to Karen. (b) (5)

[REDACTED]

Thanks,  
Angie

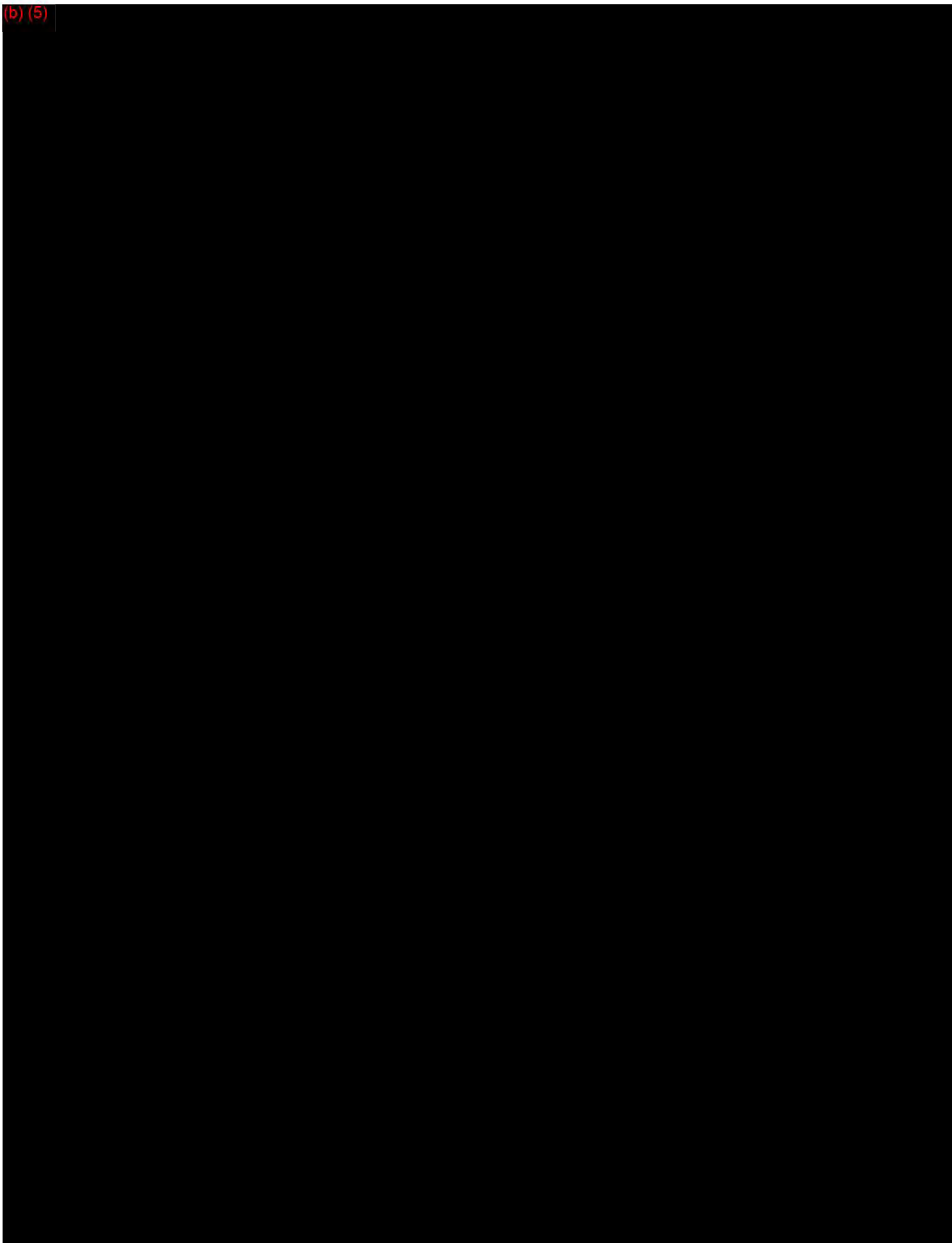
**Angela F. Colamaria**  
Acting Executive Director  
Office of the Executive Director (FPISC-OED)  
Federal Permitting Improvement Steering Council  
[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)

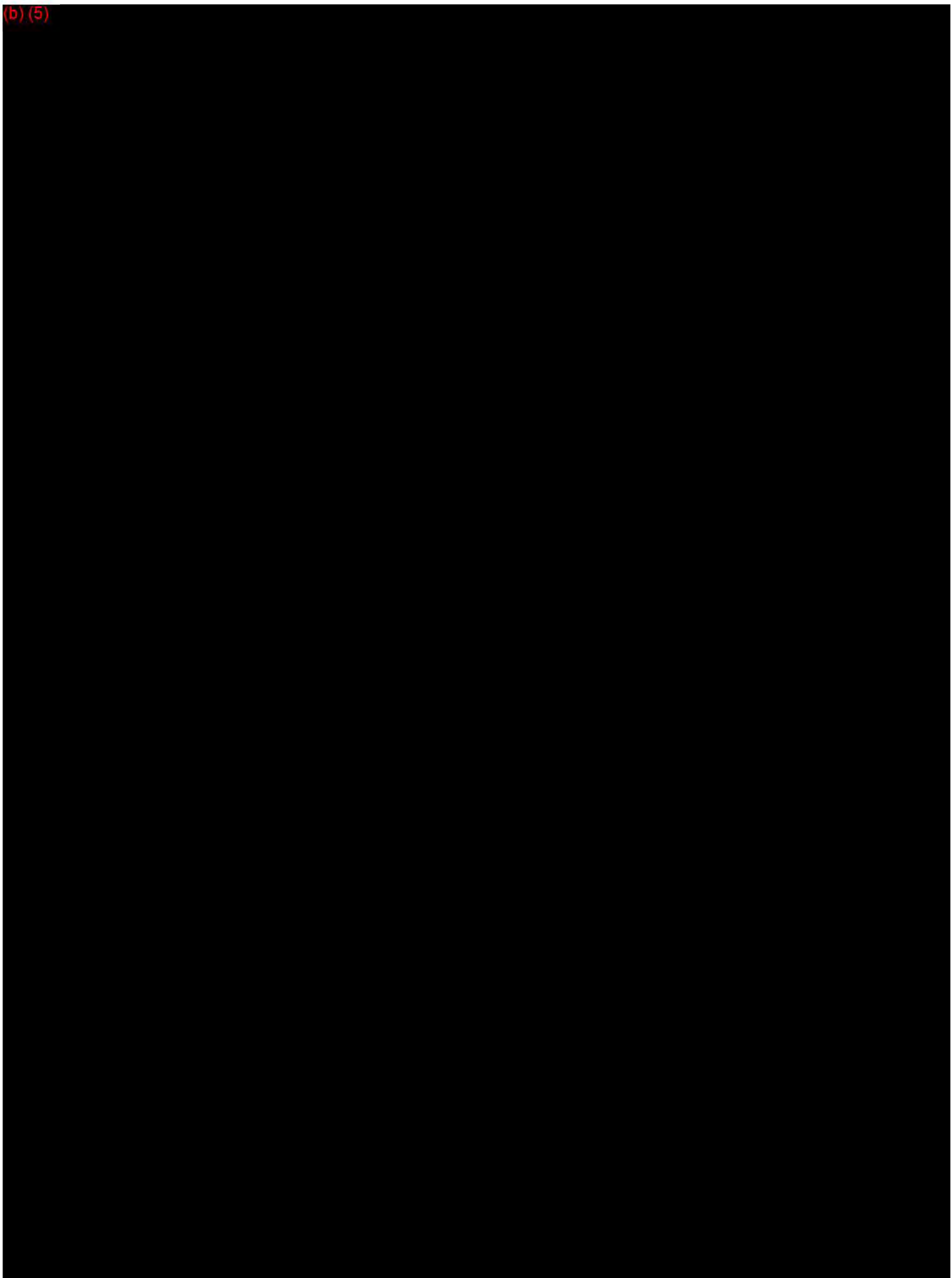


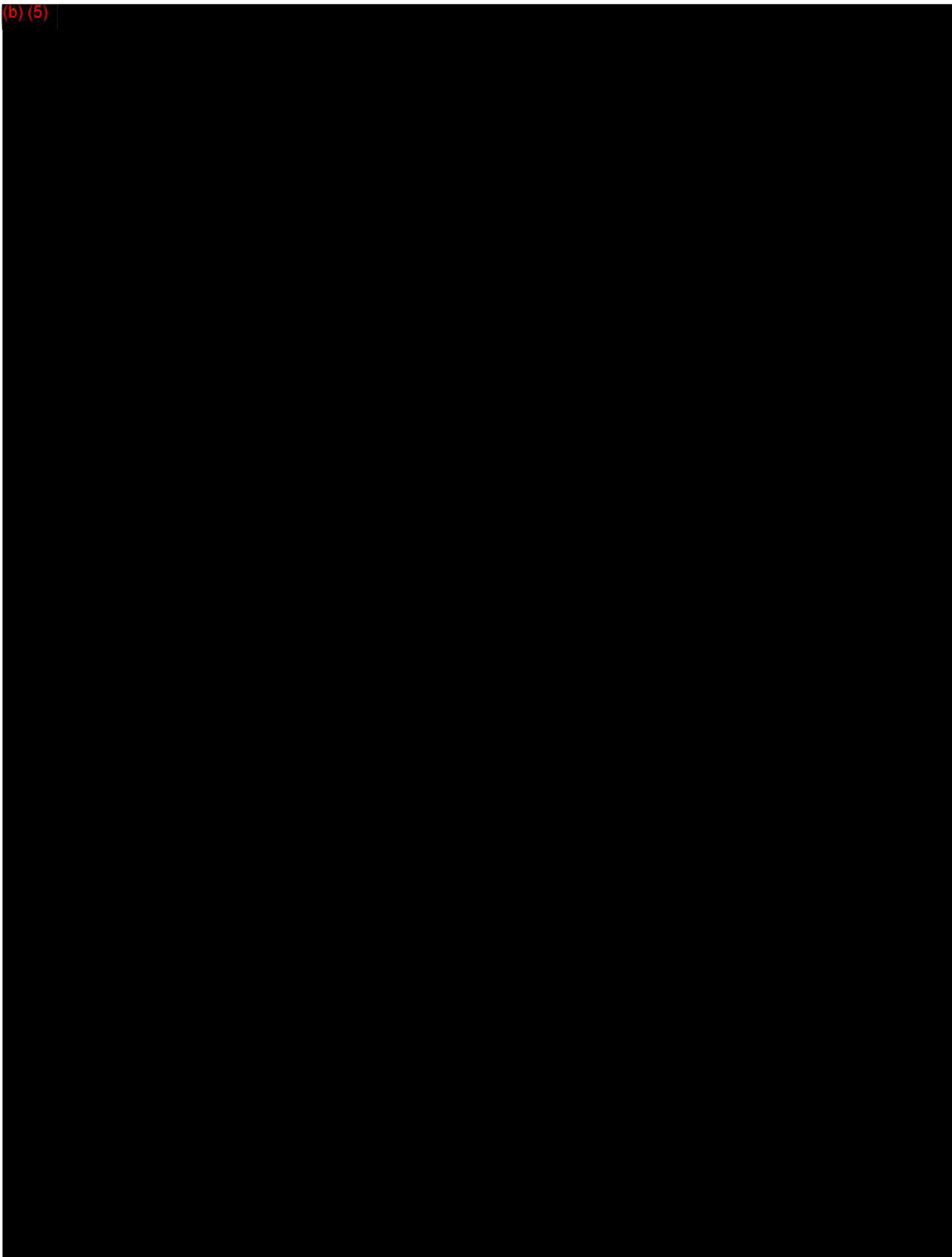
202.705.1639  
[1800 F St. NW](#)  
[Washington, DC 20405](#)

--

Karen A. Hanley  
Senior Environmental Policy Advisor, Federal Permitting Improvement Steering Council (FPISC), GSA  
Deputy Associate Director for NEPA, Council on Environmental Quality (CEQ)  
Phone: (b) (6)







# RE: CEQ NEPA Regulations ANPRM Extension of Comment Period

---

From: "Freeman, Denise" <denise.freeman@hq.doe.gov>

dennis.ogden@gsa.gov, elizabeth.e.nelson@aphis.usda.gov, jsmalls@fs.fed.us, michelle.l.gray@aphis.usda.gov, david.a.bergsten@aphis.usda.gov, wendy.f.hall@aphis.usda.gov, caitlin.gregg@ogc.usda.gov, peggy.wade@wdc.usda.gov, 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, everett.bole@foh.hhs.gov, kristen.beckhorn@fda.hhs.gov, sarah.carrino@fema.dhs.gov, jennifer.hass@hq.dhs.gov, james.m.potter@hud.gov, barbara.r.britton@hud.gov, danielle.l.schopp@hud.gov, joseph.a.baietti@hud.gov, cheryl\_kelly@ios.doi.gov, rebrown@usbr.gov, hzarin@blm.gov, rwinthro@blm.gov, ccunningham@usbr.gov, doug\_wetmore@nps.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>, "Neal, Daria (CRT)" <daria.neal@usdoj.gov>, hassellmd@state.gov, harold.peaks@dot.gov, carolyn.nelson@dot.gov, amy.coyle@dot.gov, krystyna.bednarczyk@dot.gov, antoinette.quagliata@dot.gov, "Boling, Ted A. EOP/CEQ" <(b) (6)>, "Drummond, Michael R. EOP/CEQ" <(b) (6)>, ruhl.suzi@epa.gov, buzzelle.stanley@epa.gov, tejada.matthew@epa.gov, roemele.julie@epa.gov, lee.charles@epa.gov, walter.simone@epa.gov, allen.dana@epa.gov, okorn.barbara@epa.gov, knorr.michele@epa.gov, musumeci.grace@epa.gov, kajumba.ntale@epa.gov, rudnick.barbara@epa.gov, harris.reggie@epa.gov, poole.elizabeth@epa.gov, jones.kima@epa.gov, kelly.thomasp@epa.gov, dawson.shelly@epa.gov, marshall.tom@epa.gov, brown.deborah@epa.gov, grass.running@epa.gov, phillip.washington@aphis.usda.gov, mbabaliye.theogene@epa.gov, peterson.erik@epa.gov, joanne.wachholder@ferc.gov, kelley.munoz@ferc.gov, robin.griffin@ferc.gov, katrina.scarpato@gsa.gov, carol.schafer@gsa.gov, jeffrey.nikhoff@nrc.gov, "Walters, Carmel I -FS" <carmeliwalters@fs.fed.us>, "Wade, Peggy - RD - St. Paul, MN" <peggy.wade@mn.usda.gov>, "Rountree, Marthea" <routree.marthea@epa.gov>, Kandilarya Barakat <kandilarya.barakat@ferc.gov>, "Knishkowsky, Jeff - ASCR"

<jeff.knishkowy@ascr.usda.gov>, nowakowski.matt@epa.gov, "Huber, Cynthia (ENRD)" <cynthia.huber@usdoj.gov>, christy\_johnsonhughes@fws.gov, helen.serassio@dot.gov, elaine.baum@ferc.gov, hope.e.gerstler@uscg.mil, alan.tabachnick@dot.gov, sheila.ruffin@ferc.gov, velikonjamg@state.gov, shelly.chichester@fema.dhs.gov

**Date:** Tue, 10 Jul 2018 11:54:38 -0400

**Attachments**  
: 2018-14821.pdf (212.33 kB)

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FYI – NEPA Committee:

The Council on Environmental Quality (CEQ) is extending the public comment period on the Advance Notice of Proposed Rulemaking (ANPRM), which was originally scheduled to close on July 20, 2018, through August 20, 2018. CEQ is making this change in response to public requests for an extension of the comment period. The notice of the extension of the ANPRM is scheduled to be published in the Federal Register tomorrow, July 11, 2018. The pre-publication version of the notice is attached to this email and available [here](#).

Best,

*Denise Freeman*

Senior Advisor  
DOE Environmental Justice Program  
Office of Legacy Management  
[Denise.freeman@hq.doe.gov](mailto:Denise.freeman@hq.doe.gov)  
P: 202-586-7879

---

**From:** Freeman, Denise  
**Sent:** Thursday, July 05, 2018 12:26 PM  
**To:** 'dennis.ogden@gsa.gov' <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@wdc.usda.gov' <kelsey.owens@wdc.usda.gov>; Costner, Brian <Brian.Costner@hq.doe.gov>; Miller, Steven (GC) <STEVEN.MILLER@hq.doe.gov>; 'NKeller@doc.gov' <NKeller@doc.gov>; 'JRoberson@doc.gov' <JRoberson@doc.gov>; 'Everett.Bole@foh.hhs.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' <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' <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>; 'Neal, Daria (CRT)' <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) <(b) (6)>' <(b) (6)>; 'Drummond, Michael R. EOP/CEQ' <(b) (6)> 'Ruhl.Suzi@epa.gov' <Ruhl.Suzi@epa.gov>; 'Buzzelle.Stanley@epa.gov' <Buzzelle.Stanley@epa.gov>; 'Tejada.Matthew@epa.gov' <Tejada.Matthew@epa.gov>; 'Roemele.Julie@epa.gov' <Roemele.Julie@epa.gov>; 'Lee.Charles@epa.gov' <Lee.Charles@epa.gov>; 'walter.simone@epa.gov' <walter.simone@epa.gov>; 'Allen.Dana@epa.gov' <Allen.Dana@epa.gov>; 'Okorn.Barbara@epa.gov' <Okorn.Barbara@epa.gov>; 'knorr.michele@epa.gov' <knorr.michele@epa.gov>; 'Musumeci.Grace@epa.gov' <Musumeci.Grace@epa.gov>; 'Kajumba.Ntale@epa.gov' <Kajumba.Ntale@epa.gov>; 'Rudnick.Barbara@epa.gov' <Rudnick.Barbara@epa.gov>; 'harris.reggie@epa.gov' <harris.reggie@epa.gov>; 'Poole.Elizabeth@epa.gov' <Poole.Elizabeth@epa.gov>; 'Jones.Kima@epa.gov' <Jones.Kima@epa.gov>; 'Kelly.ThomasP@epa.gov' <Kelly.ThomasP@epa.gov>; 'Dawson.Shelly@epa.gov' <Dawson.Shelly@epa.gov>; 'marshall.tom@epa.gov' <marshall.tom@epa.gov>; 'Brown.Deborah@epa.gov' <Brown.Deborah@epa.gov>; 'Grass.Running@epa.gov' <Grass.Running@epa.gov>; 'Phillip.Washington@aphis.usda.gov' <Phillip.Washington@aphis.usda.gov>; 'Mbabaliye.Theogene@epa.gov' <Mbabaliye.Theogene@epa.gov>; 'Peterson.Erik@epa.gov' <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>; 'Wade, Peggy - RD - St. Paul, MN' <Peggy.Wade@mn.usda.gov>; 'Rountree, Marthea' <Rountree.Marthea@epa.gov>; 'Kandilarya Barakat' <Kandilarya.Barakat@ferc.gov>; 'Knishkowsky, Jeff - ASCR' <Jeff.Knishkowsky@ascr.usda.gov>; 'Nowakowski.Matt@epa.gov' <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' <velikonjamg@state.gov>  
**Subject:** Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

Greetings IWG EJ NEPA Committee:

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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

<< File: CEQ\_ANOPR\_06\_20\_18.pdf >>





[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.

**SUMMARY:** On June 20, 2018, the Council on Environmental Quality (CEQ) published an advance notice of proposed rulemaking (ANPRM) titled “Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.” The CEQ is extending the comment period on the ANPRM, which was scheduled to close on July 20, 2018, for 31 days until August 20, 2018. The CEQ is making this change in response to public requests for an extension of the comment period.

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

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

cannot be edited or removed from <https://www.regulations.gov>. CEQ may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (e.g., audio, video) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make.

Comments may also be submitted by mail. Send your comments to: Council on Environmental Quality, 730 Jackson Place, N.W., Washington, DC 20503, Attn: Docket No. CEQ-2018-0001.

**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:** On June 20, 2018, CEQ published an ANPRM titled "Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act" in the *Federal Register* (83 FR 28591). The original deadline to submit comments was July 20, 2018. This action extends the comment period for 31 days to ensure the public has sufficient time to review and comment on the ANPRM. Written comments should be submitted on or before August 20, 2018.

Mary B. Neumayr,

*Chief of Staff, Council on Environmental Quality.*

[FR Doc. 2018-14821 Filed: 7/10/2018 8:45 am; Publication Date: 7/11/2018]

## FW: Q&As for your review

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**From:** "Sharp, Thomas L. EOP/CEQ" <(b) (6)>  
**To:** "Herrgott, Alex H. EOP/CEQ" <(b) (6)> "Pettigrew, Theresa L. EOP/CEQ" <(b) (6)>  
**Date:** Tue, 10 Jul 2018 17:31:18 -0400

**Attachments**  
: Draft Question and Answer for Senate Roundtable 6.27 swb CLEAN.docx (25.68 kB)

By request

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

---

**From:** Barnett, Steven W. EOP/CEQ  
**Sent:** Wednesday, June 27, 2018 10:32 AM  
**To:** Sharp, Thomas L. EOP/CEQ <(b) (6)>  
**Subject:** FW: Q&As for your review

---

**From:** Barnett, Steven W. EOP/CEQ  
**Sent:** Wednesday, June 27, 2018 10:10 AM  
**To:** 'Angela Colamaria - Y-D' <angela.colamaria@fpisc.gov>  
**Cc:** Osterhues, Marlys A. EOP/CEQ <(b) (6)>  
**Subject:** RE: Q&As for your review

Angie,

Please find attached Alex's revised Q&As.

Steven

---

**From:** Angela Colamaria - Y-D <angela.colamaria@fpisc.gov>  
**Sent:** Wednesday, June 27, 2018 9:43 AM  
**To:** Osterhues, Marlys A. EOP/CEQ <(b) (6)>  
**Cc:** Janet Pflieger - Y <janet.pflieger@gsa.gov>; Barnett, Steven W. EOP/CEQ

<(b) (6)>

**Subject:** Re: Q&As for your review

(b) (5)



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

On Tue, Jun 26, 2018 at 11:11 PM, Osterhues, Marlys A. EOP/CEQ

<(b) (6)> wrote:

Thanks Angie. Steven and I are going to wrap our work on the Q&As in the morning and will share what we have.

**From:** Angela Colamaria - Y-D <[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)>

**Sent:** Tuesday, June 26, 2018 7:55 PM

**To:** Janet Pfleeger - Y <[janet.pfleeger@gsa.gov](mailto:janet.pfleeger@gsa.gov)>

**Cc:** Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)>; Osterhues, Marlys A. EOP/CEQ

<(b) (6)> Amber Levofsky - Y <[amber.levofsky@gsa.gov](mailto:amber.levofsky@gsa.gov)>; Kavita

Vaidyanathan - AY-DETAILEE <[kavita.vaidyanathan@gsa.gov](mailto:kavita.vaidyanathan@gsa.gov)>; Sharp, Thomas L. EOP/CEQ

<(b) (6)> Scott (Robert) Hillkirk - AY-C <[scott.hillkirk@gsa.gov](mailto:scott.hillkirk@gsa.gov)>; Drummond,

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

**Subject:** Re: Q&As for your review

I have added some suggestions on top of Janet's edits.

**Angela F. Colamaria**

Acting Executive Director

Office of the Executive Director (FPISC-OED)

Federal Permitting Improvement Steering Council

[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)

202.705.1639

[1800 F St. NW](#)

[Washington, DC 20405](#)

On Tue, Jun 26, 2018 at 4:54 PM, Janet Pfleeger - Y <[janet.pfleeger@gsa.gov](mailto:janet.pfleeger@gsa.gov)> wrote:

Marlys,

Please see edits discussed this afternoon to pages 2 and 5. I want to add these to Angie's binder as soon as CEQ is done with your edits from this afternoon so please "reply all" when you distribute later today.

Thanks!

Janet

Janet Pfleeger

Deputy Director

Federal Permitting Improvement Steering Council

Office of the Executive Director (FPISC-OED)

[janet.pfleeger@fpisc.gov](mailto:janet.pfleeger@fpisc.gov)

(202) 714-7288

[1800 F St, NW](#)

[Washington, DC 20405](#)

On Mon, Jun 25, 2018 at 1:46 PM, Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)> wrote:

Good afternoon everyone,

Please find some comments/edits for the Roundtable Q&As attached.

(b) (5)

On Thu, Jun 21, 2018 at 5:10 PM, Angela Colamaria - Y-D  
<[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)> wrote:

All,

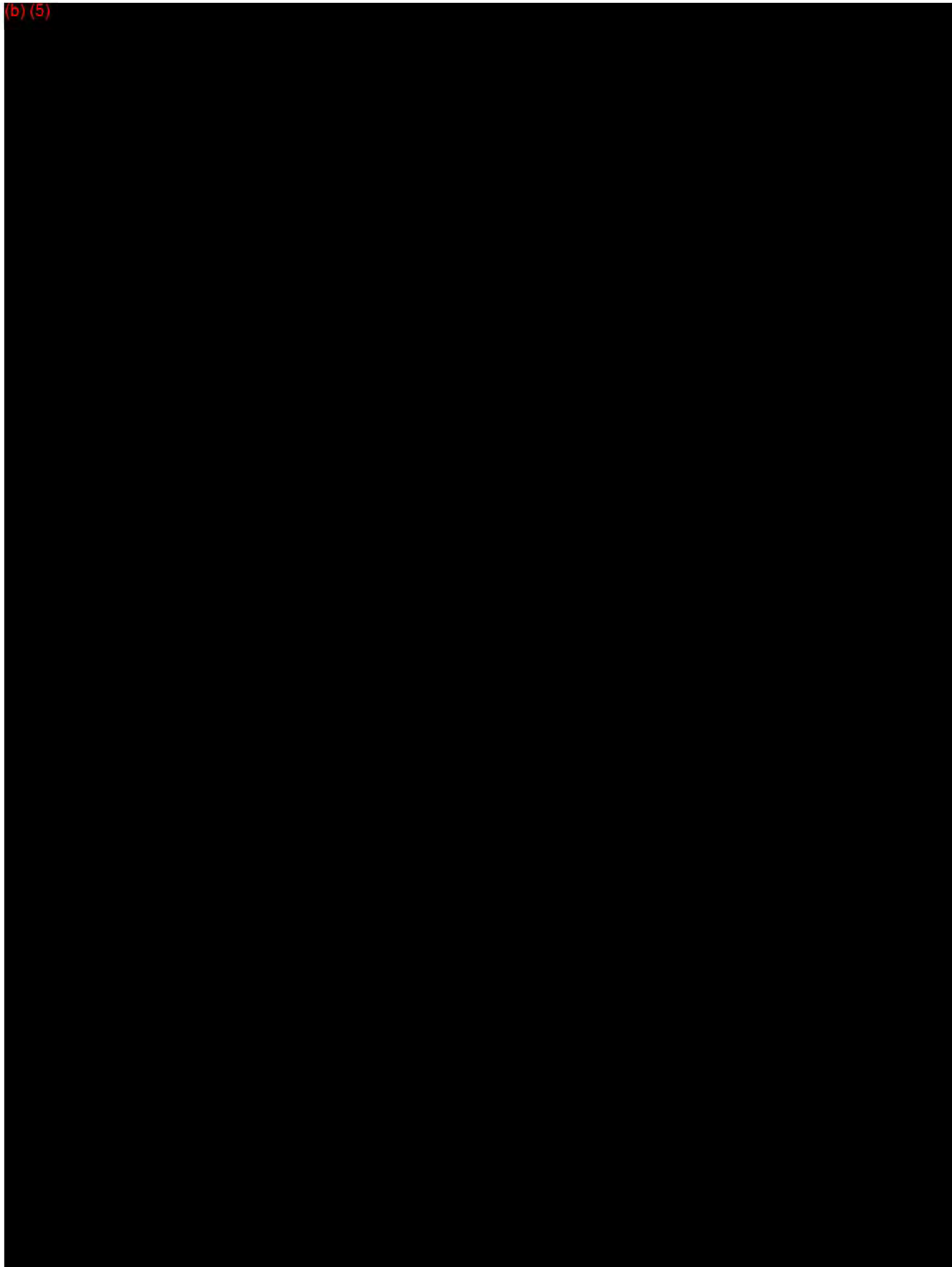
I haven't had time to read the actual answers yet, but I did put a few comment balloons to grab your attention as you review. Please add additional Q&A's and provide edits/answers to existing Q&A as needed by 4 pm tomorrow and send to Karen. (b) (5)

Thanks,  
Angie

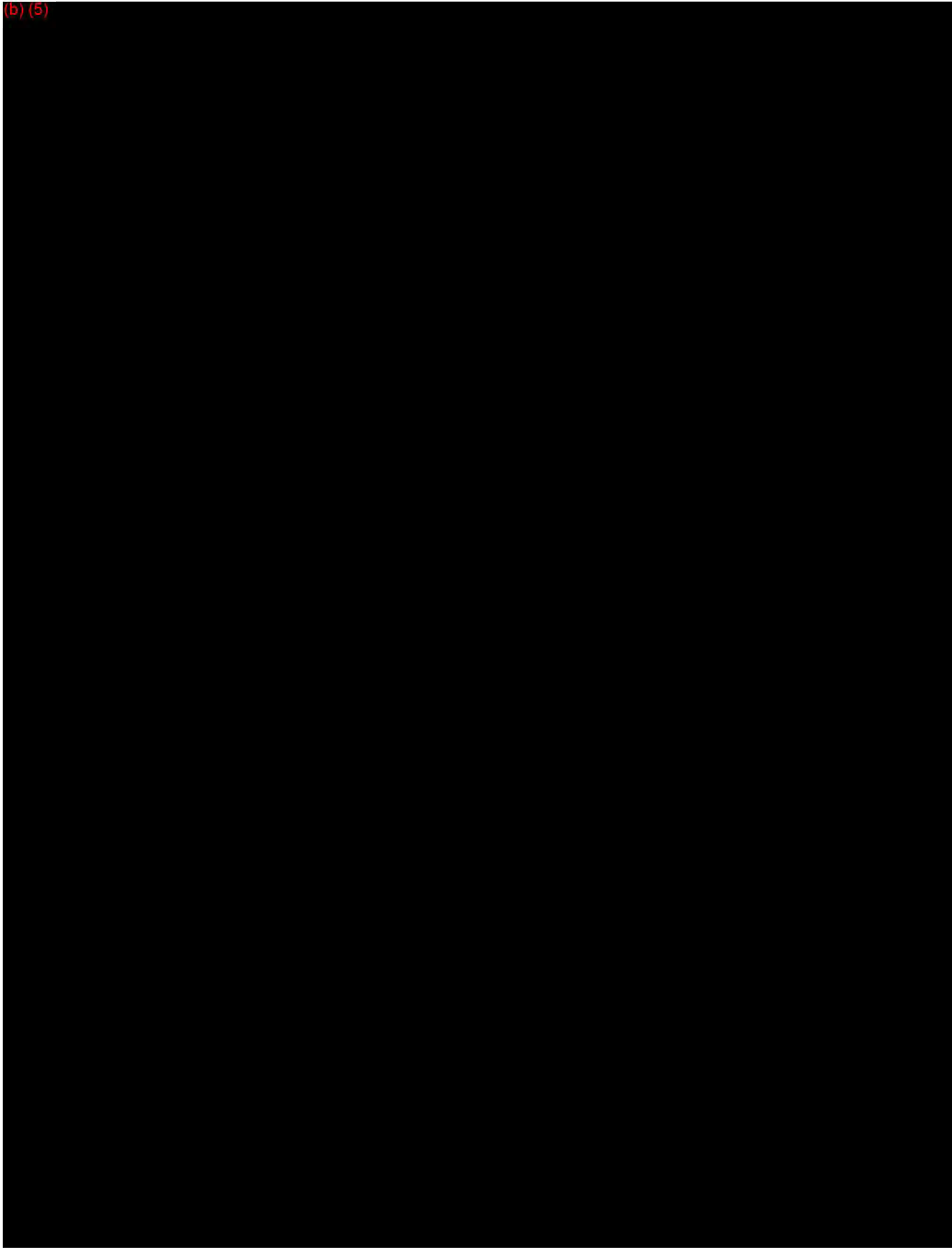
**Angela F. Colamaria**  
Acting Executive Director  
Office of the Executive Director (FPISC-OED)  
Federal Permitting Improvement Steering Council  
[angela.colamaria@fpisc.gov](mailto:angela.colamaria@fpisc.gov)  
202.705.1639  
[1800 F St. NW](#)  
[Washington, DC 20405](#)

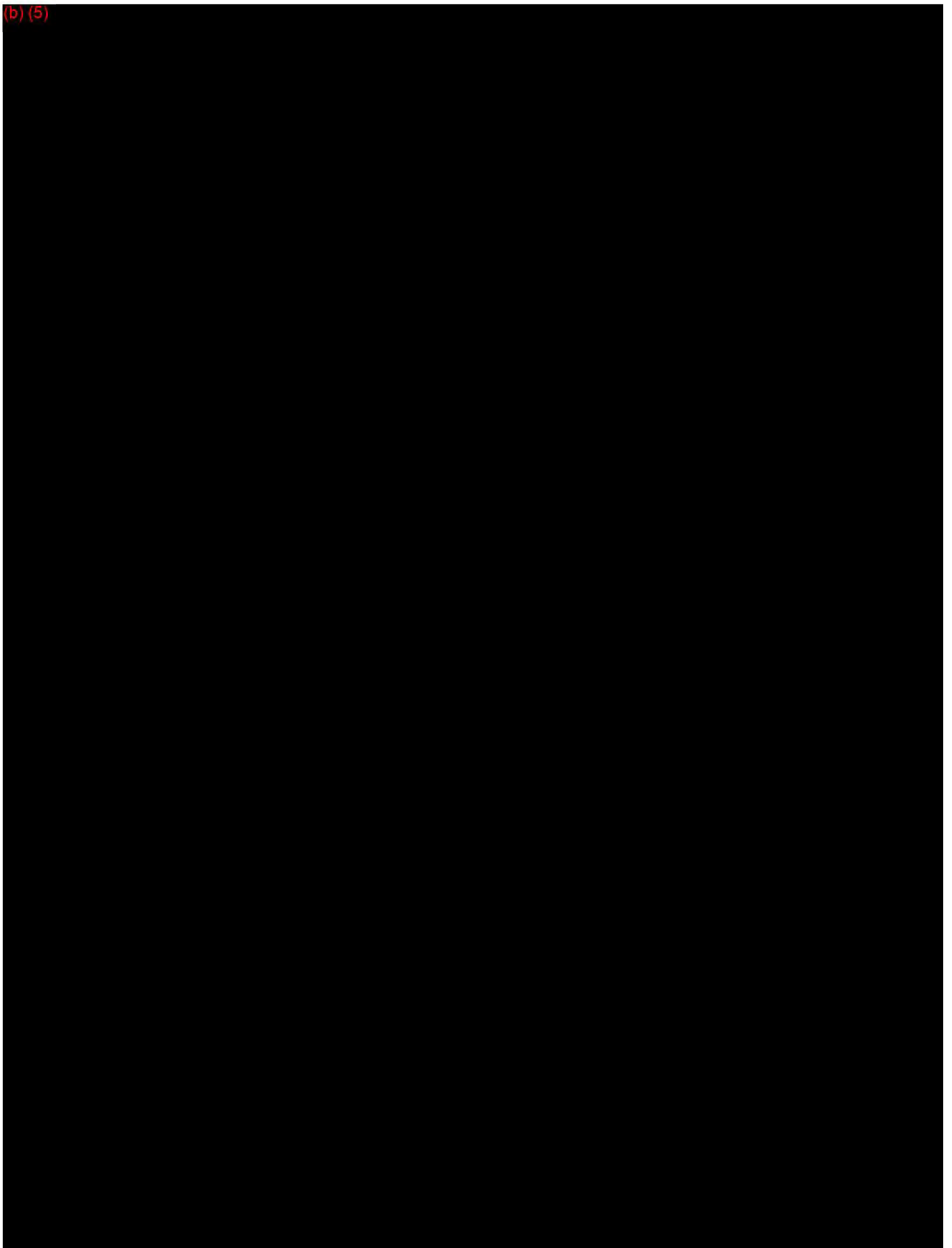
--

Karen A. Hanley  
Senior Environmental Policy Advisor, Federal Permitting Improvement Steering Council (FPISC), GSA  
Deputy Associate Director for NEPA, Council on Environmental Quality (CEQ)  
Phone: (b) (6)









## [EXTERNAL] RE: CEQ NEPA Regulations ANPRM

---

**From:** "Wagner, Fred R." <frwagner@venable.com>

**To:** FN-CEQ-NEPA <(b) (6)>

**Date:** Tue, 10 Jul 2018 16:23:06 -0400

No problem; thanks for digging out the right email address and thanks for forwarding.

I hope you are doing well.

Fred

Fred R. Wagner, Esq. | Venable LLP  
t 202.344.4032 | f 202.344.8300 | m (b) (6)  
600 Massachusetts Avenue, NW, Washington, DC 20001

[FRWagner@Venable.com](mailto:FRWagner@Venable.com) | [www.Venable.com](http://www.Venable.com)

Visit our blog at <http://www.envirostructure.com/>

**From:** FN-CEQ-NEPA [mailto:(b) (6)]  
**Sent:** Tuesday, July 10, 2018 4:22 PM  
**To:** FN-CEQ-NEPA <(b) (6)>  
**Cc:** Wagner, Fred R. <FRWagner@Venable.com>  
**Subject:** FW: CEQ NEPA Regulations ANPRM

Sorry Fred, we had your B&D email on this announcement for some reason.

Best,

Michael

**From:** FN-CEQ-NEPA  
**Sent:** Tuesday, July 10, 2018 10:46 AM  
**To:** FN-CEQ-NEPA <(b) (6)>  
**Subject:** FW: CEQ NEPA Regulations ANPRM

Dear Colleagues,

The Council on Environmental Quality (CEQ) is extending the comment period on the Advance Notice of Proposed Rulemaking (ANPRM), which was originally scheduled to close on July 20, 2018, through August 20, 2018. CEQ is making this change in response to public requests for an extension of the comment period. The notice of the extension of the ANPRM is scheduled to be published in the Federal Register tomorrow, July 11, 2018. The pre-publication version of the notice is attached to this email and available [here](#).

Sincerely,

Michael Drummond  
Deputy Associate Director for NEPA  
Council on Environmental Quality

(b) (6)

**From:** FN-CEQ-NEPA  
**Sent:** Tuesday, June 19, 2018 12:44 PM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)>; Drummond, Michael R. EOP/CEQ <(b) (6)>; Mansoor, Yardena M. EOP/CEQ <(b) (6)>  
**Subject:** CEQ NEPA Regulations ANPRM

Dear Colleagues,

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

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

Sincerely,  
Ted

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

\*\*\*\*\*  
This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply

transmission and delete the message without copying or disclosing it.

\*\*\*\*\*

**RE:**

---

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

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

**Date:** Tue, 10 Jul 2018 10:23:41 -0400

**From:** Drummond, Michael R. EOP/CEQ

**Sent:** Tuesday, July 10, 2018 10:20 AM

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

**Subject:**

The Council on Environmental Quality (CEQ) is extending the comment period on the Advance Notice of Proposed Rulemaking (ANPRM), ~~which was originally scheduled to close on July 20, 2018, until~~ through August 20, 2018. CEQ is making this change in response to public requests for an extension of the comment period. The notice of the extension of the ANPRM is scheduled to be published in the Federal Register tomorrow, July 11, 2018. The pre-publication version of the notice is attached to this email and available [here](#).

Michael Drummond  
Deputy Associate Director for NEPA  
Council on Environmental Quality

(b) (6)

## [No Subject]

---

**From:** "Drummond, Michael R. EOP/CEQ" </o=exchange organization/ou=exchange administrative group  
:  
{fydibohf23spdlt}/cn=recipients/cn=a0bc62c0a5454e6fb7a1be504b7d284a-dr">  
**To:** "Mansoor, Yarden M. EOP/CEQ" <(b) (6)>  
**Date:** Tue, 10 Jul 2018 10:19:33 -0400

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The Council on Environmental Quality (CEQ) is extending the comment period on the Advance Notice of Proposed Rulemaking (ANPRM), which was originally scheduled to close on July 20, 2018, until August 20, 2018. CEQ is making this change in response to public requests for an extension of the comment period. The notice of the extension of the ANPRM is scheduled to be published in the Federal Register tomorrow, July 11, 2018. The pre-publication version of the notice is attached to this email and available [here](#).

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

## [EXTERNAL] RE: Comment from CEQ?

---

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

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

**Date:** Tue, 10 Jul 2018 11:00:20 -0400

Hey Dan,

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

Best,  
Nick

---

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

**Sent:** Tuesday, July 10, 2018 10:49 AM

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

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

Hey Nick,

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

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

Dan

---

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

**Sent:** Tuesday, June 19, 2018 11:37 AM

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

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

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

---

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

**Sent:** Tuesday, June 19, 2018 11:35 AM

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

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



On background, attributable to a CEQ spokesman.

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

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

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

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

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

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

Hey Nick, what's your deadline?

Dan

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Tuesday, June 19, 2018 9:52 AM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] RE: Comment from CEQ?

Good Morning Dan,

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

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

Best,

Nick

---

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

Hey Nick,

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

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

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

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

Dan

---

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

Sure: 202-446-0437

---

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

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

---

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

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

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

Best,  
Nick

---

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

Hey Nick, still checking in on this.

Dan

---

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

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

Nick

---

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

Hey Nick,

What’s your timing on this?

Dan

---

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

Hey Dan,

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

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

Best,  
Nick

**From:** Schneider, Daniel J. EOP/CEQ [mailto:(b) (6)]  
**Sent:** Monday, May 07, 2018 3:16 PM  
**To:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Subject:** RE: Comment from CEQ?

Hey Nick,

On background, attributable to a CEQ Spokesman:

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

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

Hope that helps,

Dan

**From:** Nick Sobczyk <[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)>  
**Sent:** Monday, May 7, 2018 2:27 PM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] Comment from CEQ?

Hi Dan,

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

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

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

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

Thanks!

Nick Sobczyk  
E&E News reporter  
[nsobczyk@eenews.net](mailto:nsobczyk@eenews.net)  
Office: 202-446-0437  
Cell: (b) (6)  
[@nick\\_sobczyk](https://twitter.com/nick_sobczyk)

**E&E NEWS**

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

## RE: Letter to CEQ on NEPA ANPRM

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**From:** "Pettigrew, Theresa L. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=579eb754b4c34f0e8e46d1fb4cd708d7-pe">  
**To:** "Higgins, Rebecca (EPW)" <rebecca\_higgins@epw.senate.gov>  
**Cc:** "Freedhoff, Michal (EPW)" <michal\_freedhoff@epw.senate.gov>  
**Date:** Wed, 11 Jul 2018 15:16:34 -0400

Hello, Rebecca and Michal –

Thank you for the electronic copy of the letter. It was nice to meet you both yesterday. We appreciated the opportunity to meet with the Senator and all of you.

Thanks for making the time for the meeting.

Sincerely,  
Theresa

Theresa L. Pettigrew  
Associate Director for Legislative Affairs  
Council on Environmental Quality  
(b) (6) (direct)

**From:** Higgins, Rebecca (EPW) <Rebecca\_Higgins@epw.senate.gov>  
**Sent:** Wednesday, July 11, 2018 12:31 PM  
**To:** Pettigrew, Theresa L. EOP/CEQ <(b) (6)>  
**Cc:** Freedhoff, Michal (EPW) <Michal\_Freedhoff@epw.senate.gov>  
**Subject:** Letter to CEQ on NEPA ANPRM

Hi Theresa,

It was nice to meet you yesterday. Senator Carper is sending the attached letter to Ms. Neumayr asking for a commitment to hold public hearings as part of the NEPA rulemaking process, and for an extension to 90 days for the public comment period.

Best,  
Rebecca

Rebecca Higgins  
Environment and Public Works Committee  
202-224-8056

## Letter to CEQ on NEPA ANPRM

---

**From:** "Higgins, Rebecca (EPW)" <rebecca\_higgins@epw.senate.gov>

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

**Cc:** "Freedhoff, Michal (EPW)" <michal\_freedhoff@epw.senate.gov>

**Date:** Wed, 11 Jul 2018 12:30:34 -0400

**Attachments:** 07.11.18 - CEQ Letter FINAL.pdf (867.17 kB)

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Hi Theresa,

It was nice to meet you yesterday. Senator Carper is sending the attached letter to Ms. Neumayr asking for a commitment to hold public hearings as part of the NEPA rulemaking process, and for an extension to 90 days for the public comment period.

Best,  
Rebecca

Rebecca Higgins  
Environment and Public Works Committee  
202-224-8056

United States Senate  
WASHINGTON, DC 20510

July 11, 2018

Ms. Mary Neumayr  
Chief of Staff  
Council on Environmental Quality  
730 Jackson Place NW  
Washington DC 20506

Dear Ms. Neumayr,

We write today in response to the Advanced Notice of Proposed Rulemaking (ANPRM) that was released by CEQ on June 20<sup>th</sup>. The questions posed in this ANPRM touch on every aspect of the National Environmental Policy Act (NEPA) process, and the regulatory changes that may result have the potential to profoundly affect how members of the public may engage in decisions made by Federal agencies. As you undertake such a broad review of NEPA, we request that you commit to hold public meetings and to extend the public comment period by an additional 60 days, to allow for meaningful public input.

As you know, the current NEPA regulations were originally issued in 1978 in order to produce better decisions and to further the national policy to protect and enhance the quality of the environment. In the forty years since then, the substance of the regulations have been changed only once. Given the abundance of social, technological, and environmental changes that have occurred since 1978, we hope that this rulemaking process can result in common-sense considerations to improve environmental outcomes and opportunities for public involvement, while also improving decision-making and reducing regulatory costs. Most importantly, any change must be certain not to degrade the quality of the human and natural environment, which is the essential goal of NEPA.

In order for the regulatory process to achieve this optimal outcome, CEQ must commit to robust public involvement. Only by hearing from the public can we be sure that the public will benefit from proposed changes. Unfortunately, the early indication is that opportunities will be limited for the public to weigh in on the changes to implementation of this foundational environmental protection law. The ANPRM provides for only a 30-day comment period, and CEQ has made no commitment to hold public meetings as a forum to gather comments and suggestions from the general public.



Limiting public involvement for this type of regulatory overhaul is particularly concerning in this instance, given that the very intent of NEPA is to ensure that before undertaking significant actions—such as a significant rulemaking—Federal agencies must hear from the public, and consider those public comments. As representatives of States from across the nation, our concerns about the implications of this rulemaking are wide-ranging. Changes to the NEPA process will affect decisions ranging from federal land management, to construction of roads and bridges, from flight patterns, to ecosystem restoration, to tribal negotiations, and more. Given this broad scope of potential changes, public involvement in the regulations should be *broader* than usual, and should include outreach to diverse constituents, through regional and national public meetings, as well as through online forums and targeted listening sessions with affected stakeholders.

As described in the current implementing regulations, which CEQ now seeks to change, one of the goals of NEPA is to “encourage and facilitate public involvement in decisions which affect the quality of the human environment.”<sup>1</sup> It further states explicitly that agencies shall “Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.”<sup>2</sup> Changes to CEQ’s own NEPA procedures, which will affect project-level analysis and decisions in all Federal agencies, for decades to come, will have enormous consequences for the quality of the human environment, and therefore should be informed by ample public involvement.

Former CEQ directors have agreed on the importance of public involvement in developing implementing procedures, and there is significant precedent for CEQ to conduct public hearings as part of development of NEPA regulations. For instance, in 1978, in the notice of proposed rulemaking (NPRM) for the NEPA implementing procedures, CEQ described the process followed prior to publication of the NPRM and indicated the importance of the public hearings conducted. The NPRM stated in part that:

We have been greatly assisted in our task by the hundreds of people who responded to our call for suggestions on how to make the NEPA process work better. In public hearings which we held in June 1977, we invited testimony from a broad array of public officials, organizations, and private citizens, affirmatively involving NEPA’s critics as well as its friends. Among those represented were the U.S. Chamber of Commerce, which coordinated testimony from business; the Building and Construction Trades Department of the AFL-CIO, for labor; the National Conference of State Legislatures, for state and local governments, the Natural Resources Defense Council, for environmental groups. Scientists, scholars, and the general public were there.<sup>3</sup>

Additionally in 1986, the only other time that amendments have been made to CEQ’s NEPA procedures, public meetings were an important part of the process. The notice of proposed rulemaking in August 1985 provides record of CEQ’s outreach: “On March 18, 1985, the

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<sup>1</sup> 40 CFR 1500.2(d)

<sup>2</sup> 40 CFR 1506.6(a)

<sup>3</sup> National Environmental Policy Act—Regulations: Proposed Implementation of Procedural Provisions. Fed. Reg. Vol. 43, No. 112 (6/9/1978) page 25231. <https://ceq.doc.gov/docs/laws-regulations/FR-1978-06-09-43-FR-25230-CEQ-NEPA-Regulations-NOPR.pdf>

Council held a meeting, open to the public, to discuss the comments received in response to the Advance Notice of Proposed Rulemaking.”<sup>4</sup> In fact, CEQ at this time went so far as to prepare a special environmental assessment regarding the change, even though the change was limited to a single provision.

Another important way for CEQ to make “diligent efforts to involve the public” would be to provide a more meaningful public comment period. The rulemaking to propose the NEPA procedures that CEQ now seeks to change allowed 73 days for the public to provide comments and suggestions. Given the wide breadth of questions posed to the public in the ANPRM and the unprecedented scope of reforms that are being contemplated, it would be appropriate to provide an additional 60 days beyond the 30 days that has been proposed.

NEPA is perhaps the most important public involvement tool in our nation, and “diligent efforts to engage the public” is the standard established in the current NEPA implementing procedures. This standard should govern CEQ’s efforts to revise the implementing procedures. But perhaps even more important than compliance with existing regulations, CEQ should commit to ample public involvement because it will improve the quality of the final regulations. Thoughtful, effective, and publicly beneficial regulations are a shared goal for us all, and the best way to achieve that is by engaging the public. Thank you for working with us to ensure the best outcome for all Americans and for the natural environment we all share.

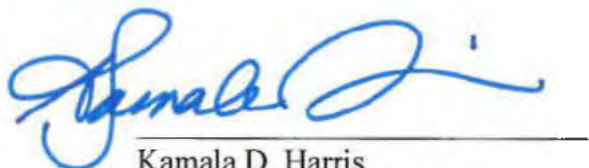
Sincerely,



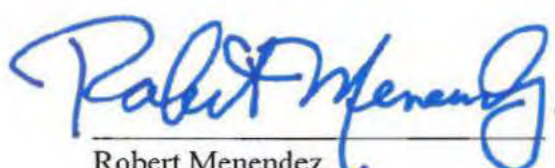
Tom Carper  
United States Senator



Benjamin L. Cardin  
United States Senator



Kamala D. Harris  
United States Senator

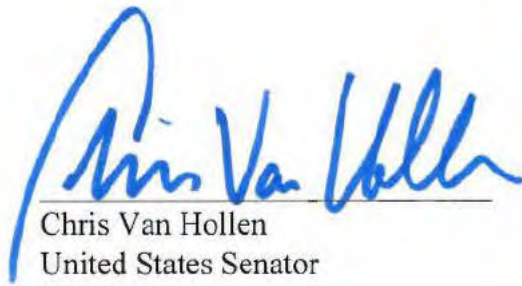


Robert Menendez  
United States Senator

<sup>4</sup> National Environmental Policy Act Regulations. Fed. Reg. Vol. 50, No. 154 (8/9/1985) page 32234  
<https://ceq.doe.gov/docs/laws-regulations/FR-1985-08-09-50-FR-32238-CEQ-NEPA-Regulations-NOPR-amending-1502-22.pdf>



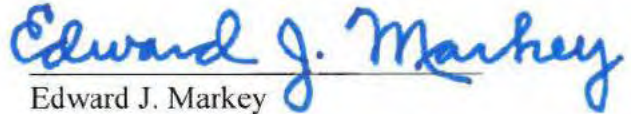
Tina Smith  
United States Senator



Chris Van Hollen  
United States Senator



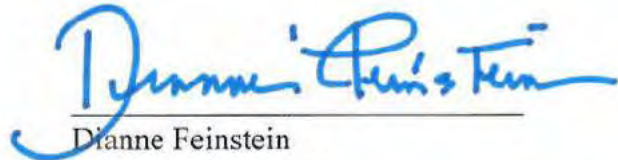
Ron Wyden  
United States Senator



Edward J. Markey  
United States Senator



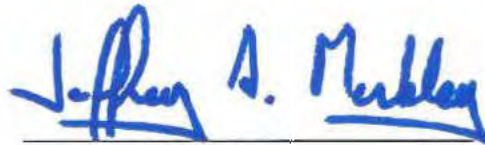
Sheldon Whitehouse  
United States Senator



Dianne Feinstein  
United States Senator



Tom Udall  
United States Senator



Jeffrey A. Merkley  
United States Senator

## RE: Updating Regulations.gov

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**From:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**To:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**Cc:** "Boling, Ted A. EOP/CEQ" <(b) (6)> "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
**Date:** Thu, 12 Jul 2018 12:52:51 -0400

Updated.

**From:** Drummond, Michael R. EOP/CEQ  
**Sent:** Thursday, July 12, 2018 11:19 AM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Mansoor, Yardena M. EOP/CEQ <(b) (6)>  
**Subject:** Updating Regulations.gov

Aaron,

Can you update the Regulations.gov page for the CEQ ANPRM? It is still showing July 20 as the comment deadline.

Thanks,

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

## RE: Updating Regulations.gov

---

**From:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**To:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**Cc:** "Boling, Ted A. EOP/CEQ" <(b) (6)> "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
**Date:** Thu, 12 Jul 2018 12:53:23 -0400

Thanks.

**From:** Szabo, Aaron L. EOP/CEQ  
**Sent:** Thursday, July 12, 2018 12:53 PM  
**To:** Drummond, Michael R. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Mansoor, Yardena M. EOP/CEQ <(b) (6)>  
**Subject:** RE: Updating Regulations.gov

Updated.

**From:** Drummond, Michael R. EOP/CEQ  
**Sent:** Thursday, July 12, 2018 11:19 AM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Mansoor, Yardena M. EOP/CEQ <(b) (6)>  
**Subject:** Updating Regulations.gov

Aaron,

Can you update the Regulations.gov page for the CEQ ANPRM? It is still showing July 20 as the comment deadline.

Thanks,

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

## Updating Regulations.gov

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**From:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**To:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**Cc:** "Boling, Ted A. EOP/CEQ" <(b) (6)> "Mansoor, Yarden M. EOP/CEQ" <(b) (6)>  
**Date:** Thu, 12 Jul 2018 11:18:45 -0400

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Aaron,

Can you update the Regulations.gov page for the CEQ ANPRM? It is still showing July 20 as the comment deadline.

Thanks,

Michael Drummond  
Deputy Associate Director for NEPA  
Council on Environmental Quality

(b) (6)

## Rulemaking update

---

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

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

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

**Date:** Fri, 13 Jul 2018 18:34:30 -0400

**Attachments:** 01 NPRM YM working draft CURRENT.DOCX (71.76 kB)

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Ted,

Welcome back! Status of rulemaking tasks:

(b) (5)



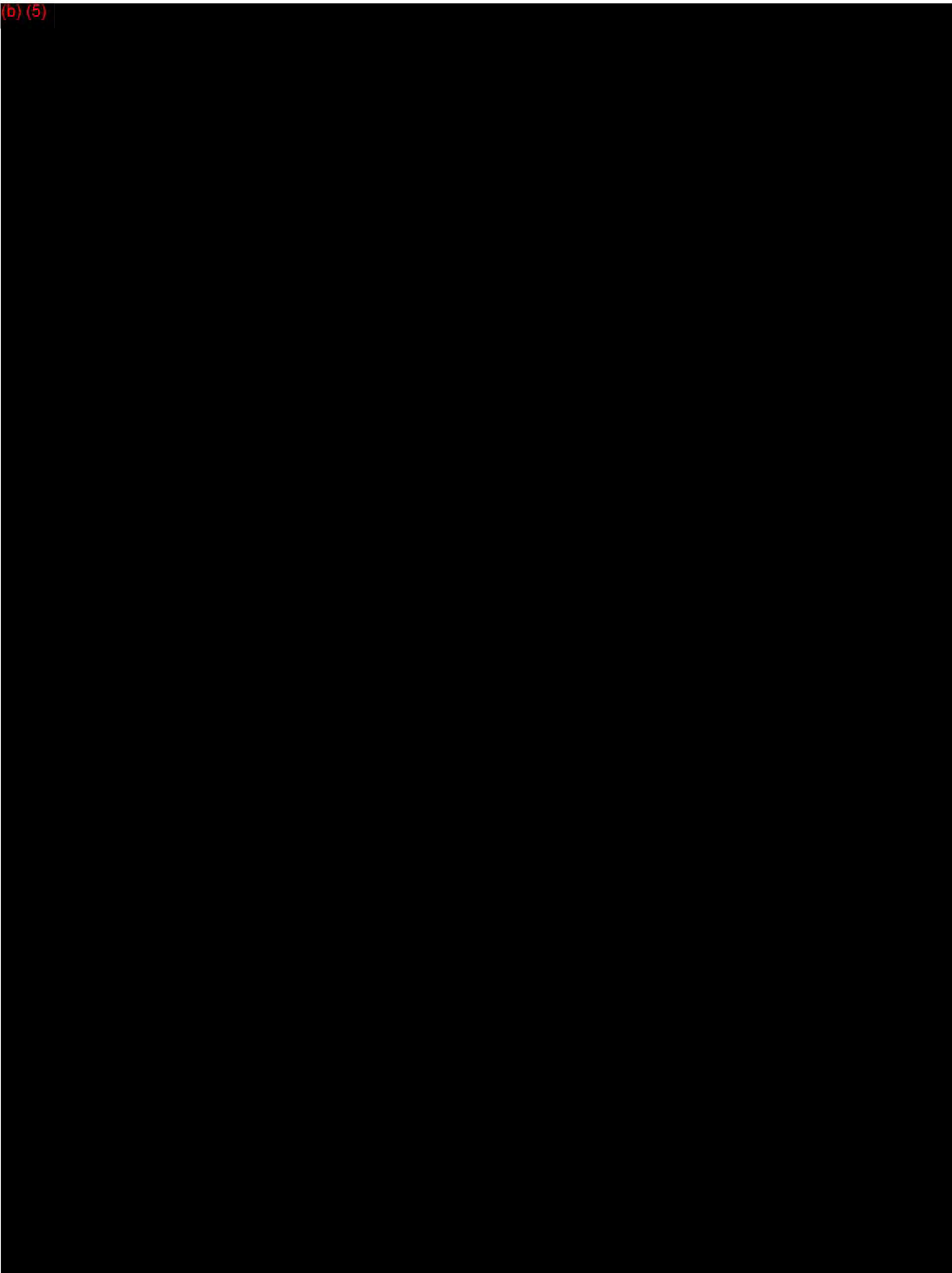
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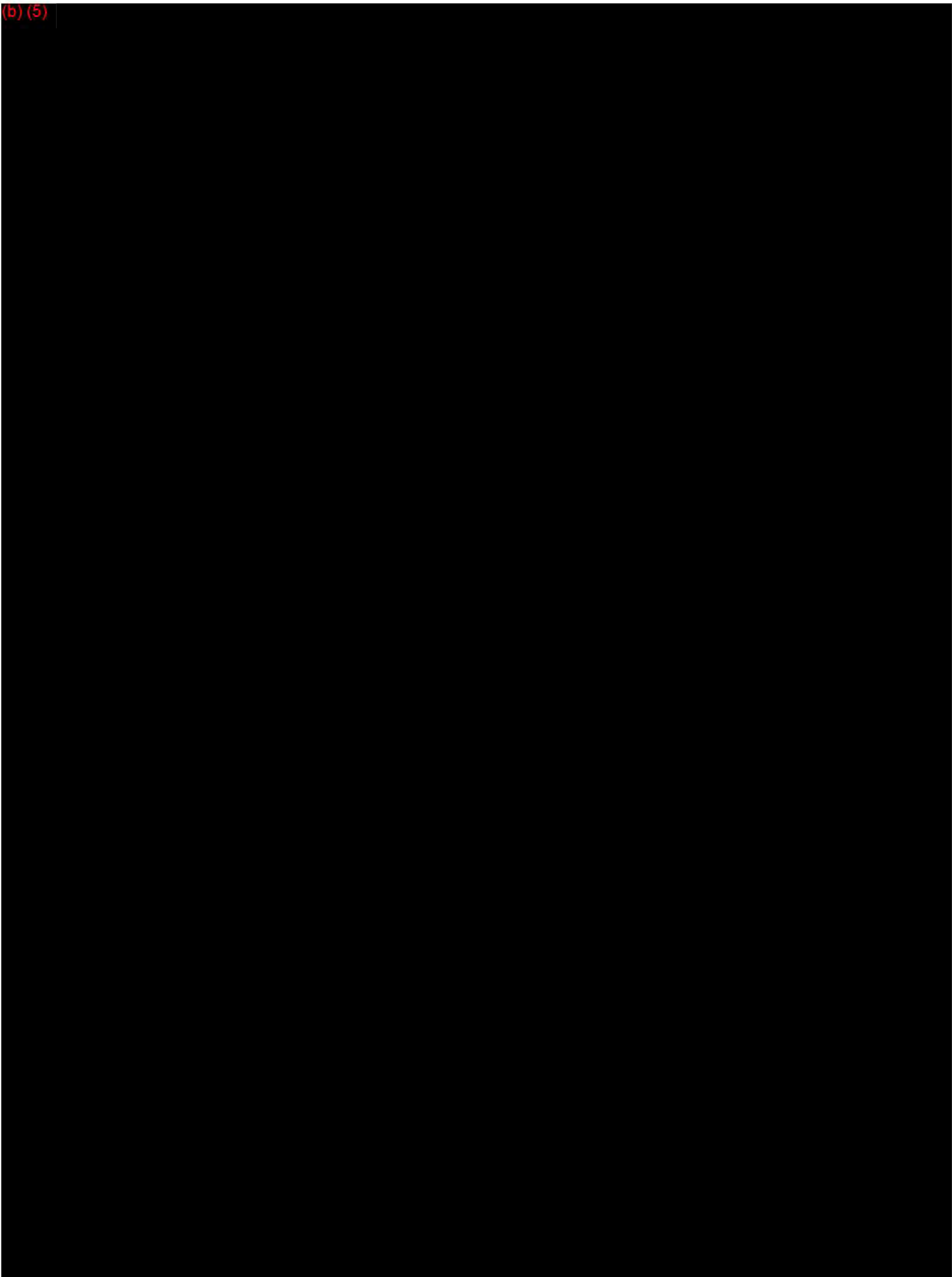
Looking forward to hearing about your travels. See you Monday.

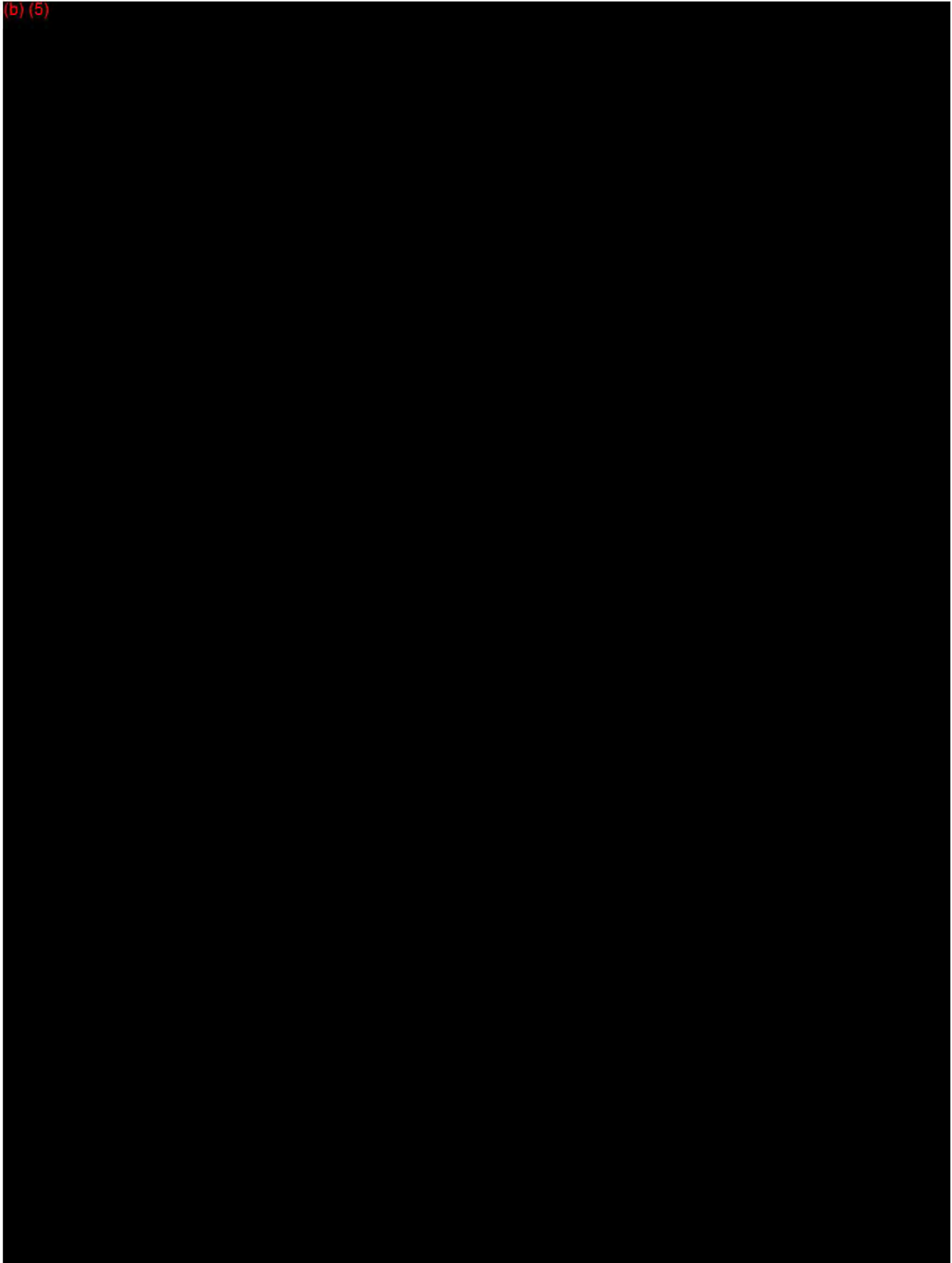
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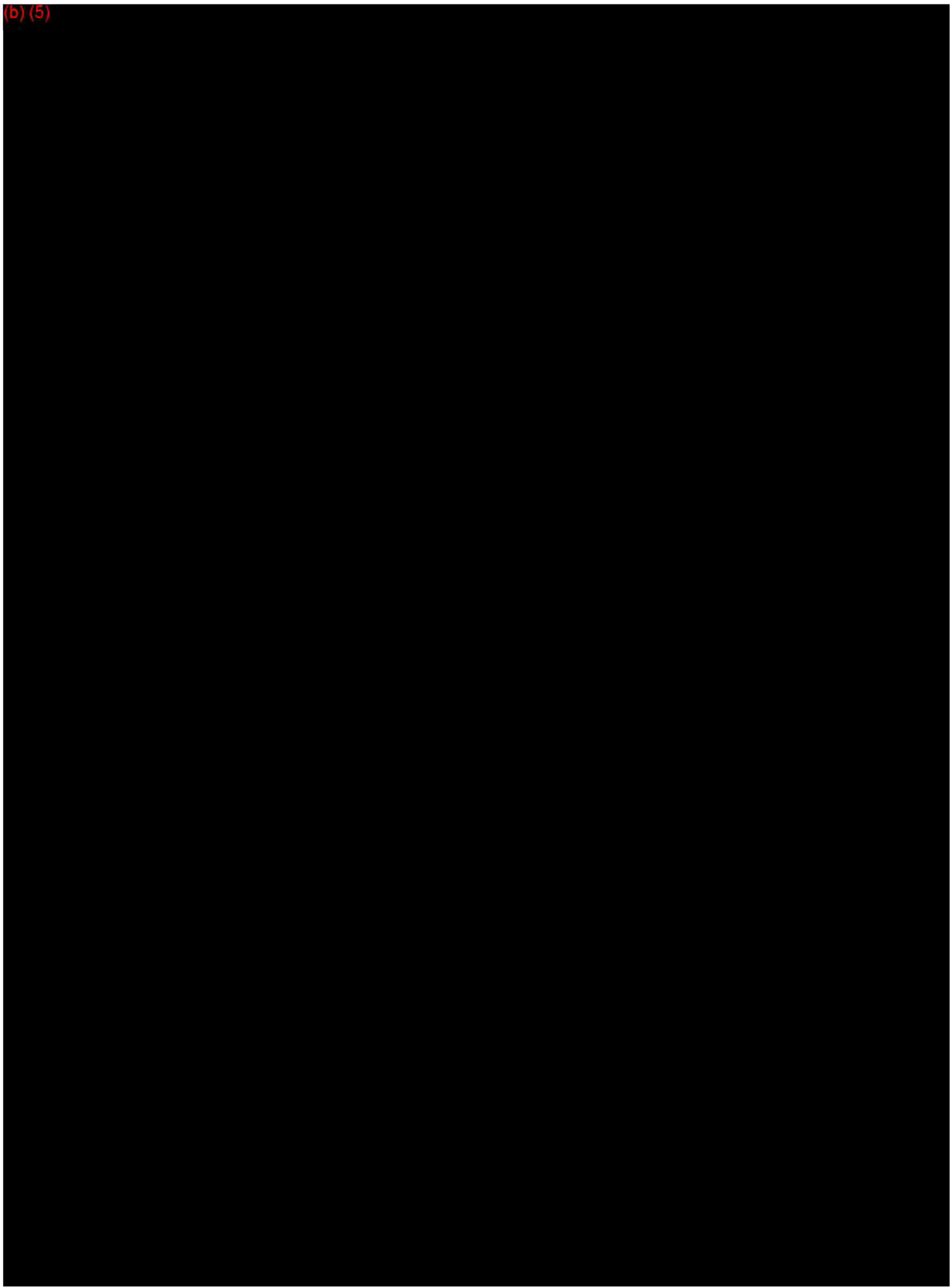
Yardena Mansoor  
Deputy Associate Director for NEPA  
Council on Environmental Quality  
(b) (6) / (b) (6)

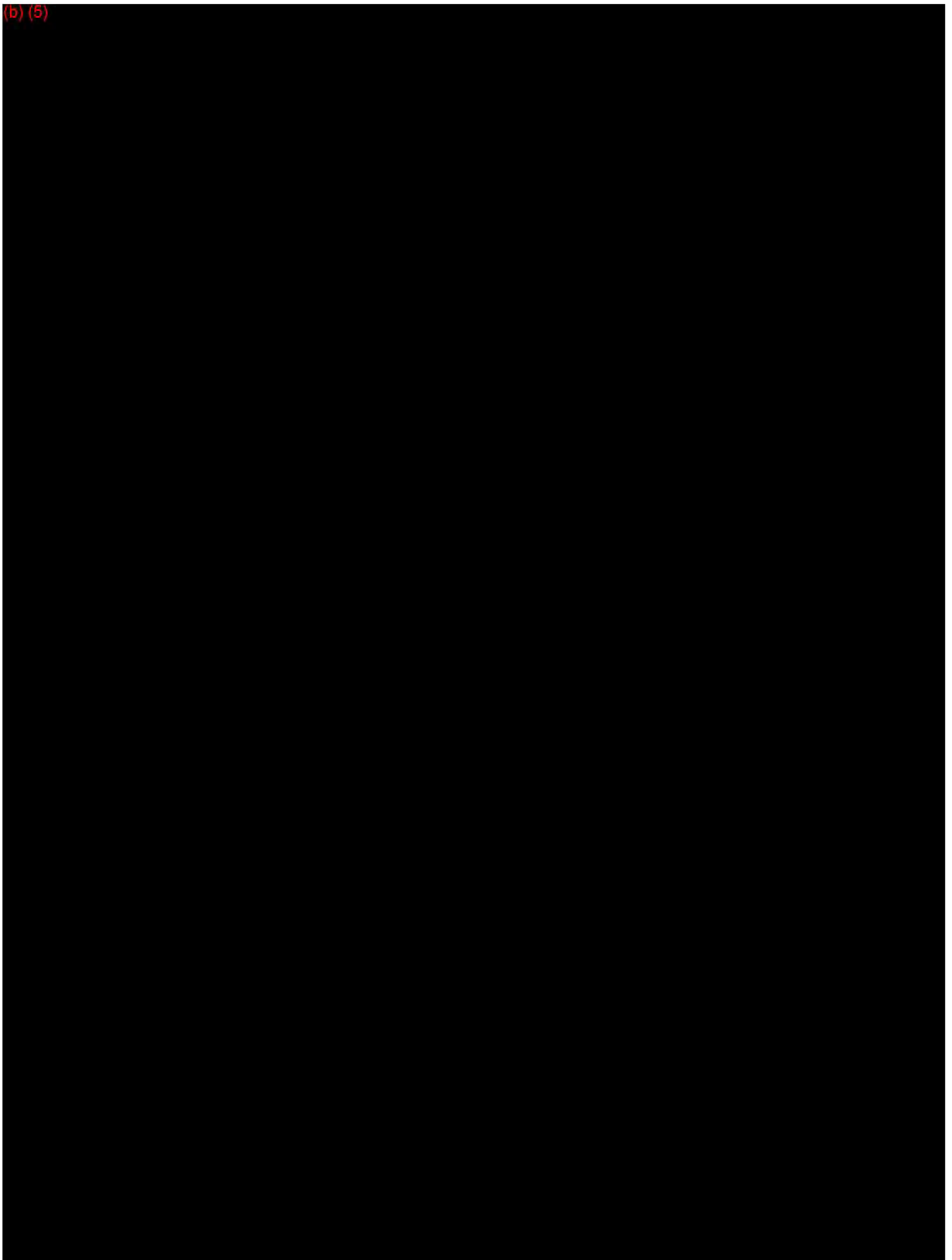


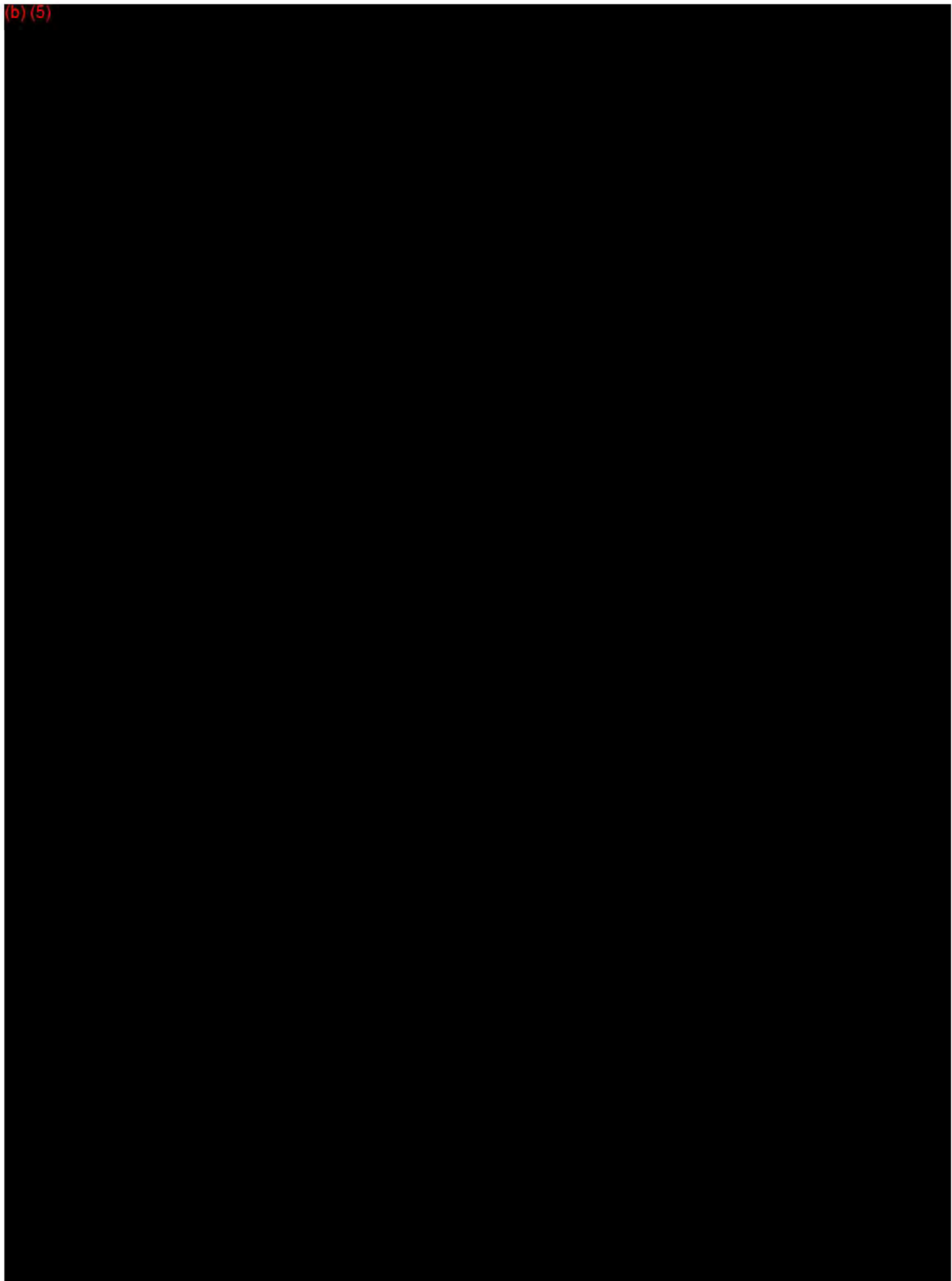


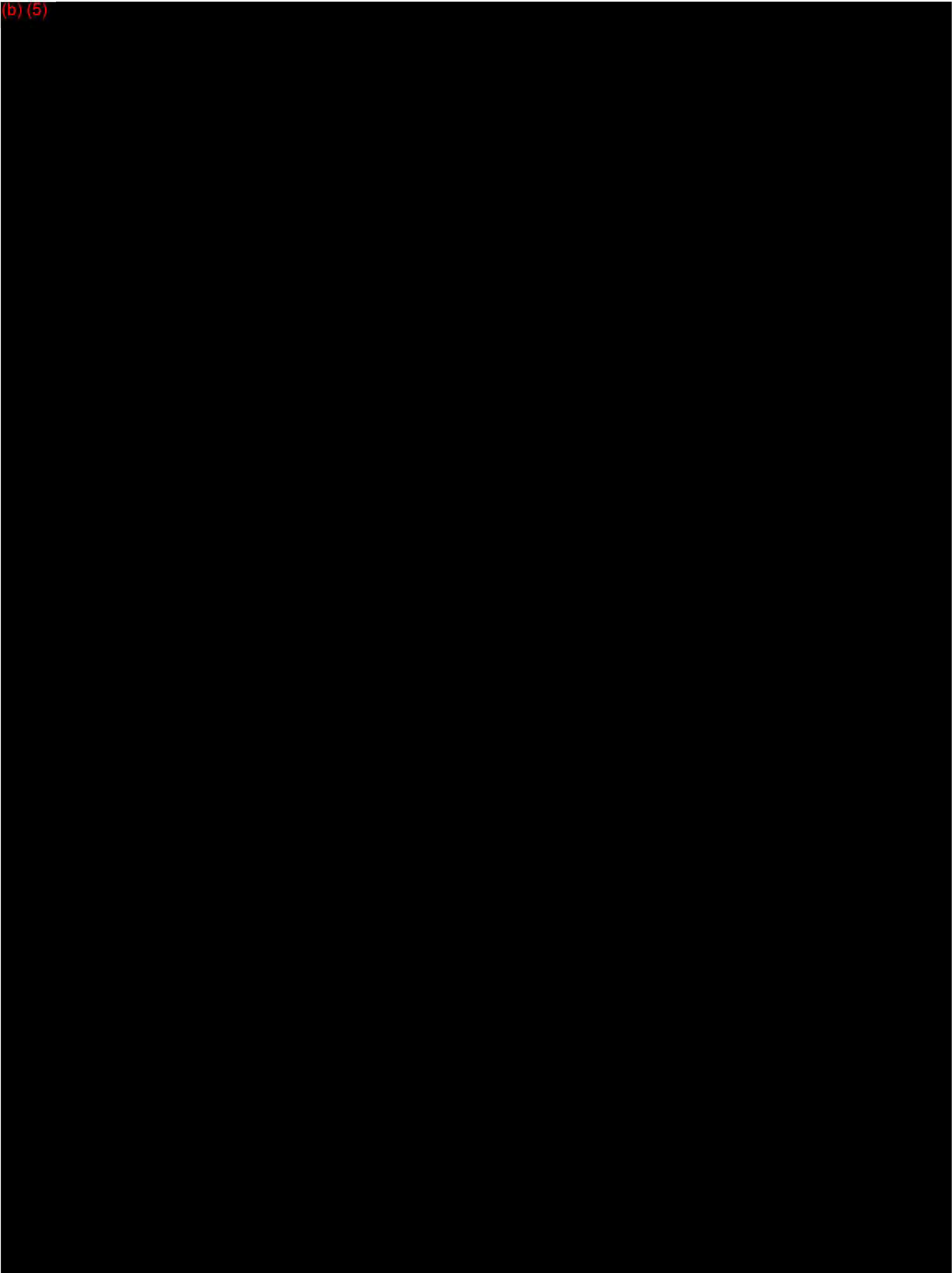


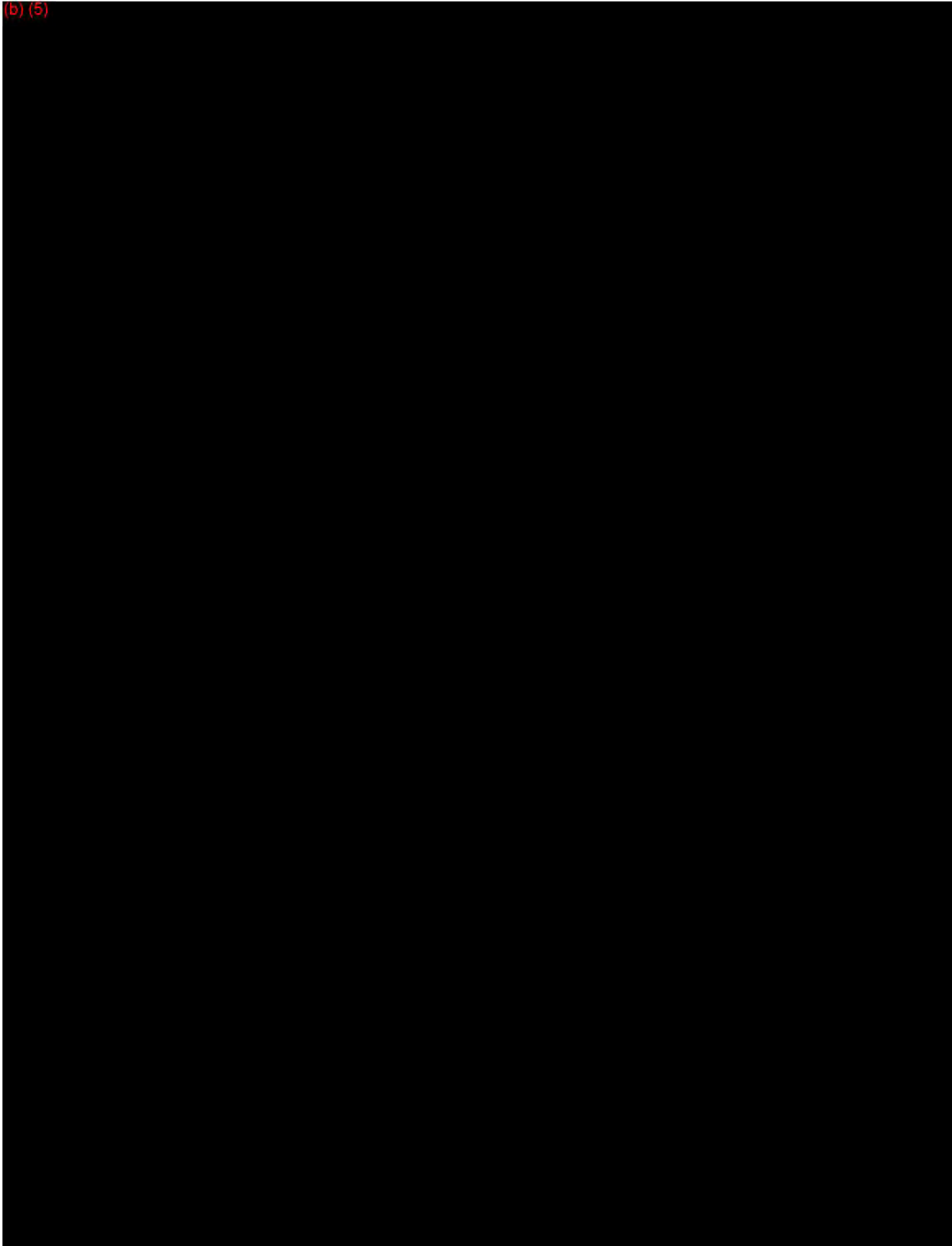




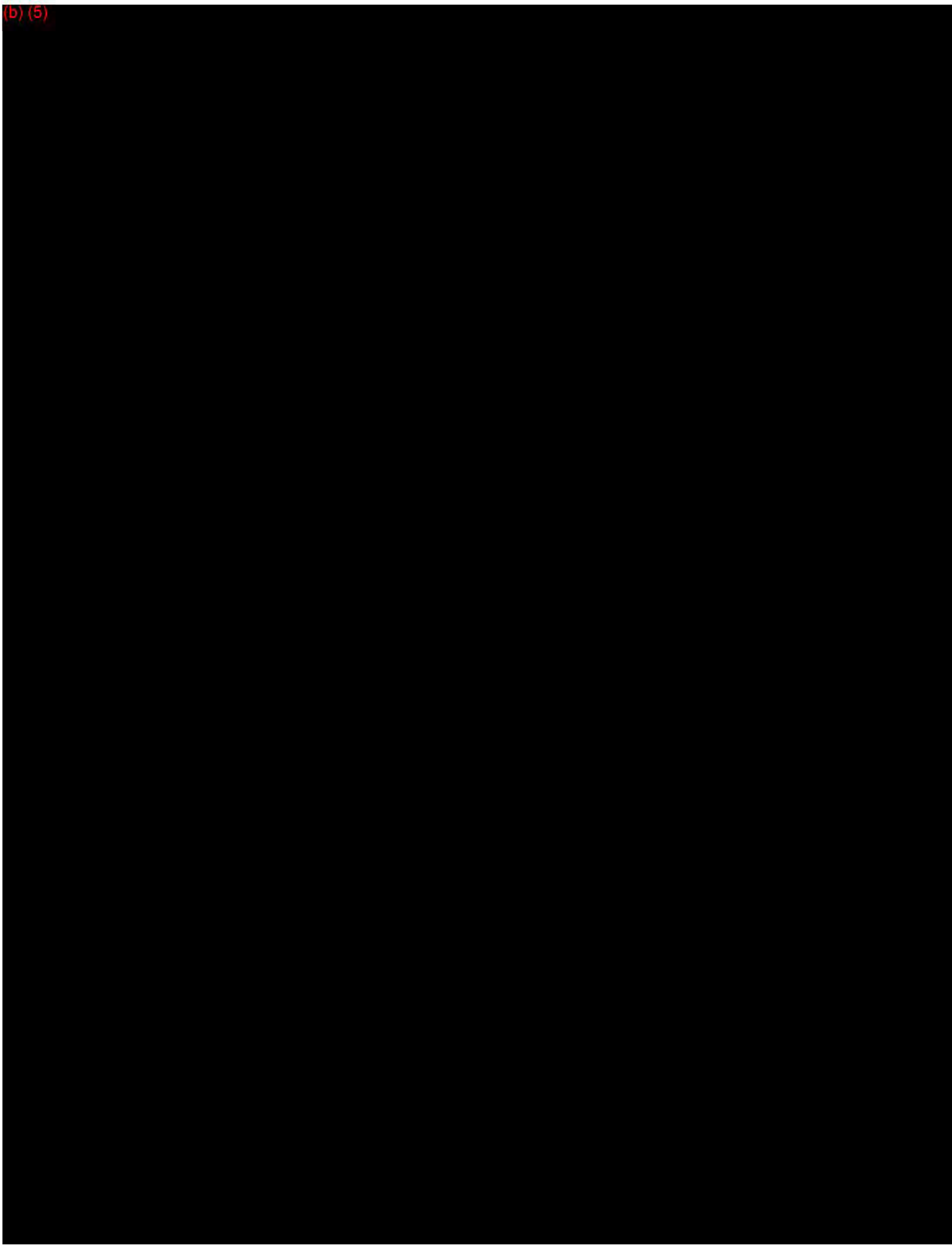


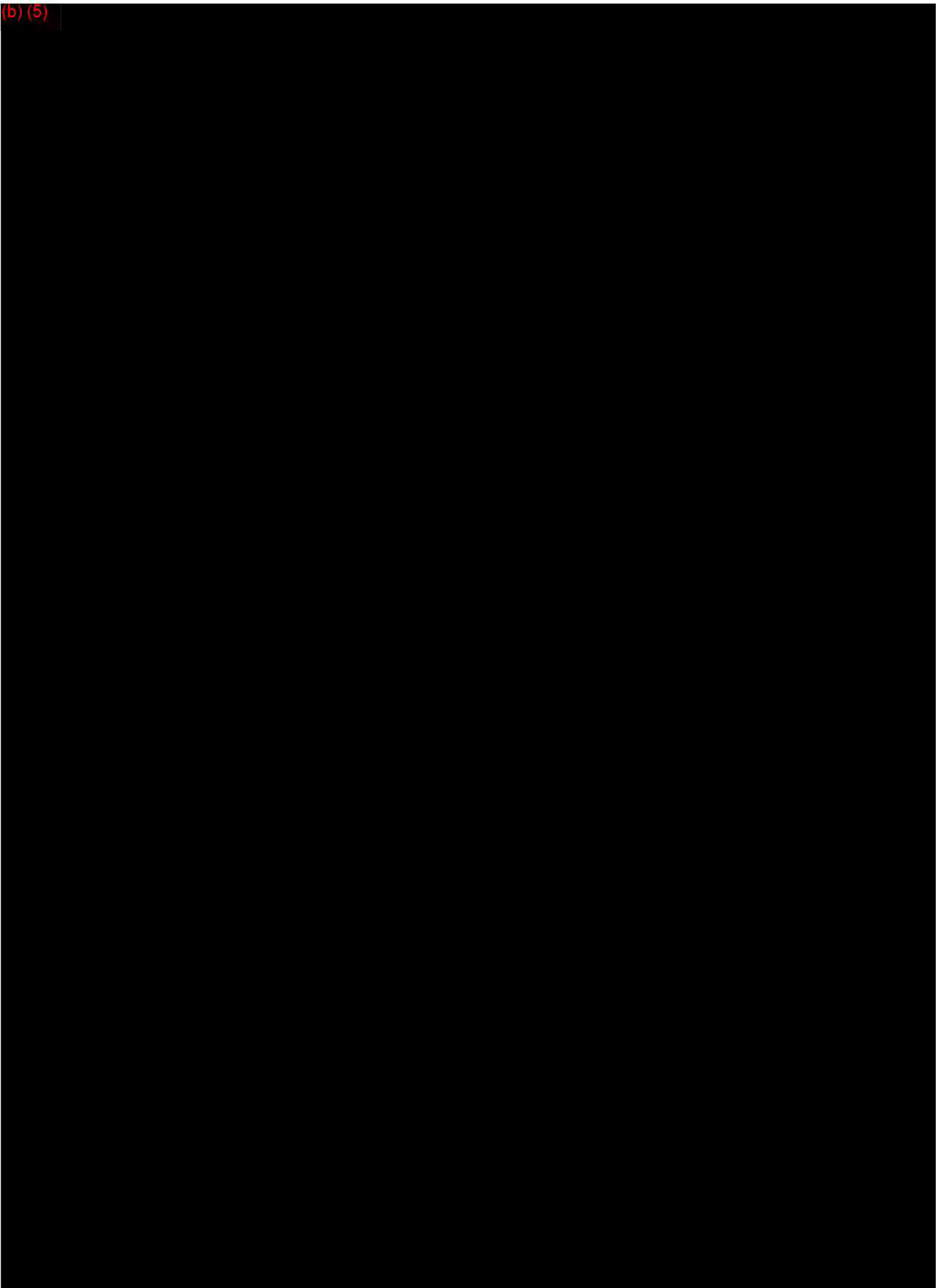


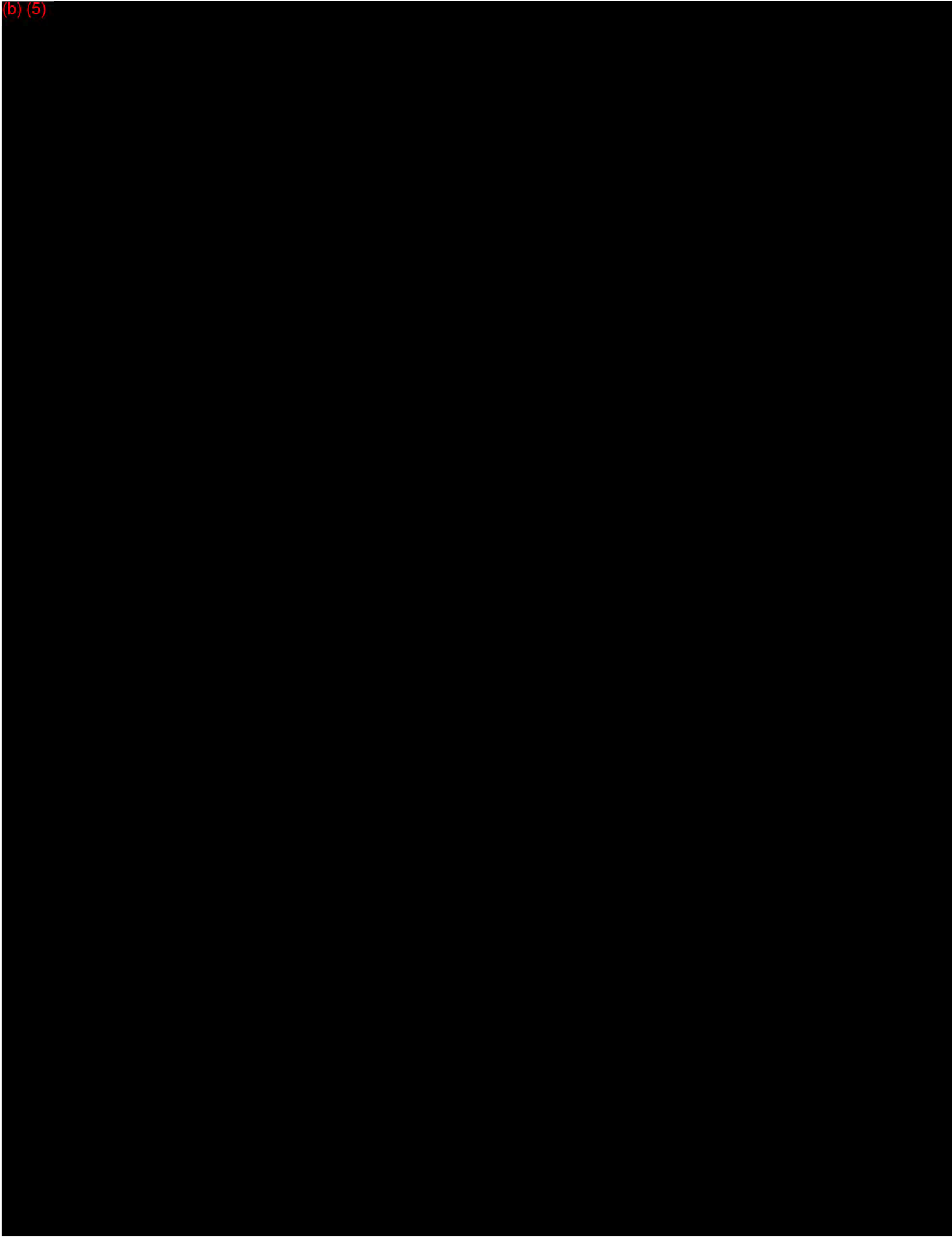


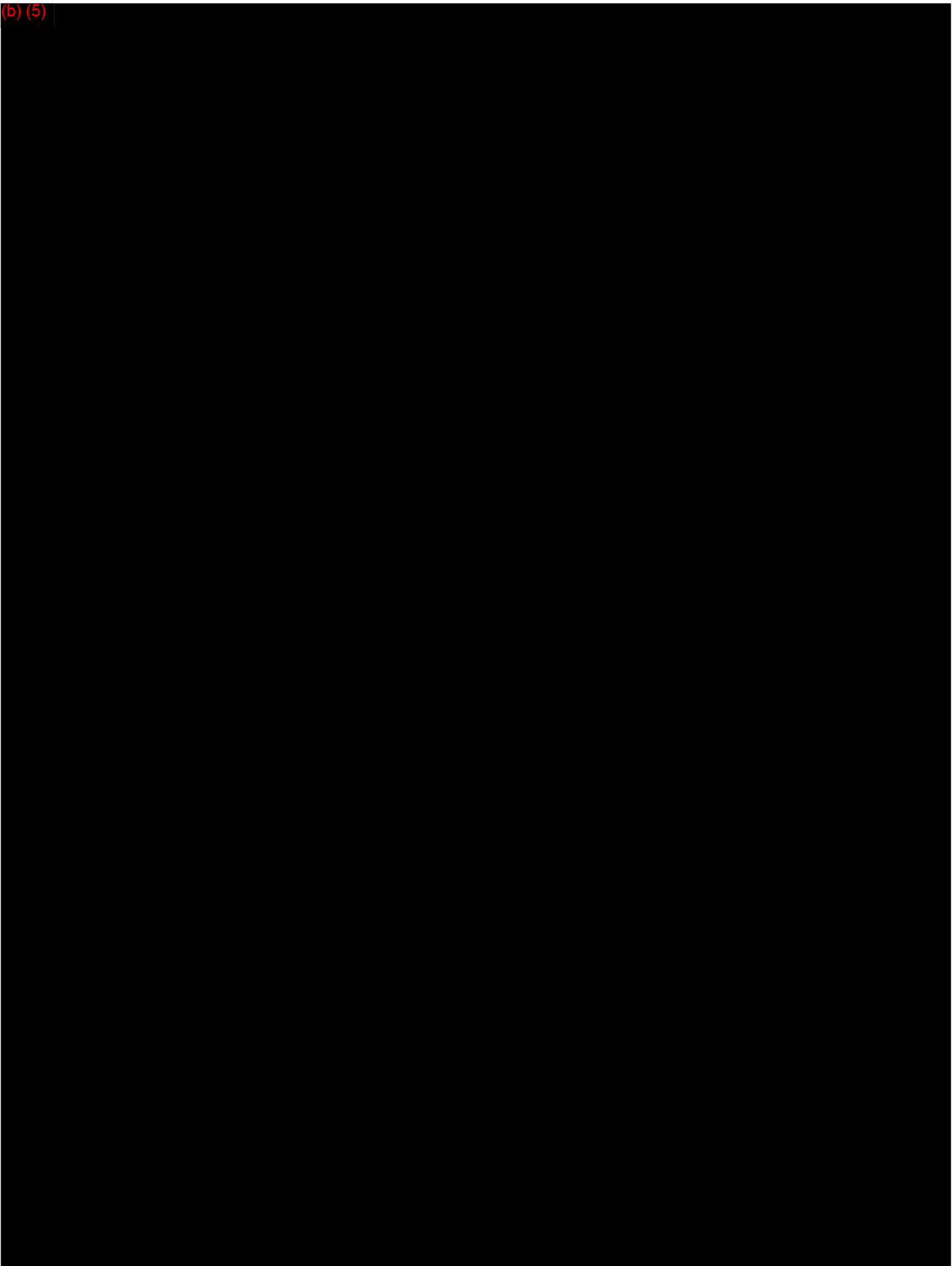


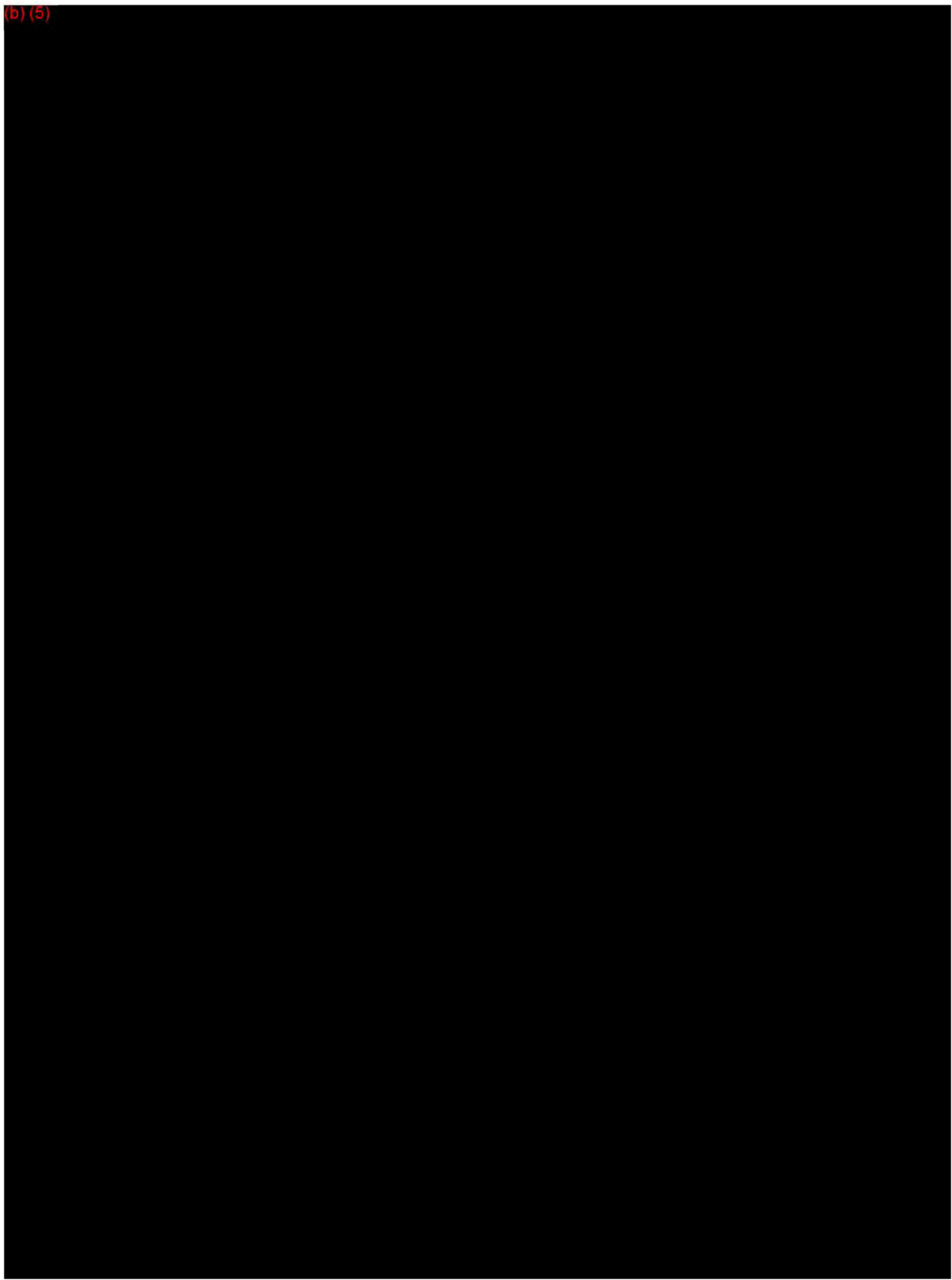


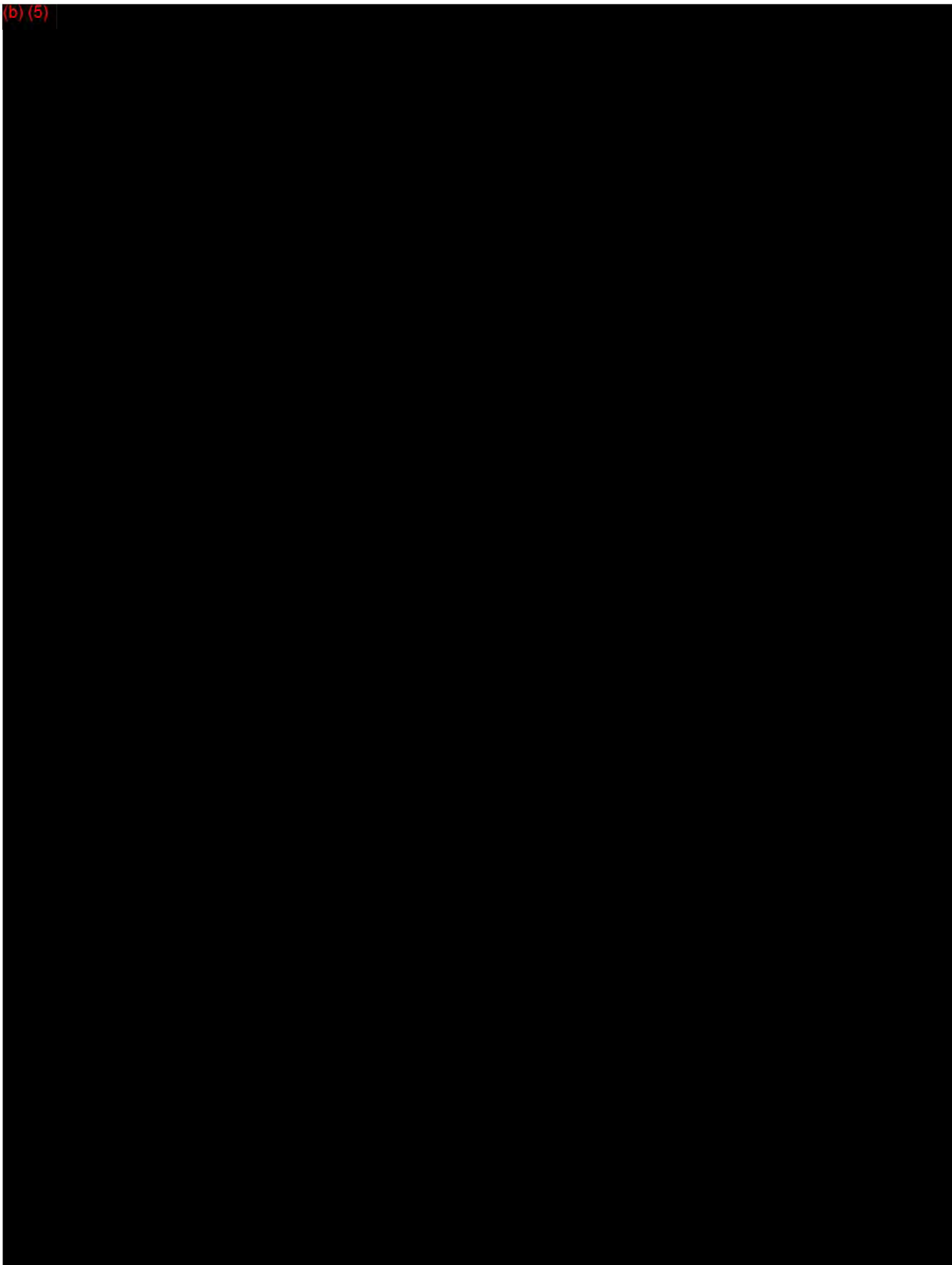


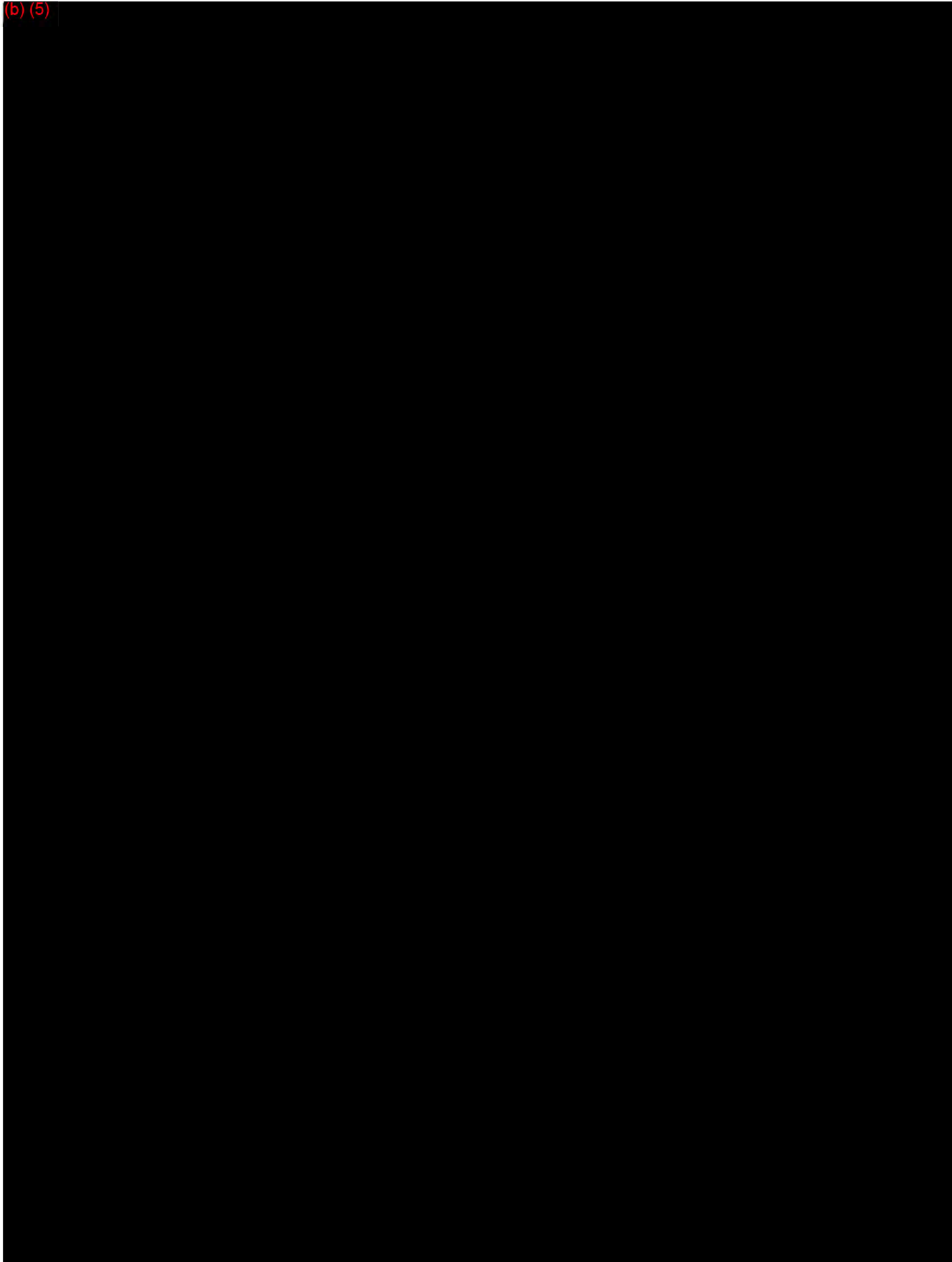


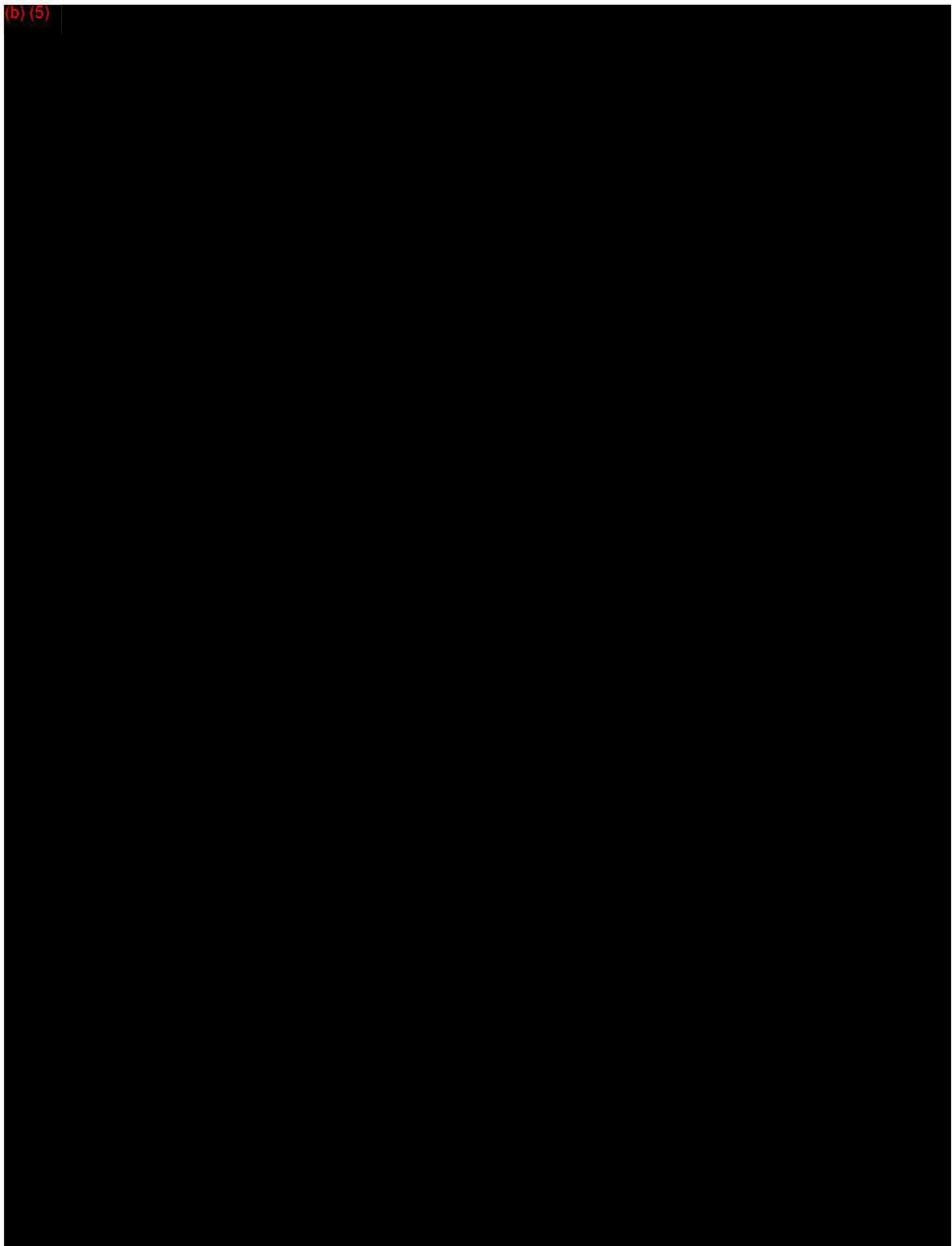














## RE: Letter to CEQ on NEPA ANPRM

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**From:** "Pettigrew, Theresa L. EOP/CEO" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlit)/cn=recipients/cn=579eb754b4c34f0e8e46d1fb4cd708d7-pe">  
**To:** "Higgins, Rebecca (EPW)" <rebecca\_higgins@epw.senate.gov>  
**Cc:** "Freedhoff, Michal (EPW)" <michal\_freedhoff@epw.senate.gov>  
**Date:** Wed, 18 Jul 2018 14:44:54 -0400

**Attachments**  
: 2018-07-18\_Letter to Sen Carper\_re ANPRM.pdf (213.76 kB)

Hello, Rebecca and Michal – as a follow up, here is a response to the letter regarding the recent ANPR.  
Thank you,  
Theresa

Theresa L. Pettigrew  
Associate Director for Legislative Affairs  
Council on Environmental Quality  
(b) (6) (direct)

**From:** Higgins, Rebecca (EPW) <Rebecca\_Higgins@epw.senate.gov>  
**Sent:** Wednesday, July 11, 2018 12:31 PM  
**To:** Pettigrew, Theresa L. EOP/CEQ <(b) (6)>  
**Cc:** Freedhoff, Michal (EPW) <Michal\_Freedhoff@epw.senate.gov>  
**Subject:** Letter to CEQ on NEPA ANPRM

Hi Theresa,

It was nice to meet you yesterday. Senator Carper is sending the attached letter to Ms. Neumayr asking for a commitment to hold public hearings as part of the NEPA rulemaking process, and for an extension to 90 days for the public comment period.

Best,  
Rebecca

Rebecca Higgins  
Environment and Public Works Committee  
202-224-8056





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

July 18, 2018

The Honorable Thomas R. Carper  
Ranking Member  
Committee on Environment and Public Works  
United States Senate  
513 Hart Senate Office Building  
Washington, DC 20510

Dear Ranking Member Carper:

Thank you for your letter of July 11, 2018 regarding the advance notice of proposed rulemaking titled "Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act" that the Council on Environmental Quality (CEQ) published in the Federal Register on June 20, 2018. The original comment period was scheduled to close on July 20, 2018.

On July 11, 2018, CEQ published a notice in the Federal Register extending the comment period for an additional 31 days in response to requests from the public. The comment period is now scheduled to close on August 20, 2018, and comments can be submitted electronically via <http://www.regulations.gov> or by mail. The extension notice is available at <https://www.gpo.gov/fdsys/pkg/FR-2018-07-11/pdf/2018-14821.pdf>.

Robust public engagement is critical to the rulemaking process. Should CEQ propose potential revisions to update its regulations implementing the procedural provisions of the National Environmental Policy Act, CEQ will provide additional opportunities for public input. Thank you again and I look forward to working with you on important national environmental policy matters.

Sincerely,

Mary B. Neumayr  
Chief of Staff

## ANOPR Comments

---

Where: NEPA Suite - my desk

When: Thu Jul 26 10:00:00 2018 (America/New\_York)

Until: Thu Jul 26 10:30:00 2018 (America/New\_York)

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

Required Attendees : "Carlin, Erin A. EOP/CEQ (Intern)" <(b) (6)>  
"Drummond, Michael R. EOP/CEQ" <(b) (6)>

---

Erin, Let's discuss how to stay on top of managing the comment documents while I am on vacation

(b) (5)  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

Michael, You are welcome to join us, but I believe you have a schedule conflict, so I'll fill you in later.

## FW: 0331-CEQ Spring Agenda Submission

---

**From:** "Whiteman, Chad S. EOP/OMB" <(b) (6)>  
**To:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**Date:** Fri, 09 Mar 2018 15:16:06 -0500  
**Attachments:** Change Report 0331-CEQ Spring 2018.pdf (49.9 kB); Original CEQ-0331 Agenda Entries--Spring 2018 (unreviewed).docx (21.97 kB)

FYI

**From:** Elizabeth Harris-Marshall - M1V1E [mailto:liz.harris-marshall@gsa.gov]  
**Sent:** Friday, March 9, 2018 2:59 PM  
**To:** Whiteman, Chad S. EOP/OMB <(b) (6)>  
**Cc:** Higgins, Cortney J. EOP/OMB <(b) (6)>  
**Subject:** 0331-CEQ Spring Agenda Submission

Chad:

CEQ-0331 has locked their submission in ROCIS, however, we are in the process of getting the MAX administrator's to make them a page in MAX so I can upload their data. Attached is the two RINs and the preamble for this agency for your review prior to the page being established. As soon as the page is ready, I will make sure this information is uploaded.

If you have questions, please let me know.

---

### U.S. General Services Administration

Liz Harris-Marshall

Program Analyst

Regulatory Information Service Center

Office of Government-wide Policy

Office [202-482-7340](tel:202-482-7340) | Direct [202-501-8971](tel:202-501-8971)

[1800 F Street, NW](#)

[Washington, DC 20405](#)

[>www.gsa.gov<](#)

# Change Report

0331-AA02

03/09/2018 2:09 PM

201804

## RFA Section 610 Review

### TITLE:

@ Freedom of Information Act (FOIA) and Privacy Act Regulations Update

### REGULATORY PLAN:

No

### PRIORITY:

Substantive, Nonsignificant  
Major status under 5 USC 601 is undetermined

### UNFUNDED MANDATES:

No

### MAJOR:

Undetermined

### EO 13771 DESIGNATION:

Not subject to, not significant

### LEGAL AUTHORITY:

5 U.S.C. 552 et seq.

### CFR CITATION:

40 CFR 1515 ; 40 CFR 1516

### LEGAL DEADLINE:

None

### ABSTRACT TEXT:

!DOCTYPE html>The Council on Environmental Quality (CEQ) is developing a proposal to revise its Freedom of Information Act (FOIA) regulations, in order to comply with the FOIA Improvement Act of 2016; to reflect CEQ's business process; and to correct or remove obsolete information. CEQ is also revising its Privacy Act implementation regulations due to changes of address and other administrative issues.

### TIMETABLE:

<u>ACTION</u>	<u>DATE</u>	<u>FR CITE</u>
NPRM	01/09/2018	

### REGULATORY FLEXIBILITY ANALYSIS REQUIRED:

No

### GOVERNMENT LEVELS AFFECTED:

None

### FEDERALISM:

No

### AGENCY CONTACT:

1

CEQ075FY18150\_000003661

# Change Report

03/09/2018 2:09 PM

0331-AA02

201804

Viktoría Z. Seale,  
730 Jackson Place NW,  
Washington, DC 20506  
PHONE: 202 395-5750

0331-AA03

201804

RFA Section 610 Review

TITLE:

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

REGULATORY PLAN:

No

PRIORITY:

Other Significant  
Major status under 5 USC 801 is undetermined

UNFUNDED MANDATES:

Undetermined

MAJOR:

Undetermined

EO 13771 DESIGNATION:

Other

LEGAL AUTHORITY:

42 U.S.C. 4377 et seq.

CFR CITATION:

40 CFR Parts 1500 to 1508

LEGAL DEADLINE:

None

ABSTRACT TEXT:

!DOCTYPE html>On August 15, 2017, President Trump issued Executive Order 13807 titled Establishing Discipline and Accountability in the Environment Review and Permitting Process for Infrastructure." Section 5(e) of Executive Order 13807 directed the Council on Environmental Quality (CEQ) to develop an initial list of actions it will take to enhance and modernize the Federal environmental review and authorization process. CEQ published its the initial list of actions in the Federal Register on September 14, 2017 (82 FR 43226) and stated that CEQ intends to review existing CEQ regulations implementing the procedural requirements of the National Environmental Policy Act in order to identify changes needed to update and clarify these regulations. The regulations were



# Change Report

03/09/2018 2:09 PM

0331-AA03

201804

issued in 1978, were amended in 1986, and have never been comprehensively revised. While CEQ has issued memoranda and guidance documents over the years CEQ believes it is appropriate at this time to consider updating the implementing regulations.

**TIMETABLE:**

<u>ACTION</u>	<u>DATE</u>	<u>FR CITE</u>
ANPRM	05/00/2018	

**REGULATORY FLEXIBILITY ANALYSIS REQUIRED:**

Undetermined

**GOVERNMENT LEVELS AFFECTED:**

Undetermined

**FEDERALISM:**

No

**AGENCY CONTACT:**

Ted Boling,  
730 Jackson Place NW,  
Washington, DC 20506  
PHONE: 202 395-5750

**COUNCIL ON ENVIRONMENTAL QUALITY**

**40 CFR 1500**

**Semiannual Regulatory Agenda**

**AGENCY:** Council on Environmental Quality.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This notice provides the semiannual agenda of the Council on Environmental Quality (CEQ) rules scheduled for review or development between spring 2018 and spring 2019. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

**ADDRESSES:** All agency contacts are located at the Council on Environmental Quality, 730 Jackson Place Northwest, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** Please direct all comments and inquiries about these rules to the appropriate agency contact. Please direct general comments relating to the agenda to Aaron L. Szabo, at the address above or at (202) 395-5750.

**SUPPLEMENTARY INFORMATION:** With this publication, CEQ meets the requirement of Executive Order 12866 that CEQ publish an agenda of rules that CEQ has issued or expects to issue and of currently effective rules that CEQ has scheduled for review. Additionally, CEQ meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year, as necessary, identifying rules that may have significant economic effects on a substantial number of small entities. The complete Unified Agenda will be published at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users enhanced ability to obtain information from the Agenda database. Agenda information is also available at [www.regulations.gov](http://www.regulations.gov), the government-wide website for submission of comments on proposed regulations.

[APG]

**NAME Mary Neumayr,**

*Chief of Staff,*

*Council on Environmental Quality.*

**Council on Environmental Quality—Prerule Stage**

Sequence Number	Title	Regulation Identifier Number
1	Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act	0331-AA03

**Council on Environmental Quality—Proposed Rule Stage**

Sequence Number	Title	Regulation Identifier Number
2	Freedom of Information Act (FOIA) and Privacy Act Regulations Update	0331-AA02

<b>Council on Environmental Quality (CEQ)</b>	<b>Prerule Stage</b>

[APG]

**1. • UPDATE TO THE REGULATIONS FOR IMPLEMENTING THE PROCEDURAL PROVISIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT**

**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

**Unfunded Mandates:** Undetermined

**EO 13771 Designation:** Other

**Legal Authority:** 42 U.S.C. 4371 et seq.

**CFR Citation:** 40 CFR Parts 1500 to 1508

**Legal Deadline:** None

**Abstract:** On August 15, 2017, President Trump issued Executive Order 13807, titled Establishing Discipline and Accountability in the Environment Review and Permitting Process for Infrastructure.” Section 5(e) of Executive Order 13807 directed the Council on Environmental Quality (CEQ) to develop an initial list of actions it will take to enhance and modernize the Federal environmental review and authorization process. CEQ published its the initial list of actions in the Federal Register on September 14, 2017 (82 FR 43226) and stated that CEQ intends to review existing CEQ regulations implementing the procedural requirements of the National Environmental Policy Act in order to identify changes needed to update and clarify those regulations. The regulations were issued in 1978, were amended in 1986, and have never been comprehensively revised. While CEQ has issued memoranda and guidance documents over the years, CEQ believes it is appropriate at this time to consider updating the implementing regulations.

**Timetable:**

Action	Date	FR Cite
ANPRM	05/00/18	

**Regulatory Flexibility Analysis Required:** Undetermined

[APG]

**Government Levels Affected:** Undetermined

**Agency Contact:** Ted Boling, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20506

**Phone:** 202 395-5750

**RIN:** 0331-AA03

Council on Environmental Quality (CEQ)	Proposed Rule Stage

**2. • FREEDOM OF INFORMATION ACT (FOIA) AND PRIVACY ACT REGULATIONS UPDATE**

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 5 U.S.C. 552 et seq.

**CFR Citation:** 40 CFR 1515 ; 40 CFR 1516

**Legal Deadline:** None

**Abstract:** The Council on Environmental Quality (CEQ) is developing a proposal to revise its Freedom of Information Act (FOIA) regulations, in order to comply with the FOIA Improvement Act of 2016; to reflect CEQ's business process; and to correct or remove obsolete information. CEQ is also revising its Privacy Act implementation regulations due to changes of address and other administrative issues.

**Timetable:**

[APG]

Action	Date	FR Cite
NPRM	07/00/18	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Viktoria Z. Seale, Council on Environmental Quality, 730 Jackson Place NW,  
Washington, DC 20506

Phone: 202 395-5750

**RIN:** 0331-AA02

[FR Doc. Filed 01-01-01; 0:00 AM]

[APG]

## LAST LOOK

---

**From:** Elizabeth Harris-Marshall - M1V1E <liz.harris-marshall@gsa.gov>  
**To:** "Szabo, Aaron L. EOP/CEQ" <(b) (6)>  
**Date:** Fri, 06 Apr 2018 13:25:16 -0400  
**Attachments** Final ARR 0331-CEQ Spring 2018.pdf (74.44 kB); FINAL WORD 0331-CEQ Agenda  
: Entries--Spring 2018.docx (22.12 kB)

Aaron:

I've attached the word document and the Final Agenda Review Reports for one ***Last Look***. ***You may want to take one last look prior to publication.*** Please let me know of any changes or updates needed ***ASAP*** as we will be processing the data for final publication shortly thereafter. ***If you do not have any changes, please send an email indicating you approve your agenda as is. Once I receive approval, I will advance your agency to "Ready To Publish."***

Thank you for your assistance during this cycle.



---

### U.S. General Services Administration

Liz Harris-Marshall  
Program Analyst  
Regulatory Information Service Center  
Office of Government-wide Policy  
Office [202-482-7340](tel:202-482-7340) | Direct [202-501-8971](tel:202-501-8971)

[1800 F Street, NW](https://www.gsa.gov)  
[Washington, DC 20405](https://www.gsa.gov)  
>[www.gsa.gov](https://www.gsa.gov)<

**TITLE:**

@ Freedom of Information Act (FOIA) and Privacy Act Regulations Update

**RIN:** 0331-AA02 (Proposed Rule Stage)

**# Paper Print:** No

**REGULATORY PLAN:** No

**PRIORITY:** Substantive, Nonsignificant  
Major status under 5 USC 801 is undetermined

**# UNFUNDED MANDATES:** No

**EO 13771 Designation :** Not subject to, not significant

**LEGAL AUTHORITY:**

5 U.S.C. 552 et seq.

**CFR CITATION:**

40 CFR 1515; 40 CFR 1516

**LEGAL DEADLINE:**

None

None

**OVERALL DESCRIPTION OF DEADLINE:**

**ABSTRACT:**

The Council on Environmental Quality (CEQ) is developing a proposal to revise its Freedom of Information Act (FOIA) regulations, in order to comply with the FOIA Improvement Act of 2016; to reflect CEQ's business process; and to correct or remove obsolete information. CEQ is also revising its Privacy Act implementation regulations due to changes of address and other administrative issues.

**STATEMENT OF NEED:**

**SUMMARY OF LEGAL BASIS:**

**ALTERNATIVES:**

**ANTICIPATED COSTS AND BENEFITS:**

**RISKS:**

**TIMETABLE:**

ACTION	DATE	FR CITE
NPRM	07/00/2018	

**REGULATORY FLEXIBILITY ANALYSIS REQUIRED:**

No

**# SMALL ENTITIES AFFECTED:**

**GOVERNMENT LEVELS AFFECTED:** None

**# FEDERALISM AFFECTED:** No

**ENERGY AFFECTED:**

**INTERNATIONAL IMPACTS:** No

**USER SORT CODES:**

\* - Missing data

# - Will not print in agenda



**ADDITIONAL INFORMATION:**

**URL FOR MORE INFORMATION:**

**URL FOR PUBLIC COMMENTS:**

**RELATED RIN:**

**RELATED AGENCY:**

**AGENCY CONTACT:**

Viktoria Z. Seale,  
Council on Environmental Quality,  
730 Jackson Place NW,  
Washington, DC 20506  
PHONE: 202 395-5750

\* - Missing data

# - Will not print in agenda

**TITLE:**

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

**RIN:** 0331-AA03 (Prerule Stage)**# Paper Print:** No**REGULATORY PLAN:** No**PRIORITY:** Other Significant  
Major status under 5 USC 801 is undetermined**UNFUNDED MANDATES:** Undetermined**EO 13771 Designation :** Other**LEGAL AUTHORITY:**

42 U.S.C. 4371 et seq.

**CFR CITATION:**

40 CFR 1500 to 1508

**LEGAL DEADLINE:**

None

None

**OVERALL DESCRIPTION OF DEADLINE:****ABSTRACT:**

On August 15, 2017, President Trump issued Executive Order 13807, titled "Establishing Discipline and Accountability in the Environment Review and Permitting Process for Infrastructure." Section 5(e) of Executive Order 13807 directed the Council on Environmental Quality (CEQ) to develop an initial list of actions it will take to enhance and modernize the Federal environmental review and authorization process. CEQ published its initial list of actions in the Federal Register on September 14, 2017, (82 FR 43226) and stated that CEQ intends to review existing CEQ regulations implementing the procedural requirements of the National Environmental Policy Act in order to identify changes needed to update and clarify those regulations. The regulations were issued in 1978, were amended in 1986, and have never been comprehensively revised. While CEQ has issued memoranda and guidance documents over the years, CEQ believes it is appropriate at this time to consider updating the implementing regulations.

**STATEMENT OF NEED:****SUMMARY OF LEGAL BASIS:****ALTERNATIVES:****ANTICIPATED COSTS AND BENEFITS:****RISKS:****TIMETABLE:**

ACTION	DATE	FR CITE
ANPRM	05/00/2018	

**REGULATORY FLEXIBILITY ANALYSIS REQUIRED:**

Undetermined

**# SMALL ENTITIES AFFECTED:****GOVERNMENT LEVELS AFFECTED:** Undetermined**# FEDERALISM AFFECTED:** No**ENERGY AFFECTED:**

\* - Missing data

# - Will not print in agenda

Page 3 of 4

**INTERNATIONAL IMPACTS:**

No

**USER SORT CODES:**

**ADDITIONAL INFORMATION:**

**URL FOR MORE INFORMATION:**

**URL FOR PUBLIC COMMENTS:**

**RELATED RIN:**

**RELATED AGENCY:**

**AGENCY CONTACT:**

Ted Boling,  
Council on Environmental Quality,  
730 Jackson Place NW,  
Washington, DC 20506  
PHONE: 202 395-5750

\* - Missing data

# - Will not print in agenda

**COUNCIL ON ENVIRONMENTAL QUALITY**

**40 CFR 1500**

**Semiannual Regulatory Agenda**

**AGENCY:** Council on Environmental Quality.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This notice provides the semiannual agenda of the Council on Environmental Quality (CEQ) rules scheduled for review or development between spring 2018 and spring 2019. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

**ADDRESSES:** All agency contacts are located at the Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503.

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**SUPPLEMENTARY INFORMATION:** With this publication, CEQ meets the requirement of Executive Order 12866 that CEQ publish an agenda of rules that CEQ has issued or expects to issue and of currently effective rules that CEQ has scheduled for review. Additionally, CEQ meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year, as necessary, identifying rules that may have significant economic effects on a substantial number of small entities. The complete Unified Agenda will be published at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users enhanced ability to obtain information from the Agenda database. Agenda information is also available at [www.regulations.gov](http://www.regulations.gov), the government-wide website for submission of comments on proposed regulations.

[APG]

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

**Council on Environmental Quality—Prerule Stage**

Sequence Number	Title	Regulation Identifier Number
1	Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act	0331-AA03

**Council on Environmental Quality—Proposed Rule Stage**

Sequence Number	Title	Regulation Identifier Number
2	Freedom of Information Act (FOIA) and Privacy Act Regulations Update	0331-AA02

Council on Environmental Quality (CEQ)	Prerule Stage

[APG]

**1. • UPDATE TO THE REGULATIONS FOR IMPLEMENTING THE PROCEDURAL PROVISIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT**

**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

**Unfunded Mandates:** Undetermined

**EO 13771 Designation:** Other

**Legal Authority:** 42 U.S.C. 4371 et seq.

**CFR Citation:** 40 CFR 1500 to 1508

**Legal Deadline:** None

**Abstract:** On August 15, 2017, President Trump issued Executive Order 13807, titled "Establishing Discipline and Accountability in the Environment Review and Permitting Process for Infrastructure." Section 5(e) of Executive Order 13807 directed the Council on Environmental Quality (CEQ) to develop an initial list of actions it will take to enhance and modernize the Federal environmental review and authorization process. CEQ published its initial list of actions in the Federal Register on September 14, 2017, (82 FR 43226) and stated that CEQ intends to review existing CEQ regulations implementing the procedural requirements of the National Environmental Policy Act in order to identify changes needed to update and clarify those regulations. The regulations were issued in 1978, were amended in 1986, and have never been comprehensively revised. While CEQ has issued memoranda and guidance documents over the years, CEQ believes it is appropriate at this time to consider updating the implementing regulations.

**Timetable:**

Action	Date	FR Cite
ANPRM	05/00/18	

**Regulatory Flexibility Analysis Required:** Undetermined

[APG]

**Government Levels Affected:** Undetermined

**Agency Contact:** Ted Boling, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20506

**Phone:** 202 395-5750

**RIN:** 0331-AA03

Council on Environmental Quality (CEQ)	Proposed Rule Stage

**2. • FREEDOM OF INFORMATION ACT (FOIA) AND PRIVACY ACT REGULATIONS UPDATE**

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 5 U.S.C. 552 et seq.

**CFR Citation:** 40 CFR 1515; 40 CFR 1516

**Legal Deadline:** None

**Abstract:** The Council on Environmental Quality (CEQ) is developing a proposal to revise its Freedom of Information Act (FOIA) regulations, in order to comply with the FOIA Improvement Act of 2016; to reflect CEQ's business process; and to correct or remove obsolete information. CEQ is also revising its Privacy Act implementation regulations due to changes of address and other administrative issues.

**Timetable:**

[APG]

Action	Date	FR Cite
NPRM	07/00/18	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Viktoria Z. Seale, Council on Environmental Quality, 730 Jackson Place NW,  
Washington, DC 20506

Phone: 202 395-5750

**RIN:** 0331-AA02

[FR Doc. Filed 01-01-01; 0:00 AM]

[APG]



## RE: NEPA Blurb - could you have a look by 4pm today?

---

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

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

**Date:** Mon, 30 Apr 2018 14:51:33 -0400

Okay, I'll pass this along.

**From:** Szabo, Aaron L. EOP/CEQ  
**Sent:** Monday, April 30, 2018 2:50 PM  
**To:** Whiteman, Chad S. EOP/OMB <(b) (6)>  
**Subject:** RE: NEPA Blurb - could you have a look by 4pm today?

Chad,

(b) (5)

Thank you very much for checking with us first and please let me know if you have any questions.

**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Monday, April 30, 2018 10:12 AM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Subject:** RE: NEPA Blurb - could you have a look by 4pm today?

Aaron, (b) (5). Let me know if you have any thoughts. I have a few suggestions. Chad

(b) (5)

(b) (5)

---

**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Friday, April 27, 2018 5:47 PM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Subject:** RE: NEPA Blurb - could you have a look by 4pm today?

Thanks Aaron! (b) (5)

---

**From:** Szabo, Aaron L. EOP/CEQ  
**Sent:** Friday, April 27, 2018 3:01 PM  
**To:** Whiteman, Chad S. EOP/OMB <(b) (6)>  
**Subject:** RE: NEPA Blurb - could you have a look by 4pm today?

Chad,

(b) (5)

---

**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Friday, April 27, 2018 2:17 PM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Subject:** RE: NEPA Blurb - could you have a look by 4pm today?

Latest is that it is going to be released May 9<sup>th</sup>.

---

**From:** Szabo, Aaron L. EOP/CEQ  
**Sent:** Friday, April 27, 2018 2:16 PM  
**To:** Whiteman, Chad S. EOP/OMB <(b) (6)>  
**Subject:** RE: NEPA Blurb - could you have a look by 4pm today?

What is the timing of the Spring Agenda?

---

**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Friday, April 27, 2018 1:24 PM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Subject:** NEPA Blurb - could you have a look by 4pm today?

Aaron,

(b) (5)

Let me know if you have any suggestions.

Thanks,  
Chad

(b) (5) [Redacted text block]

## RE: NEPA Blurb - could you have a look by 4pm today?

---

**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:** Mon, 30 Apr 2018 14:50:27 -0400

Chad,

(b) (5)

Thank you very much for checking with us first and please let me know if you have any questions.

---

**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Monday, April 30, 2018 10:12 AM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Subject:** RE: NEPA Blurb - could you have a look by 4pm today?

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(b) (5)

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**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Friday, April 27, 2018 5:47 PM

**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Subject:** RE: NEPA Blurb - could you have a look by 4pm today?

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**Sent:** Friday, April 27, 2018 3:01 PM  
**To:** Whiteman, Chad S. EOP/OMB <(b) (6)>  
**Subject:** RE: NEPA Blurb - could you have a look by 4pm today?

Chad,

(b) (5)

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**Sent:** Friday, April 27, 2018 1:24 PM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Subject:** NEPA Blurb - could you have a look by 4pm today?

Aaron,

(b) (5)

Let me know if you have any suggestions.

Thanks,  
Chad

(b) (5)

(b) (5) [Redacted text block]

## CEQ 2018 Spring Regulatory Agenda

---

**From:** "Szabo, Aaron L. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=f93a8d1dd2b4420ca81e53ff8199b780-sz">  
**To:** "Pettigrew, Theresa L. EOP/CEQ" (b) (6) "Schneider, Daniel J. EOP/CEQ" <(b) (6)>  
**Date:** Mon, 30 Apr 2018 10:51:07 -0400  
**Attachments** Final ARR 0331-CEQ Spring 2018.pdf (74.44 kB)  
:

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Theresa and Dan,

Per our conversation, please find attached the final version of CEQ's 2018 Spring Regulatory Agenda. This is currently expected to be published next week and will show up on RegInfo.gov.

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

**TITLE:**

@ Freedom of Information Act (FOIA) and Privacy Act Regulations Update

**RIN:** 0331-AA02 (Proposed Rule Stage)

**# Paper Print:** No

**REGULATORY PLAN:** No

**PRIORITY:** Substantive, Nonsignificant  
Major status under 5 USC 801 is undetermined

**# UNFUNDED MANDATES:** No

**EO 13771 Designation :** Not subject to, not significant

**LEGAL AUTHORITY:**

5 U.S.C. 552 et seq.

**CFR CITATION:**

40 CFR 1515; 40 CFR 1516

**LEGAL DEADLINE:**

None

None

**OVERALL DESCRIPTION OF DEADLINE:**

**ABSTRACT:**

The Council on Environmental Quality (CEQ) is developing a proposal to revise its Freedom of Information Act (FOIA) regulations, in order to comply with the FOIA Improvement Act of 2016; to reflect CEQ's business process; and to correct or remove obsolete information. CEQ is also revising its Privacy Act implementation regulations due to changes of address and other administrative issues.

**STATEMENT OF NEED:**

**SUMMARY OF LEGAL BASIS:**

**ALTERNATIVES:**

**ANTICIPATED COSTS AND BENEFITS:**

**RISKS:**

**TIMETABLE:**

ACTION	DATE	FR CITE
NPRM	07/00/2018	

**REGULATORY FLEXIBILITY ANALYSIS REQUIRED:**

No

**# SMALL ENTITIES AFFECTED:**

**GOVERNMENT LEVELS AFFECTED:** None

**# FEDERALISM AFFECTED:** No

**ENERGY AFFECTED:**

**INTERNATIONAL IMPACTS:** No

**USER SORT CODES:**

\* - Missing data

# - Will not print in agenda



**ADDITIONAL INFORMATION:**

**URL FOR MORE INFORMATION:**

**URL FOR PUBLIC COMMENTS:**

**RELATED RIN:**

**RELATED AGENCY:**

**AGENCY CONTACT:**

Viktoria Z. Seale,  
Council on Environmental Quality,  
730 Jackson Place NW,  
Washington, DC 20506  
PHONE: 202 395-5750

\* - Missing data

# - Will not print in agenda

**TITLE:**

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

**RIN:** 0331-AA03 (Prerule Stage)

**# Paper Print:** No

**REGULATORY PLAN:** No

**PRIORITY:** Other Significant  
Major status under 5 USC 801 is undetermined

**UNFUNDED MANDATES:** Undetermined

**EO 13771 Designation :** Other

**LEGAL AUTHORITY:**

42 U.S.C. 4371 et seq.

**CFR CITATION:**

40 CFR 1500 to 1508

**LEGAL DEADLINE:**

None

None

**OVERALL DESCRIPTION OF DEADLINE:**

**ABSTRACT:**

On August 15, 2017, President Trump issued Executive Order 13807, titled "Establishing Discipline and Accountability in the Environment Review and Permitting Process for Infrastructure." Section 5(e) of Executive Order 13807 directed the Council on Environmental Quality (CEQ) to develop an initial list of actions it will take to enhance and modernize the Federal environmental review and authorization process. CEQ published its initial list of actions in the Federal Register on September 14, 2017, (82 FR 43226) and stated that CEQ intends to review existing CEQ regulations implementing the procedural requirements of the National Environmental Policy Act in order to identify changes needed to update and clarify those regulations. The regulations were issued in 1978, were amended in 1986, and have never been comprehensively revised. While CEQ has issued memoranda and guidance documents over the years, CEQ believes it is appropriate at this time to consider updating the implementing regulations.

**STATEMENT OF NEED:**

**SUMMARY OF LEGAL BASIS:**

**ALTERNATIVES:**

**ANTICIPATED COSTS AND BENEFITS:**

**RISKS:**

**TIMETABLE:**

ACTION	DATE	FR CITE
ANPRM	05/00/2018	

**REGULATORY FLEXIBILITY ANALYSIS REQUIRED:**

Undetermined

**# SMALL ENTITIES AFFECTED:**

**GOVERNMENT LEVELS AFFECTED:** Undetermined

**# FEDERALISM AFFECTED:** No

**ENERGY AFFECTED:**

\* - Missing data

# - Will not print in agenda

**INTERNATIONAL IMPACTS:**

No

**USER SORT CODES:**

**ADDITIONAL INFORMATION:**

**URL FOR MORE INFORMATION:**

**URL FOR PUBLIC COMMENTS:**

**RELATED RIN:**

**RELATED AGENCY:**

**AGENCY CONTACT:**

Ted Boling,  
Council on Environmental Quality,  
730 Jackson Place NW,  
Washington, DC 20506  
PHONE: 202 395-5750

\* - Missing data

# - Will not print in agenda

## [EXTERNAL] Scott is going crazy over there

---

**From:** "Crandall, Doug -" <dcrandall@fs.fed.us>  
**To:** "Vandegrift, Scott F. EOP/CEQ" <(b) (6)>  
**Cc:** FS-pdl wo external aff la staff <pdl\_wo\_external\_aff\_la\_staff@ms.fs.fed.us>  
**Date:** Mon, 07 May 2018 16:32:40 -0400

### REGULATIONS

#### White House plots update to NEPA guidelines

Nick Sobczyk, E&E News reporter  
Published: Monday, May 7, 2018



A sign blocks motorists from entering a construction zone in North Dakota. North Dakota/Flickr

The Trump administration has signaled its intent to update the baseline National Environmental Policy Act guidelines for the whole federal government.

The White House Council on Environmental Quality has submitted a [draft advanced notice of proposed rulemaking](#), dated Thursday, with the Office of Information and Regulatory Affairs, indicating that it will update "the regulations for implementing the procedural provisions" of NEPA.

The draft will be published in the *Federal Register* as an advanced notice of proposed rulemaking in the coming weeks after an interagency review, a CEQ spokesman told E&E News. That will trigger a public comment period before CEQ submits a more detailed proposal for what, exactly, it wants to change. If it eventually goes through, the new guidelines could mark a major change for how agencies across the government handle permitting.

Other agencies have their own NEPA regulations, and some, such as the Department of the Interior, have already undergone changes during the Trump administration.

Advertisement

But CEQ guides implementation of the landmark law, and its regulations set minimum standards. Environmental groups fear the Trump administration could seek to take out NEPA's teeth.

"As much as we talk about NEPA, the statute itself is very short, very concise," said Raul Garcia, legislative counsel with Earthjustice. "What gives it a lot of its teeth and value are the regulations that CEQ put in place in order to implement the statute."

The draft has few details, so it's unclear as of yet exactly how CEQ will proceed. The spokesman said the rule was developed in accordance with President Trump's Aug. 15, 2017, executive order, which sought to limit NEPA reviews to two years.

"While CEQ has issued memoranda and guidance documents over the years, it has only amended its regulations once," the spokesman said. "Therefore, CEQ believes it is appropriate at this time to solicit public comment and consider updating the implementation regulations."

One potential roadblock is that CEQ still does not have a permanent director. Trump's pick for that position, Kathleen Hartnett White, withdrew her name from consideration after it became clear she would not pass the Senate. CEQ's chief of staff, Mary Neumayr, has been handling that role on an interim basis. Still, the draft comes as no surprise. Environmentalists and other agency watchers have for months been expecting CEQ to update its NEPA guidelines, and the White House outlined its intent to do so in its infrastructure plan, released in February (*Greenwire*, Feb. 12).

The rewrite could aim to expand categorical exclusions or set shorter time limits on permitting litigation, both of which were outlined in the infrastructure plan.

The plan notes that CEQ's regulations have not been updated since 1978 and says the "environmental review process under NEPA as it exists today is lengthy, inefficient and costly."

The potential rewrite also follows several moves aimed at streamlining environmental permitting, including an interagency agreement signed last month (*Greenwire*, April 9).

Energy industry groups have generally praised the Trump administration for its moves to speed up permitting, saying that it gives companies more certainty as they move ahead with big, expensive infrastructure projects.

But environmentalists are already sounding the alarm about what they see as one of the biggest attempts yet to weaken environmental requirements.

"This could be a really big problem for anybody that cares about communities having a voice in the process, for anybody that cares about smart decisionmaking," Garcia said.



**Doug Crandall**  
Director  
Legislative Affairs

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Washington Office

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# CEQ Federal NEPA Contacts Webinar

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Where: Webinar: (b) (6)

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

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

Organiser: FN-CEQ-NEPA </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=3dfc5ad8035346949f6dddfa1953a47-fn">

FN-CEQ-NEPA <(b) (6)>

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

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

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

"Upchurch, Sara H. EOP/CEQ" <(b) (6)>

: "Hanley, Karen A. EOP/CEQ" <(b) (6)>

denise.freeman@hq.doe.gov

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

---

Good afternoon Federal NEPA Contacts,

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

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

Sincerely,

The CEQ NEPA Team

\*\*\*\*\*

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

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

Audio Conference Details:

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

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

To join the meeting:

(b) (6) [REDACTED]

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If you have never attended an Adobe Connect meeting before:

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

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

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# Federal NEPA Contacts Webinar

Wednesday, June 20, 2018

3:00 PM - 4:30 PM

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

(b) (6)

## Agenda

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





# Council on Environmental Quality

Council on Environmental Quality

## *Federal NEPA Contacts Webinar*



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

*Council on Environmental Quality*



# Agenda

Council on Environmental Quality

- 3:00pm Introduction**
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2

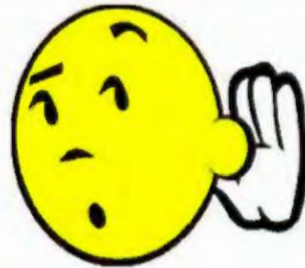
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Council on Environmental Quality

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

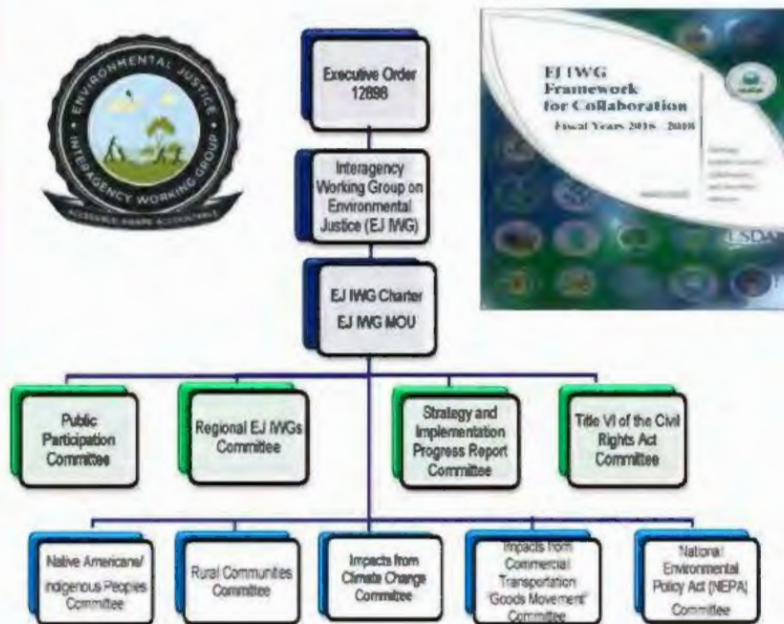


**Denise C. Freeman**  
**Co-chair, NEPA Committee**  
**Federal Interagency Working Group on Environmental Justice**  
**CEQ Federal NEPA Contacts Webinar**

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



EJ IWG Governance Structure 2016 - 2018



December 2015

## Charter & MOU (2011)

## NEPA Committee Purpose:

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

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

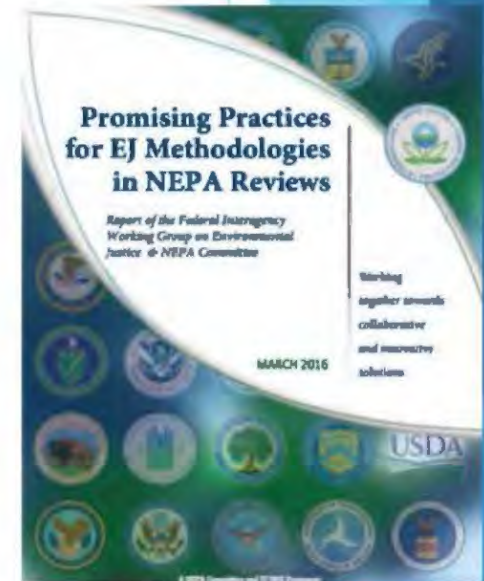
- Provide cross agency training on EJ and NEPA



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



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



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

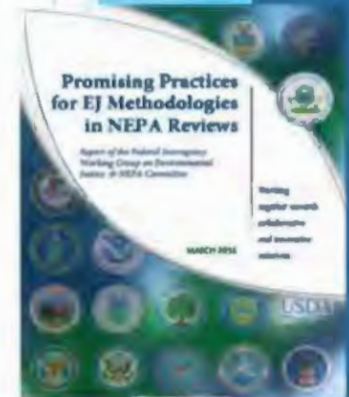


- Compilation of “promising practices” organized in coordinated, functional framework concerning interface of environmental justice considerations through NEPA processes
- Builds upon existing EJ and NEPA Guidance developed by CEQ and federal agencies
- Represents professional experience, knowledge and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

# Elements of the Promising Practices Report



## Environmental Justice Within National Environmental Policy Act Reviews





# Future & Next Steps: Implementation Collaboration, and Innovation



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





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



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



Thank You

Denise C. Freeman

Denise.Freeman@hq.doe.gov

# 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**
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- 3:15pm Update from EPA's Office of Federal Activities**
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  - *CE Guidance and CE List*
- 4:05pm OMB Accountability System**
  - *Accountability System –Permitting Dashboard, agency CERPO roles*
- 4:15pm Open Discussion**





# Questions?

Council on Environmental Quality

The screenshot shows the NEPA.GOV website. At the top, there is a navigation bar with the NEPA logo and the text 'NATIONAL ENVIRONMENTAL POLICY ACT'. Below this is a search bar and a menu with links: HOME, LAWS & REGULATIONS, GUIDANCE, GET INVOLVED, NEPA PRACTICE, CEO PUBLICATIONS, and CEO REPORTS. The main content area features a large blue banner with the text 'INFRASTRUCTURE PERMITTING IMPROVEMENTS' and a 'READ MORE' button. Below the banner is a 'Welcome' section with a horizontal line. The text in the 'Welcome' section reads: 'The National Environmental Policy Act (NEPA) was enacted to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality. Sec. 2 [42 U.S. Code § 4321]. NEPA is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102 (2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act. President Nixon signed NEPA into law on January 1, 1970. NEPA set forth a bold new vision for America. Acknowledging the decades of environmental neglect that had significantly degraded the nation's landscape and damaged the human environment, the law was established to foster and promote the general welfare; to create and maintain conditions under which

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



Council on Environmental Quality



[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]

## [EXTERNAL] RE: CEQ NEPA Regulations ANPRM

---

**From:** Marie Campbell <mcampbell@sapphosenvironmental.com>  
:  
FN-CEQ-NEPA <(b) (6)> "Michael D. Smith, Ph.D."  
**To:** <michael.smith84@gmail.com>, Shannon Stewart <stewart.shannonc@gmail.com>, Jill <jill@iaia.org>  
**Date:** Tue, 19 Jun 2018 16:08:00 -0400

Will do!

Marie Campbell  
Principal and CEO  
430 North Halstead St.  
Pasadena, CA 91107  
Tel: (626) 683-3547 ext. 103  
Fax: (626) 628-1745  
[www.sapphosenvironmental.com](http://www.sapphosenvironmental.com)  
WBE/MBE/DBE/SBE/CBE Certified

**Sapphos**   
environmental inc.

**From:** FN-CEQ-NEPA <(b) (6)>  
**Sent:** Tuesday, June 19, 2018 12:36 PM  
**To:** Marie Campbell <mcampbell@sapphosenvironmental.com>; Michael D. Smith, Ph.D. <michael.smith84@gmail.com>; Shannon Stewart <stewart.shannonc@gmail.com>; Jill <jill@iaia.org>  
**Subject:** FW: CEQ NEPA Regulations ANPRM

Jill, Marie, Michael and Shannon,

Could you please distribute this request for comments on NEPA reg revision to NAEP and IAIA membership?

Thanks!  
Ted

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

Washington, DC 20503

**From:** FN-CEQ-NEPA

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

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

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

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

<(b) (6)>

**Subject:** CEQ NEPA Regulations ANPRM

Dear Colleagues,

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

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

Sincerely,  
Ted

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



## [EXTERNAL] Re: CEQ NEPA Regulations ANPRM

---

**From:** Jill <jill@iaia.org>  
**To:** FN-CEQ-NEPA <(b) (6)>  
**Date:** Tue, 19 Jun 2018 15:46:56 -0400

Hi Ted,

Happy to do so!

Thanks for your time today,

Best regards,  
Jill

On Jun 19, 2018, at 3:37 PM, FN-CEQ-NEPA <(b) (6)> wrote:

Jill, Marie, Michael and Shannon,

Could you please distribute this request for comments on NEPA reg revision to NAEP and IAIA membership?

Thanks!  
Ted

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

**From:** FN-CEQ-NEPA  
**Sent:** Tuesday, June 19, 2018 12:44 PM  
**To:** Schneider, Daniel J. EOP/CEQ <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)>; Drummond, Michael R. EOP/CEQ <(b) (6)>; Mansoor, Yardena M. EOP/CEQ <(b) (6)>  
**Subject:** CEQ NEPA Regulations ANPRM

Dear Colleagues,

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Sincerely,  
Ted

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

<2018-13246.pdf>

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

---

Where: Webinar: (b) (6)

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

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

Organiser:

Required Attendee:

Optional Attendee:

robert.noecker@gsa.gov has accepted this invitation.

## FW: CEQ Federal NEPA Contacts Webinar

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

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

Calendar: FN-CEO-NEPA

Who:

- FN-CEQ-NEPA - organizer
- robert.noecker@gsa.gov - creator

Attachments:

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

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

From: FN-CEQ-NEPA

Sent: Monday, June 4, 2018 1:08 PM

To: FN-CEQ-NEPA; Boling, Ted A. EOP/CEQ; Drummond, Michael R. EOP/CEO; Mansoor, Yarden M. EOP/CEQ; Upchurch, Sara H. EOP/CEQ; Hanley, Karen A. EOP/CEQ; [denise.freeman@hq.doe.gov](mailto:denise.freeman@hq.doe.gov); Osterhues, Marlys A. EOP/CEQ

Cc: Kaisershot, Wesley (Federal); Zepeda, Elizabeth G; Foley, Paige A CIV; Yi, David Y. EOP/OMB; Elaine P. Baum; Seale, Viktoria Z. EOP/CEQ

Subject: CEQ Federal NEPA Contacts Webinar

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

Where: Webinar: (b) (6)

Good afternoon Federal NEPA Contacts,

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

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

Sincerely,

The CEQ NEPA Team

\*\*\*\*\*

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

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

Audio Conference Details:

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

Participant Code: (b) (6)

To join the meeting:

(b) (6)

-----  
If you have never attended an Adobe Connect meeting before:

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

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

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Invitation from [Google Calendar](#)

You are receiving this courtesy email at the account (b) (6) because you are an attendee of this event.

To stop receiving future updates for this event, decline this event. Alternatively you can sign up for a Google account at <https://www.google.com/calendar/> and control your notification settings for your entire calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More](#).

## FW: CEQ Federal NEPA Contacts Webinar

---

Where: Webinar: (b) (6)

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

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

Organiser: FN-CEQ-NEPA </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=3dfc5ad8035346949f6dddfa1953a47-fn">

Required Attendee: Robert Noecker - AY-C <robert.noecker@fpisc.gov>

---

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

**From:** FN-CEQ-NEPA

**Sent:** Monday, June 4, 2018 1:08 PM

**To:** FN-CEQ-NEPA; Boling, Ted A. EOP/CEQ; Drummond, Michael R. EOP/CEQ; Mansoor, Yardena M. EOP/CEQ; Upchurch, Sara H. EOP/CEQ; Hanley, Karen A. EOP/CEQ; denise.freeman@hq.doe.gov; Osterhues, Marlys A. EOP/CEQ

**Cc:** Kaisershot, Wesley (Federal); Zepeda, Elizabeth G; Foley, Paige A CIV; Yi, David Y. EOP/OMB; Elaine P. Baum; Seale, Viktoria Z. EOP/CEQ

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---

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Sincerely,

The CEQ NEPA Team

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-----

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

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# Council on Environmental Quality

Council on Environmental Quality

## *Federal NEPA Contacts Webinar*



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

*Council on Environmental Quality*



# Agenda

Council on Environmental Quality

- 3:00pm Introduction**
- 3:05pm Update from EJ Interagency Working Group NEPA Sub-Committee**
- 3:15pm Update from EPA's Office of Federal Activities**
- 3:20pm CEQ's Review of Regulations Implementing NEPA**
- 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**

2

CEQ075FY18150\_000003613



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

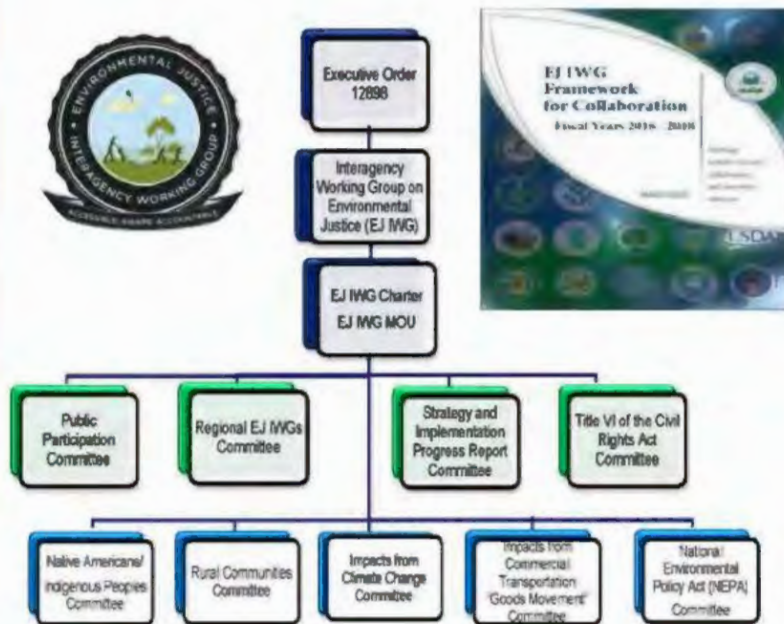


**Denise C. Freeman**  
**Co-chair, NEPA Committee**  
**Federal Interagency Working Group on Environmental Justice**  
**CEQ Federal NEPA Contacts Webinar**

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



EJ IWG Governance Structure 2016 - 2018



December 2015

## Charter & MOU (2011)

## NEPA Committee Purpose:

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

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

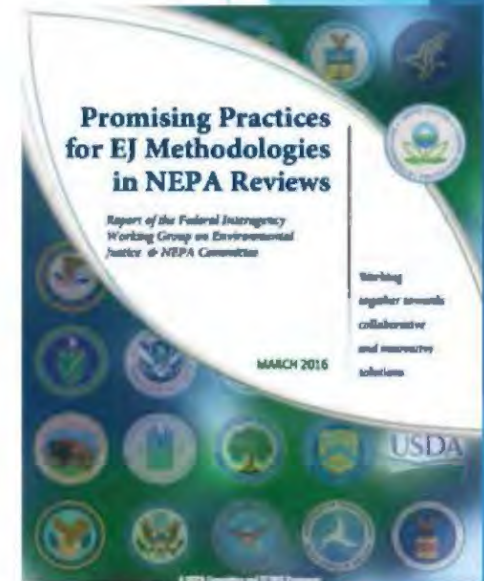
- Provide cross agency training on EJ and NEPA



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



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



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

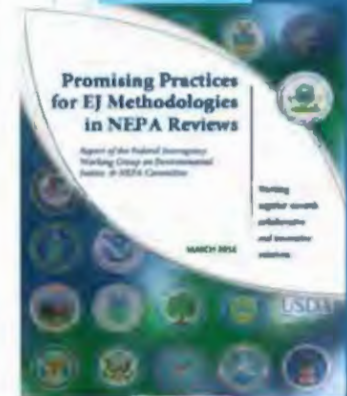


- Compilation of “promising practices” organized in coordinated, functional framework concerning interface of environmental justice considerations through NEPA processes
- Builds upon existing EJ and NEPA Guidance developed by CEQ and federal agencies
- Represents professional experience, knowledge and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

# Elements of the Promising Practices Report



## Environmental Justice Within National Environmental Policy Act Reviews





# Future & Next Steps: Implementation Collaboration, and Innovation



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





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



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



Thank You

Denise C. Freeman

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

# EPA NEPA/309 Update



# NEPA/309 Survey Results

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



## Subsequent EPA Actions

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





# Agenda

Council on Environmental Quality

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  - *Accountability System –Permitting Dashboard, agency CERPO roles*
- 4:15pm Open Discussion**





# Questions?

Council on Environmental Quality

The screenshot shows the NEPA.GOV website. At the top, there is a navigation bar with the NEPA logo and the text 'NATIONAL ENVIRONMENTAL POLICY ACT'. Below this is a search bar and a menu with links: HOME, LAWS & REGULATIONS, GUIDANCE, GET INVOLVED, NEPA PRACTICE, CEO PUBLICATIONS, and CEO REPORTS. The main content area features a large blue banner with the text 'INFRASTRUCTURE PERMITTING IMPROVEMENTS' and a 'READ MORE' button. Below the banner is a 'Welcome' section with a horizontal line. The text in the 'Welcome' section reads: 'The National Environmental Policy Act (NEPA) was enacted to declare a national policy which will encourage productive and enjoyable harmony between man and his environment, to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man, to enrich the understanding of the ecological systems and natural resources important to the Nation, and to establish a Council on Environmental Quality. Sec. 2 (42 U.S. Code § 4321). NEPA is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102 (2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act. President Nixon signed NEPA into law on January 1, 1970. NEPA set forth a bold new vision for America. Acknowledging the decades of environmental neglect that had significantly degraded the nation's landscape and damaged the human environment, the law was established to foster and promote the general welfare, to create and maintain conditions under which

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



Council on Environmental Quality

# Federal NEPA Contacts Webinar

Wednesday, June 20, 2018

3:00 PM - 4:30 PM

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

(b) (6)

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[3225-F8]

**COUNCIL ON ENVIRONMENTAL QUALITY**

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

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

**RIN: 0331-AA03**

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

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

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

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

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

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

Follow the online instructions for submitting comments.

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

**SUPPLEMENTARY INFORMATION:**

**I. Background**

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

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

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

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

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

## **II. Request for Comment**

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

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

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

***Scope of NEPA Review:***

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

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

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

***General:***

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

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

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

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

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

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

Mary B. Neumayr,

*Chief of Staff, Council on Environmental Quality.*

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

## Materials from Federal NEPA Contacts Webinar

---

**From:** "Osterhues, Marlys A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=b7e9898c6a8e463cb2a7da10b55ed6af-os">  
**To:** "Martin, Andrea (FRA)" <andrea.martin@dot.gov>  
**Date:** Fri, 29 Jun 2018 12:48:59 -0400  
**Attachments** : NEPA Contacts Mtg 6.20 - Agenda.docx (29.2 kB); CEQ NEPA Regulations ANPRM (pre-publication).pdf (161.5 kB); ECCR\_Benefits\_Recommendations\_Report\_5-02-018.pdf (259.56 kB); CEQNEPAContactsWebinar\_06\_20\_18\_final.pdf (1.39 MB); Webinar Instructions 062018.doc (235.52 kB)

Andrea –

Was this what you were looking for?

---

**From:** FN-CEQ-NEPA  
**Sent:** Wednesday, June 20, 2018 12:56 PM  
**To:** FN-CEQ-NEPA <(b) (6)>  
**Cc:** Boling, Ted A. EOP/CEQ <(b) (6)> Drummond, Michael R. EOP/CEQ <(b) (6)> Mansoor, Yardena M. EOP/CEQ <(b) (6)>  
**Subject:** Federal NEPA Contacts Webinar

Federal NEPA Contacts,

Apologies for an additional email, but there were some indications that yesterday's calendar invite update was not received by all, so its contents are being resent in this email. See you all online at 3:00pm (EDT).

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

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



Sincerely,

The CEQ NEPA Team

\*\*\*\*\*

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

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

Audio Conference Details:

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

Participant Code: (b) (6)

To join the meeting:

(b) (6)

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If you have never attended an Adobe Connect meeting before:

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

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

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# Federal NEPA Contacts Webinar

Wednesday, June 20, 2018

3:00 PM - 4:30 PM

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

(b) (6)

## Agenda

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



[3225-F8]

**COUNCIL ON ENVIRONMENTAL QUALITY**

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

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

**RIN: 0331-AA03**

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

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

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

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

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

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

Follow the online instructions for submitting comments.

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

**SUPPLEMENTARY INFORMATION:**

**I. Background**

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

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

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

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

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

## **II. Request for Comment**

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

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

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

***Scope of NEPA Review:***

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

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

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

***General:***

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



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

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

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

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

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

Mary B. Neumayr,

*Chief of Staff, Council on Environmental Quality.*

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



# Council on Environmental Quality

Council on Environmental Quality

## *Federal NEPA Contacts Webinar*



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

*Council on Environmental Quality*



# Agenda

Council on Environmental Quality

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

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Council on Environmental Quality

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

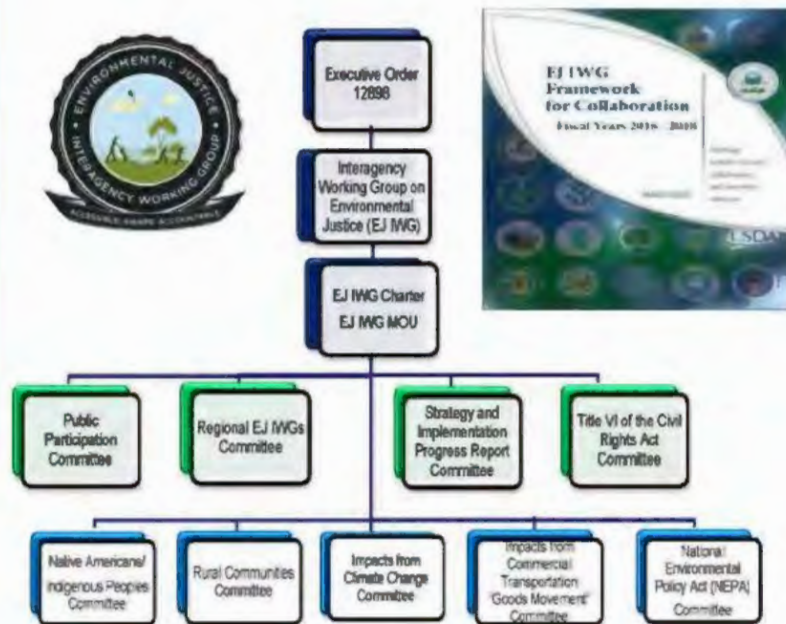


**Denise C. Freeman**  
**Co-chair, NEPA Committee**  
**Federal Interagency Working Group on Environmental Justice**  
**CEQ Federal NEPA Contacts Webinar**

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



EJ IWG Governance Structure 2016 - 2018



December 2015

CEQ Federal NEPA Contacts Webinar - June 20, 2018

## Charter & MOU (2011)

## NEPA Committee Purpose:

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

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

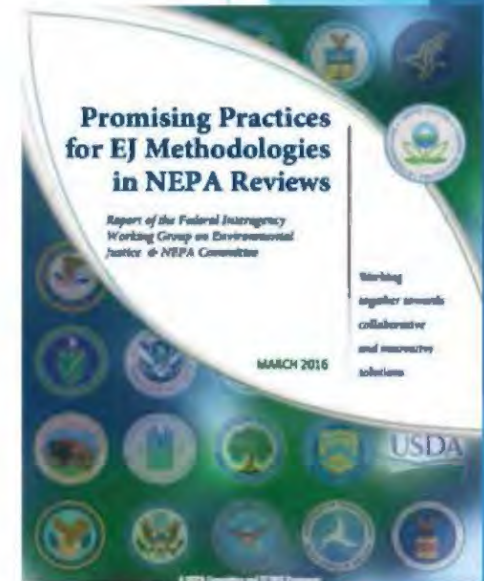
- Provide cross agency training on EJ and NEPA



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



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



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

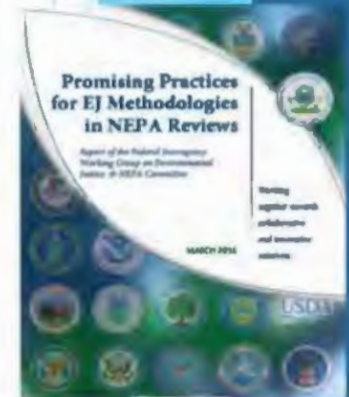
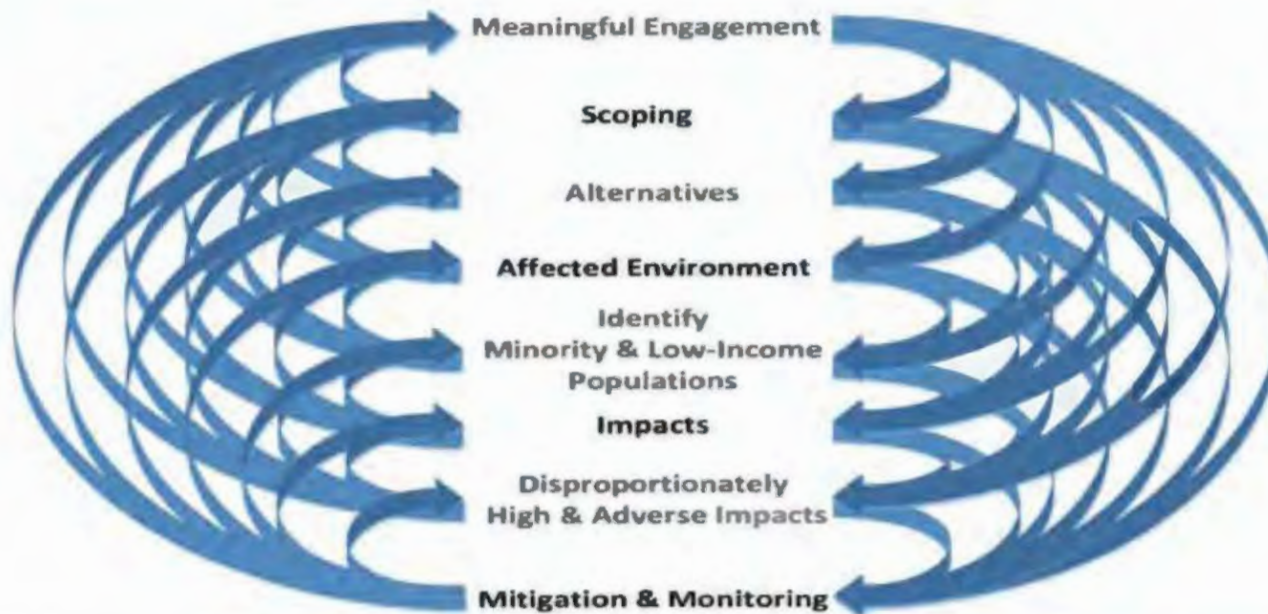


- Compilation of “promising practices” organized in coordinated, functional framework concerning interface of environmental justice considerations through NEPA processes
- Builds upon existing EJ and NEPA Guidance developed by CEQ and federal agencies
- Represents professional experience, knowledge and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

# Elements of the Promising Practices Report



## Environmental Justice Within National Environmental Policy Act Reviews







# Future & Next Steps: Implementation Collaboration, and Innovation



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



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



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



Thank You

Denise C. Freeman

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

# EPA NEPA/309 Update



# NEPA/309 Survey Results

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



## Subsequent EPA Actions

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





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Council on Environmental Quality

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14

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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 navigation bar with the text "NEPA.GOV NATIONAL ENVIRONMENTAL POLICY ACT" and a search box labeled "Enter search request". Below this is a horizontal menu with links: HOME, LAWS & REGULATIONS, GUIDANCE, GET INVOLVED, NEPA PRACTICE, CEO PUBLICATIONS, and CEO REPORTS. The main content area features a large blue banner with the text "INFRASTRUCTURE PERMITTING IMPROVEMENTS" and a "READ MORE" button. Below the banner is a "Welcome" section with a horizontal line. The text in the welcome section reads: "The National Environmental Policy Act (NEPA) was enacted to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality. Sec. 2 (42 U.S. Code § 4321). NEPA is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102 (2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act. President Nixon signed NEPA into law on January 1, 1970. NEPA set forth a bold new vision for America. Acknowledging the decades of environmental neglect that had significantly degraded the nation's landscape and damaged the human environment, the law was established to foster and promote the general welfare; to create and maintain conditions under which

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



Council on Environmental Quality





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.

Victoria Peters

### 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. <sup>1</sup> 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:

---

<sup>1</sup> 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).

Victoria Peters

*"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.<sup>2</sup> 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

<sup>2</sup> 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'tl 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 USAC's 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 USAC's comments, as I assumed you would want to write those, given their substantive nature. 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](http://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

Tom,

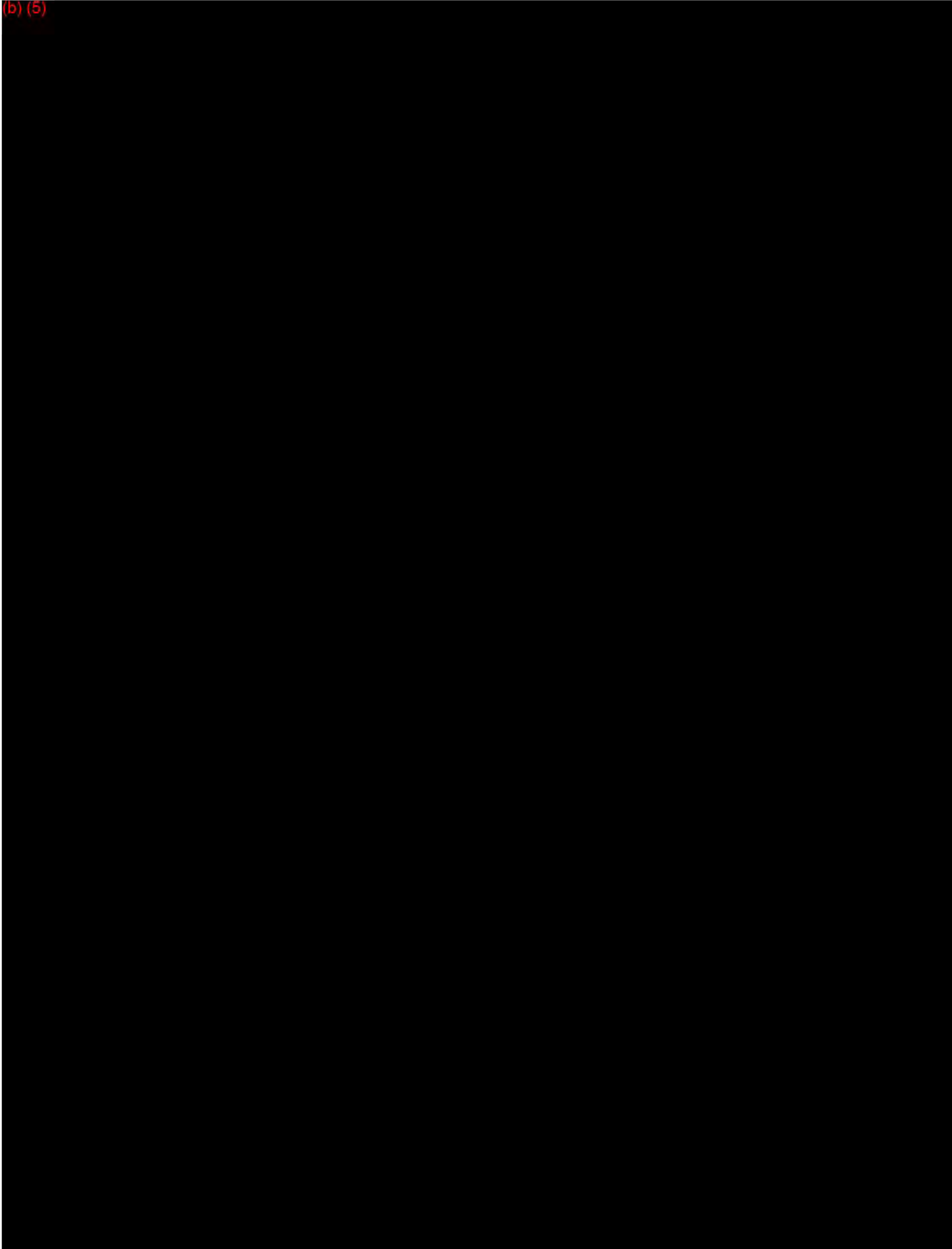
I have added EPA's comments in and made some cosmetic changes. Please add Army Corps to the end of the document. Can you get this done by 1pm today?

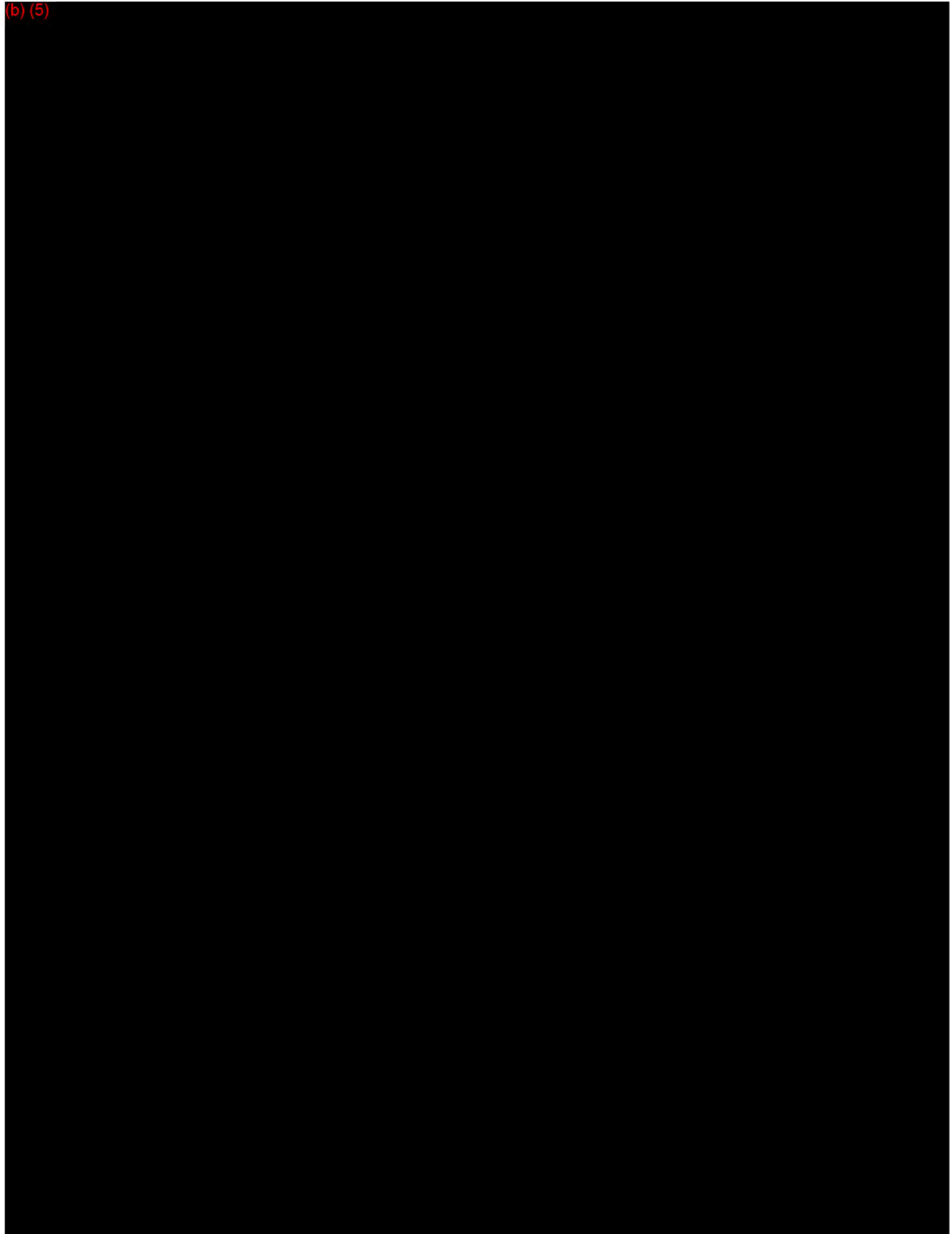
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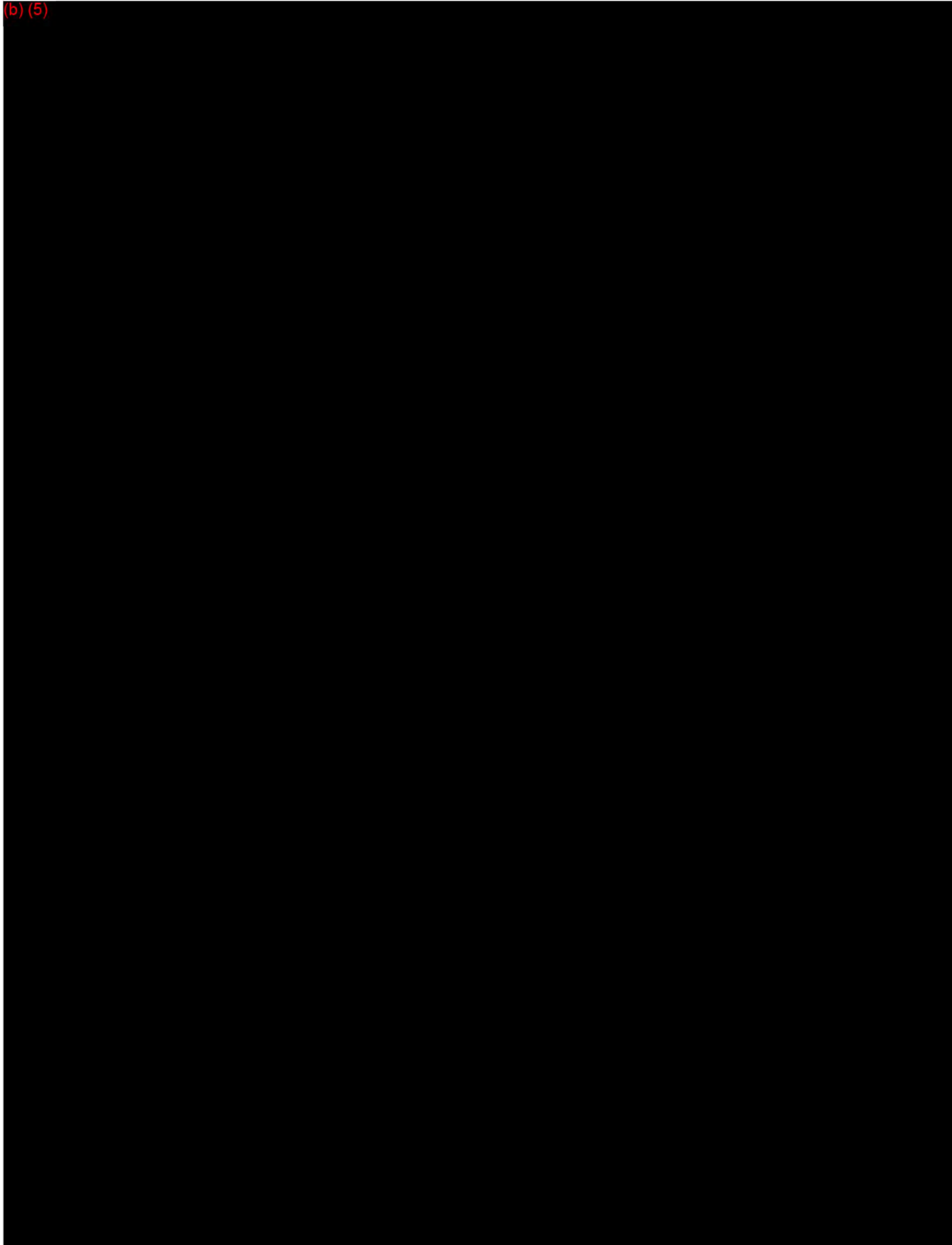
**Aaron L. Szabo**  
Senior Counsel  
Council on Environmental Quality  
(b) (6) (Desk)  
(b) (6) (Cell)  
(b) (6)

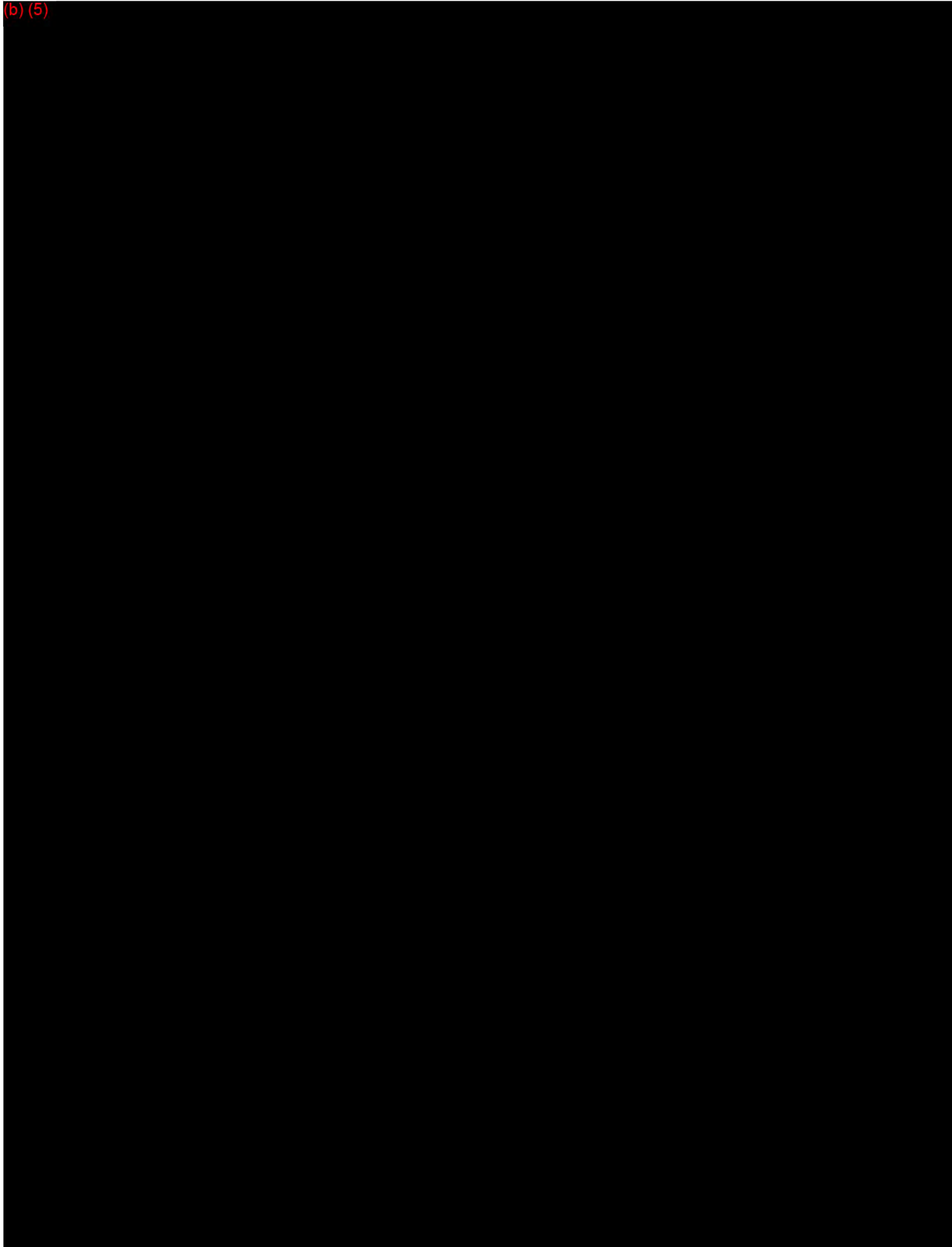


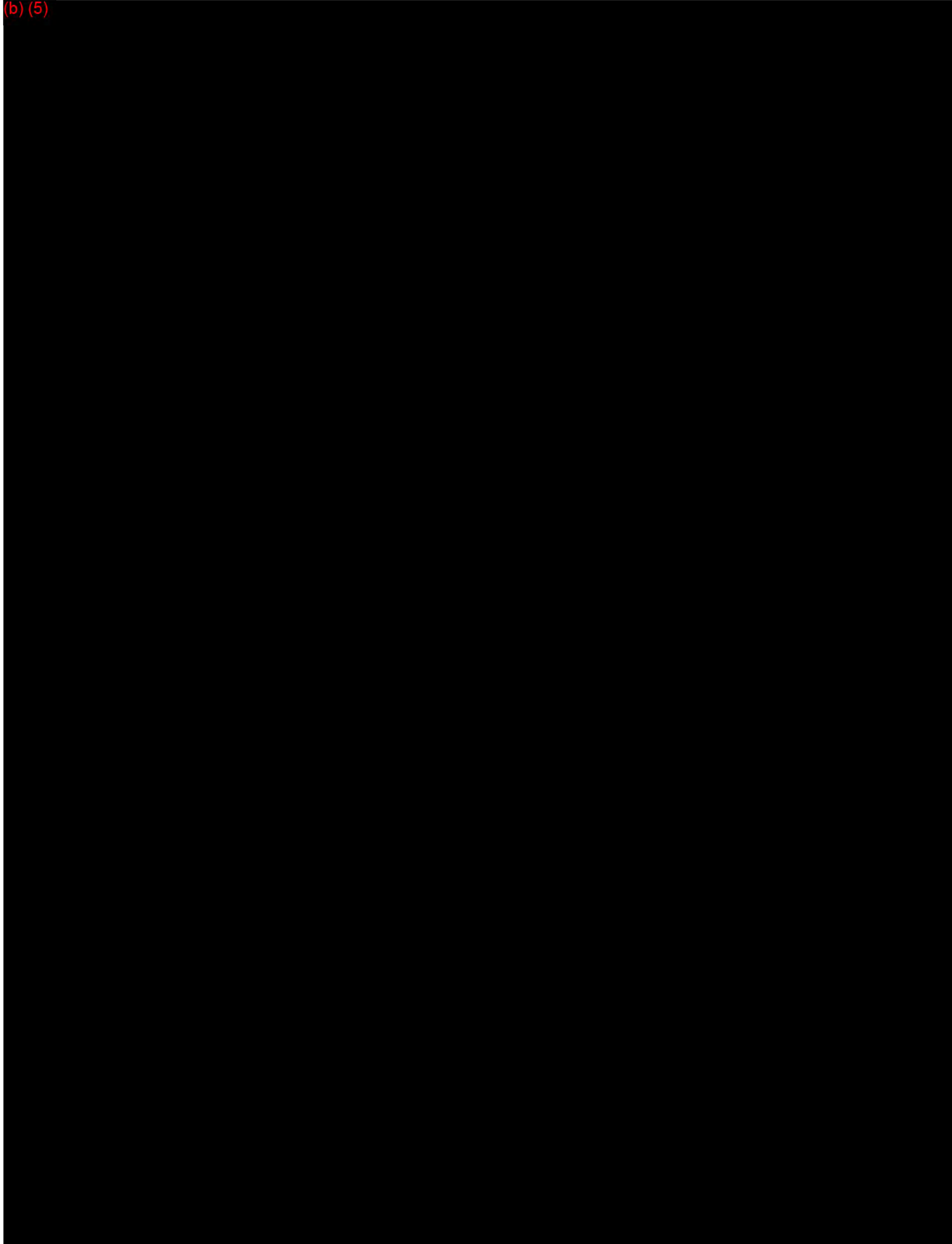


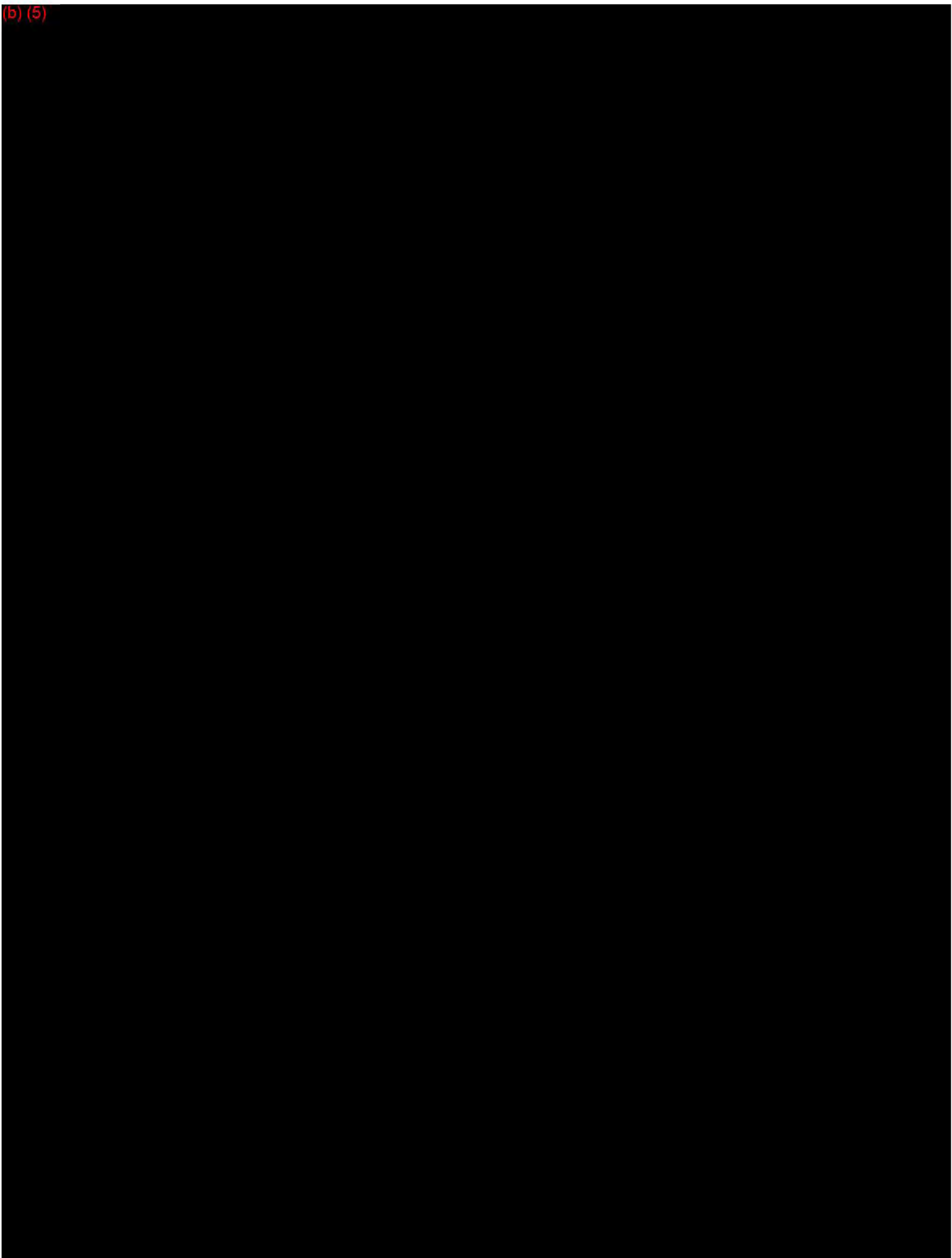


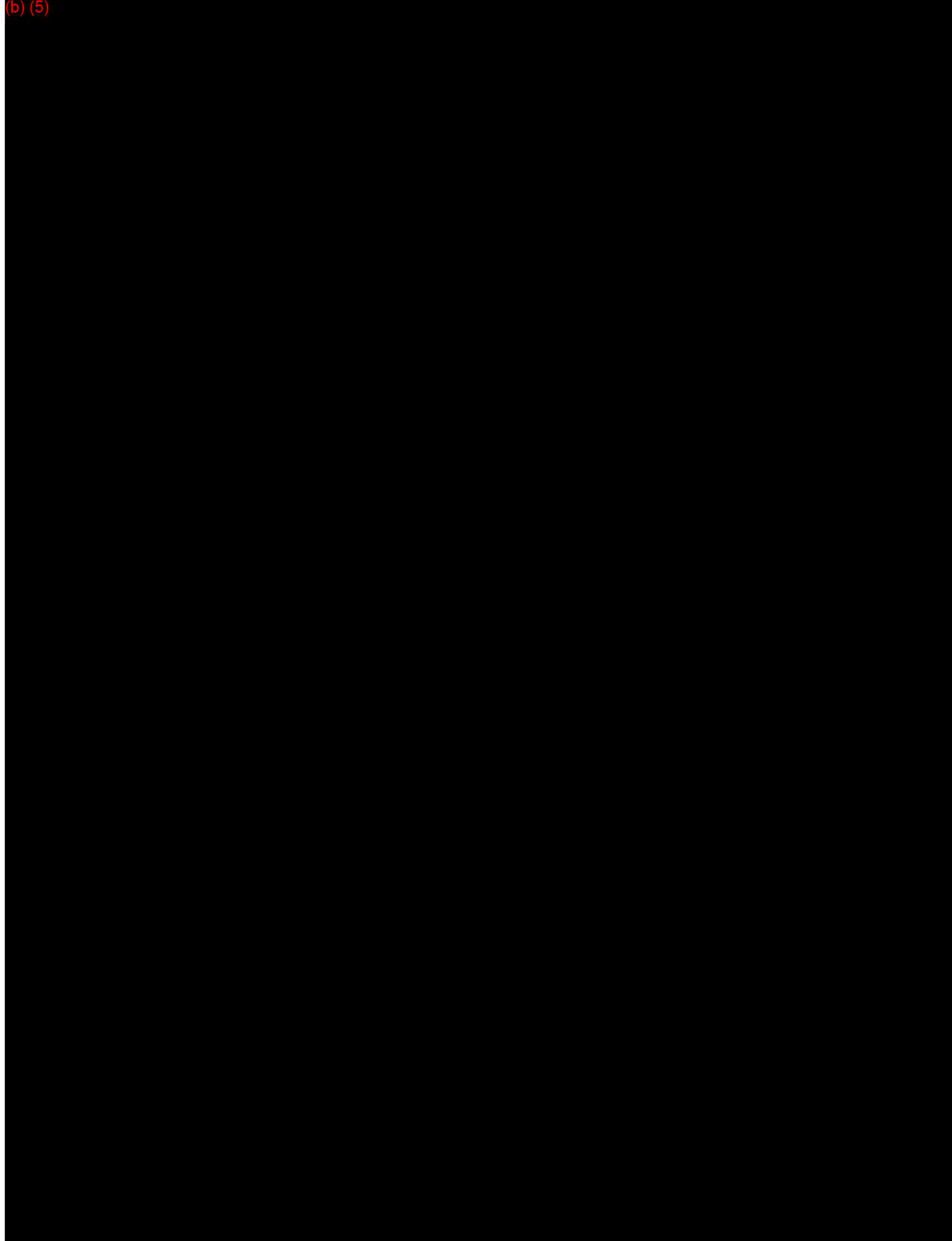


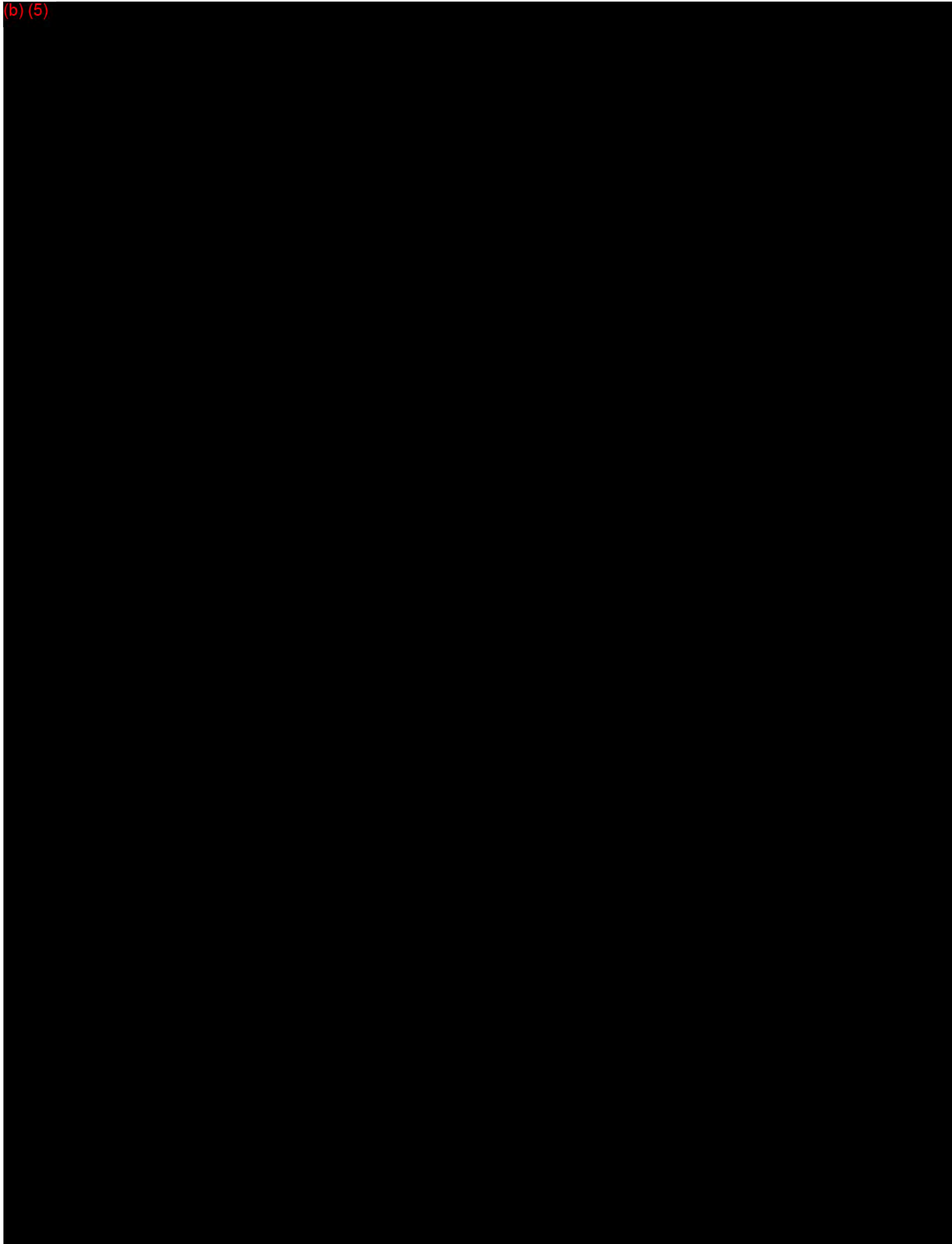




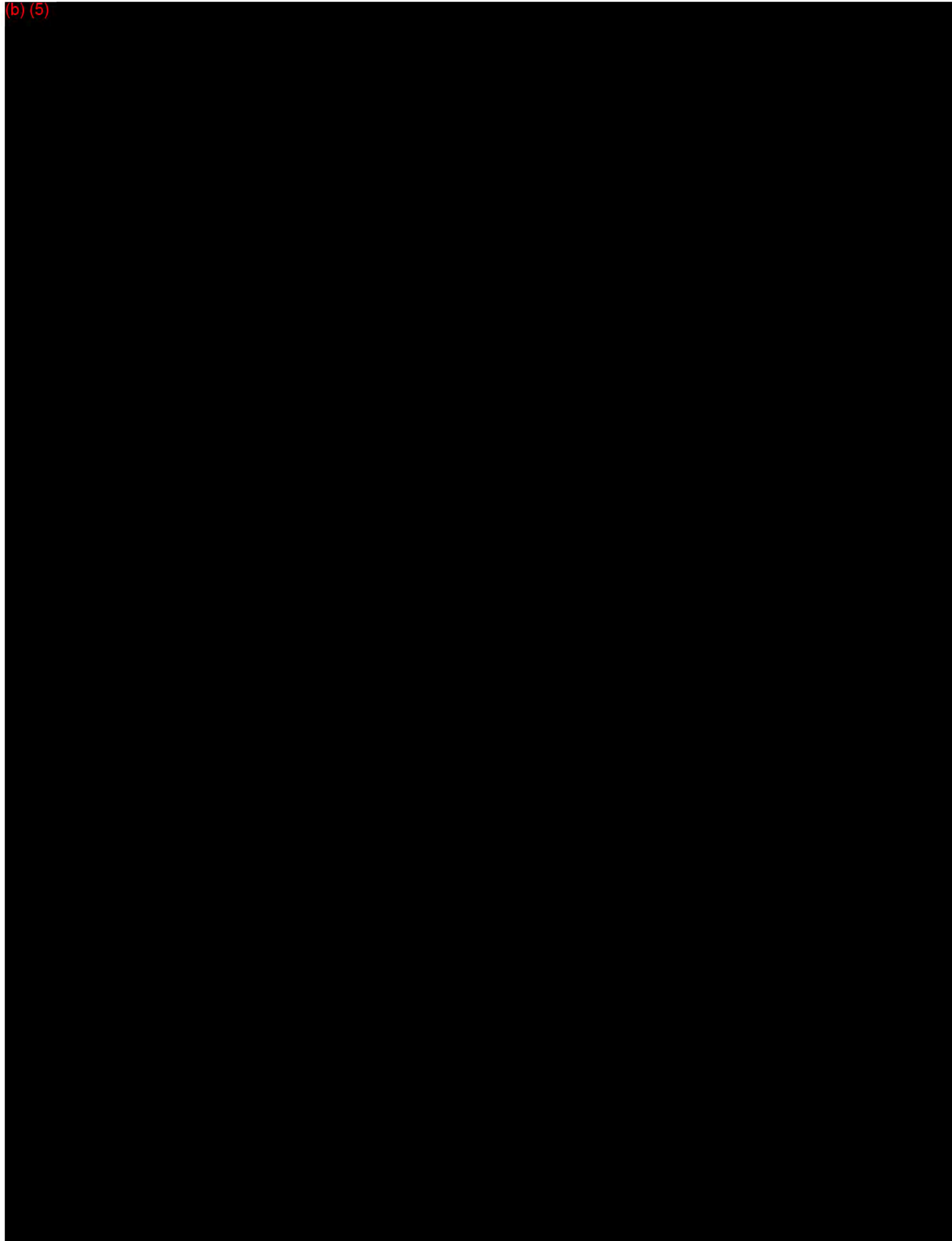












## Revised Comment Response

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

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

**Date:** Tue, 29 May 2018 09:19:10 -0400

**Attachments**  
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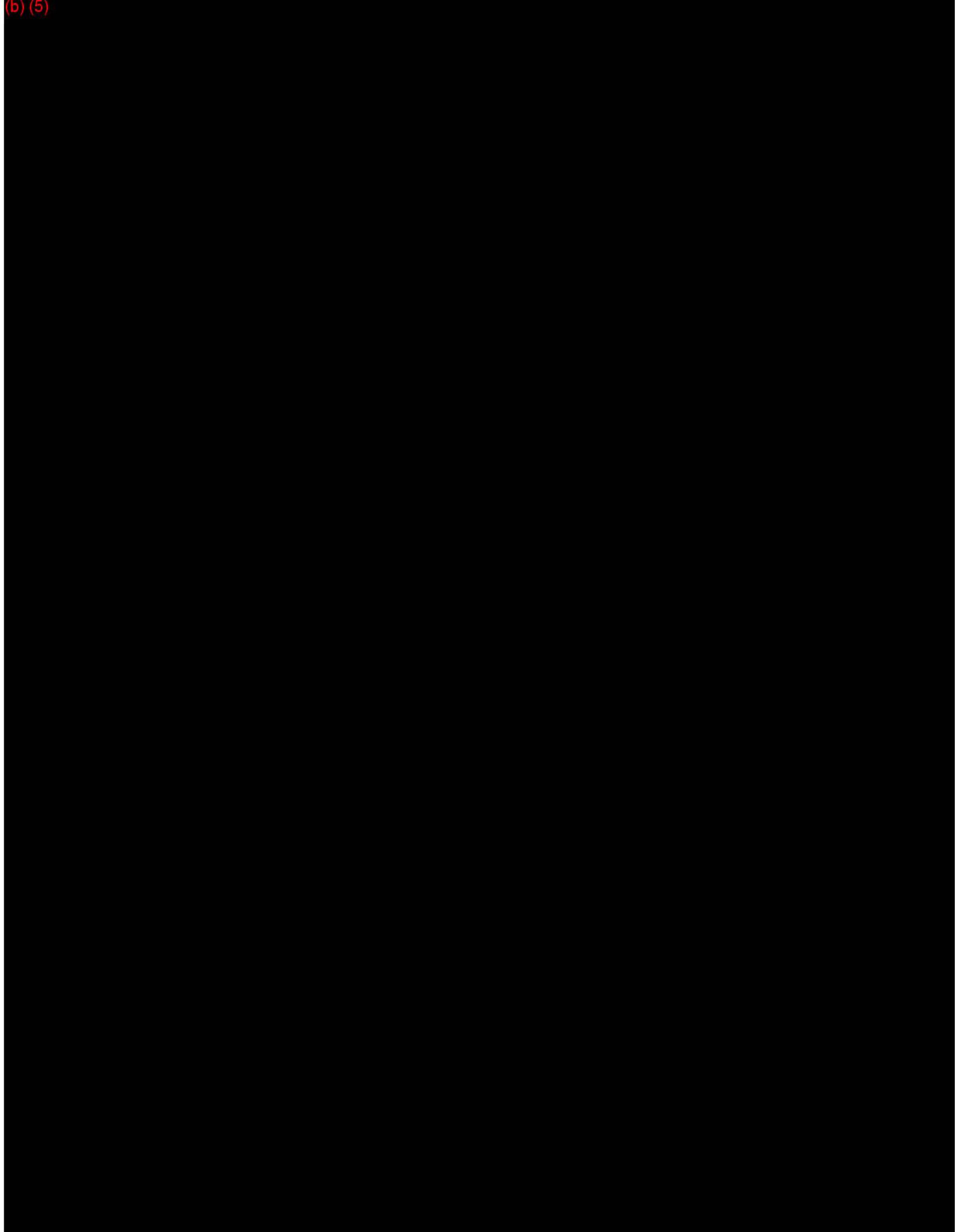
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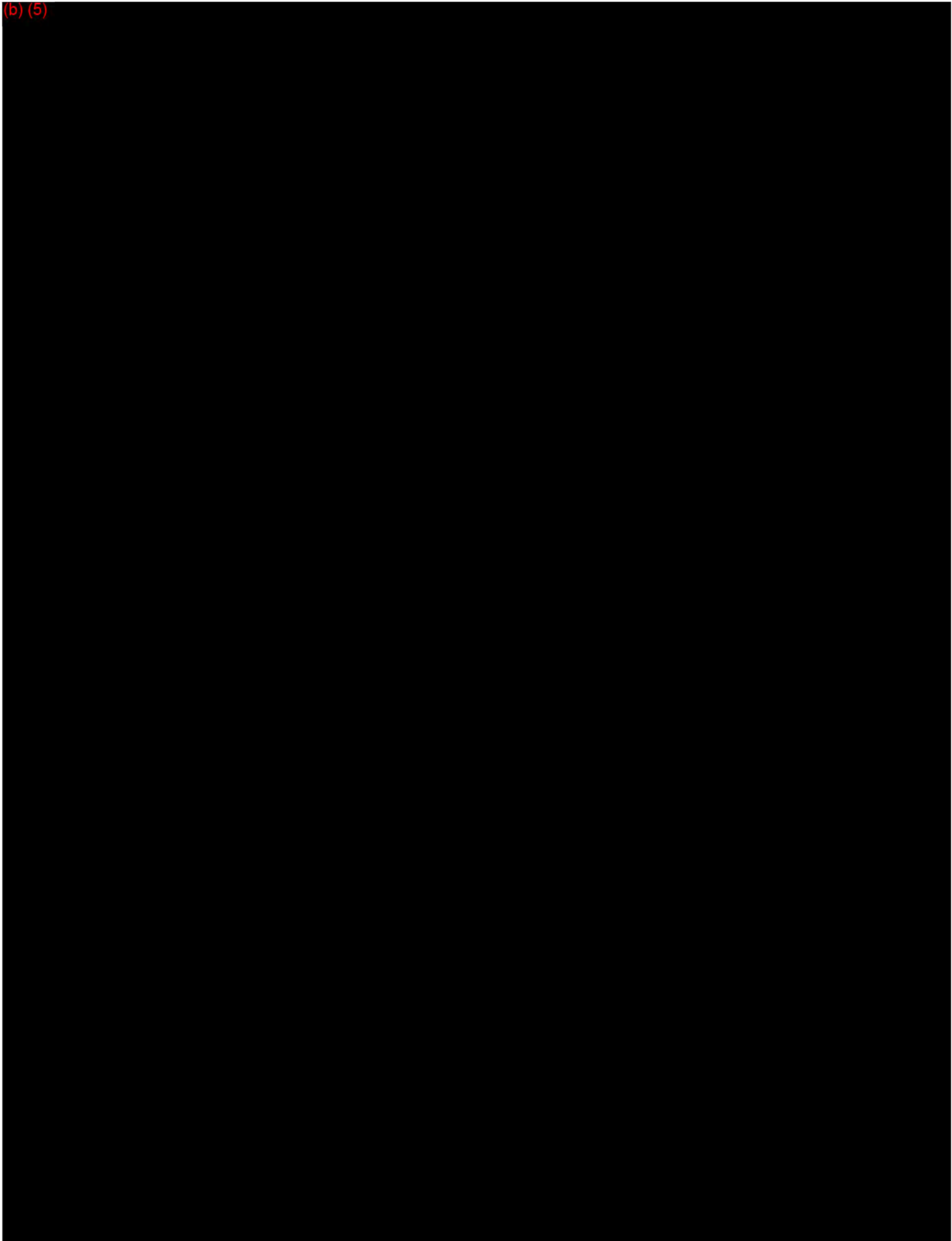
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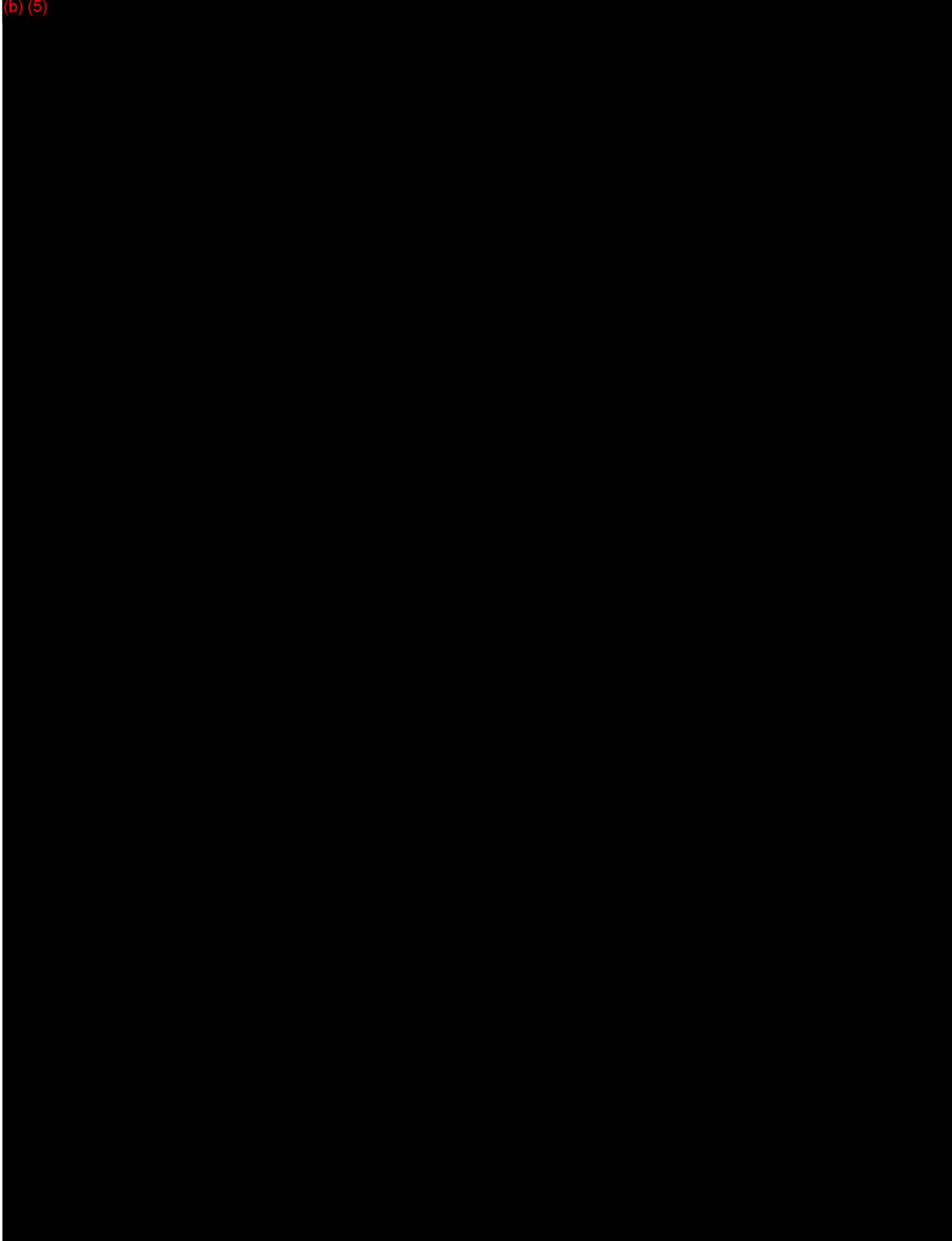
I have added EPA's comments in and made some cosmetic changes. Please add Army Corps to the end of the document. Can you get this done by 1pm today?

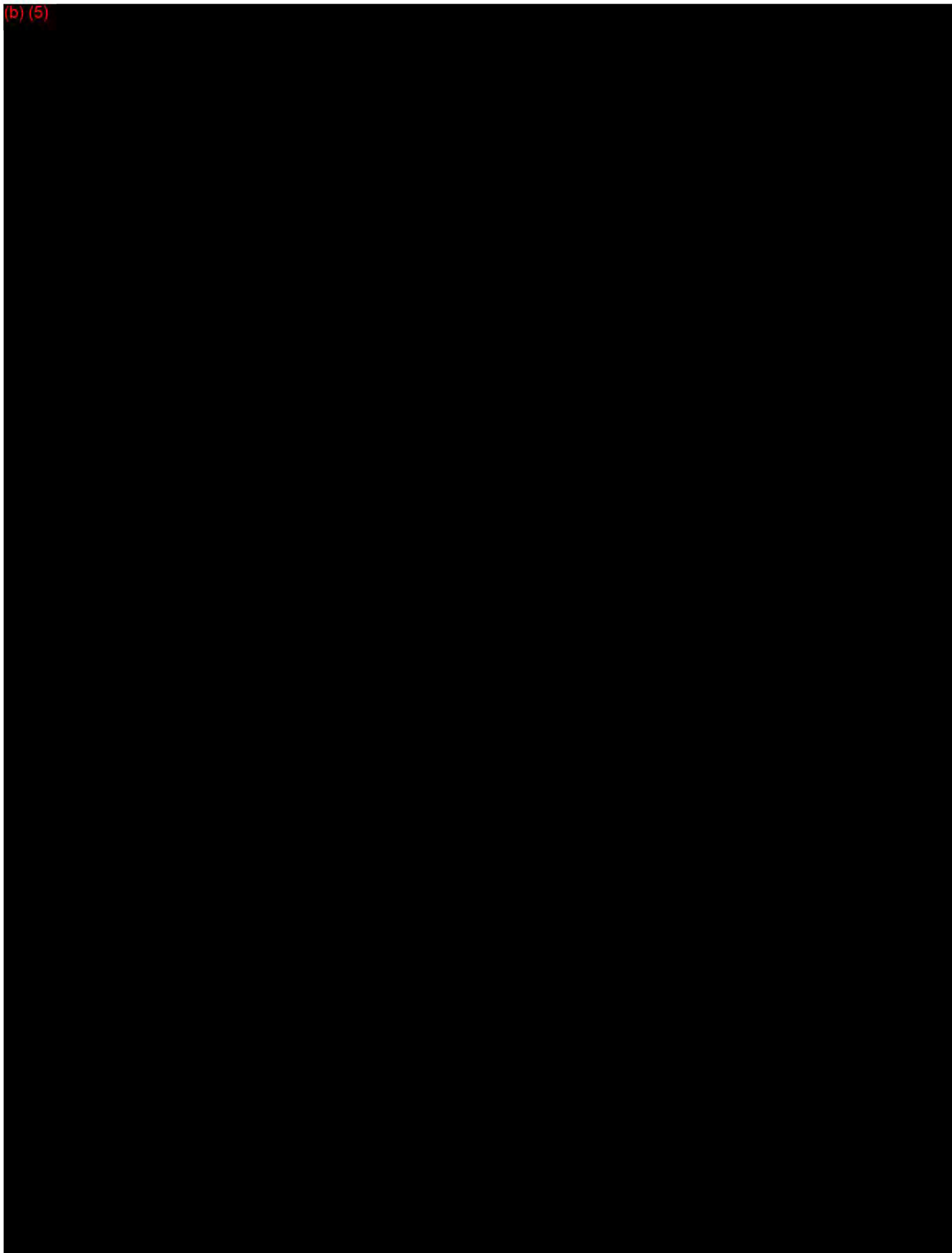
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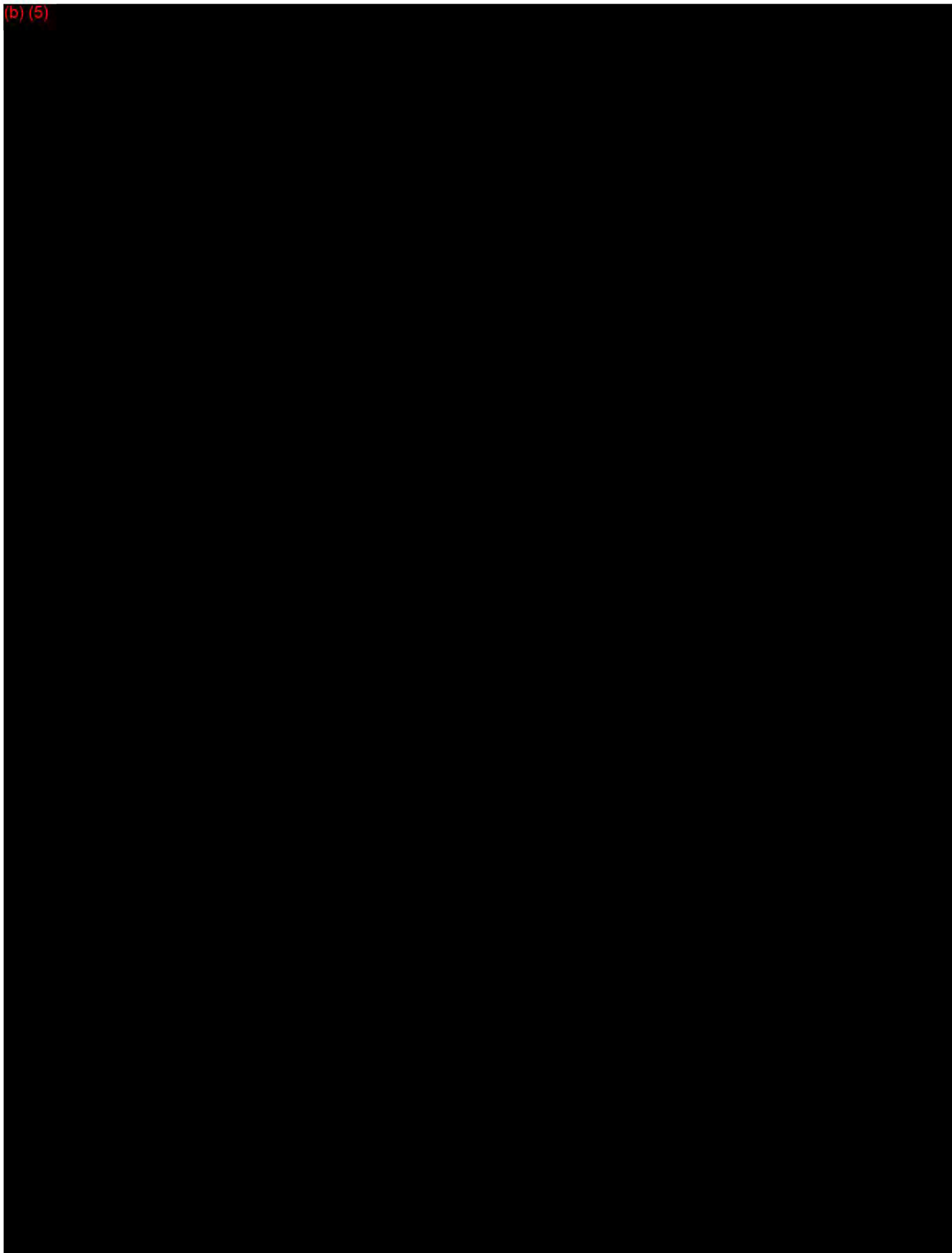
**Aaron L. Szabo**  
Senior Counsel  
Council on Environmental Quality  
(b) (6) (Desk)  
(b) (6) (Cell)  
(b) (6)

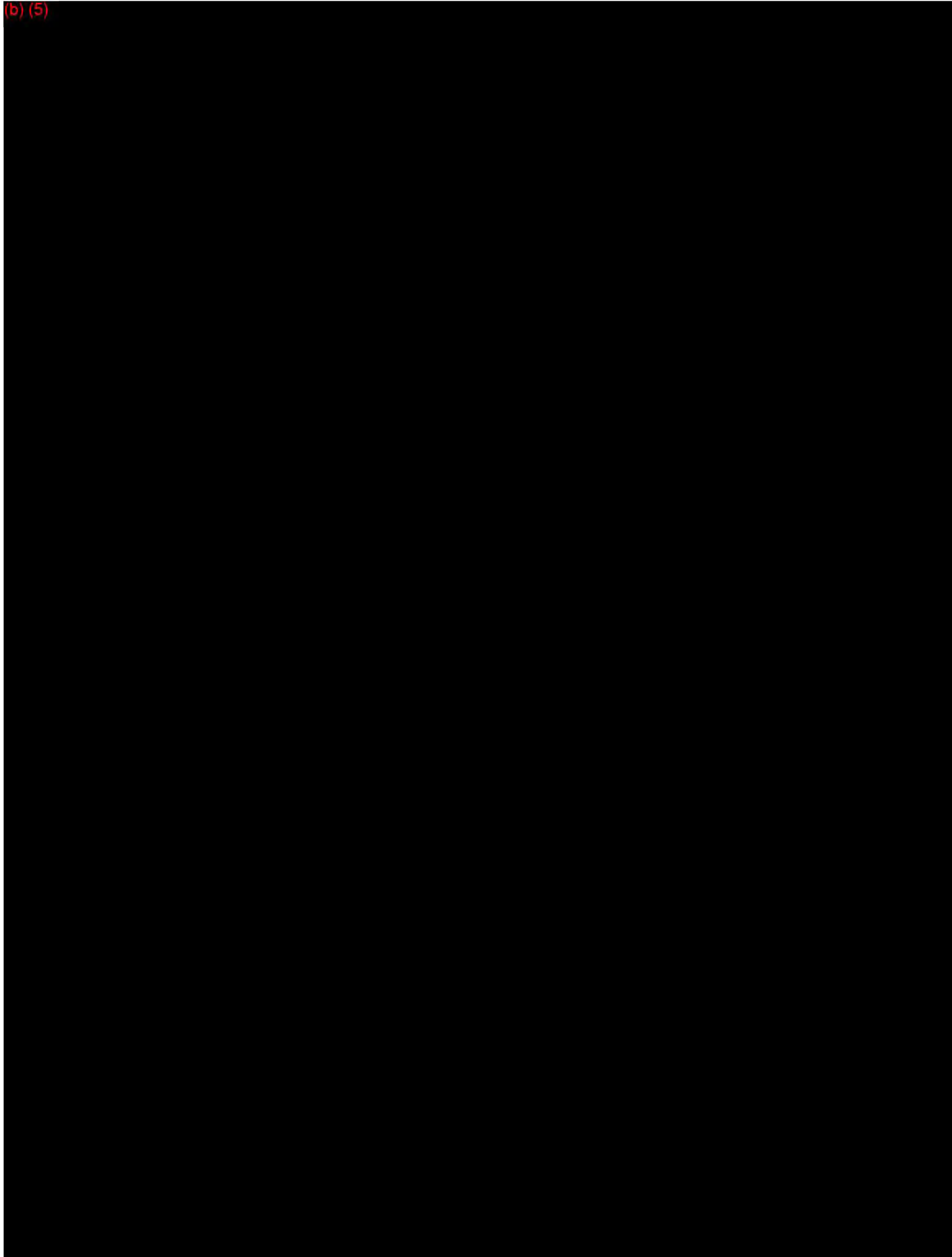














# EO 12866 Review: CEQ's Revised ANPRM and Response to Interagency Comments

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**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)>

**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)

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Chad,

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

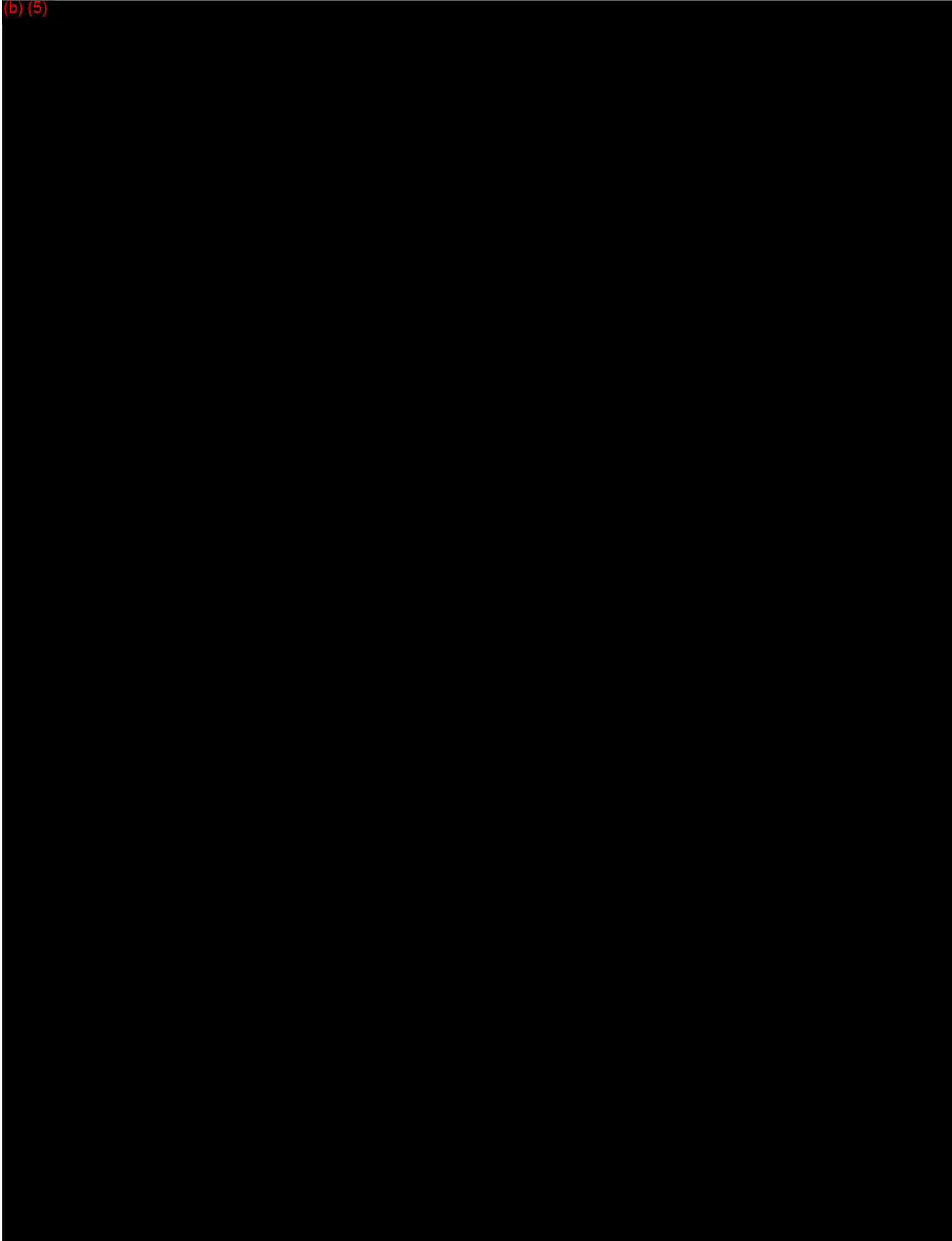
Thank you.

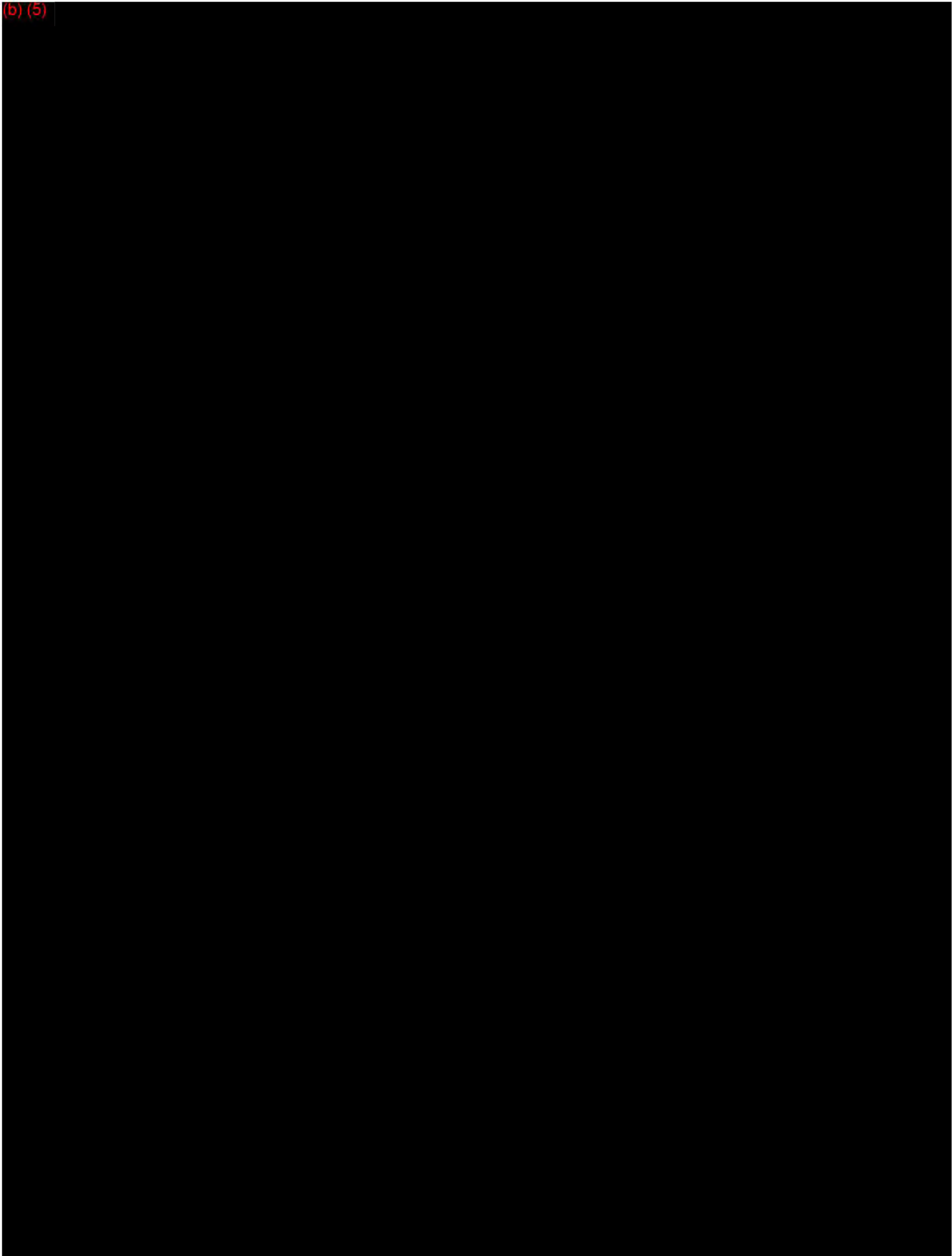
**Aaron L. Szabo**  
Senior Counsel  
Council on Environmental Quality

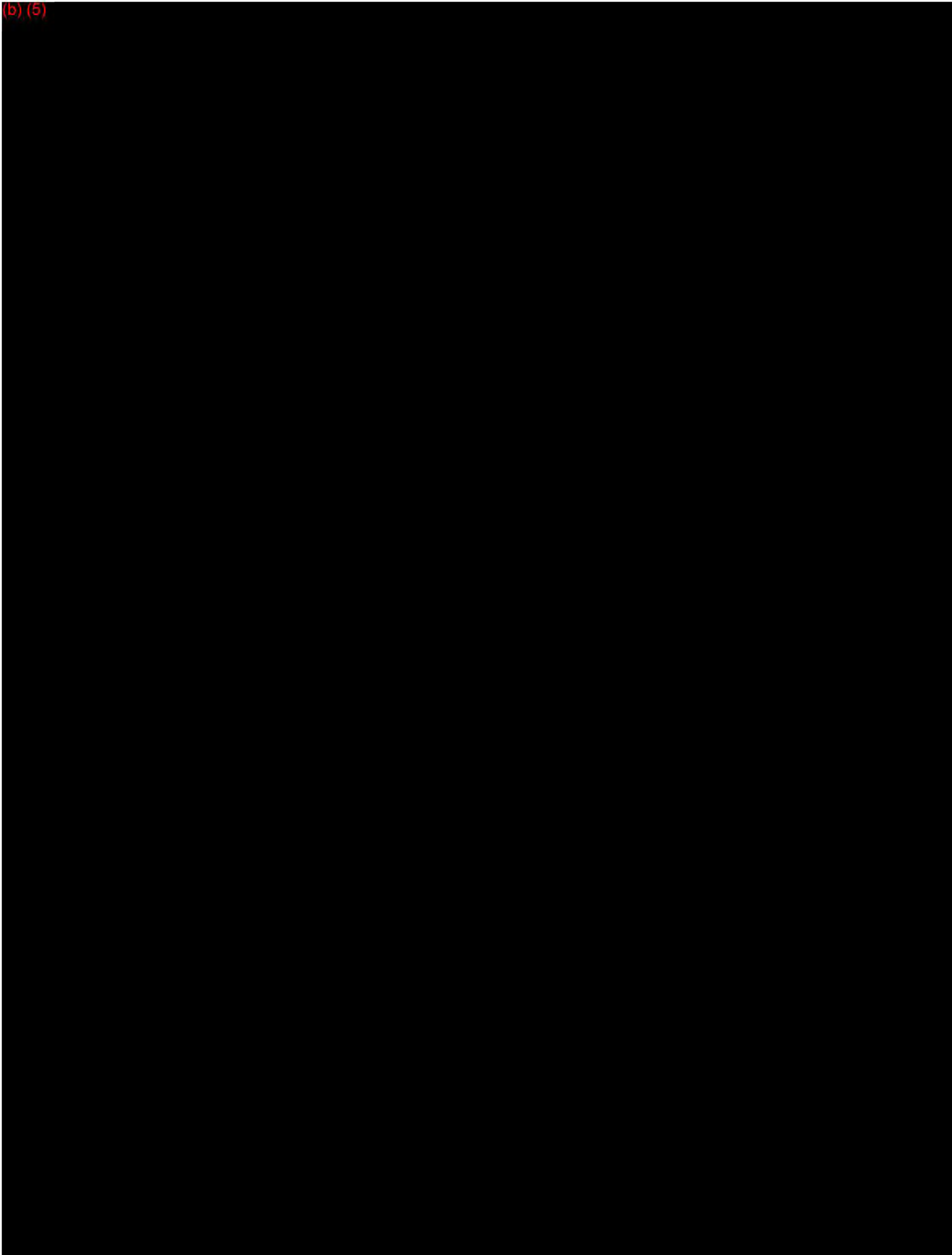
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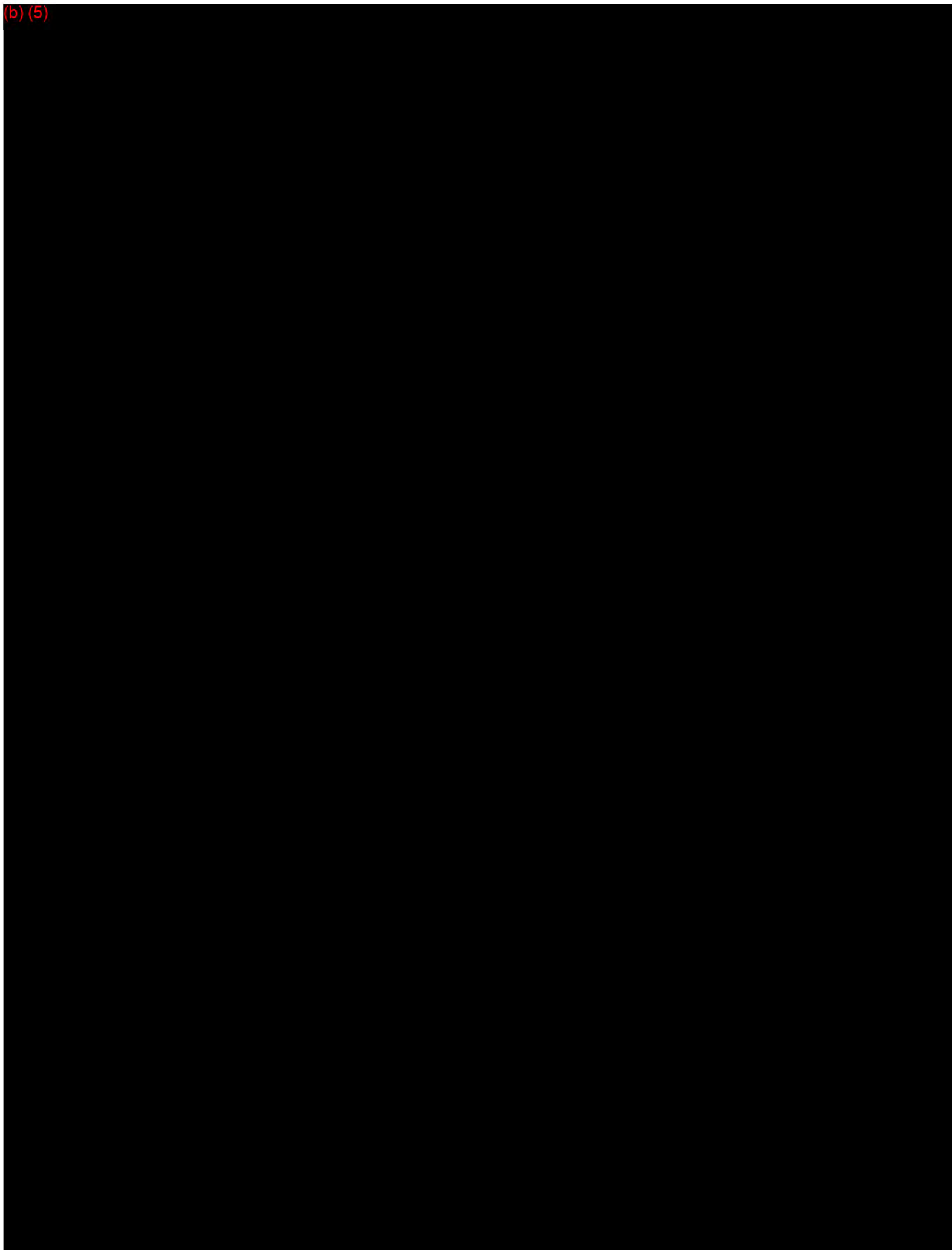
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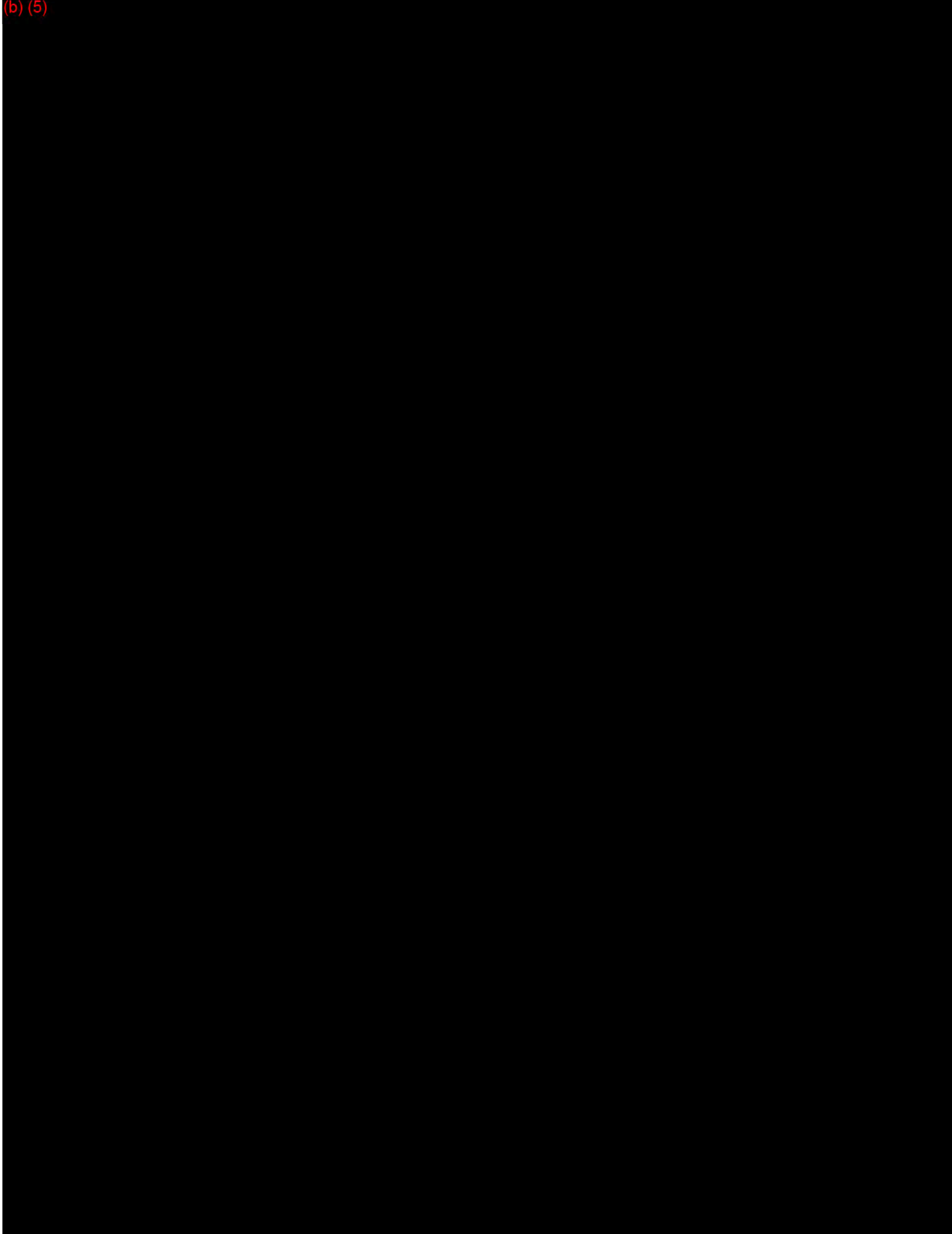
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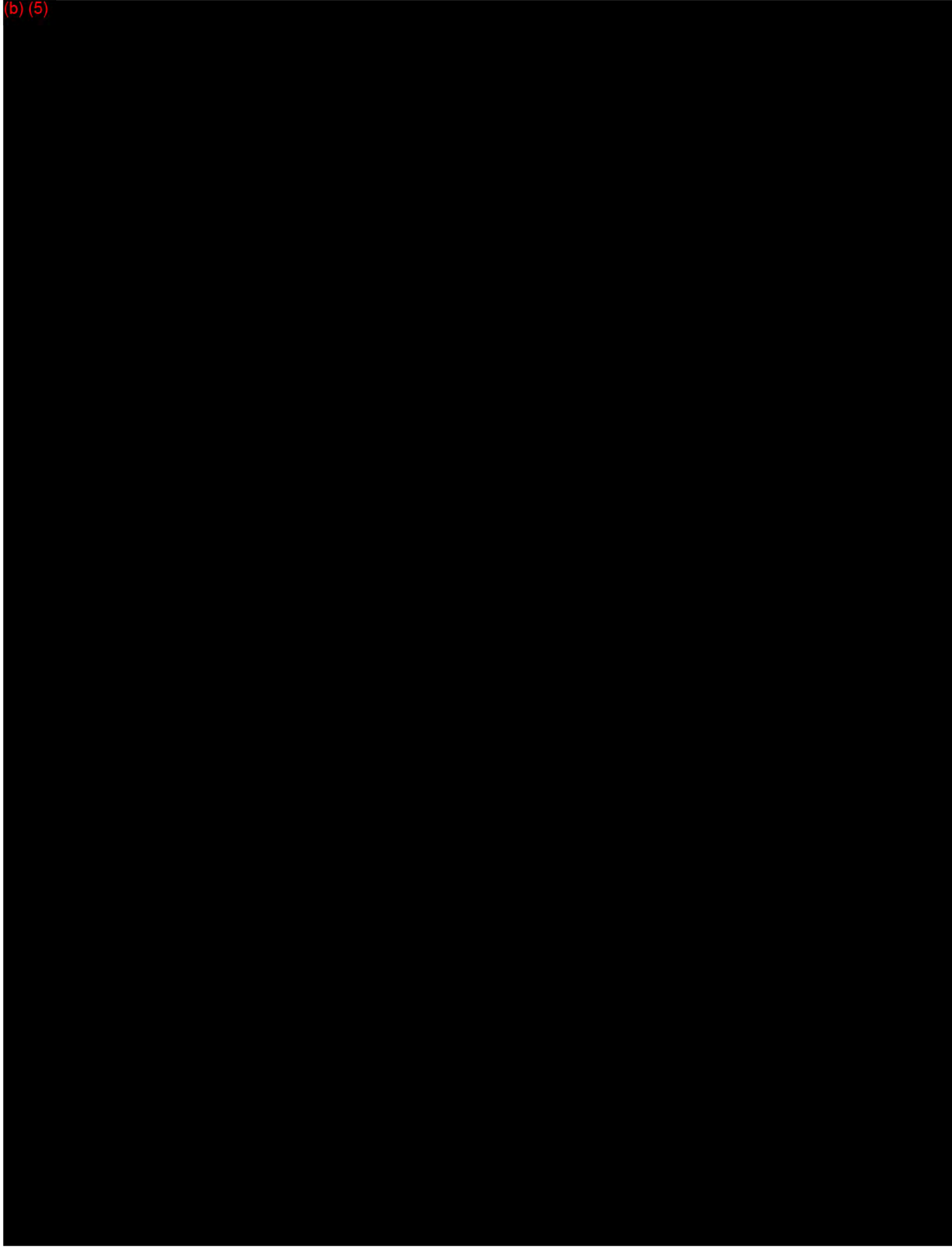


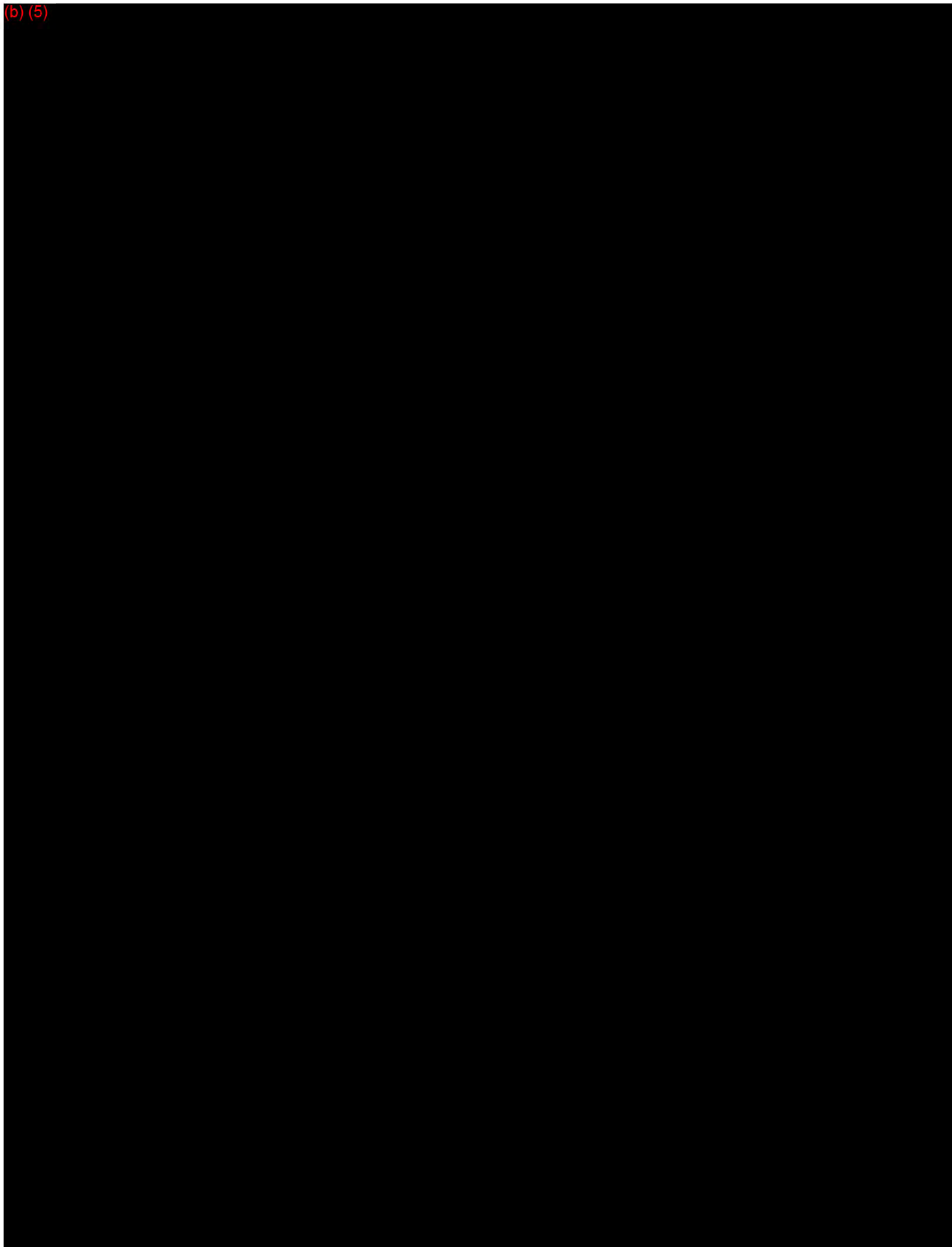




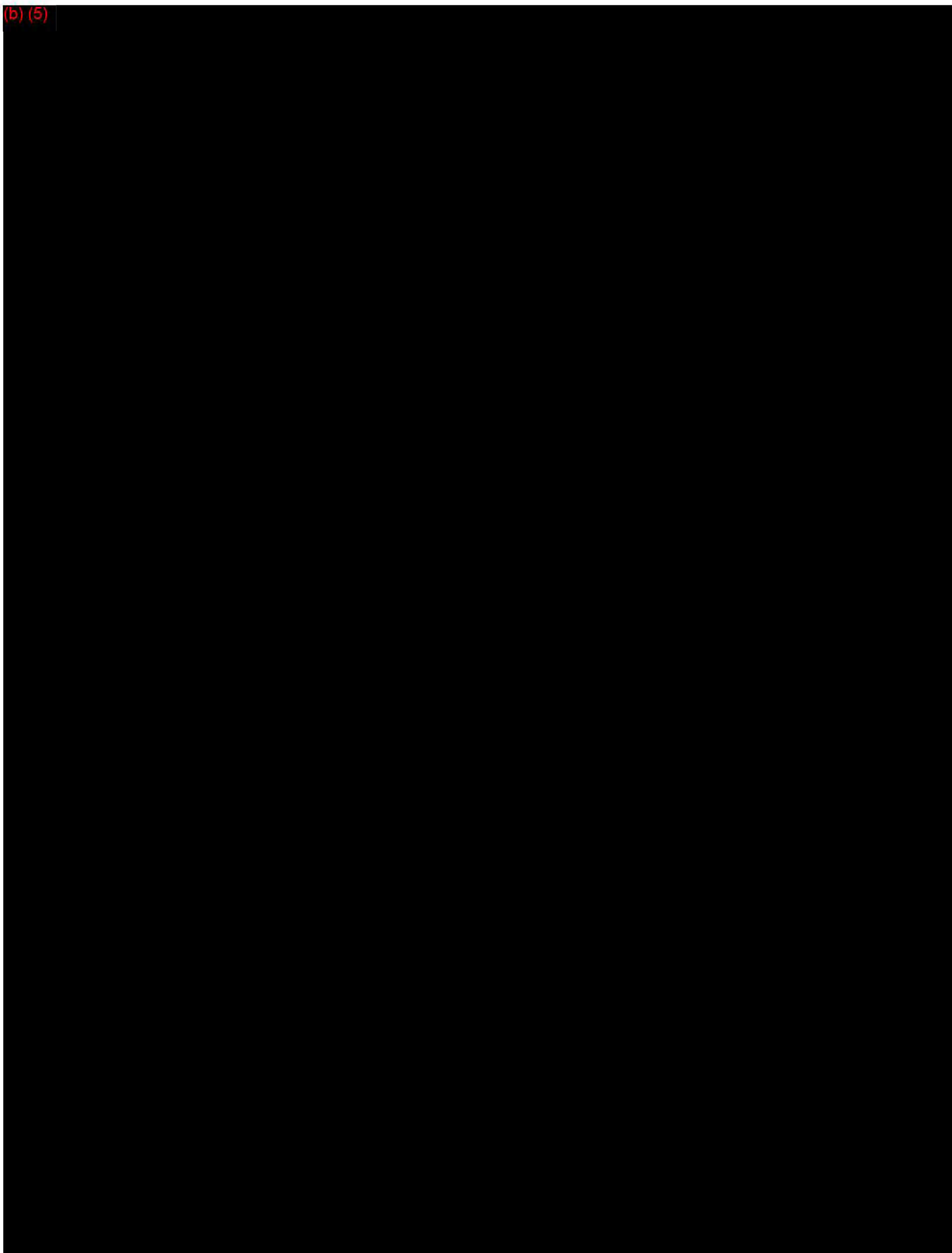


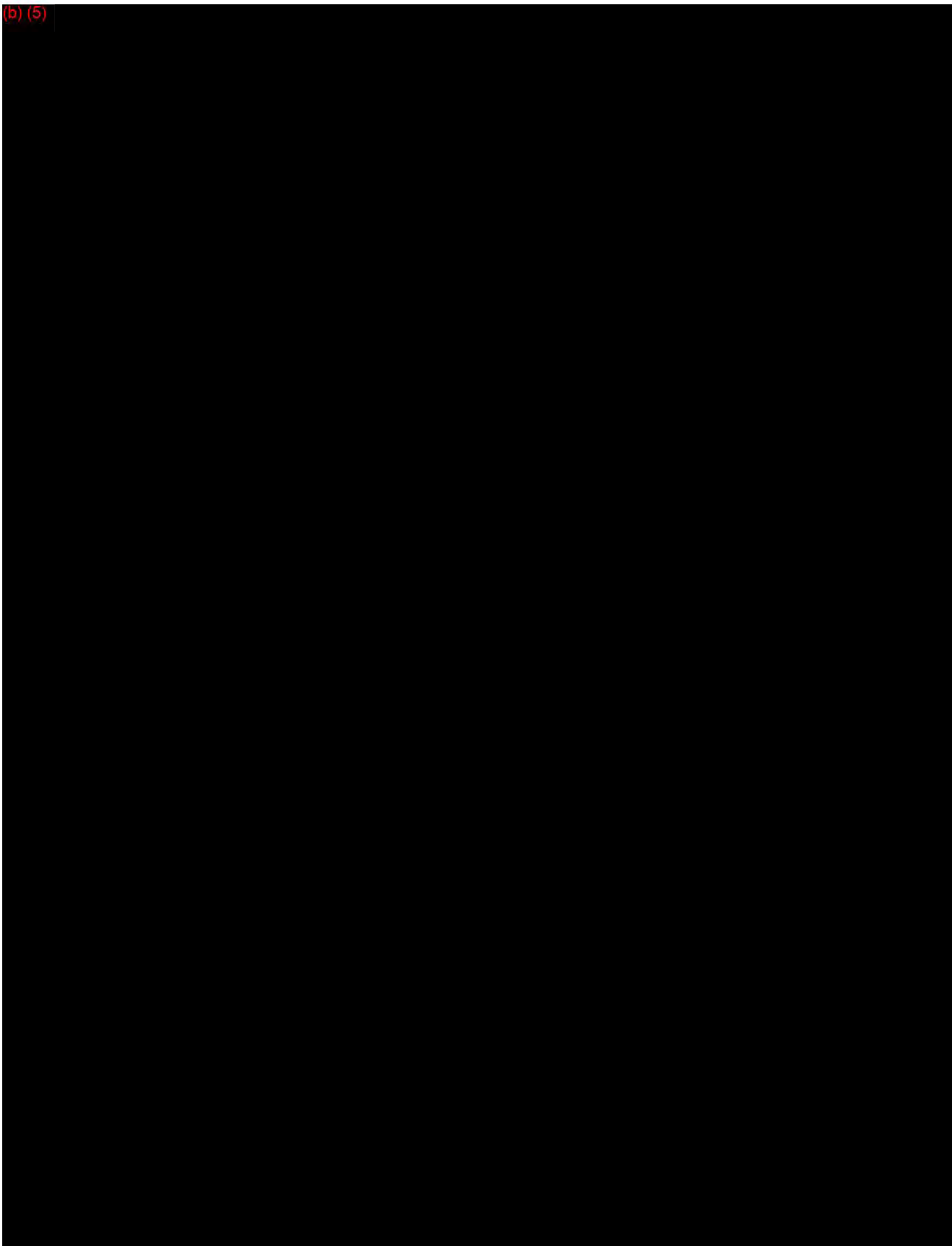


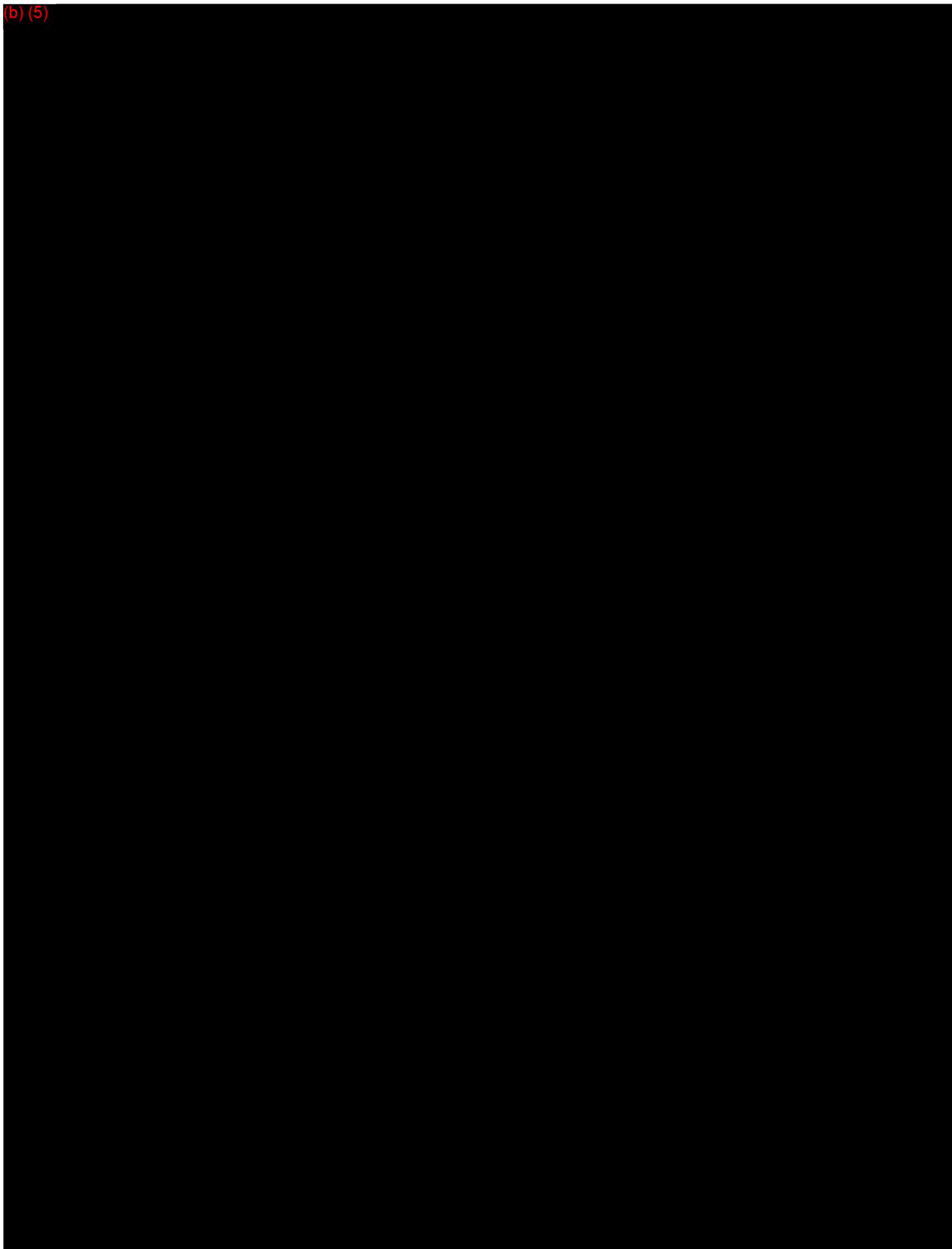


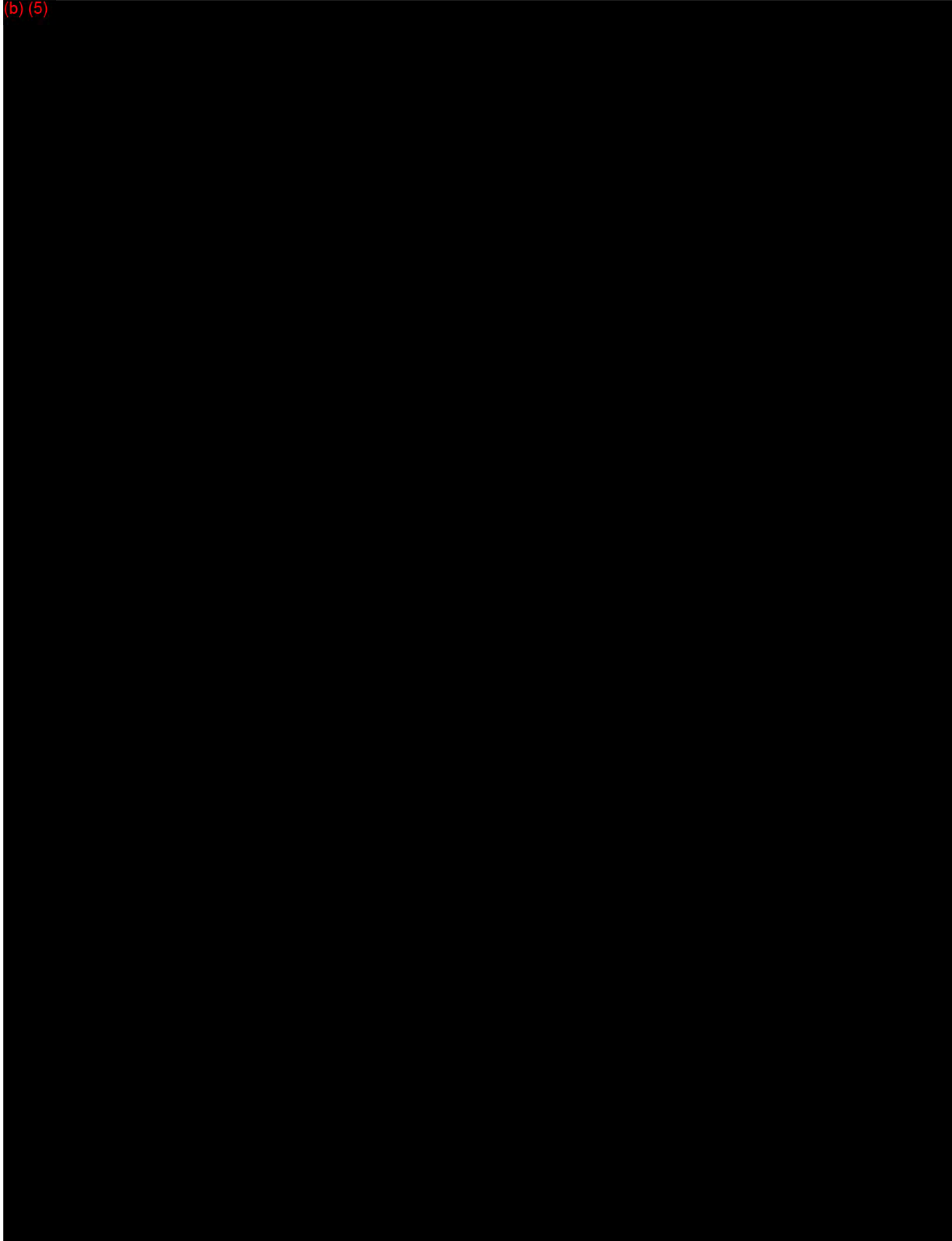


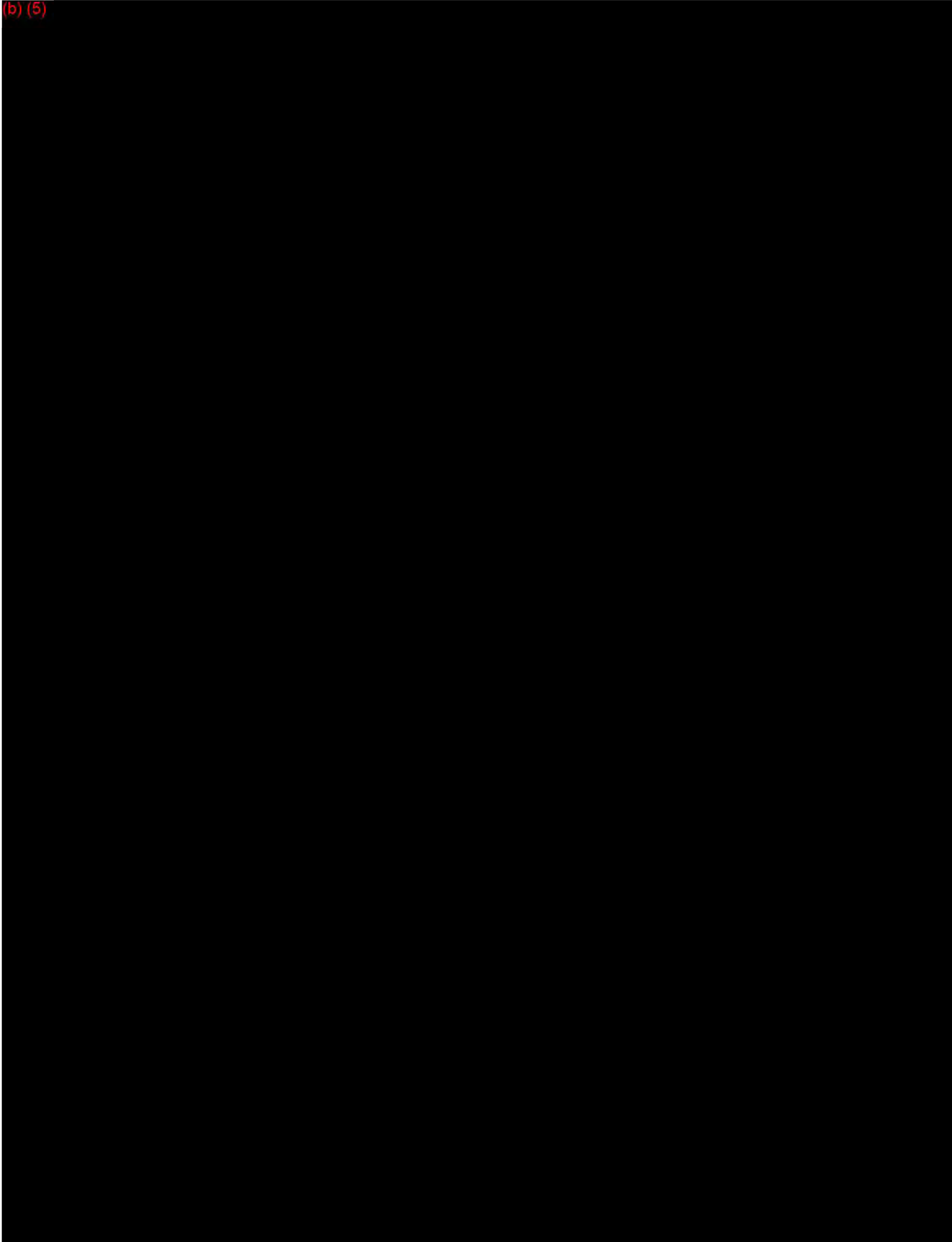


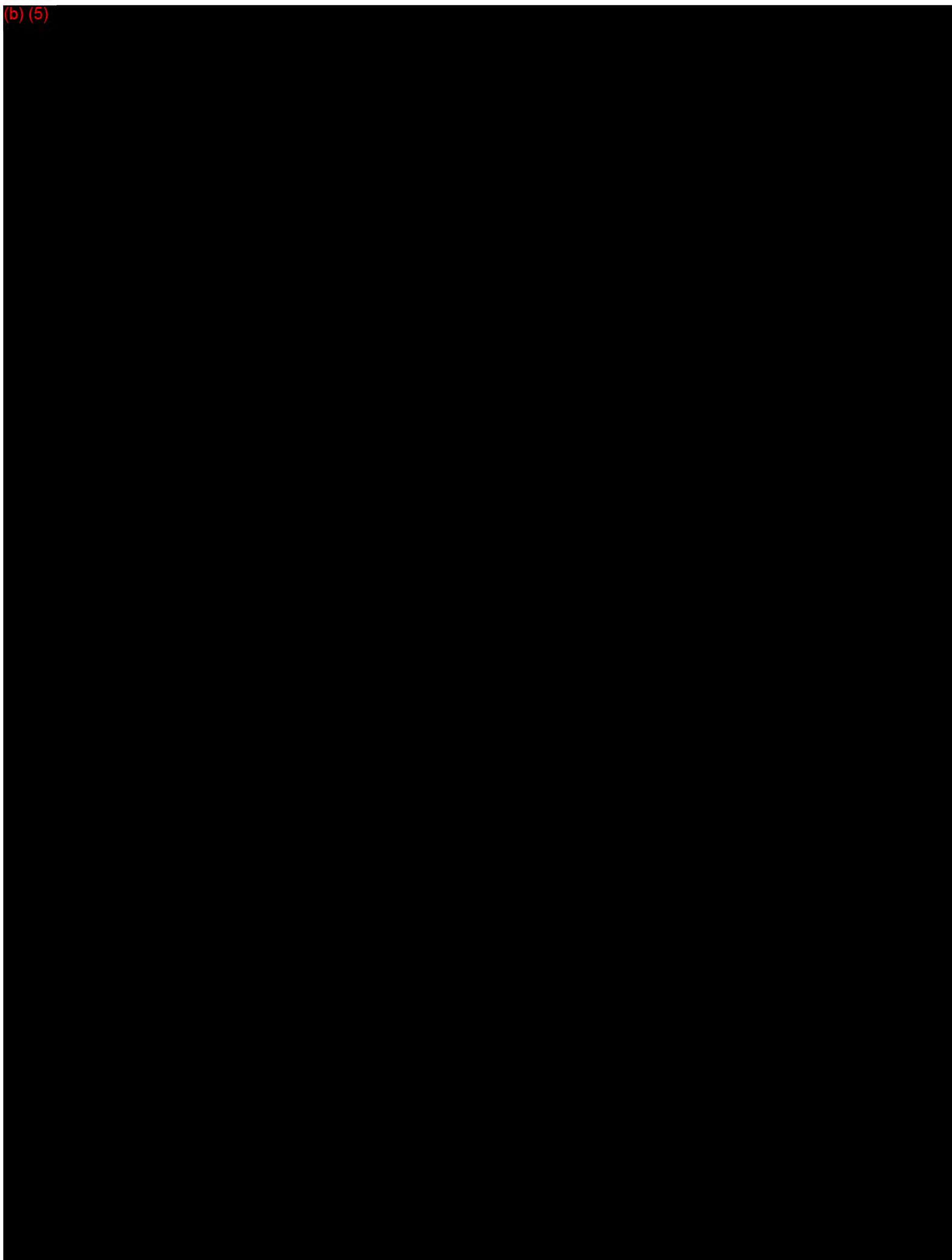


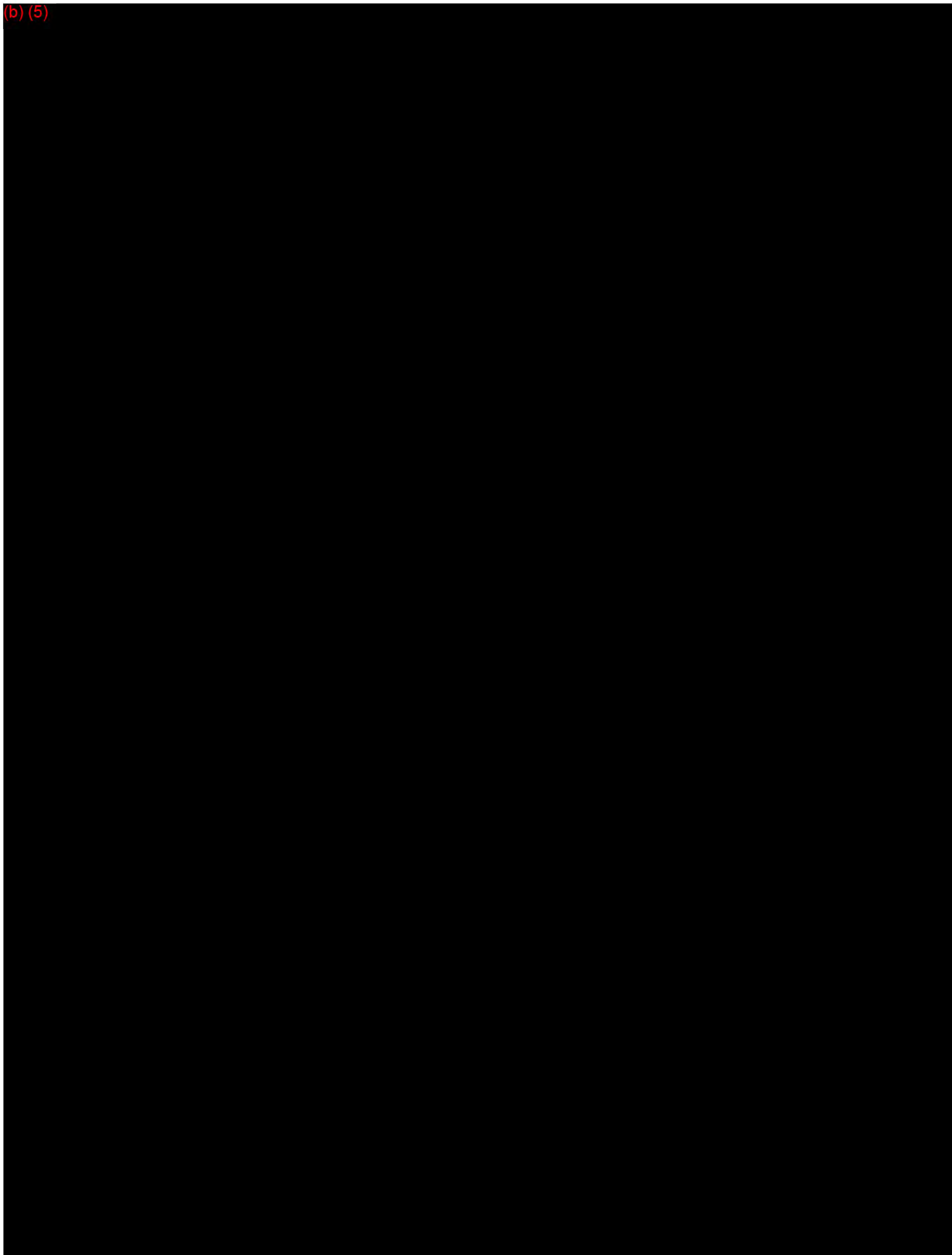


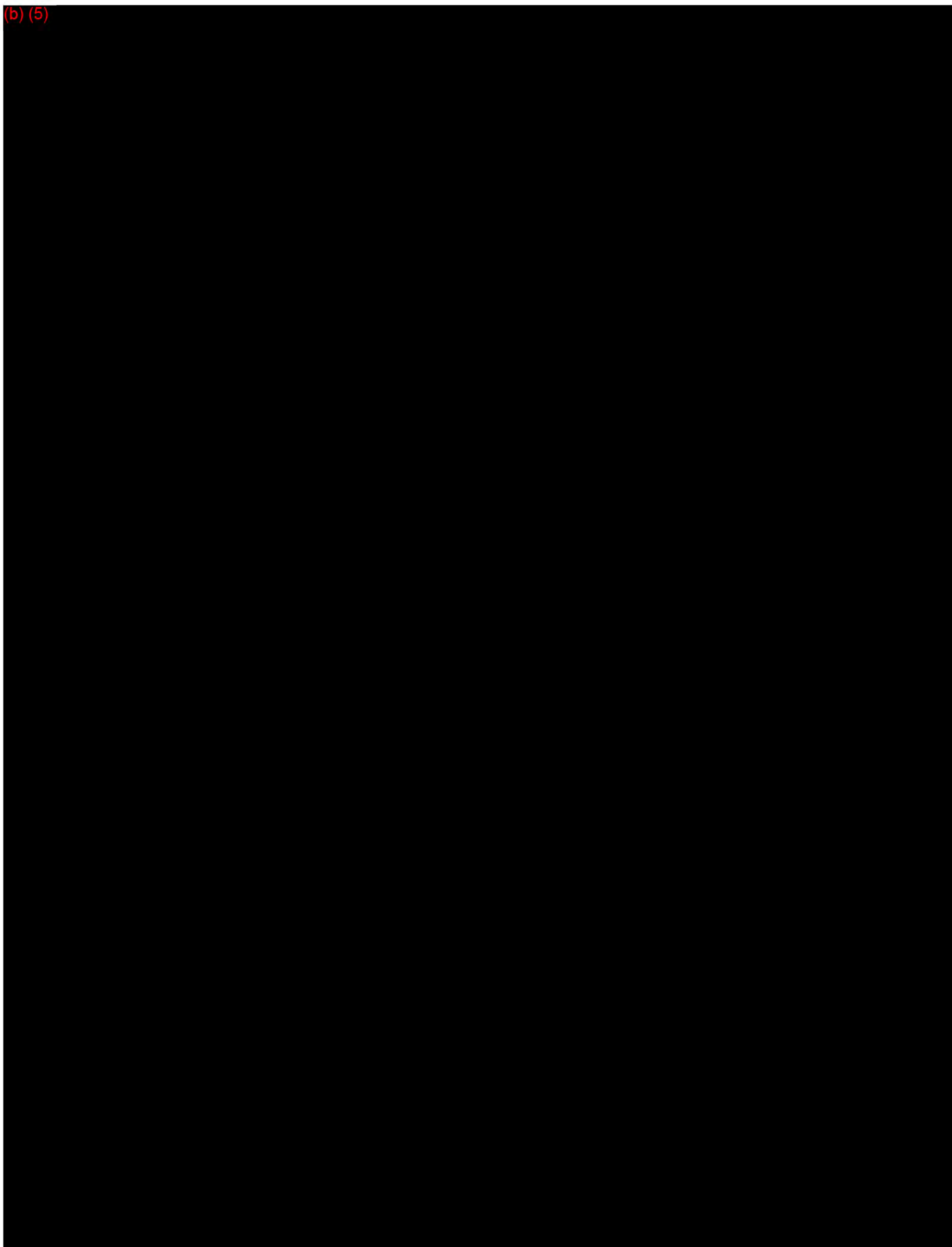




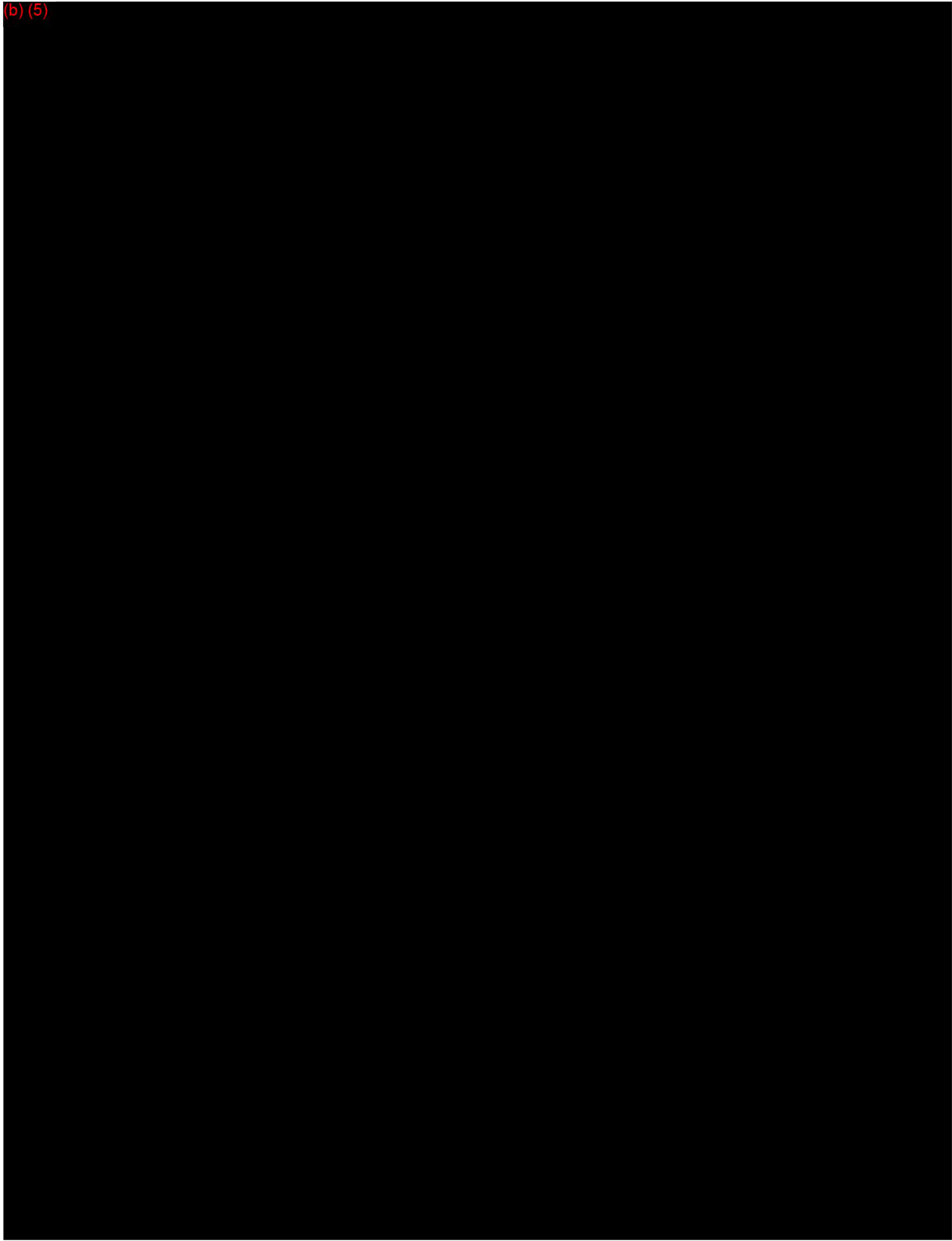


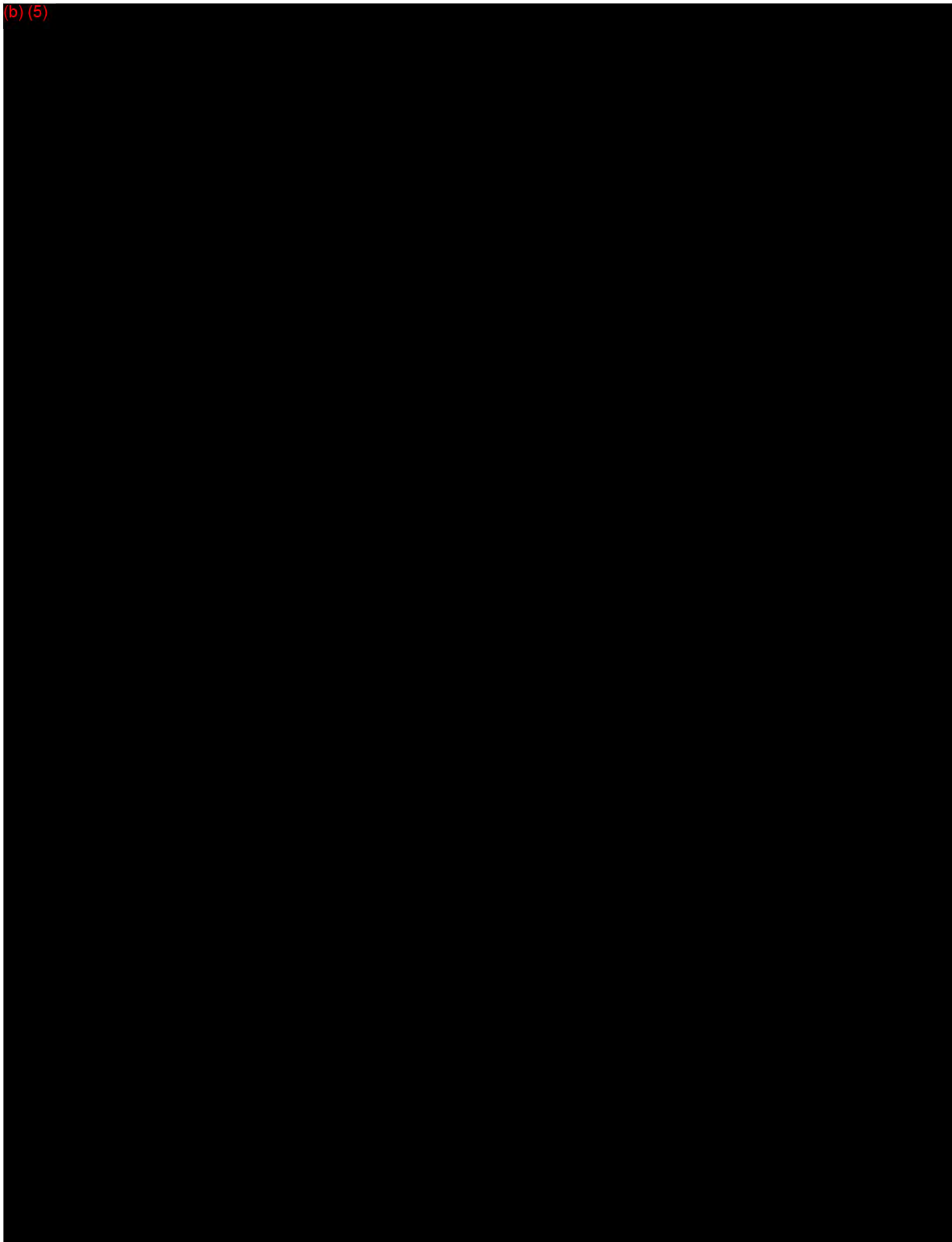


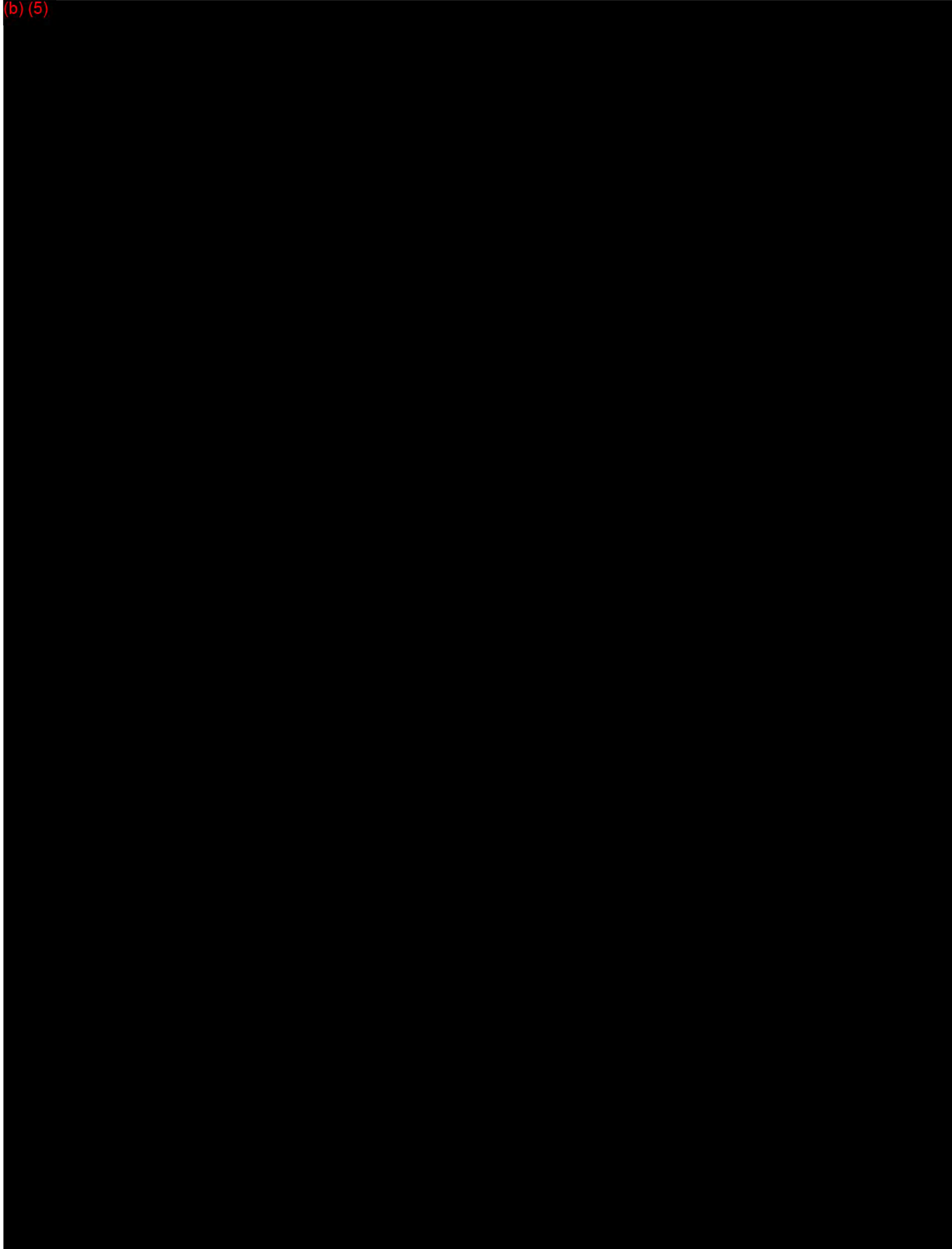


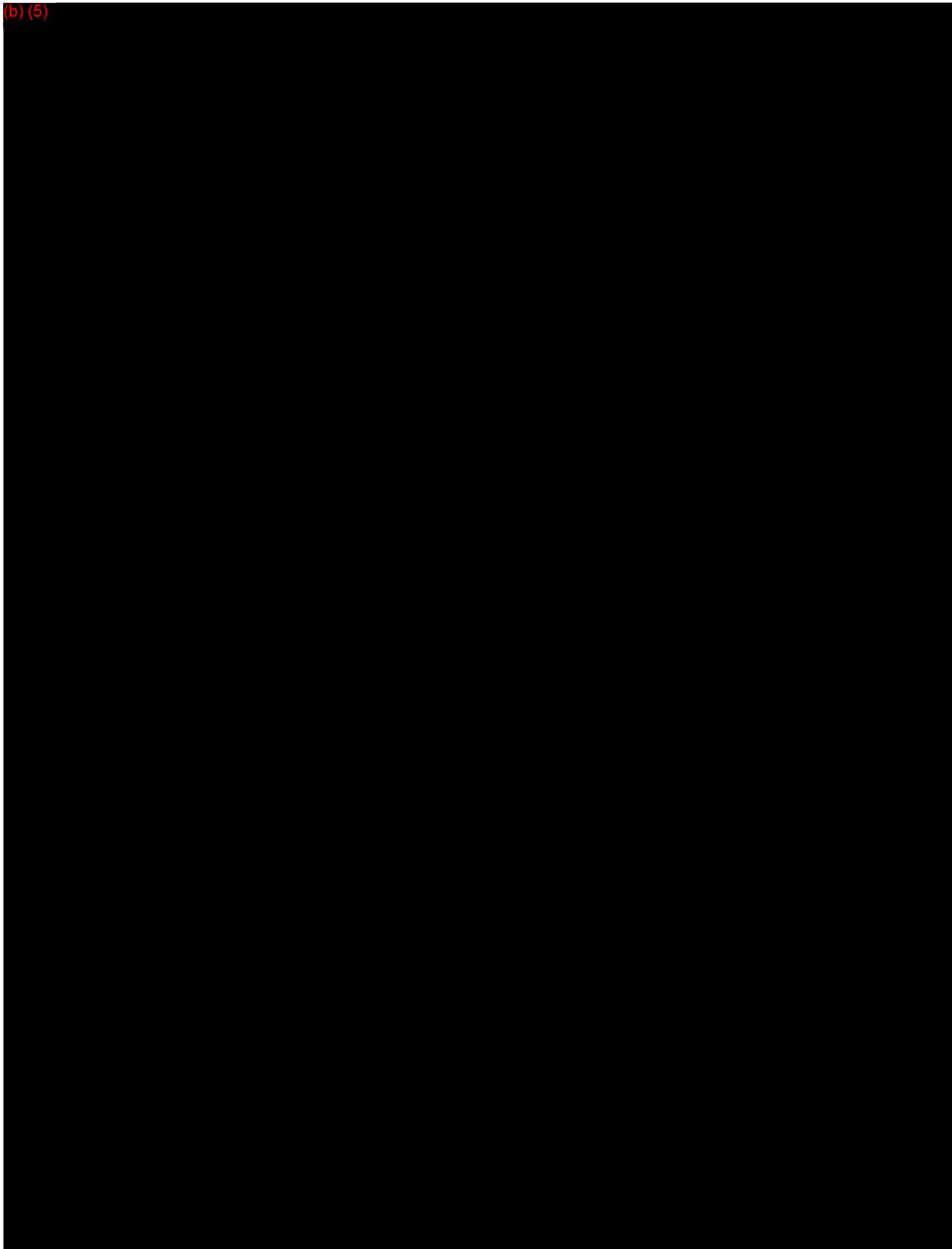


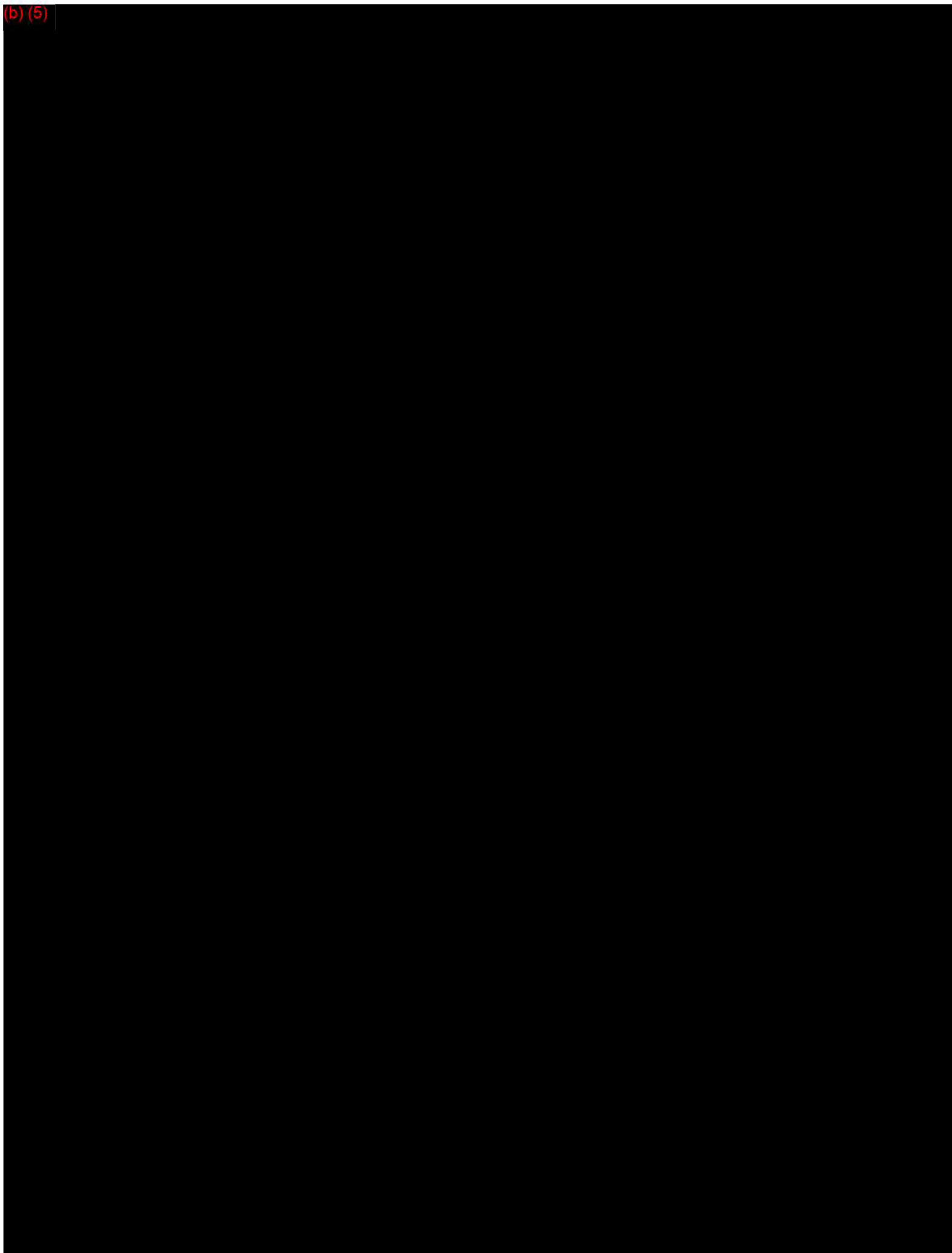


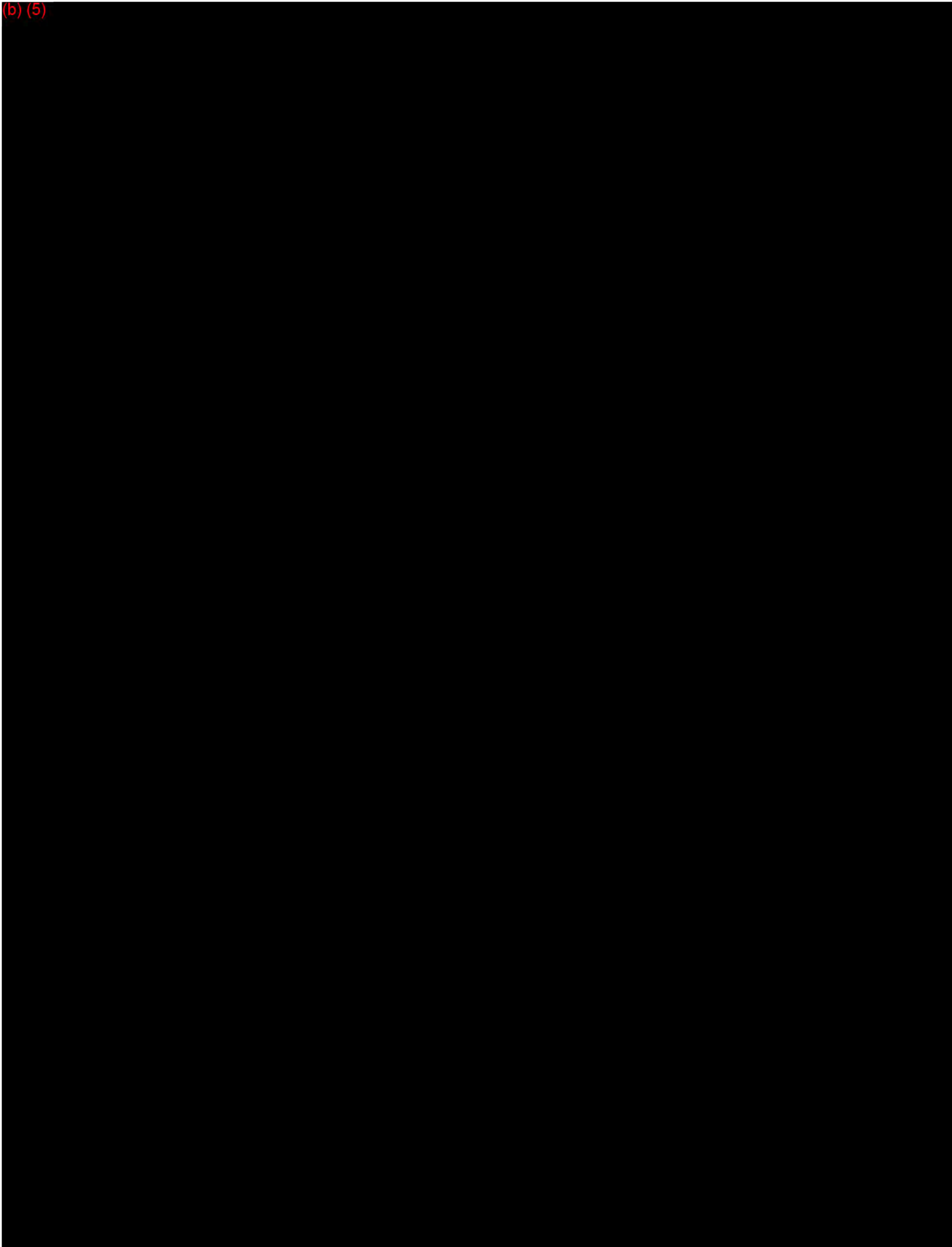


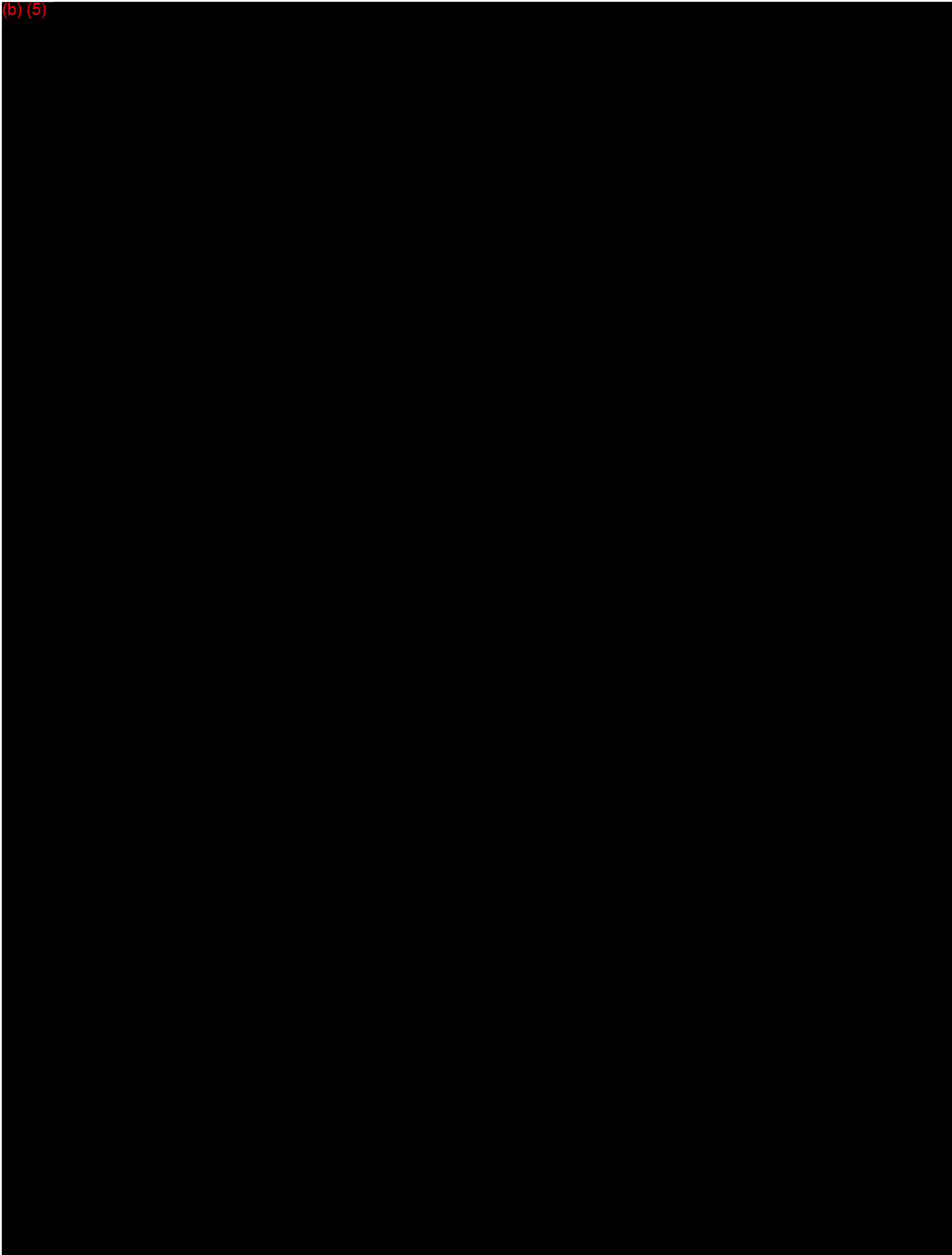


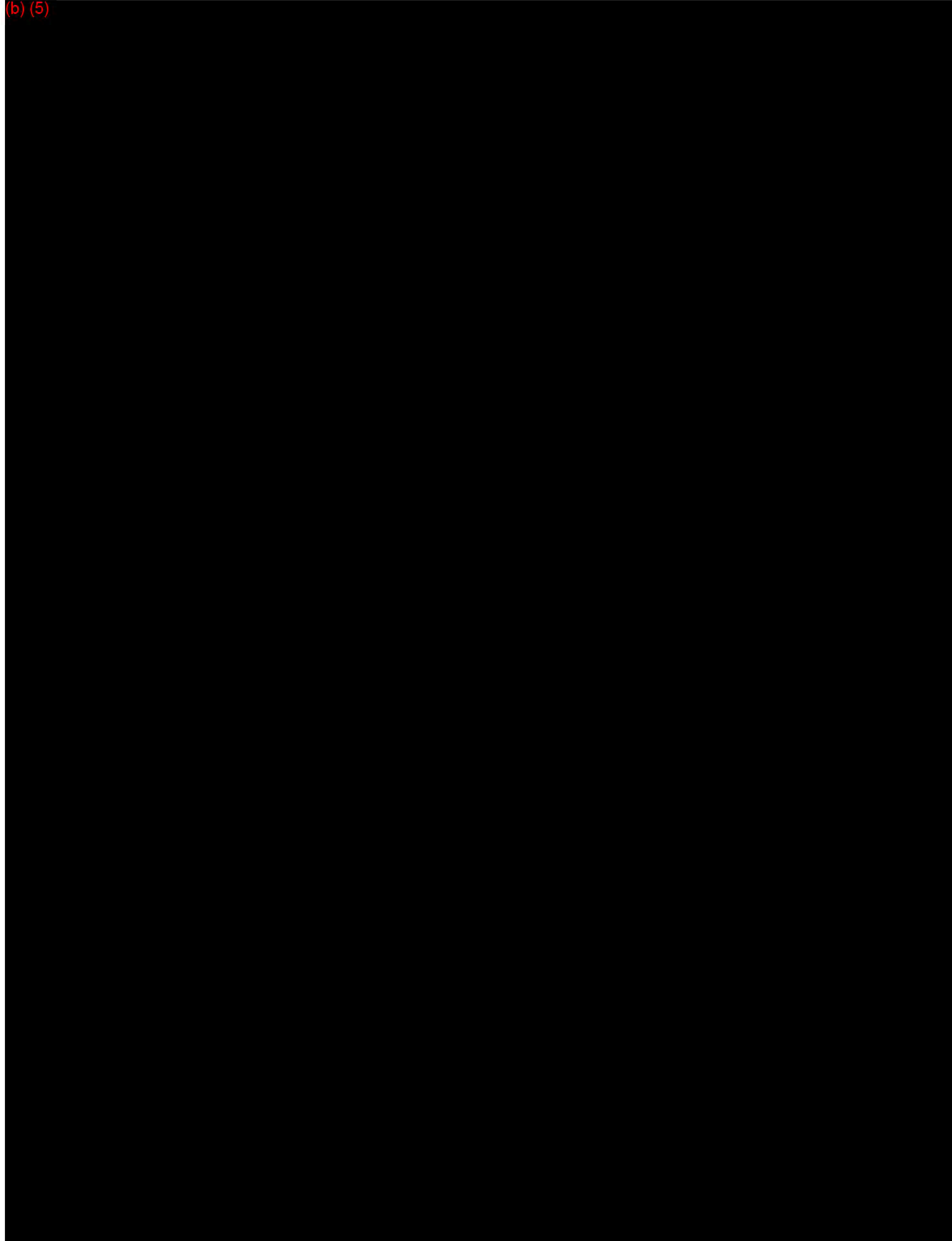




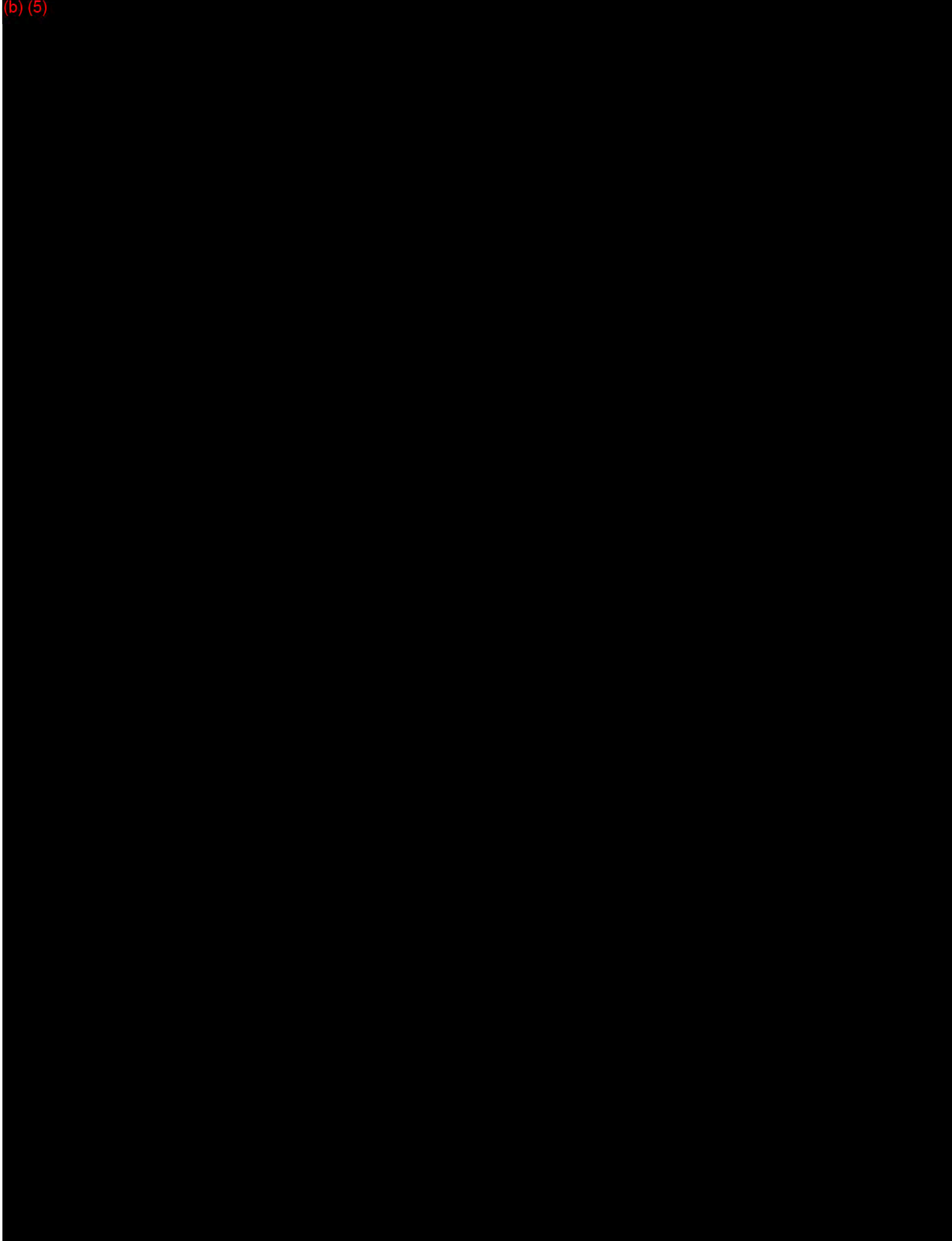


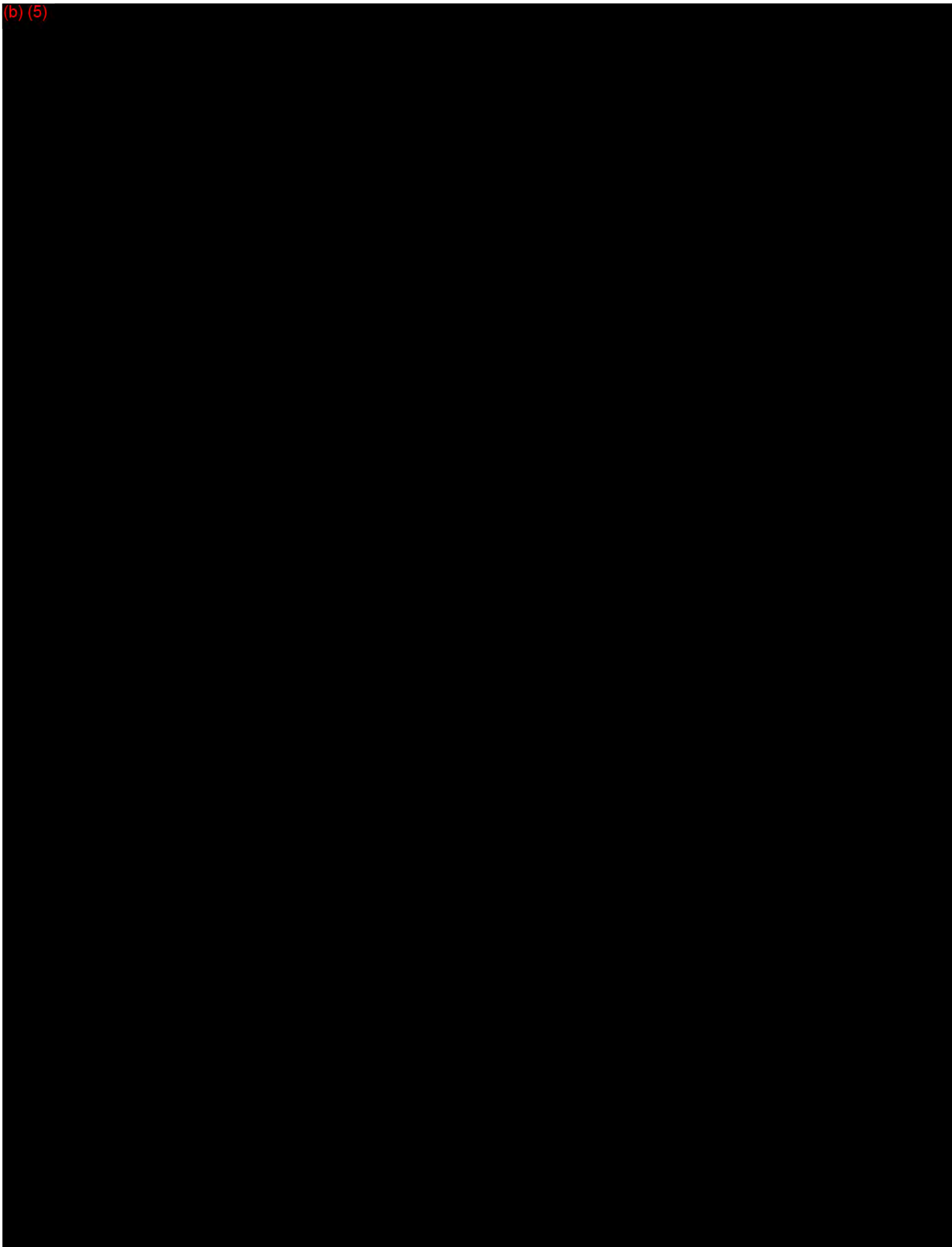


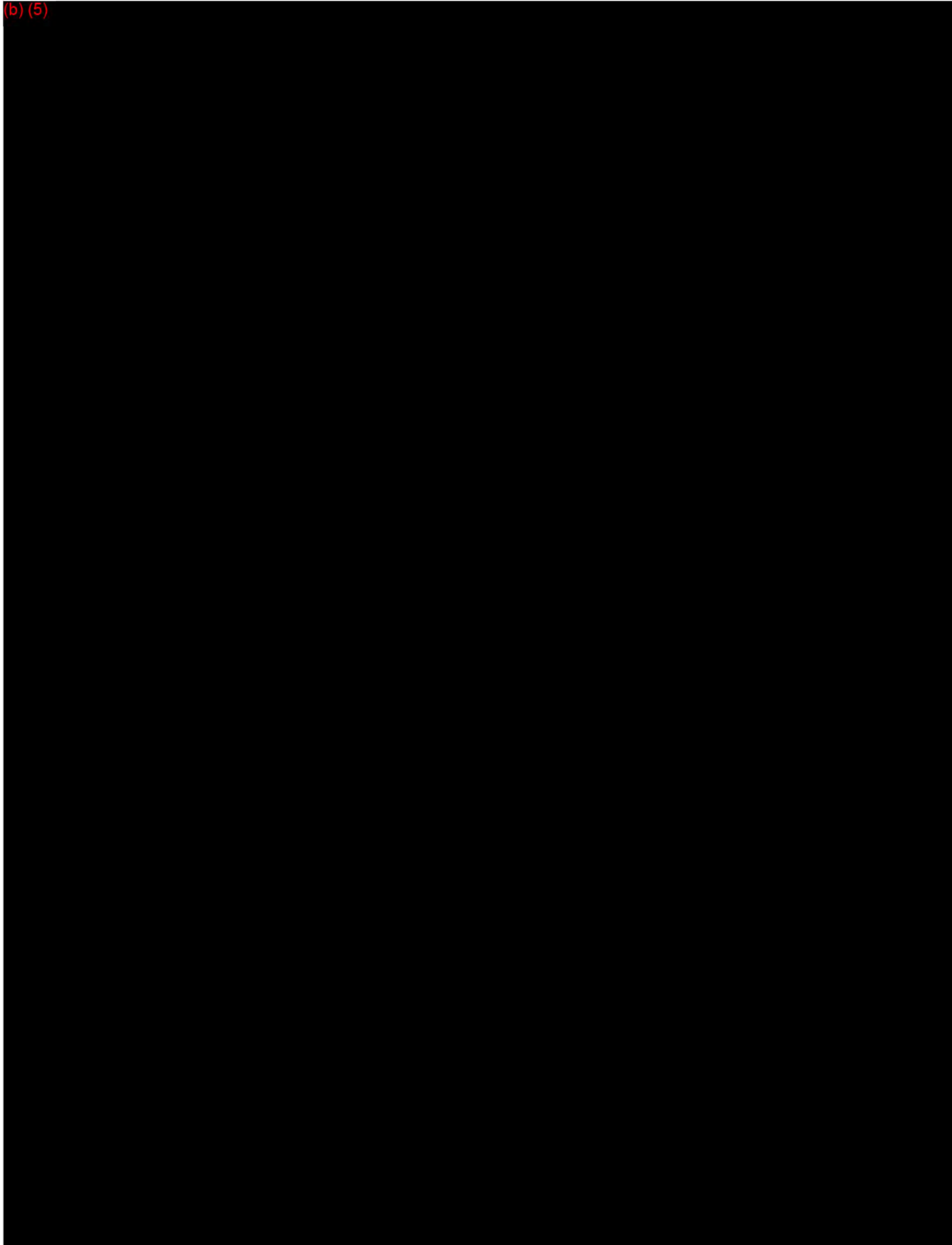


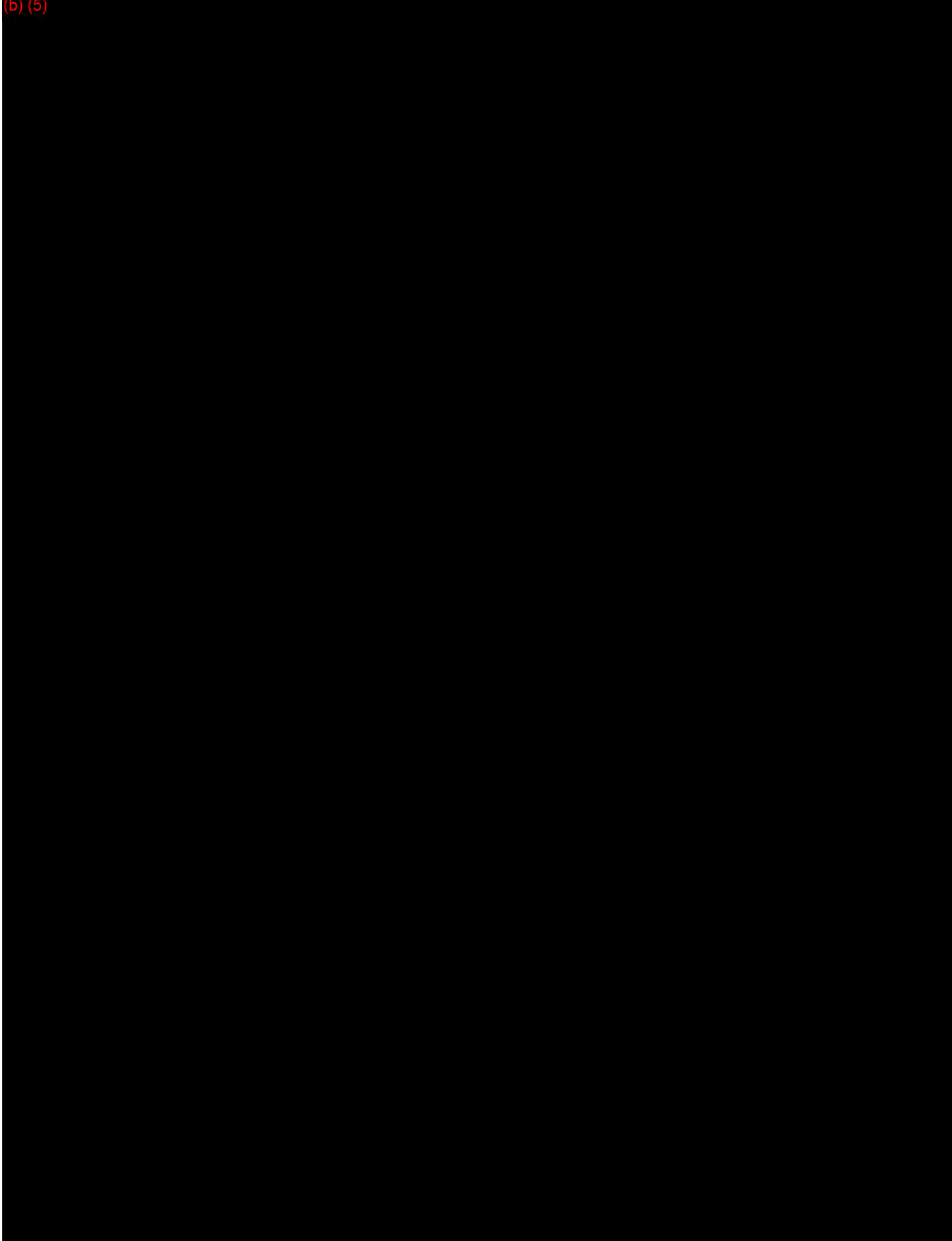


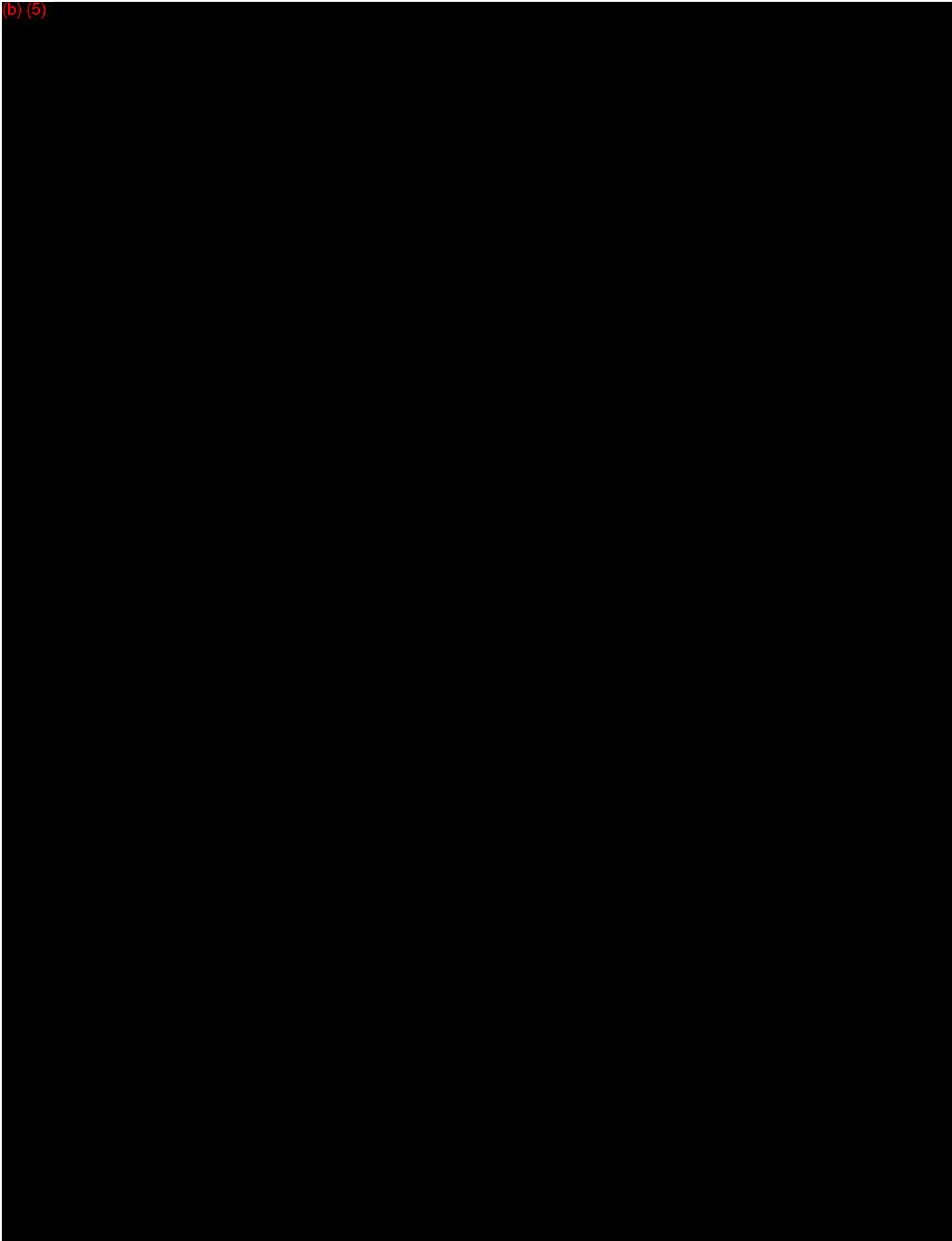


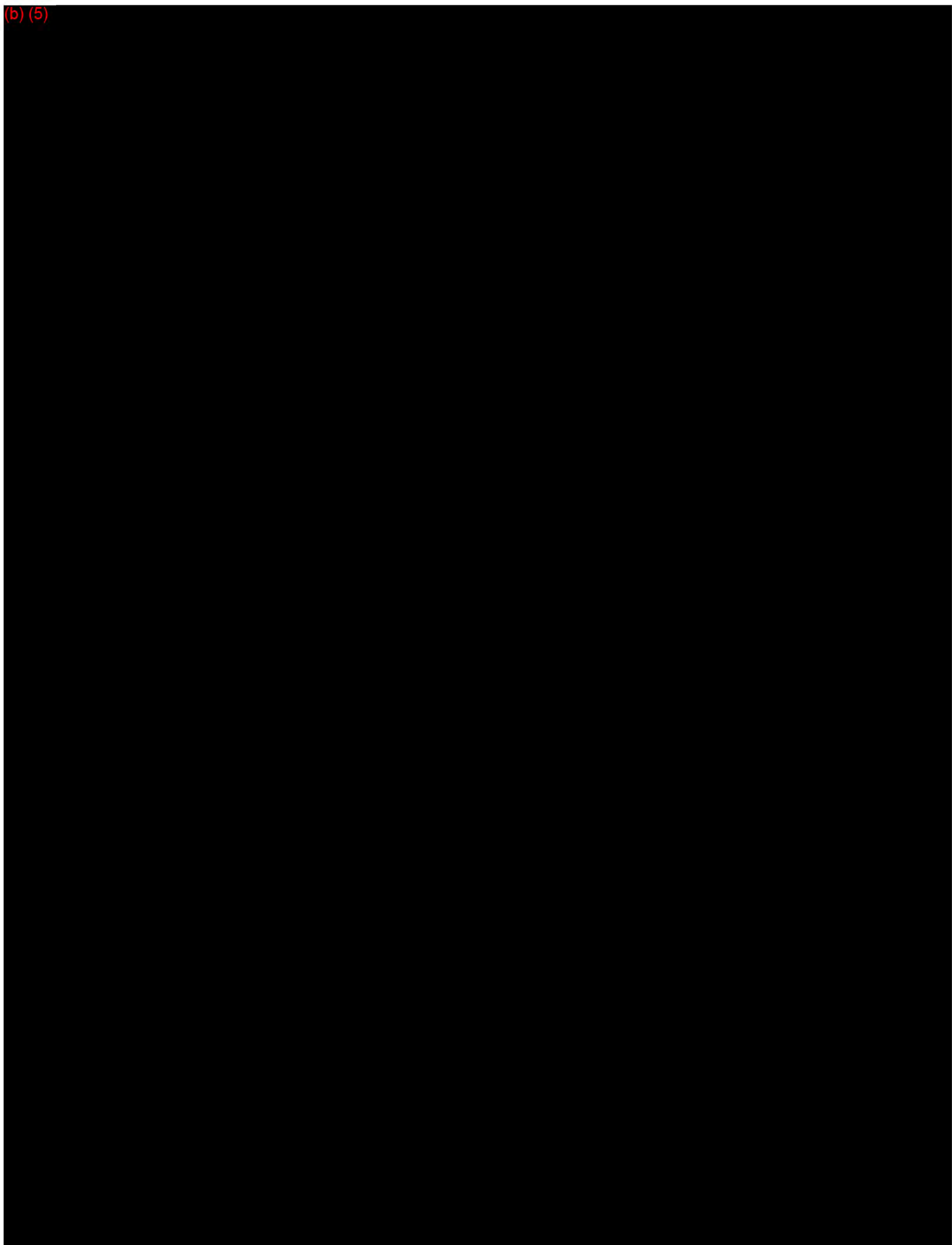


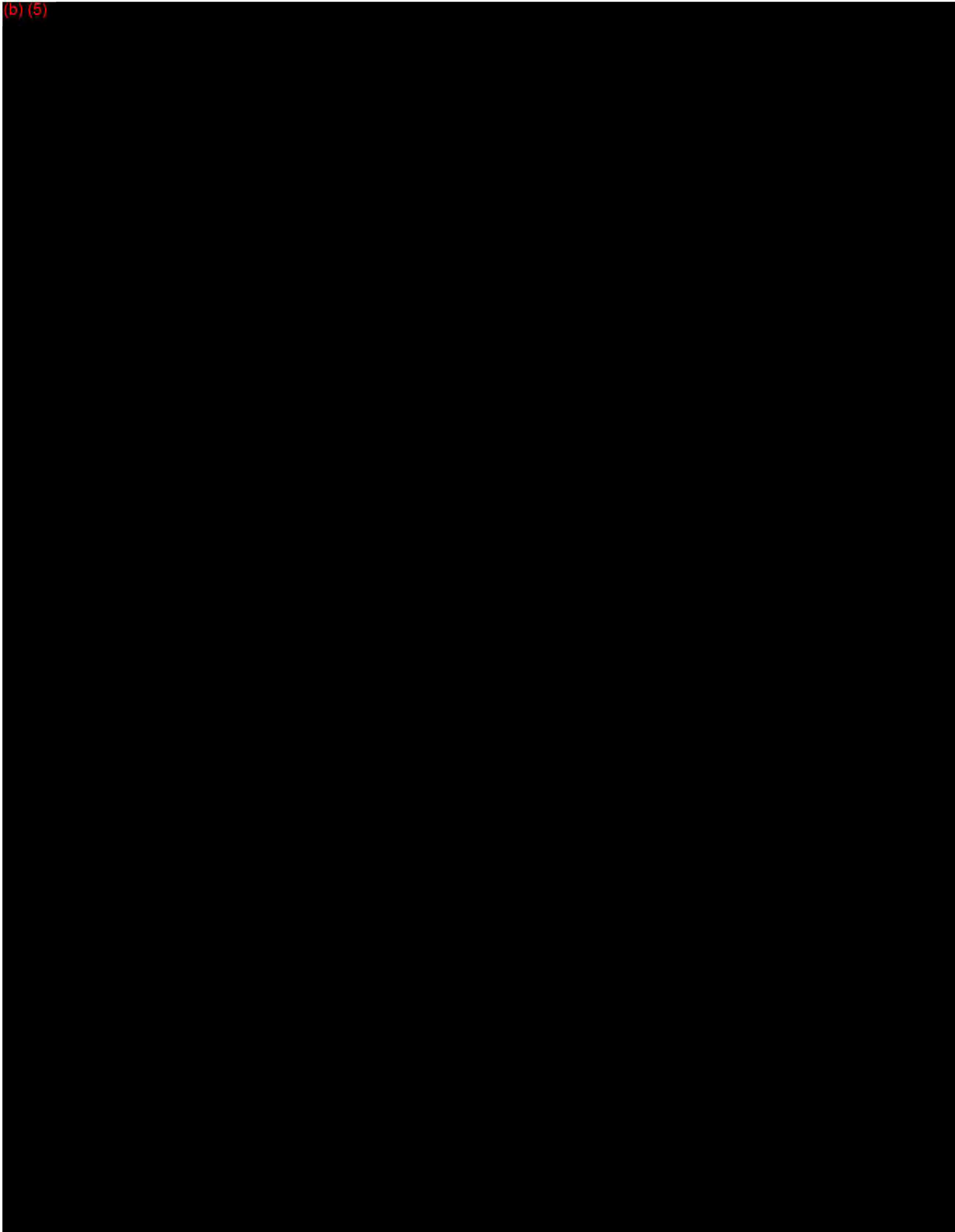


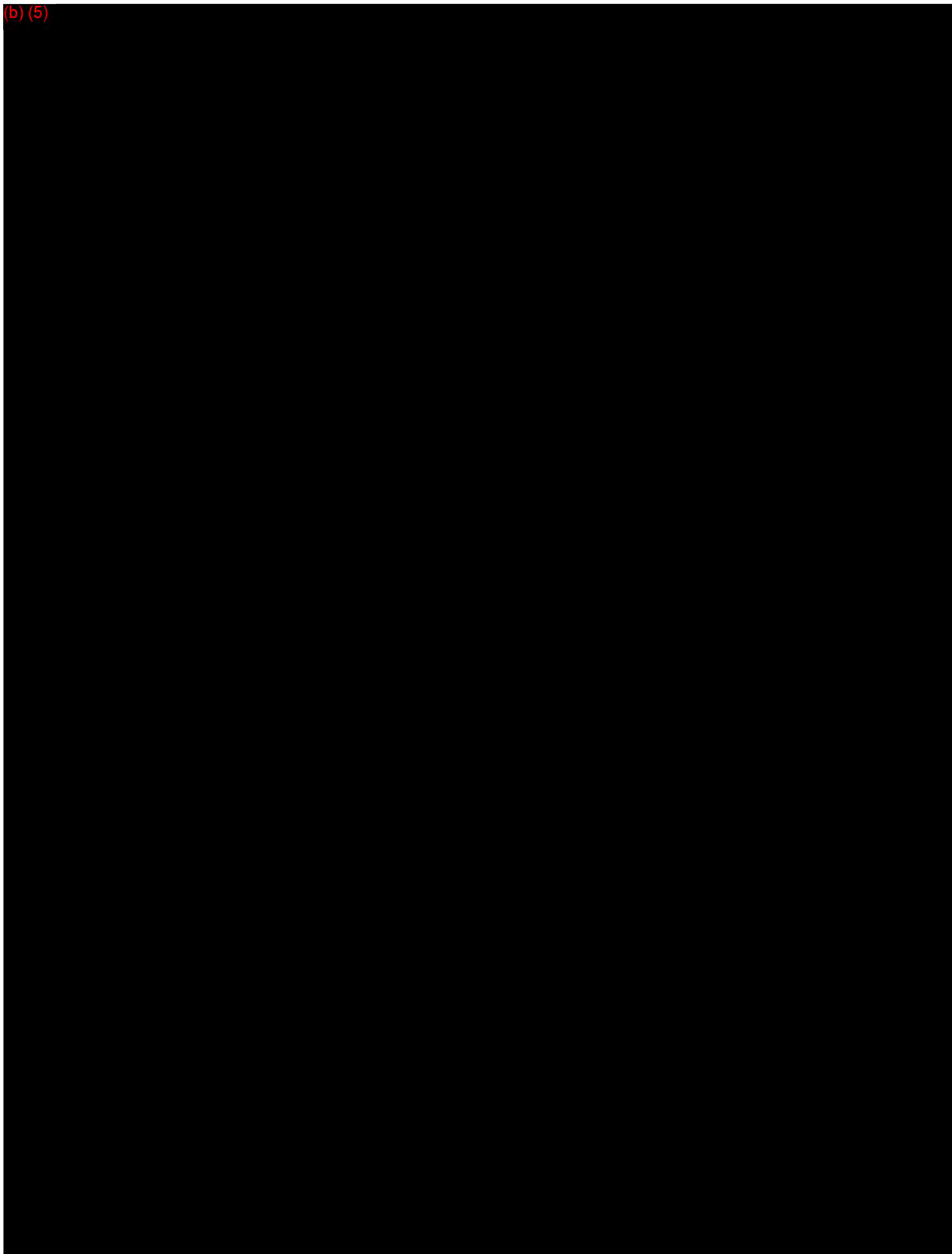




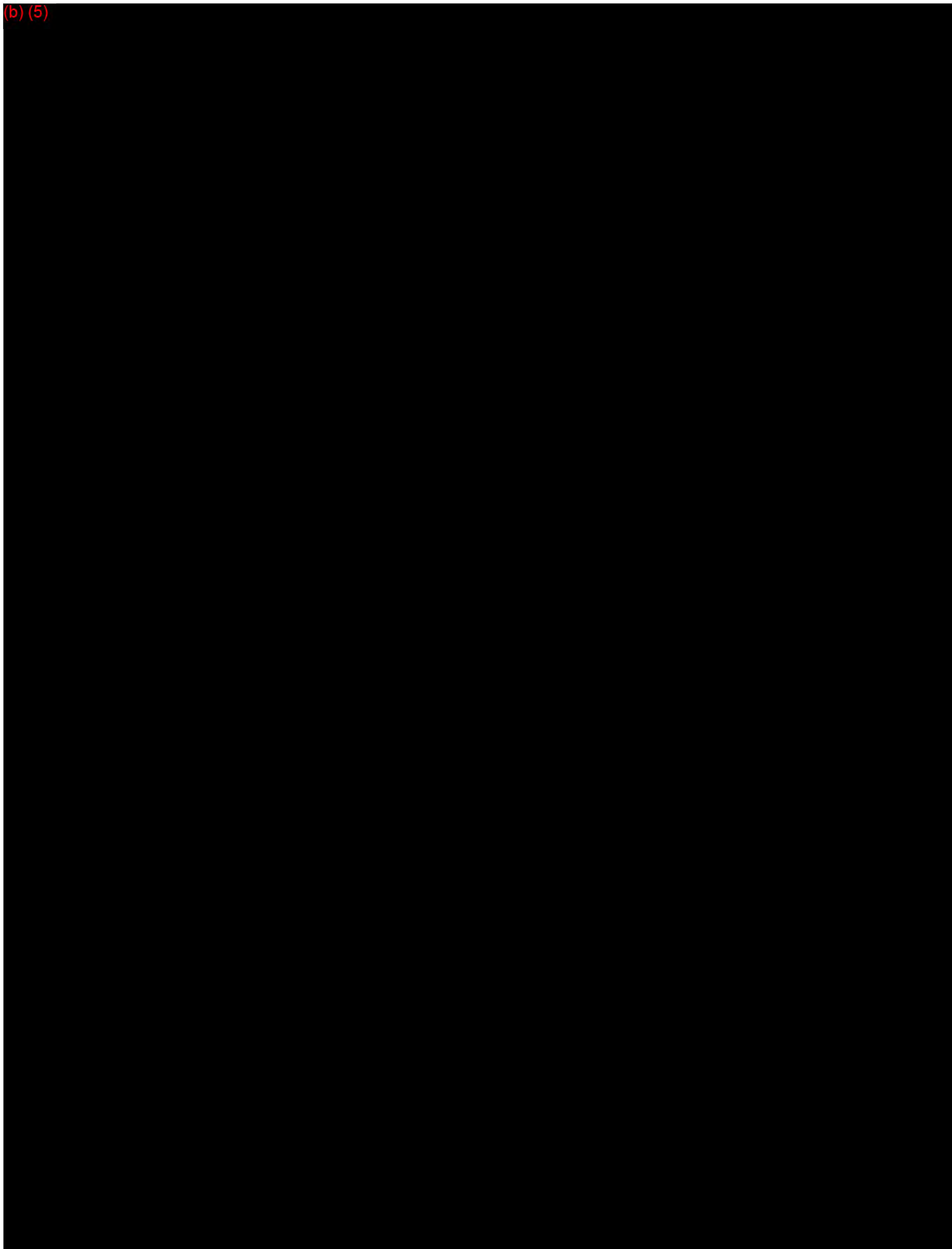


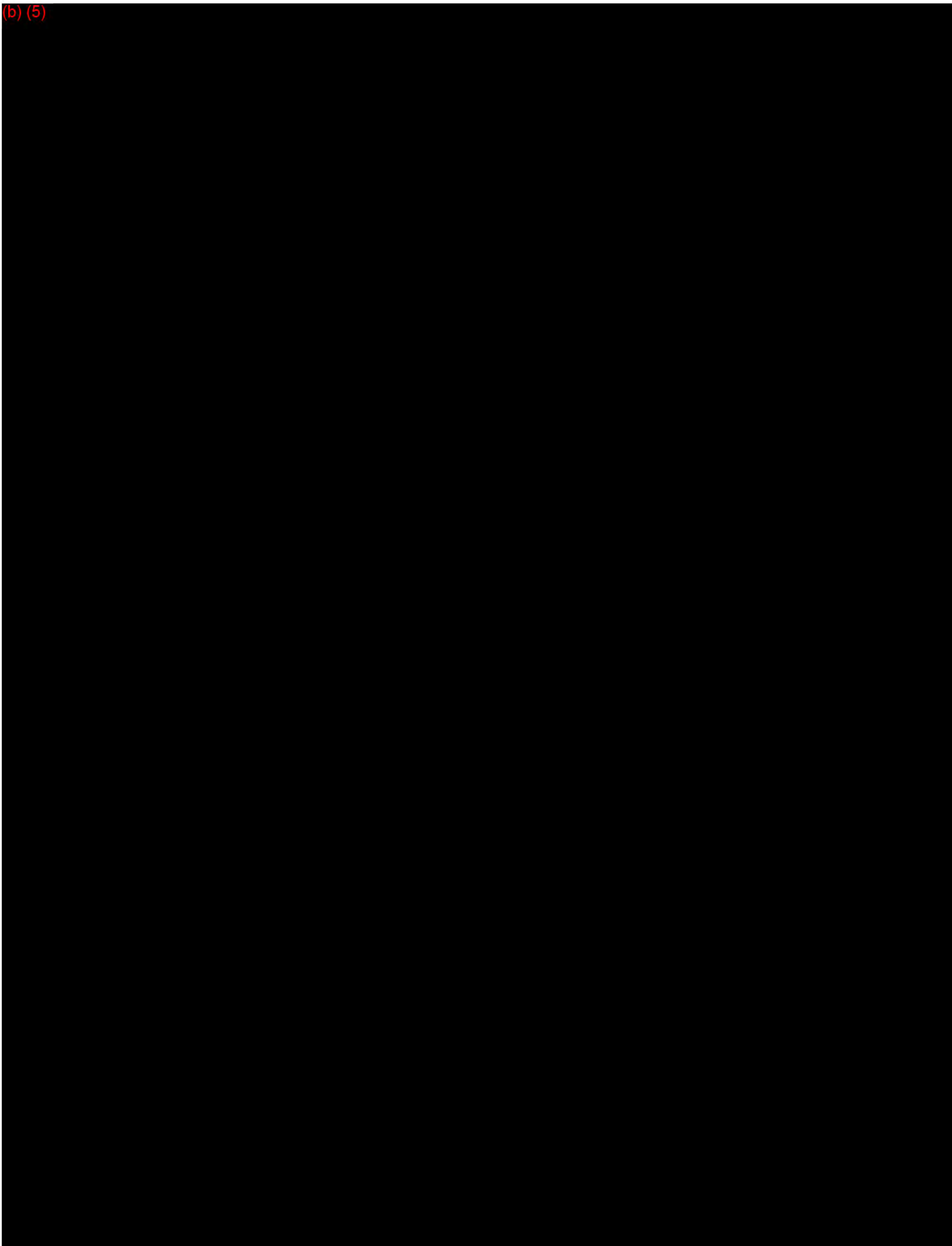














## Updated CEQ ANPRM Version

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**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

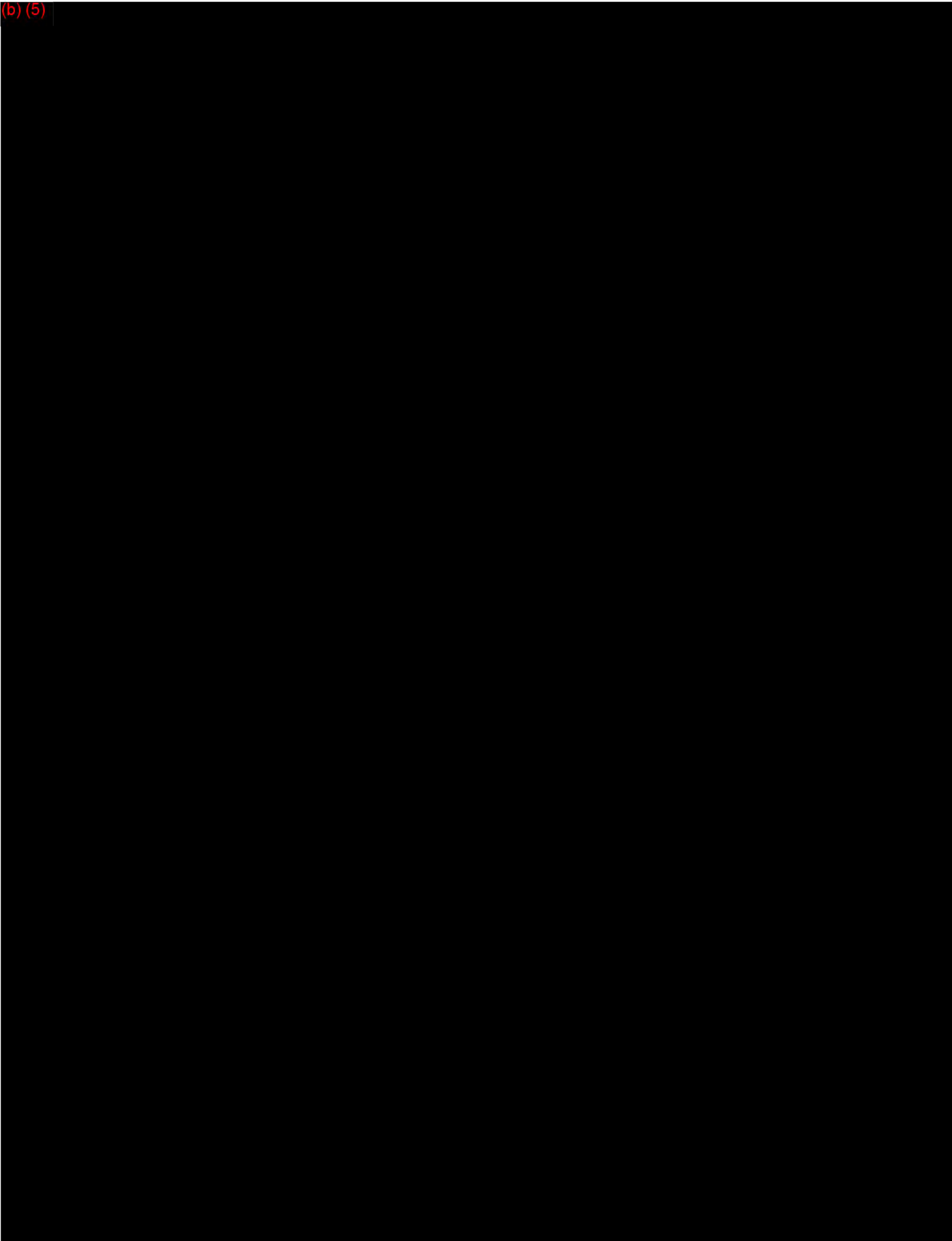
**Attachments**  
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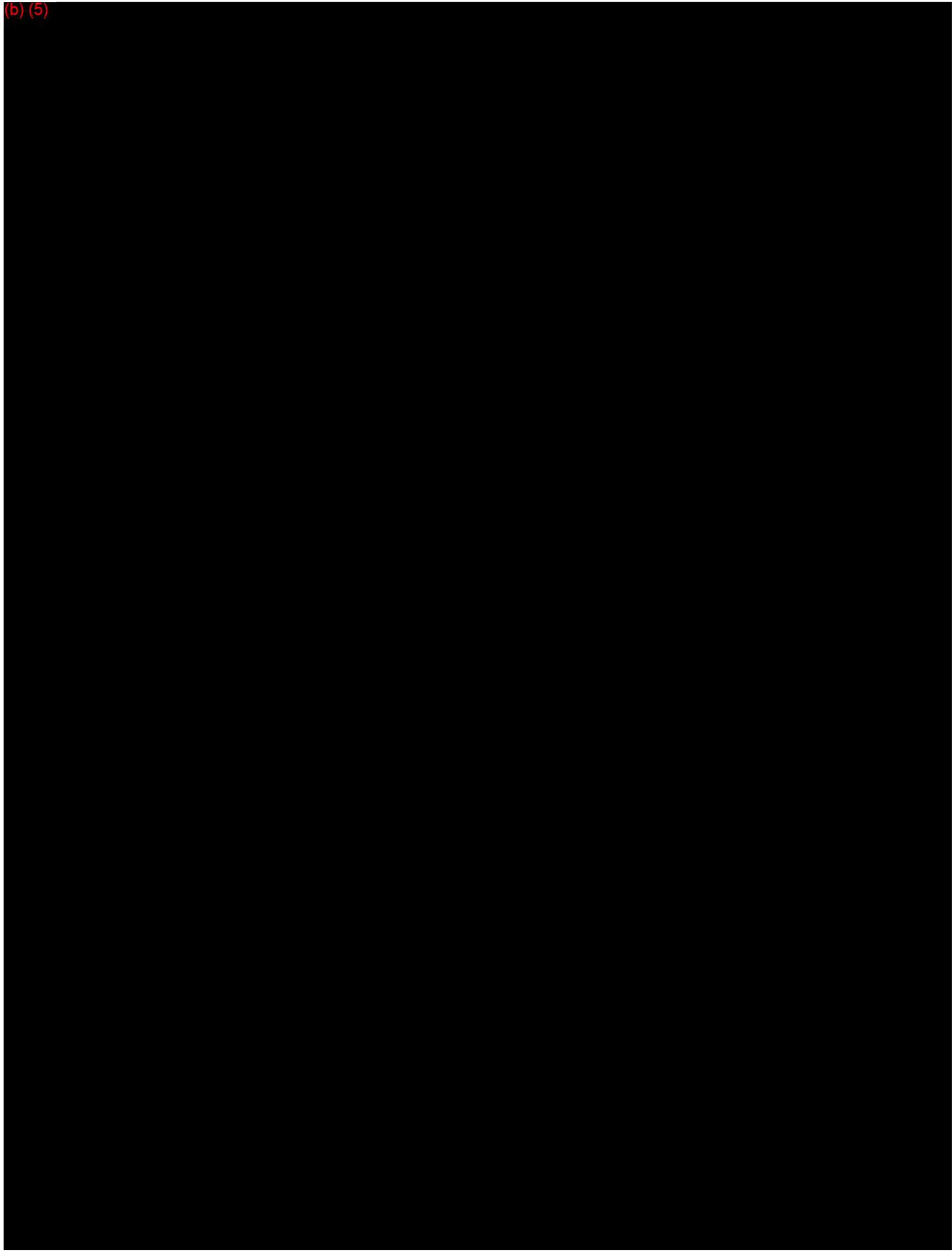
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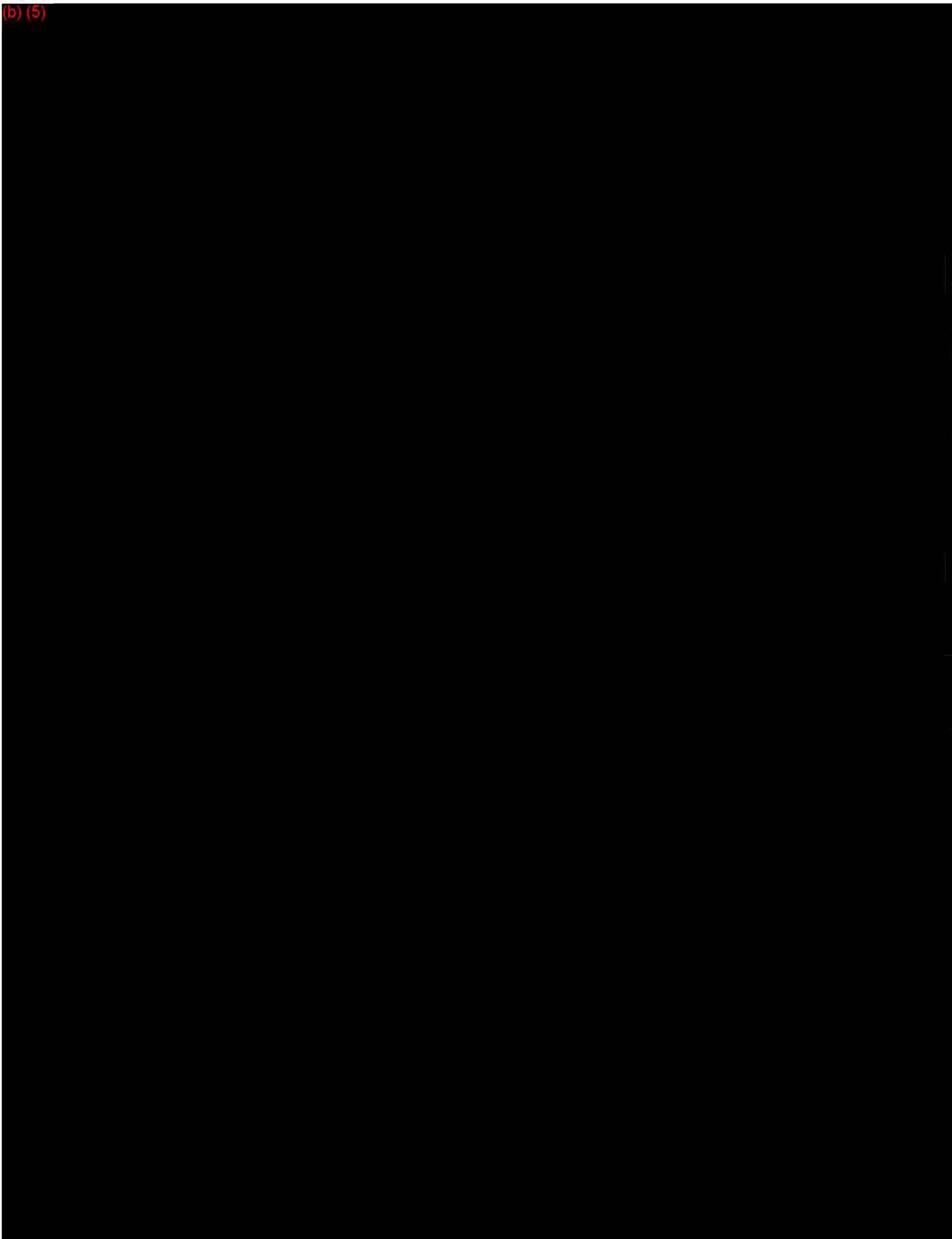
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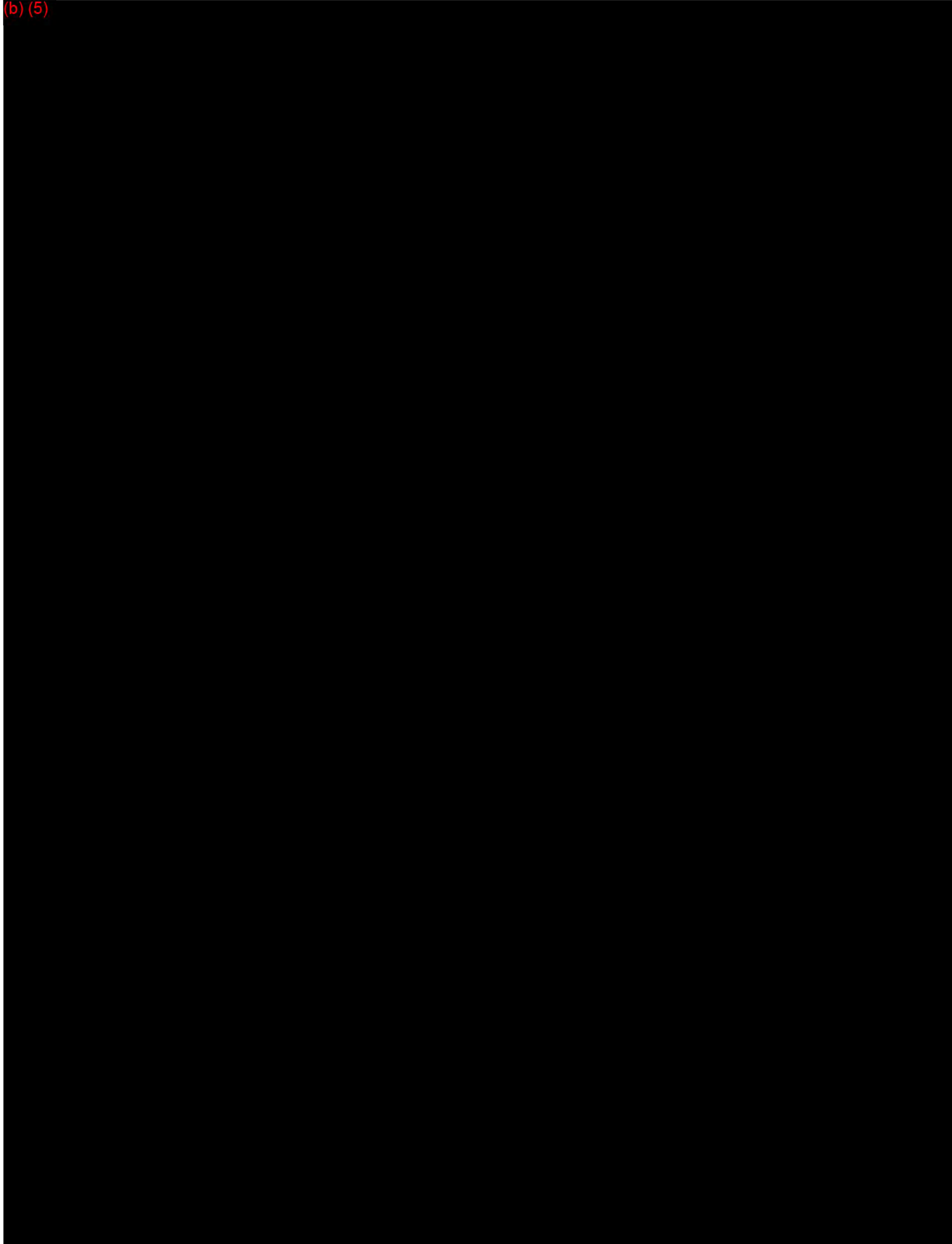
Per our conversation on Friday, please find attached the revised version per OFR's instructions.

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

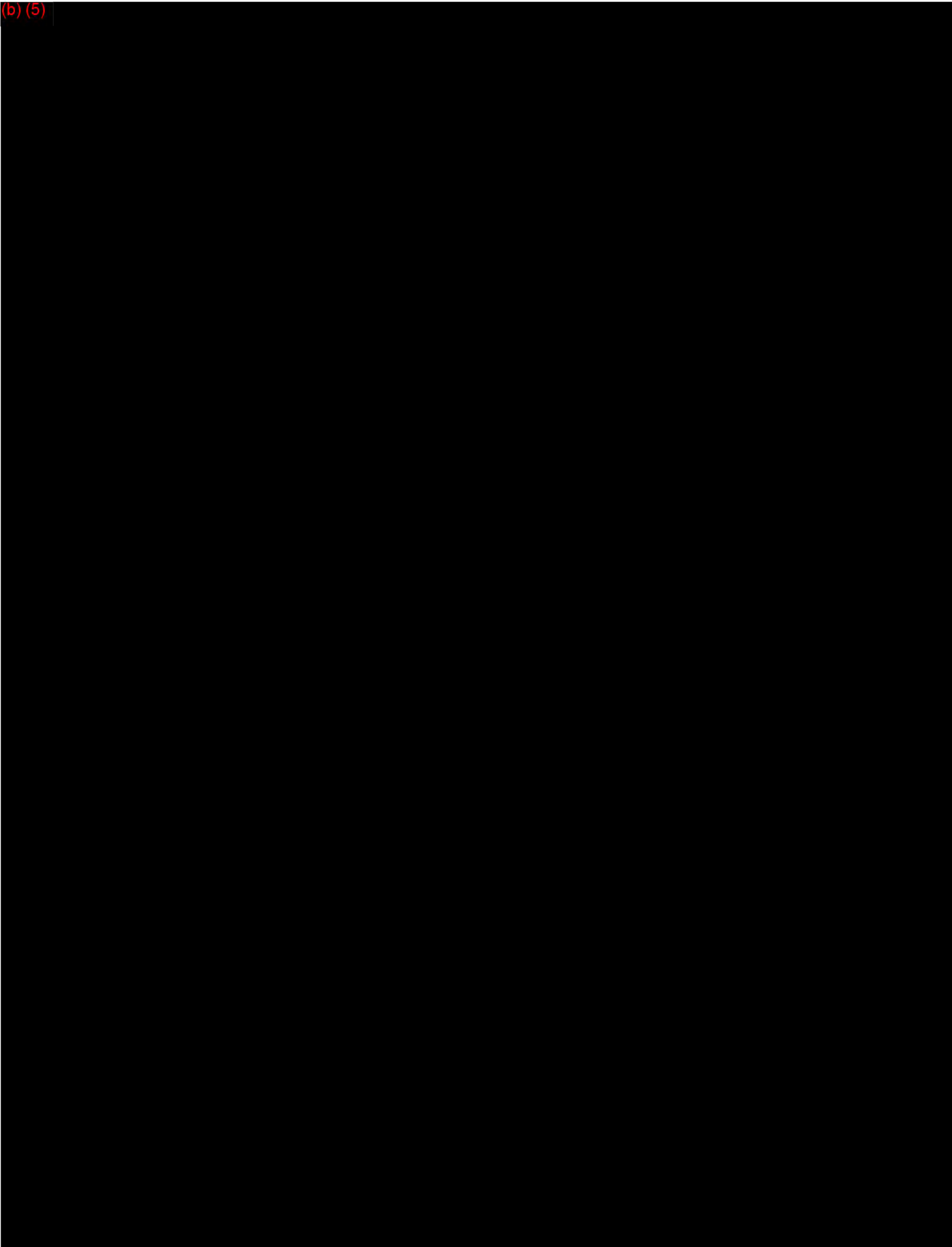


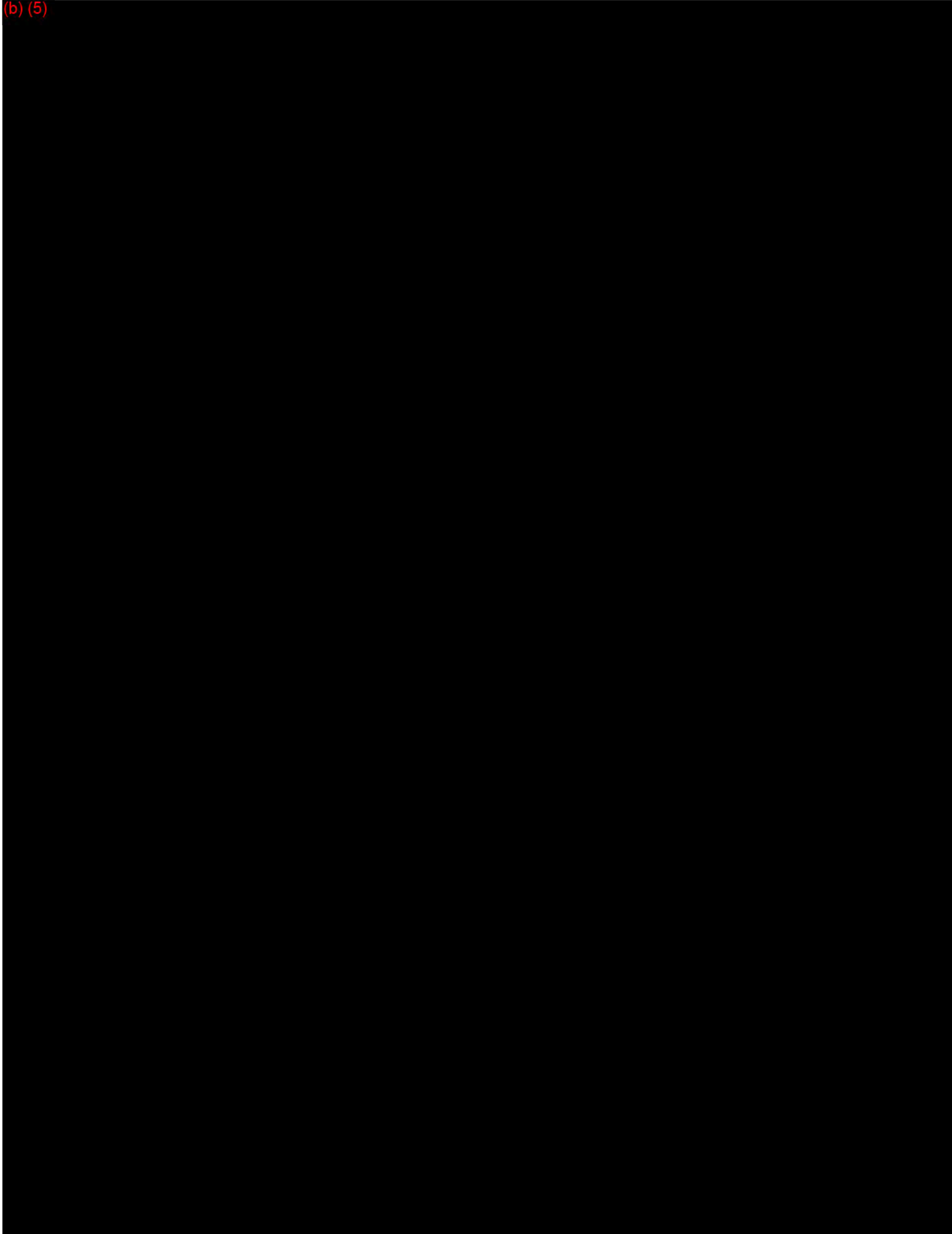


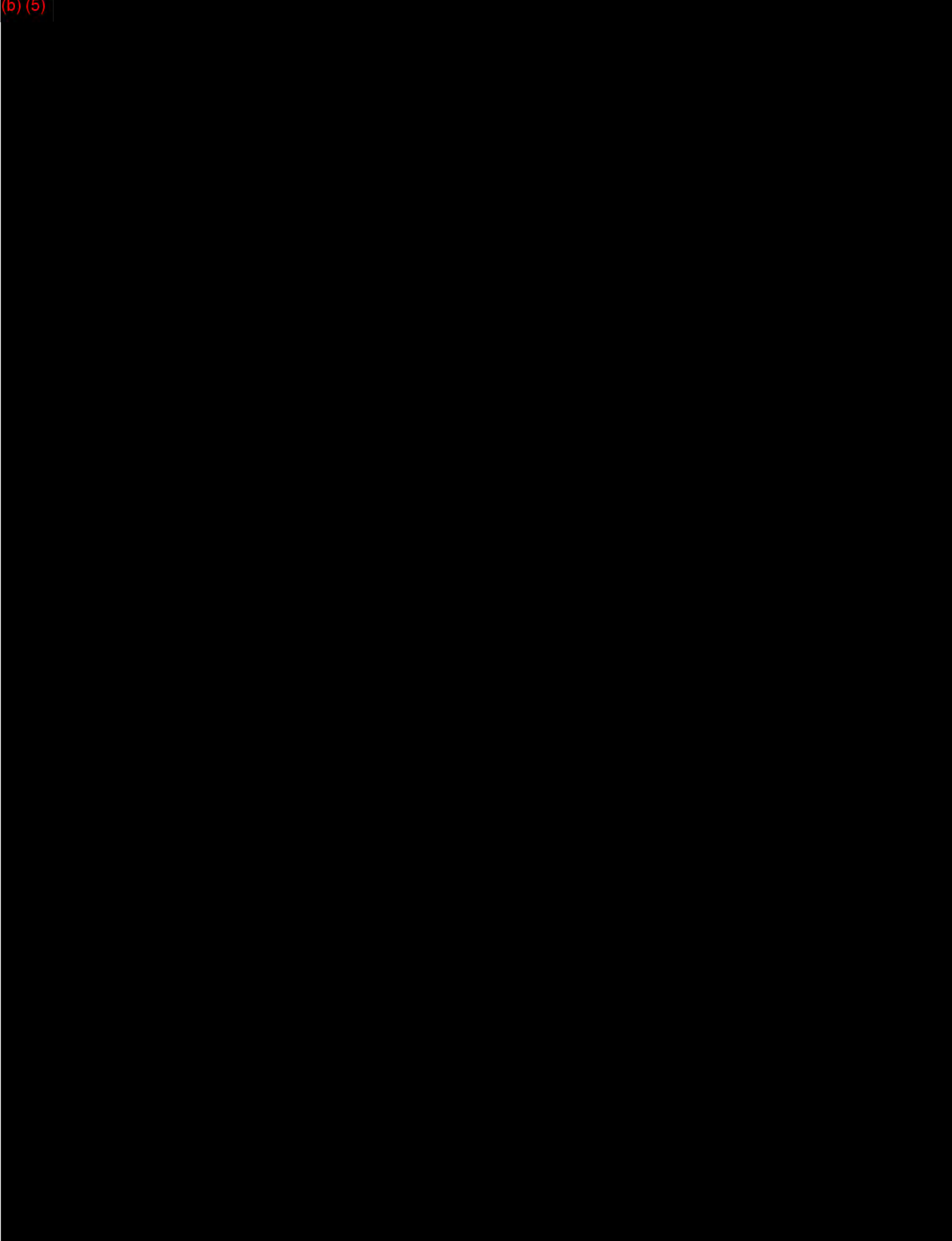












The Council on Environmental Quality's Chief of Staff signed the following Federal Register document on June 15, 2018. This is a prepublication version that CEQ is submitting for publication in the Federal Register (FR). While the Agency has taken steps to ensure the accuracy of this prepublication version of the notice, it is not the official version of the document for purposes of public comment. Please refer to the official version of the notice in a forthcoming FR publication, which will appear on the Government Printing Office's FDSys website (<http://gpo.gov/fdsys/search/home.action>) and on Regulations.gov (<http://www.regulations.gov>) in Docket No. CEQ-2018-0001. Once the official version of this document is published in the FR, this prepublication version will be replaced with a link to the official version.

[3225-F8]

## **COUNCIL ON ENVIRONMENTAL QUALITY**

### **40 CFR Parts 1500-1508**

[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

Page 2 of 7

This document is a prepublication version, signed by Council on Environmental Quality’s Chief of Staff on June 15, 2018. While the Agency has taken steps to ensure the accuracy of this prepublication version of the notice, it is not the official version of the document for purposes of public comment.

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

Page 3 of 7

This document is a prepublication version, signed by Council on Environmental Quality’s Chief of Staff on June 15, 2018. While the Agency has taken steps to ensure the accuracy of this prepublication version of the notice, it is not the official version of the document for purposes of public comment.

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?

Page 4 of 7

This document is a prepublication version, signed by Council on Environmental Quality's Chief of Staff on June 15, 2018. While the Agency has taken steps to ensure the accuracy of this prepublication version of the notice, it is not the official version of the document for purposes of public comment.

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

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This document is a prepublication version, signed by Council on Environmental Quality's Chief of Staff on June 15, 2018. While the Agency has taken steps to ensure the accuracy of this prepublication version of the notice, it is not the official version of the document for purposes of public comment.



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.*

Page 7 of 7

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[3225-F8]

**COUNCIL ON ENVIRONMENTAL QUALITY**

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

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

**RIN: 0331-AA03**

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

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

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

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

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

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

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

**SUPPLEMENTARY INFORMATION:**

**I. Background**

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

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

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

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

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

## **II. Request for Comment**

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

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

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

***Scope of NEPA Review:***

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

- c. Cumulative Impact;
  - d. Significantly;
  - e. Scope; and
  - f. Other NEPA terms.
8. Should any new definitions of key NEPA terms, such as those noted below, be added, and if so, which terms?
- a. Alternatives;
  - b. Purpose and Need;
  - c. Reasonably Foreseeable;
  - d. Trivial Violation; and
  - e. Other NEPA terms.
9. Should the provisions in CEQ's NEPA regulations relating to any of the types of documents listed below be revised, and if so, how?
- a. Notice of Intent;
  - b. Categorical Exclusions Documentation;
  - c. Environmental Assessments;
  - d. Findings of No Significant Impact;
  - e. Environmental Impact Statements;
  - f. Records of Decision; and
  - g. Supplements.
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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?
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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  
**Sent:** Wednesday, June 20, 2018 1:02 PM  
**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.

**From:** Szabo, Aaron L. EOP/CEQ  
**Sent:** Wednesday, June 20, 2018 1:01 PM  
**To:** Whiteman, Chad S. EOP/OMB <(b) (6)>  
**Subject:** RE: ANPRM - will you send a clean version?

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

**From:** Whiteman, Chad S. EOP/OMB  
**Sent:** Wednesday, June 20, 2018 1:00 PM  
**To:** Szabo, Aaron L. EOP/CEQ <(b) (6)>  
**Subject:** ANPRM - will you send a clean version?

(b) (5) I haven't uploaded to ROCIS yet.

**COUNCIL ON ENVIRONMENTAL QUALITY**

**40 CFR Parts 1500-1508**

**[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.

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

*\*\*\*Draft, Deliberative, Do Not Cite, Quote, or Release During OMB Review.  
Interagency Working Comments on Draft Language under 12866 Interagency Review.  
Subject to Further Policy Review\*\*\**

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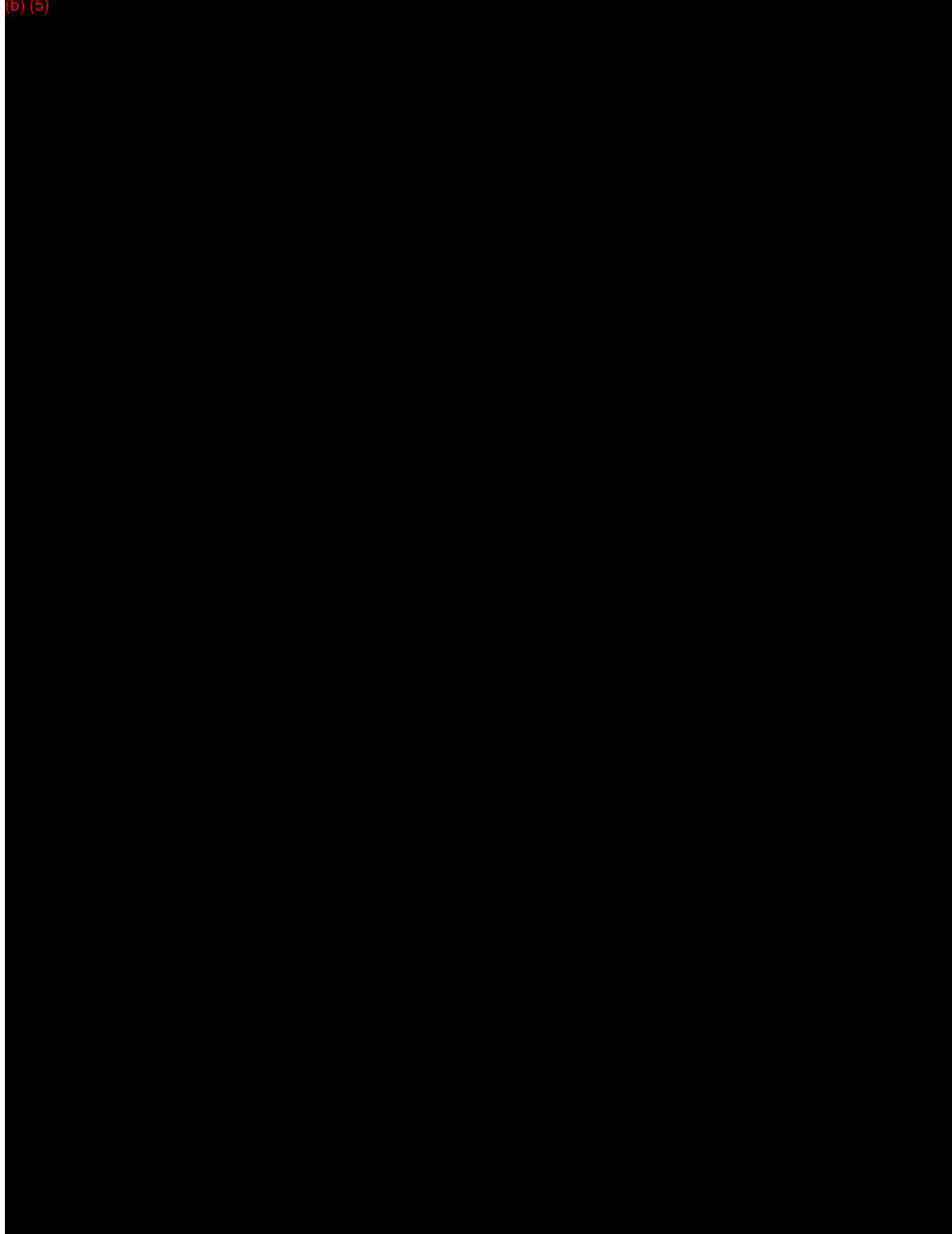
(Authority: 42 U.S.C. 4332, 4342, 4344 and 40 CFR Parts 1500, 1501, 1502, 1503, 1505, 1506, 1507, and 1508)

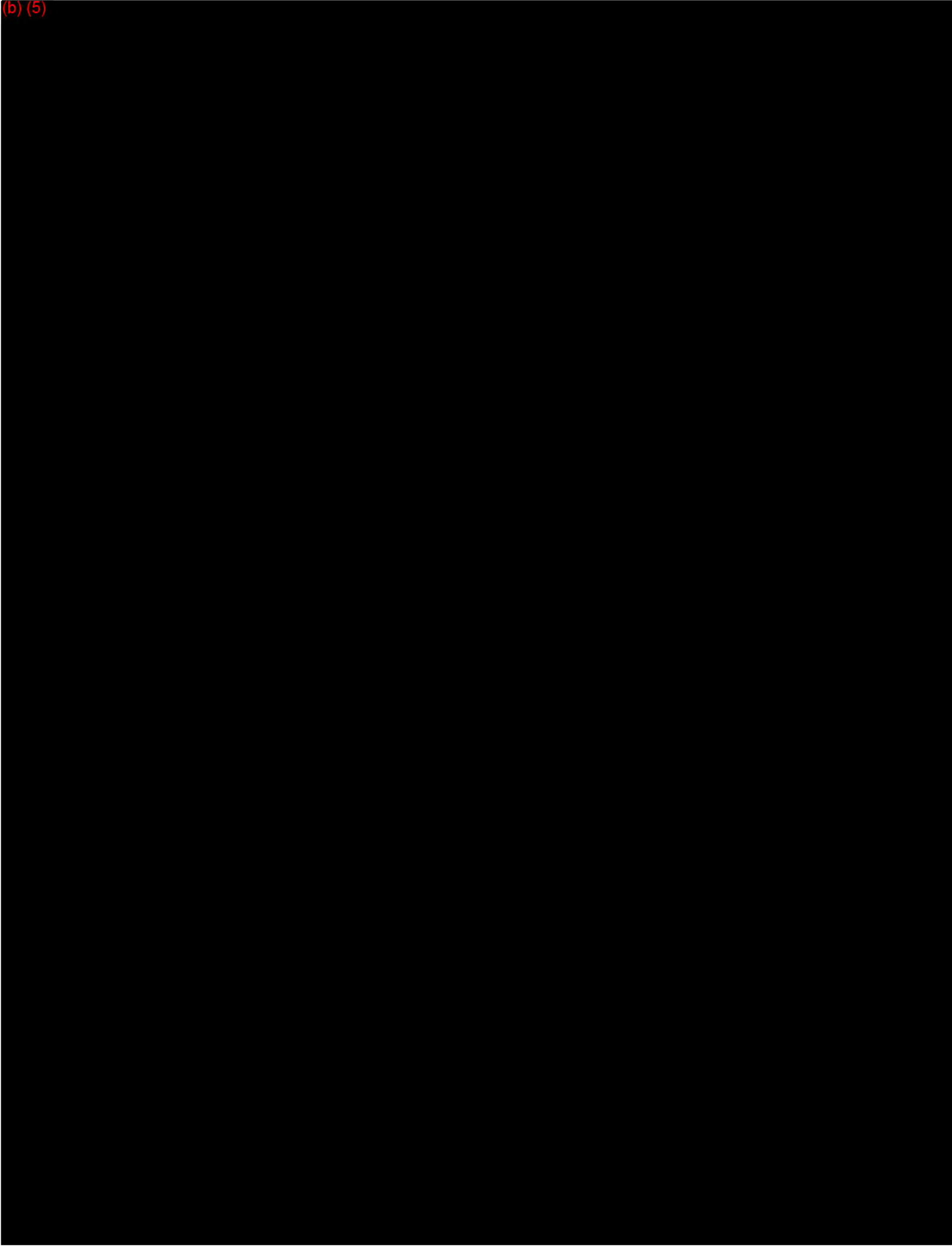
### **III. Statutory and Executive Order Reviews**

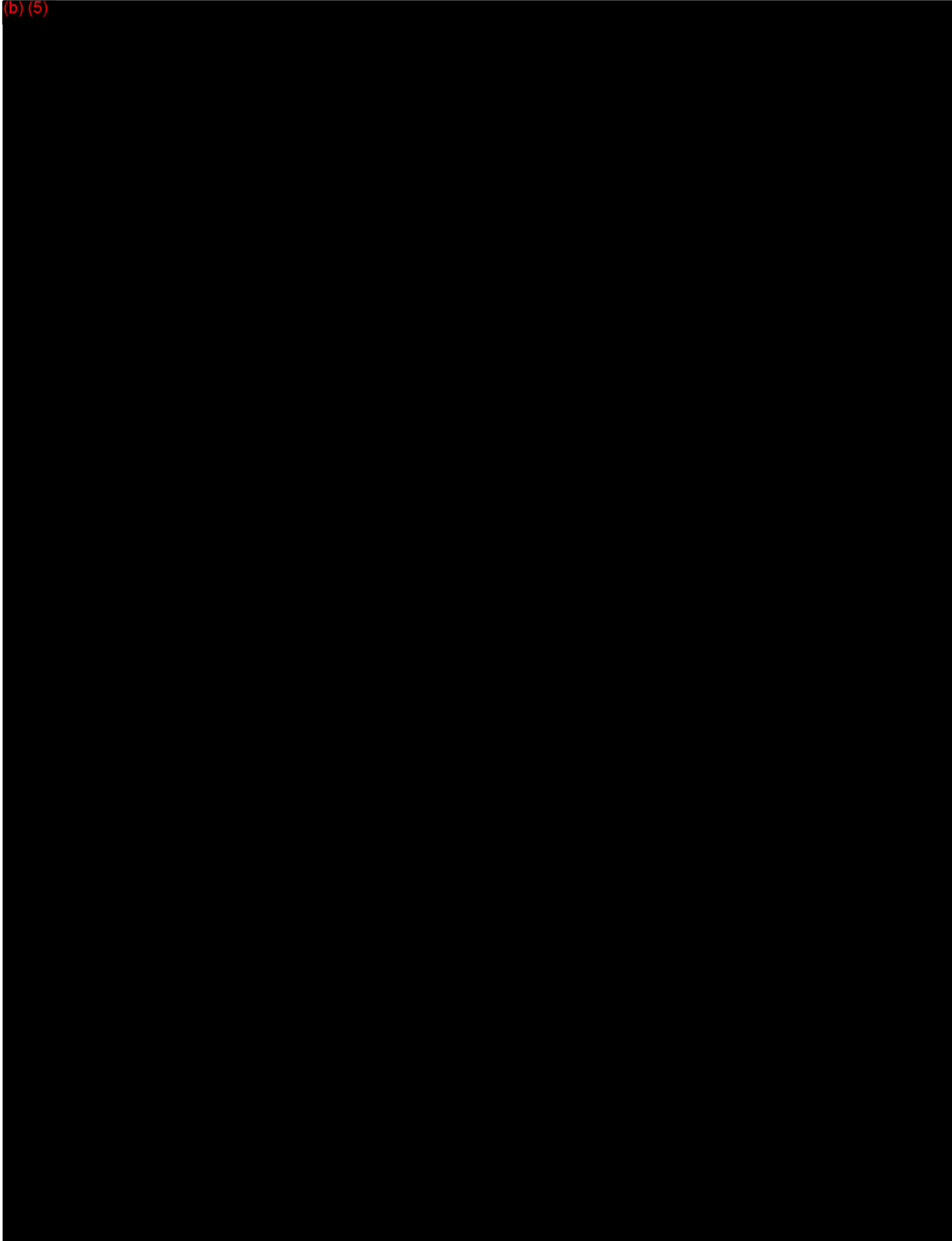
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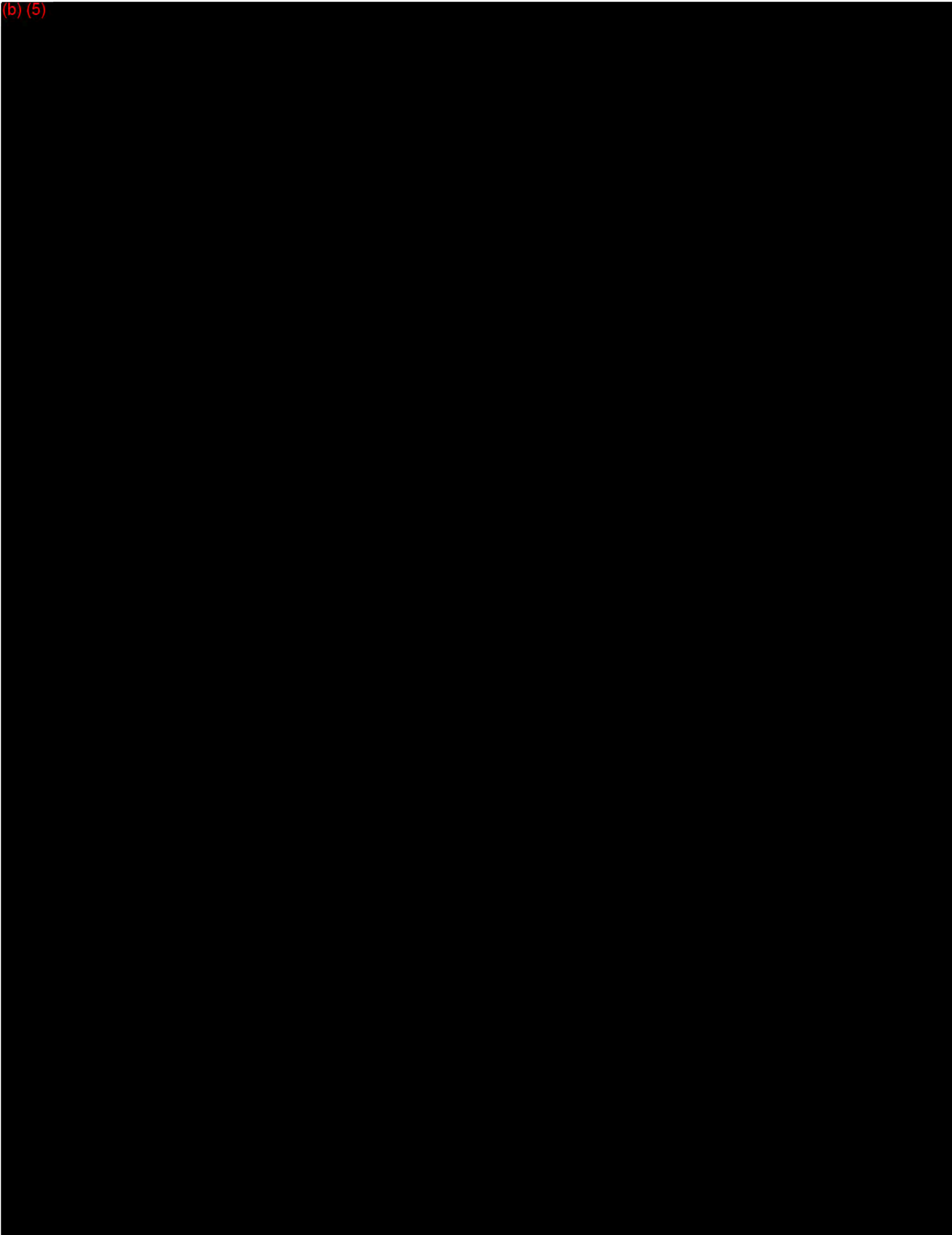
Mary B. Neumayr,

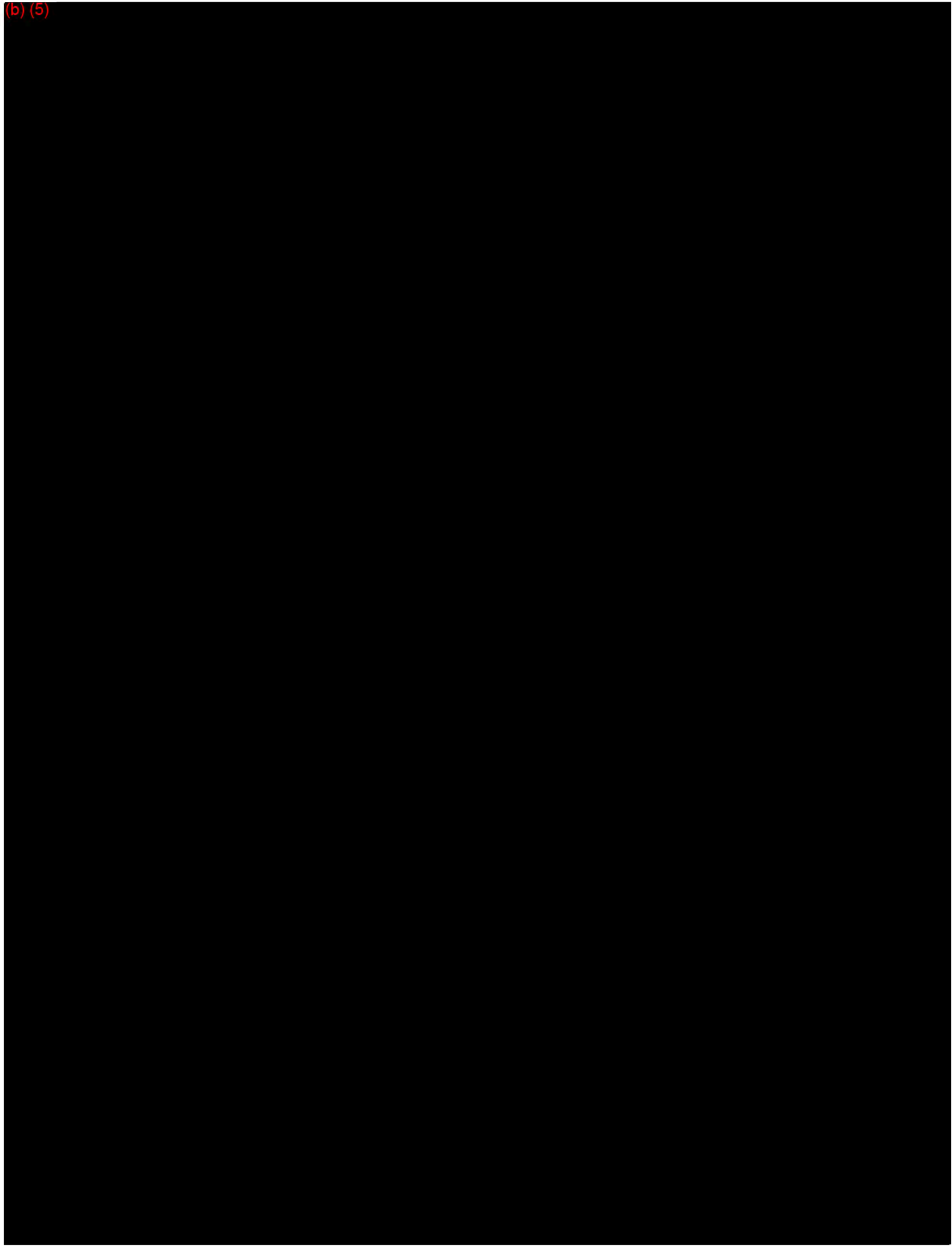
*Chief of Staff, Council on Environmental Quality.*

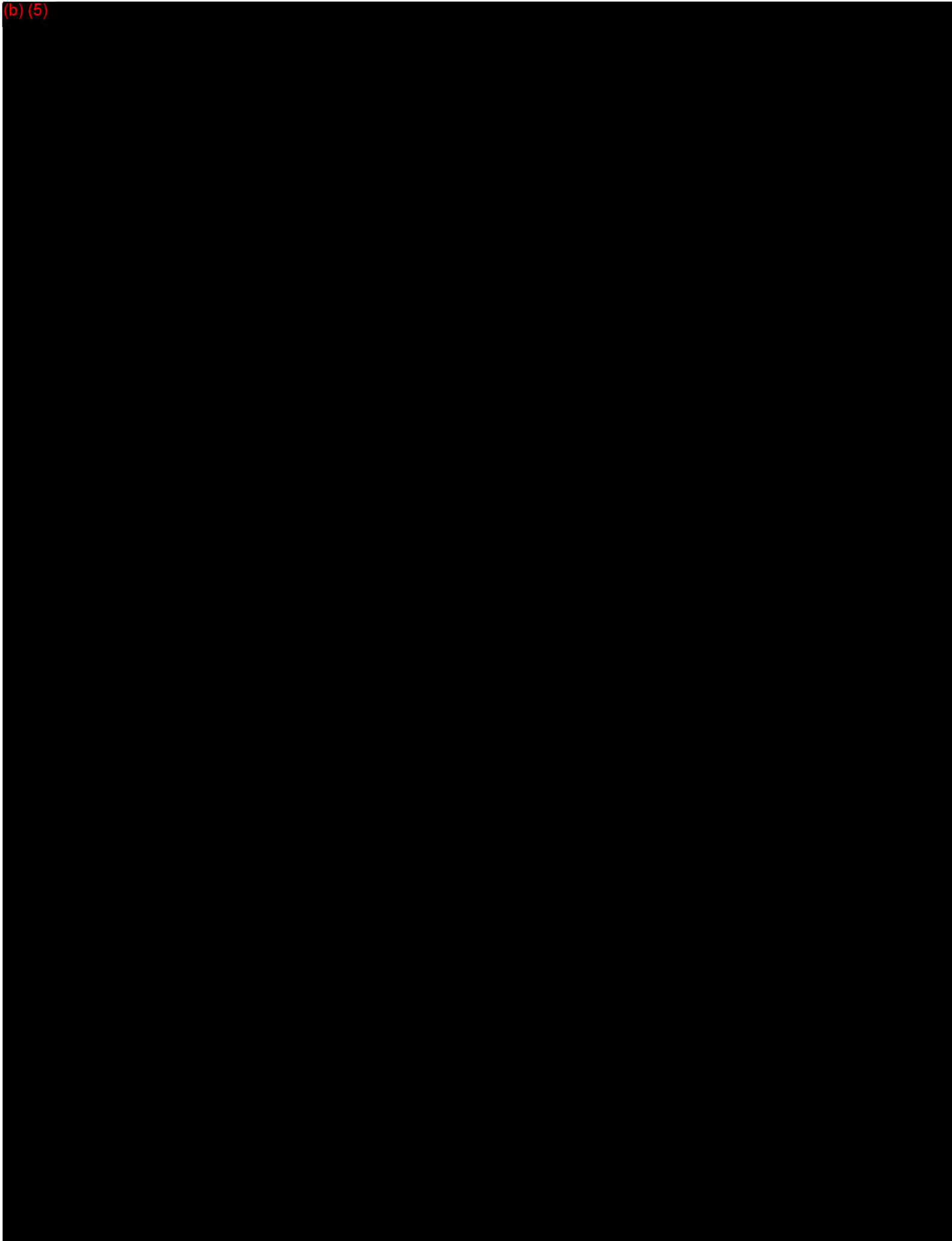


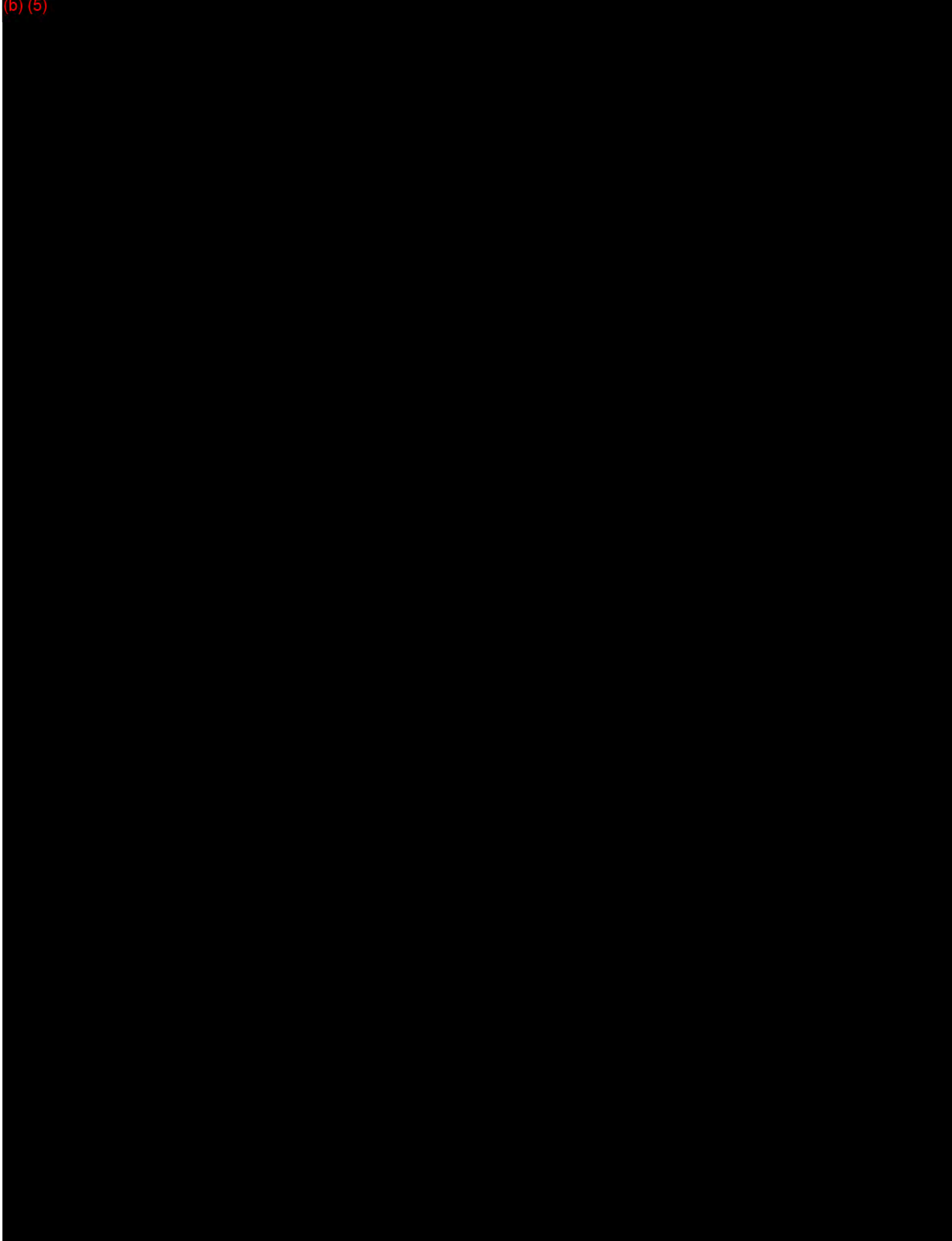




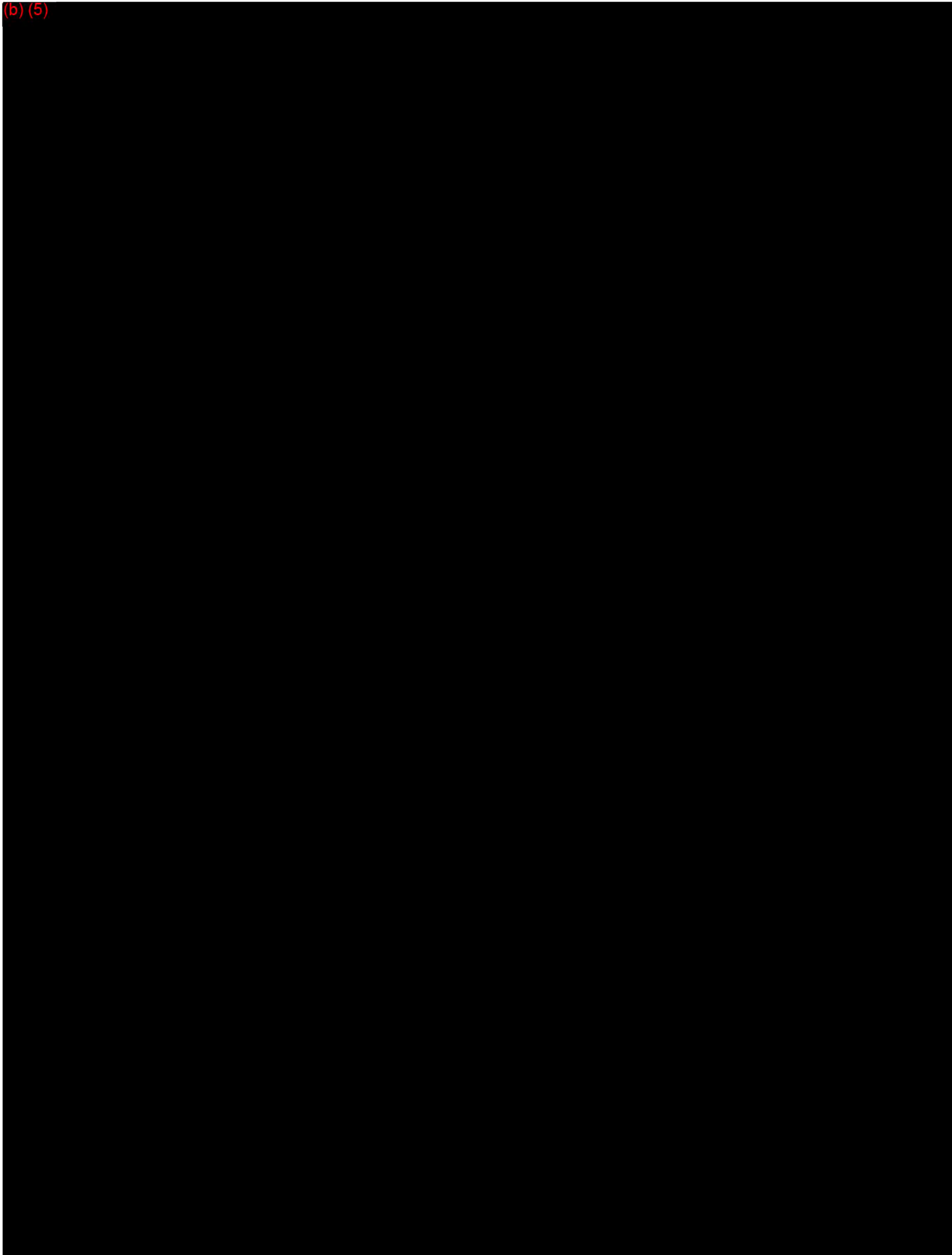


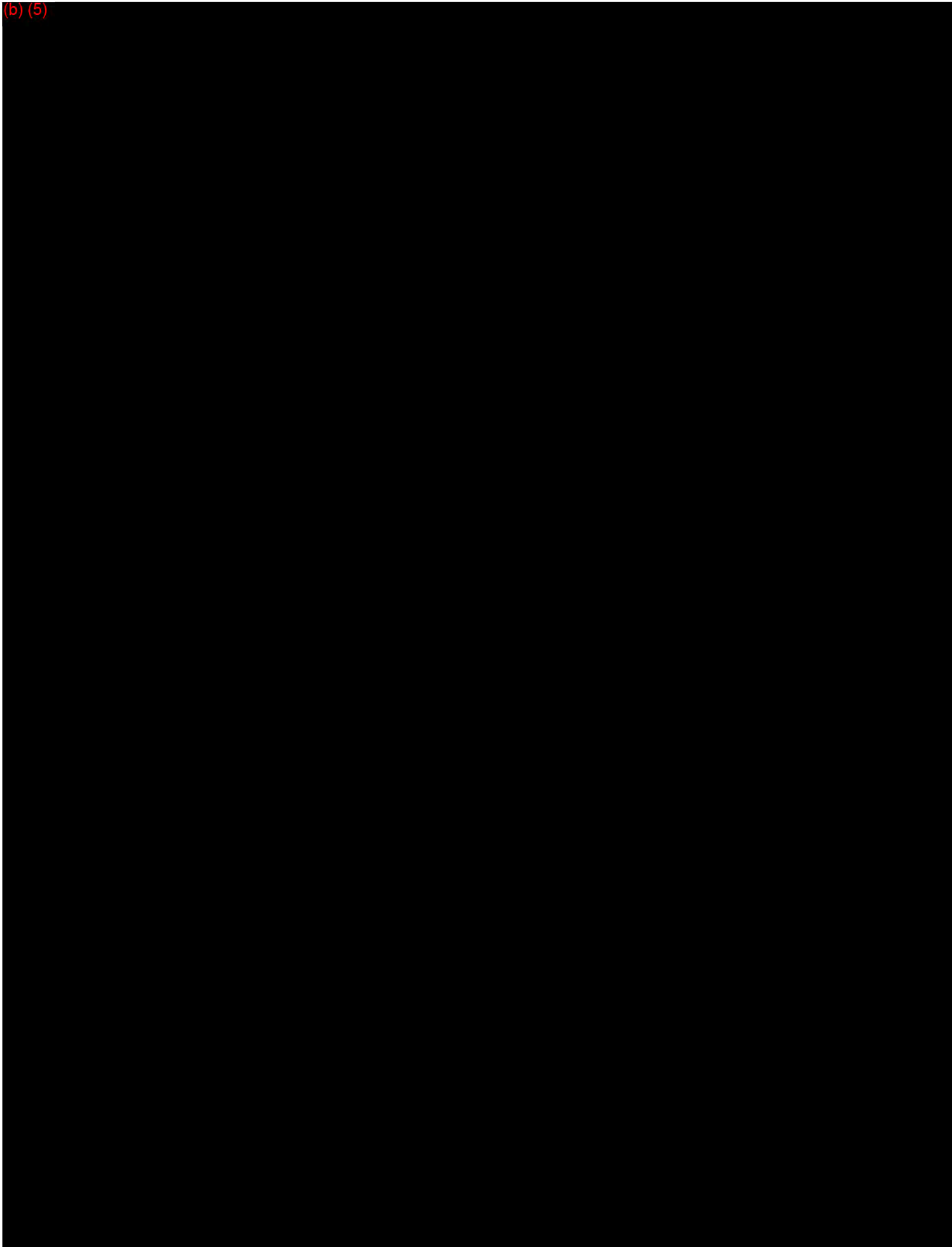


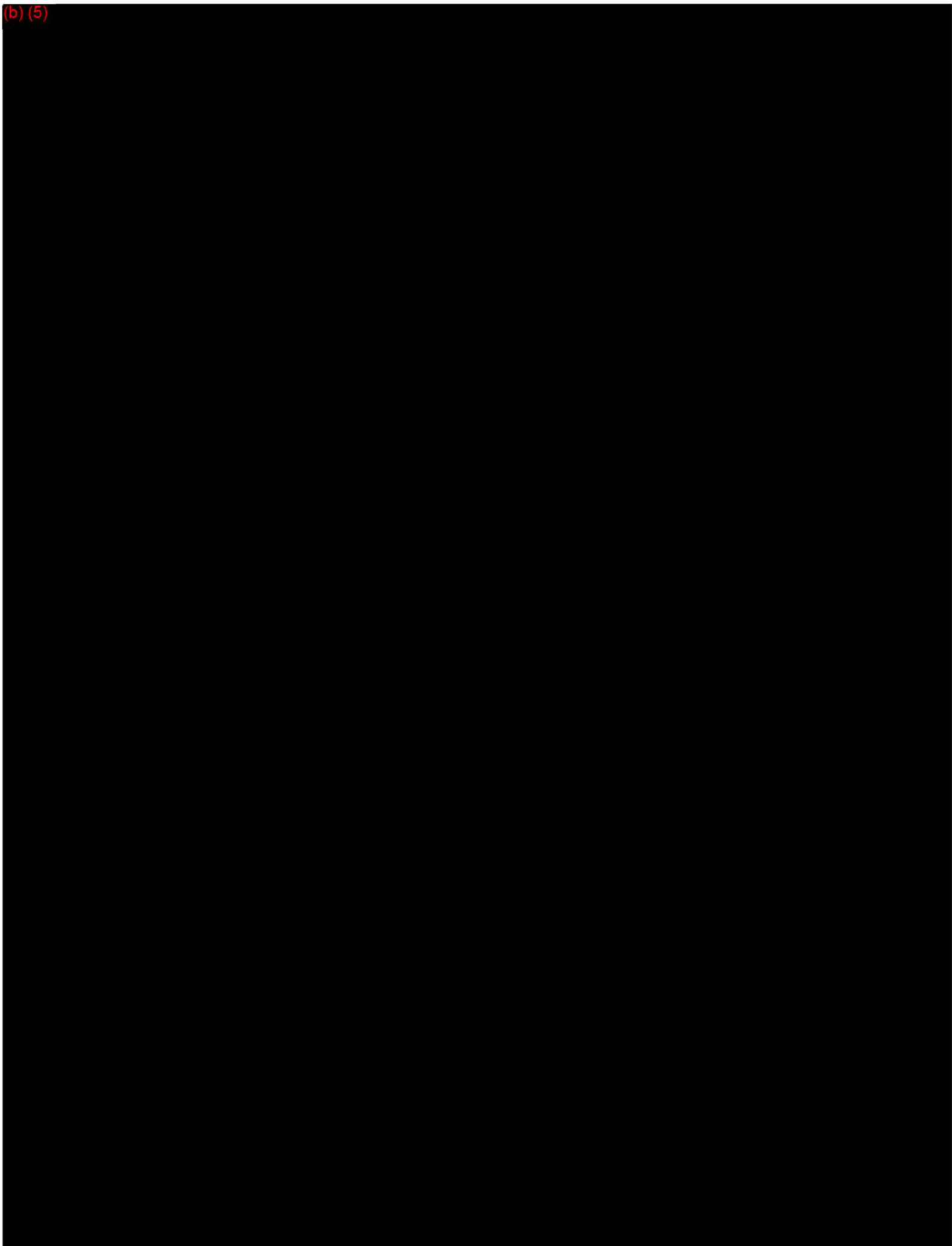


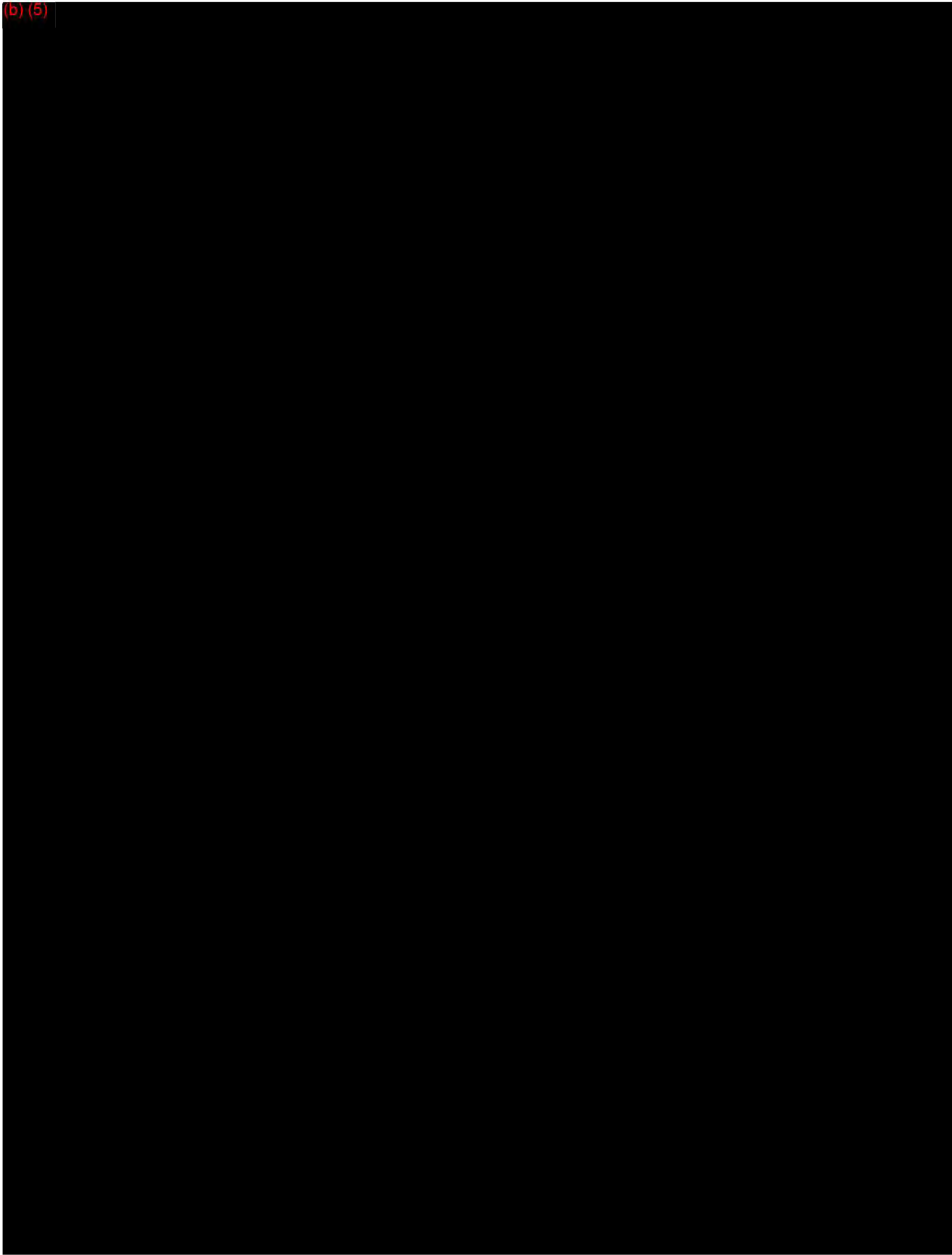


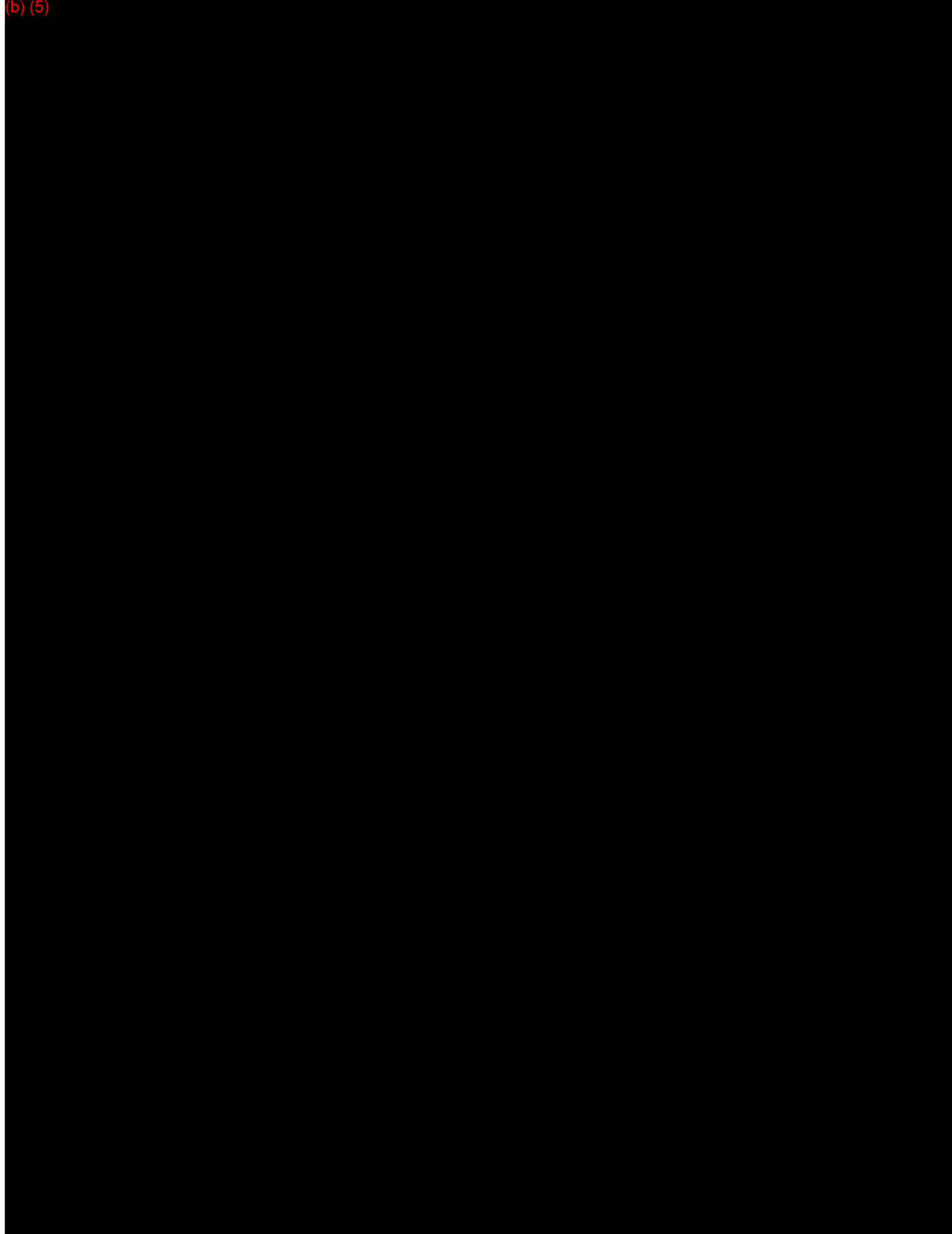


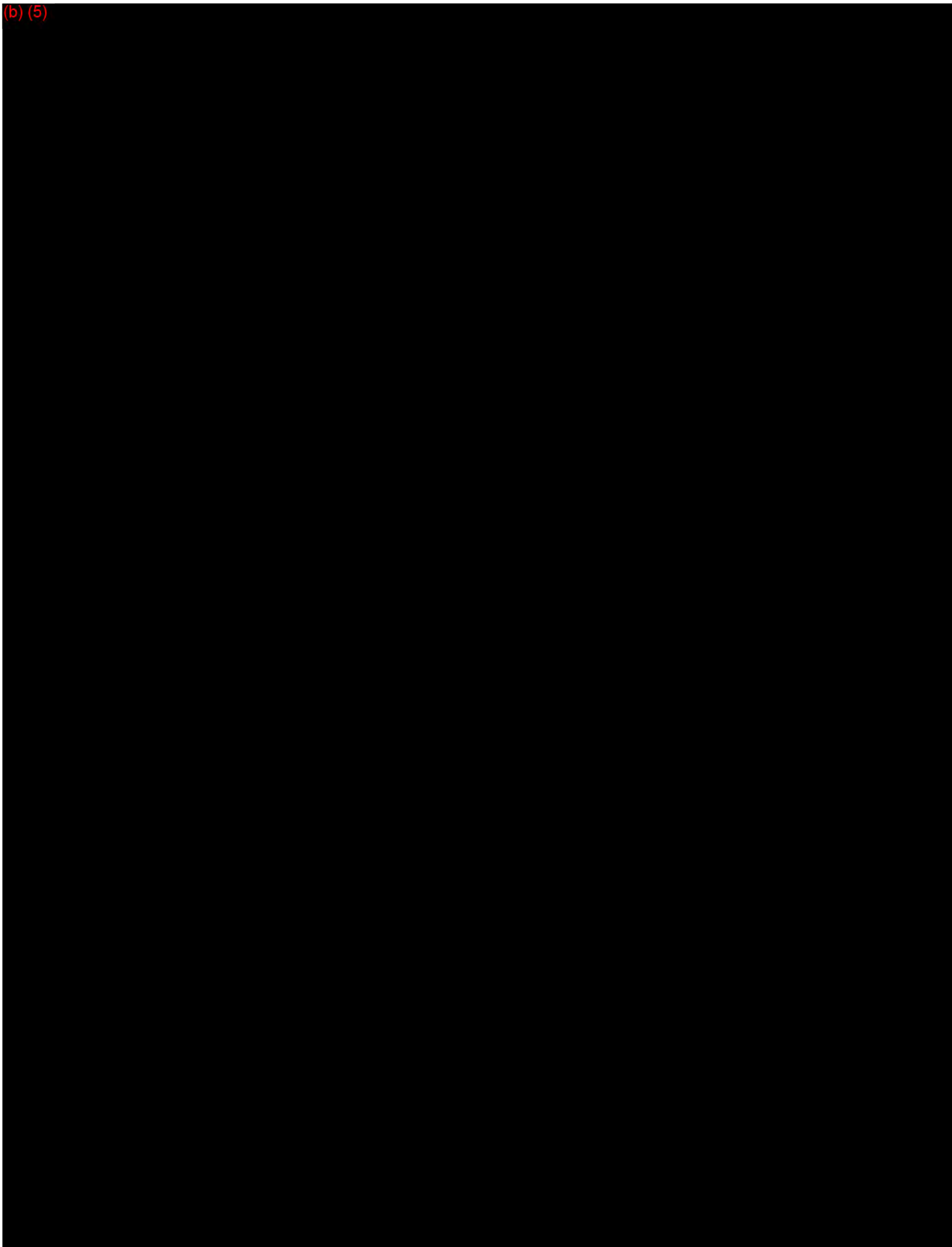


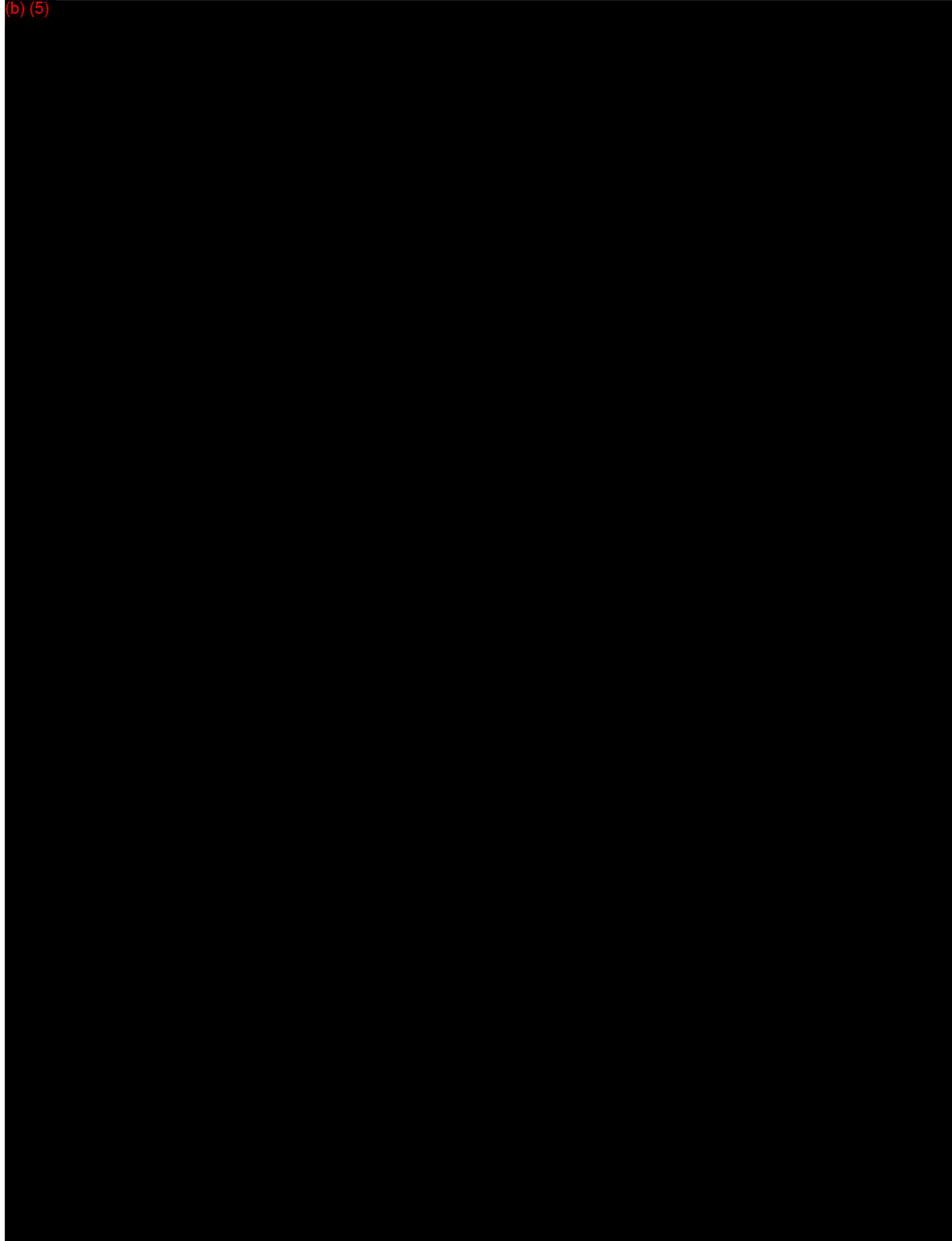


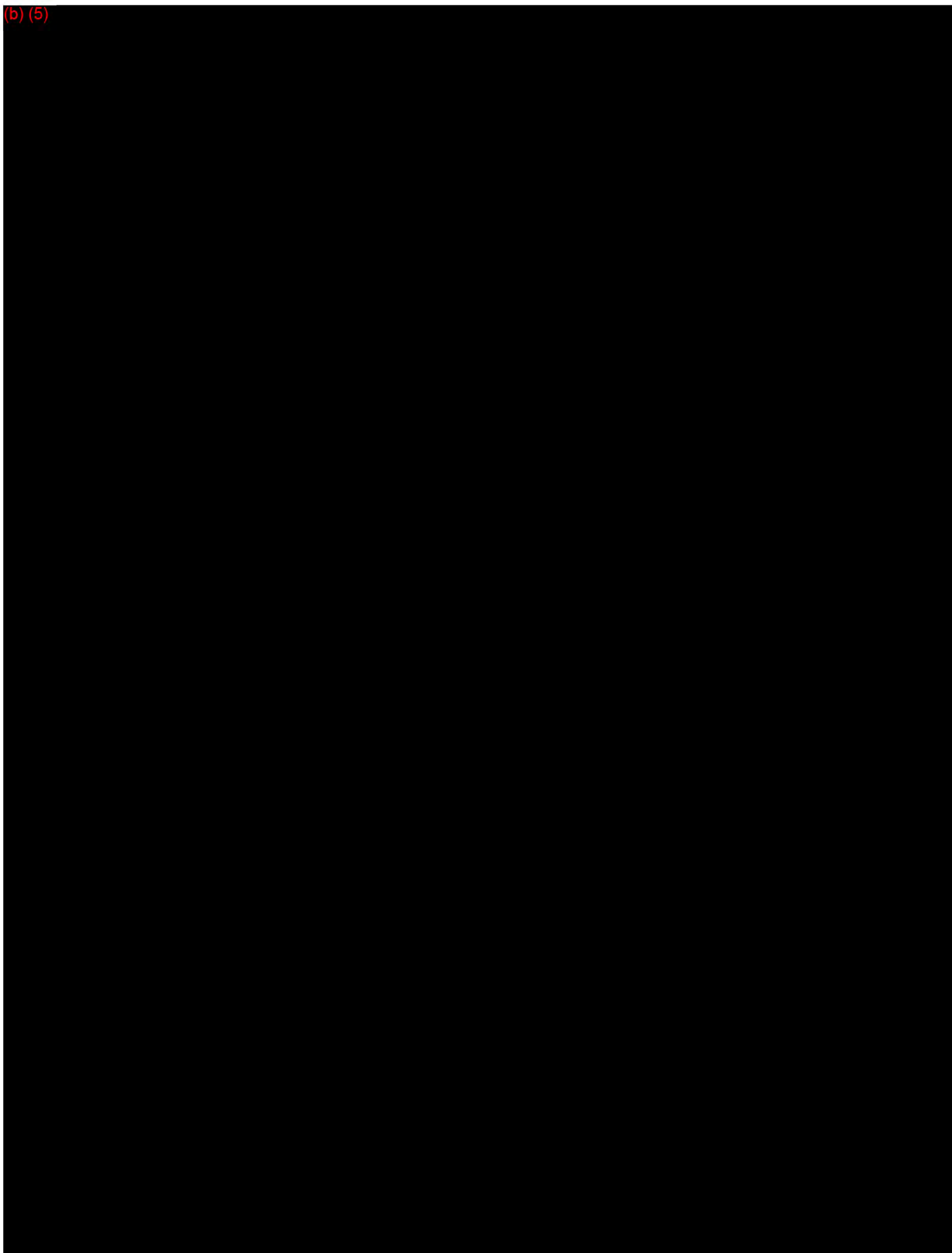




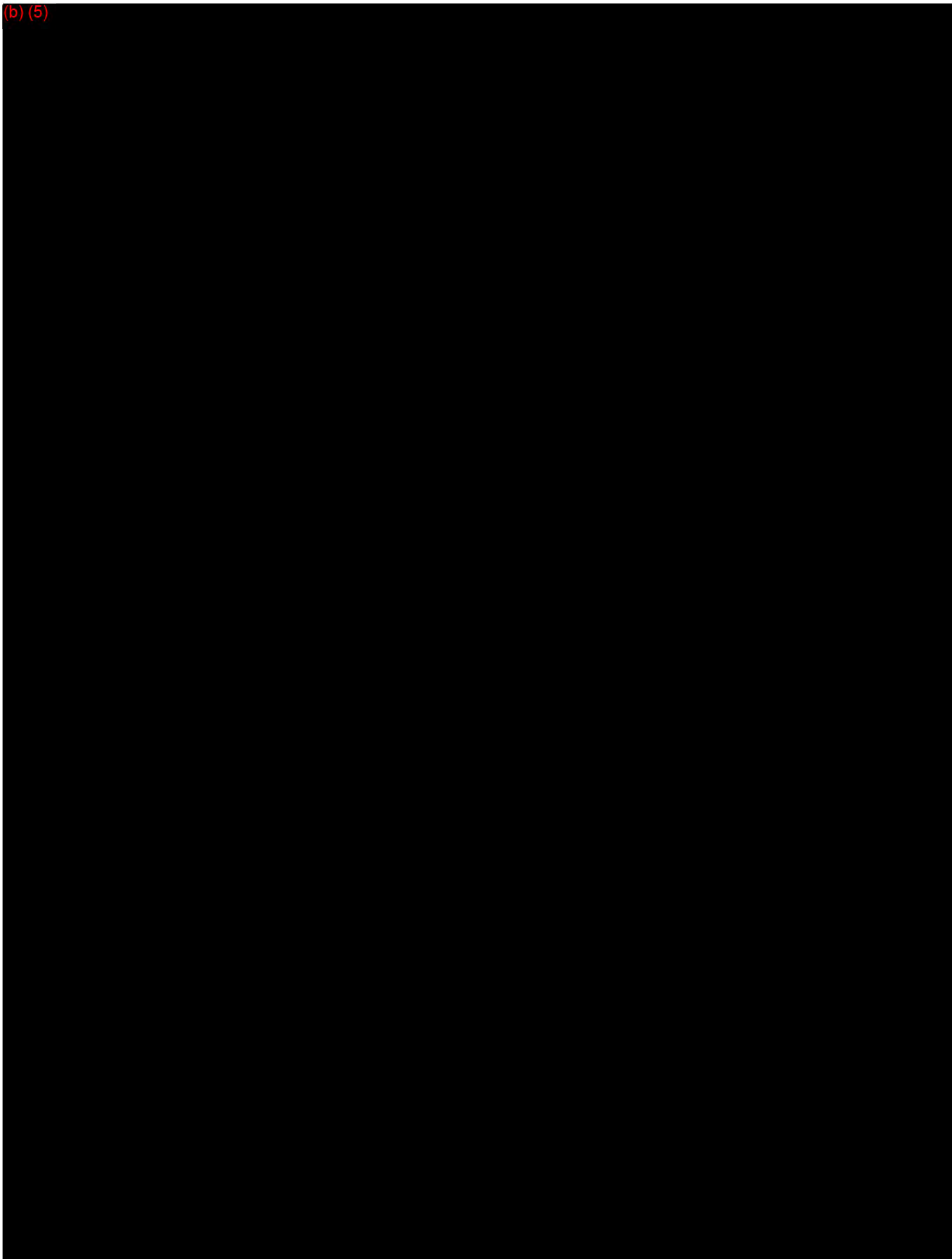


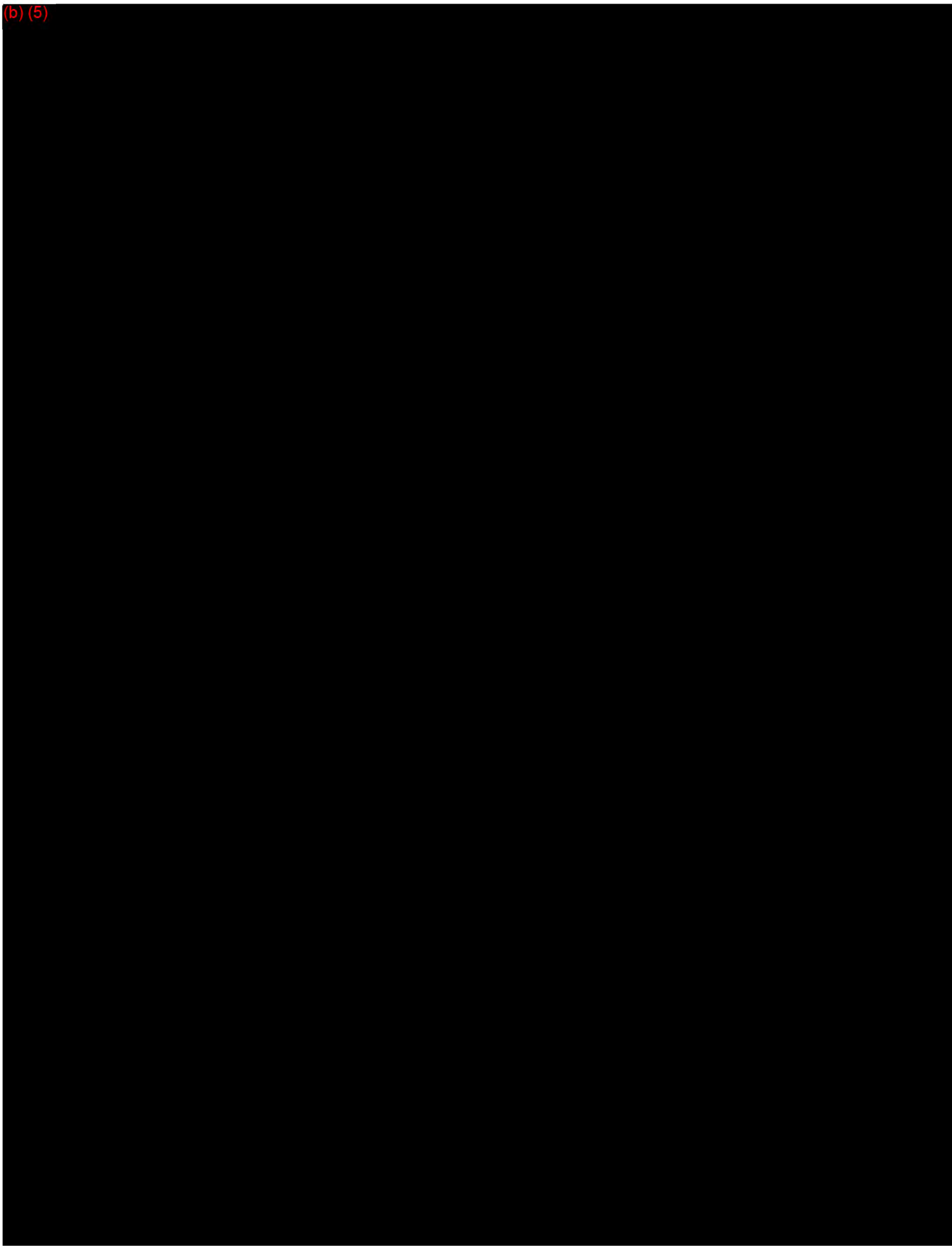


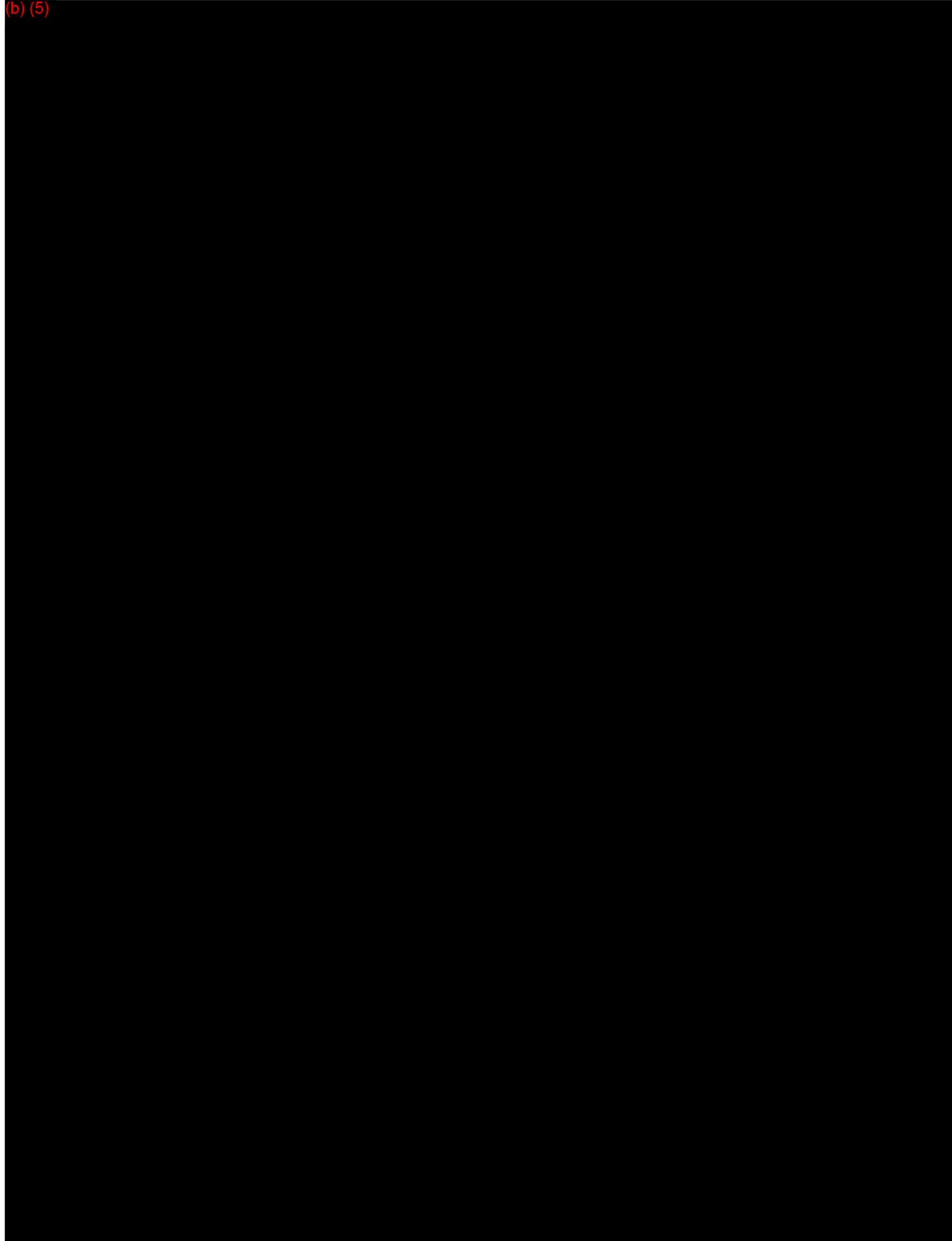


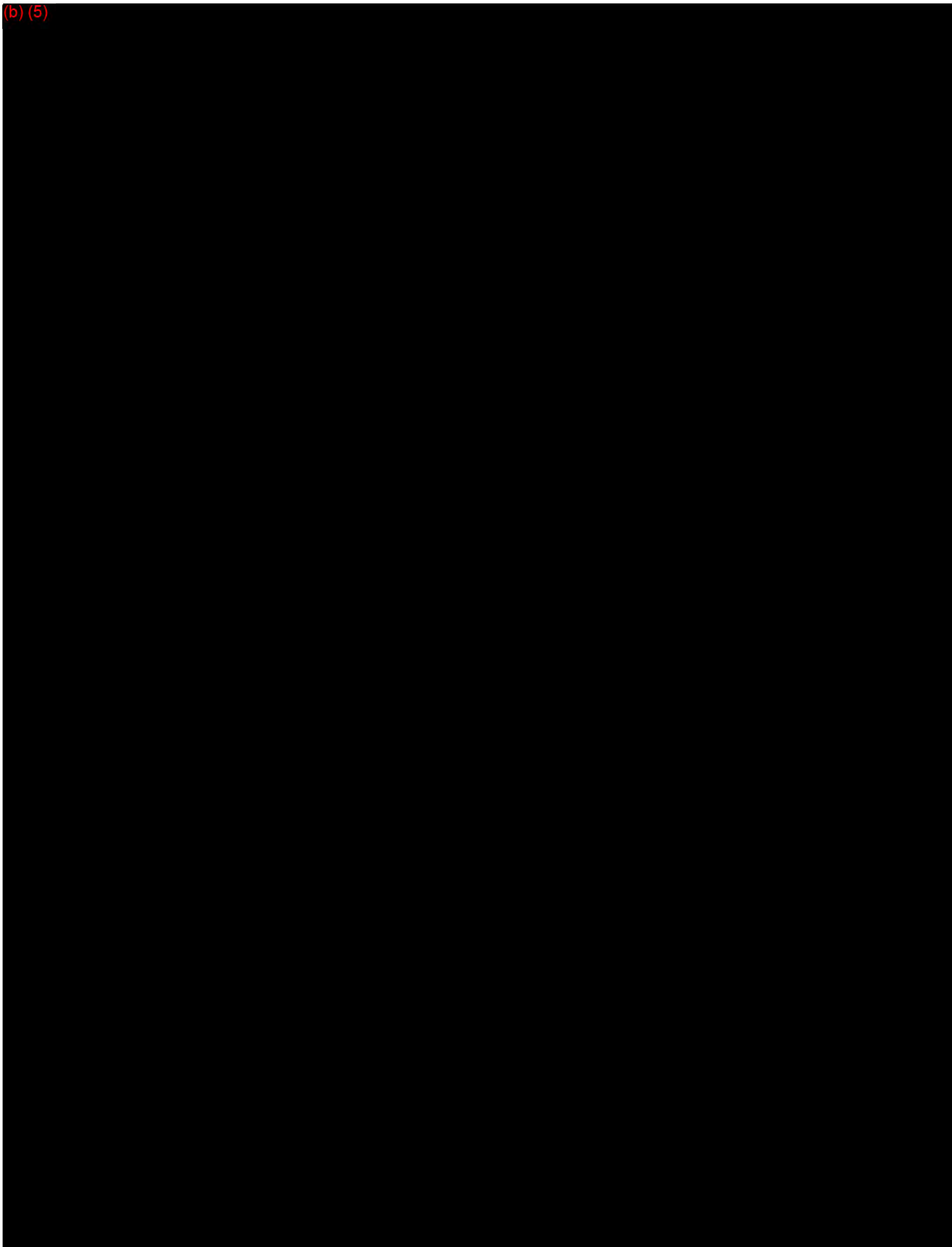


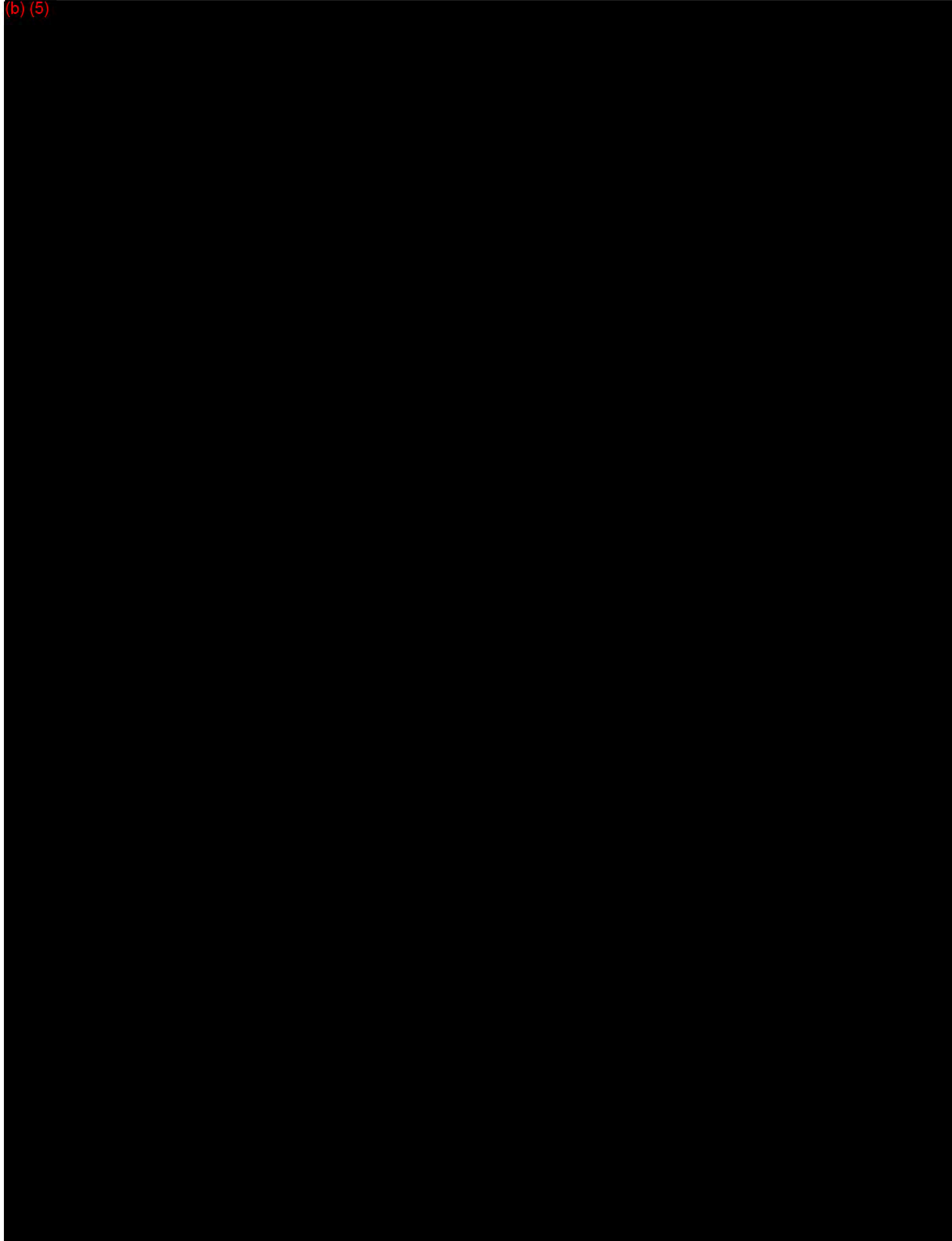


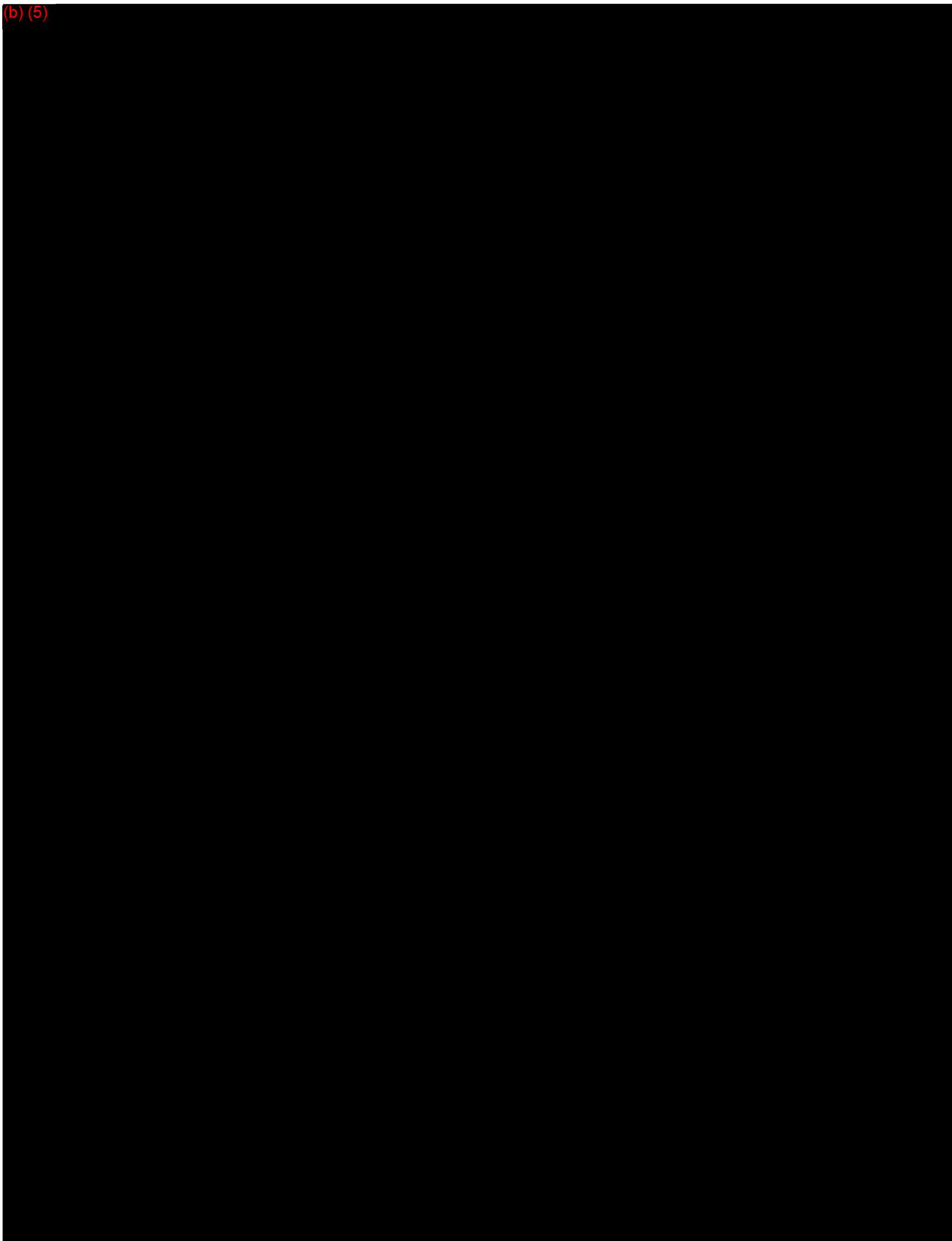


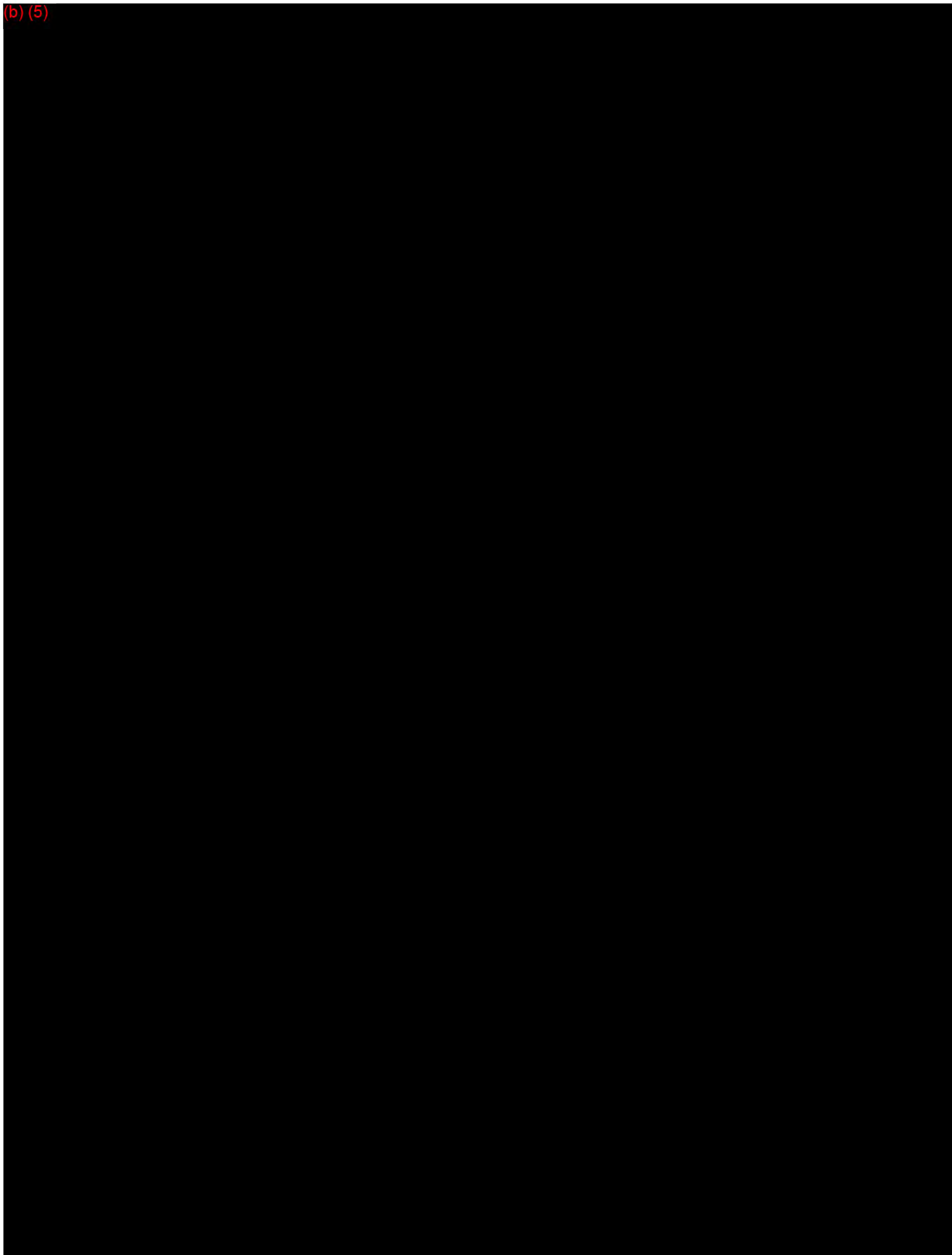


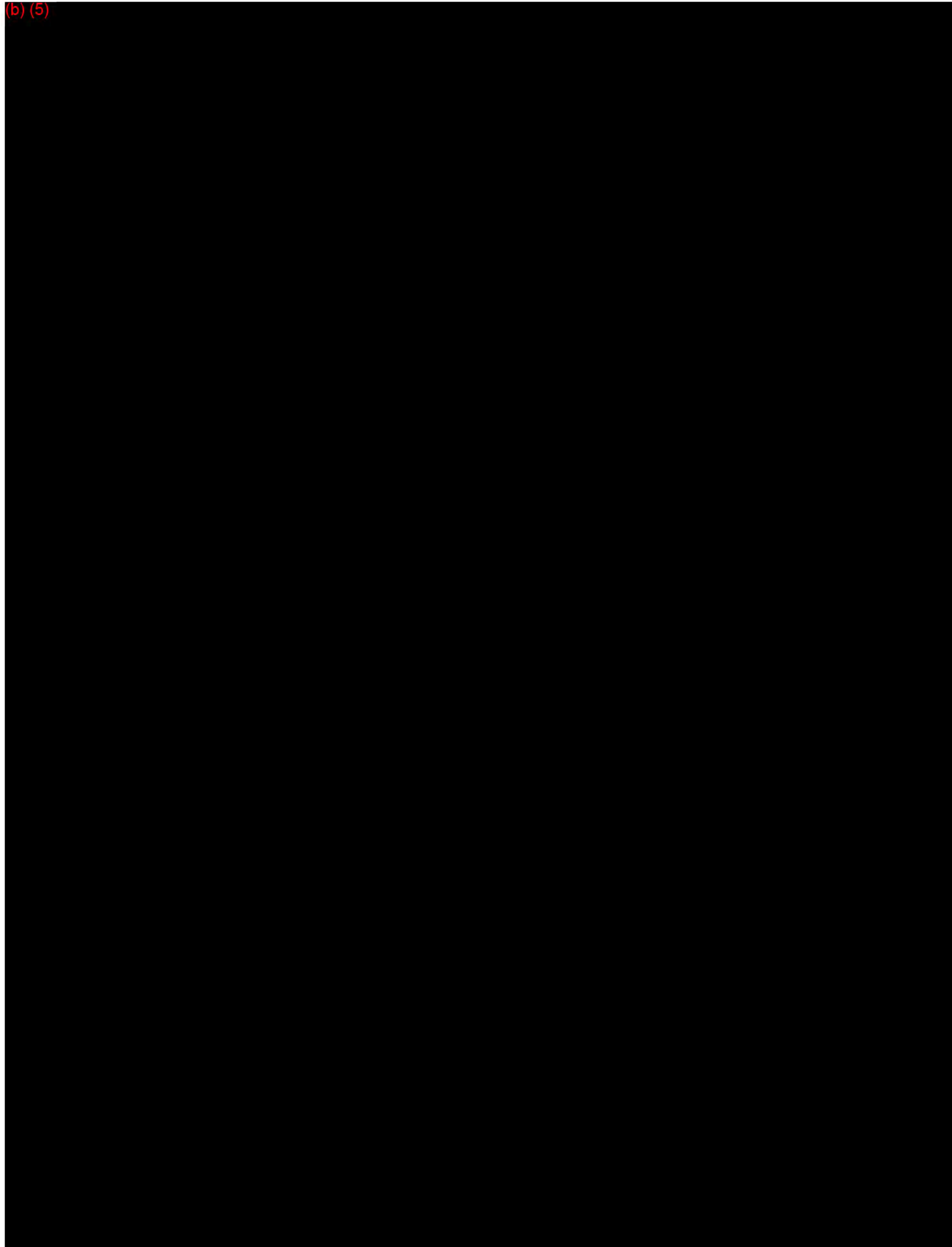




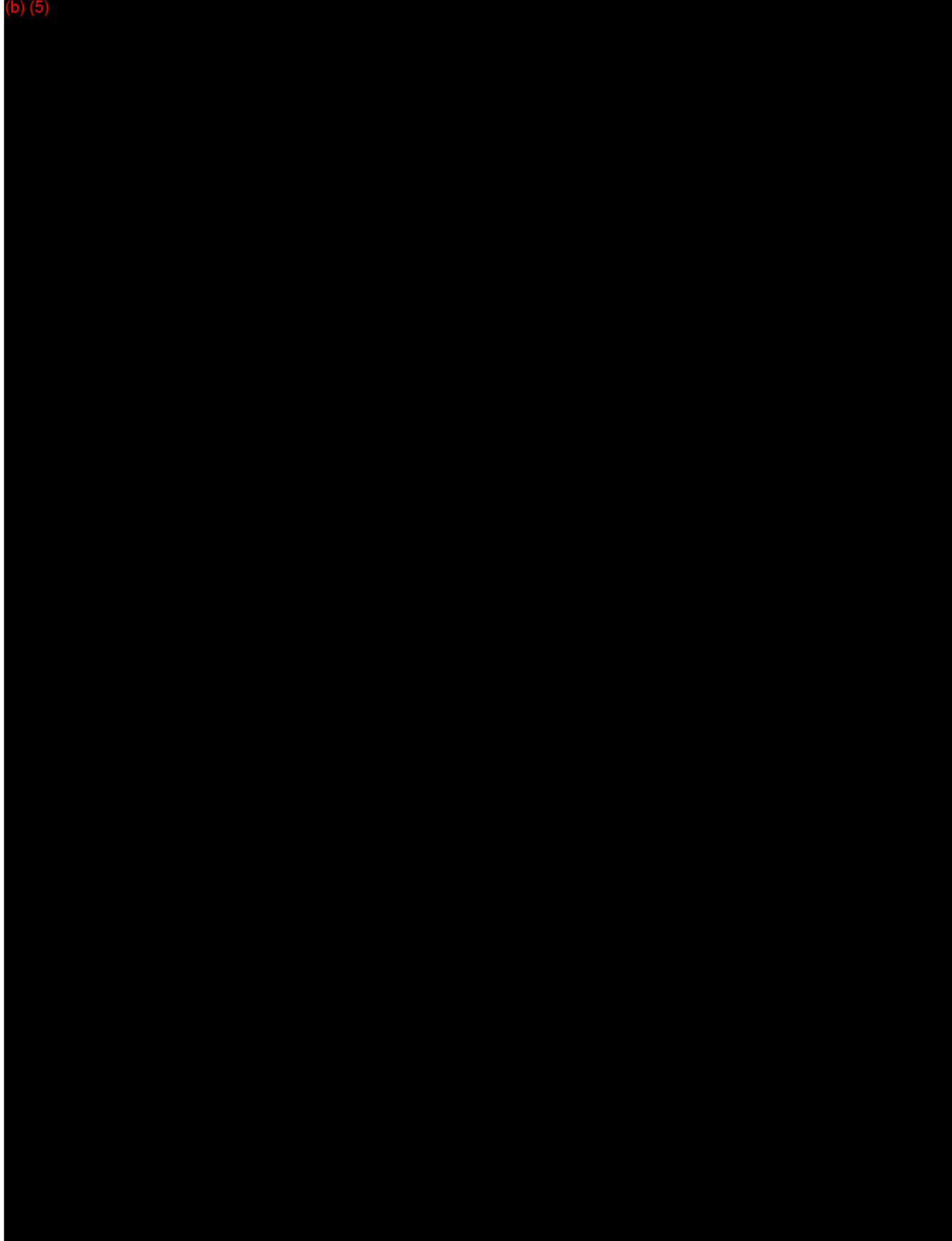


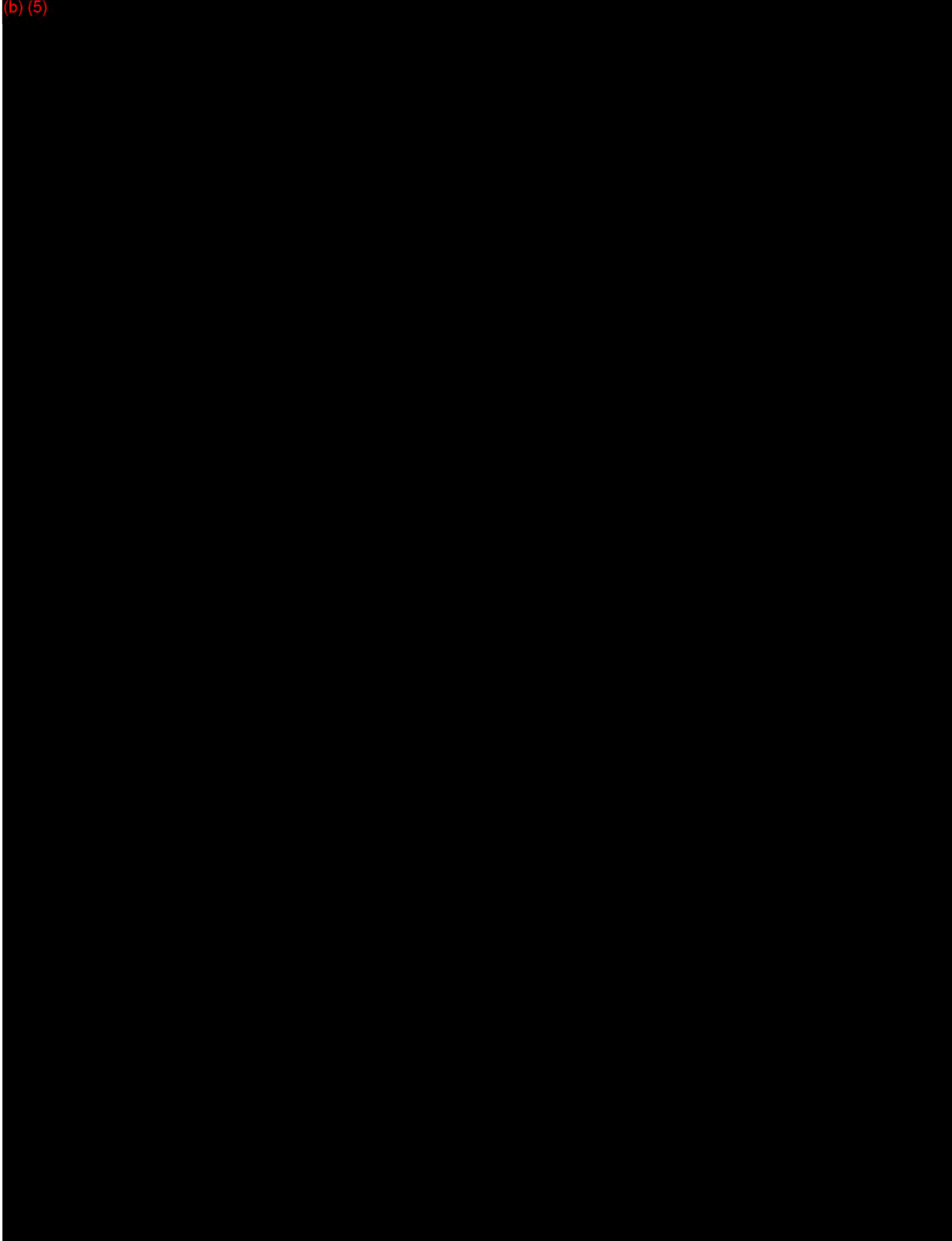


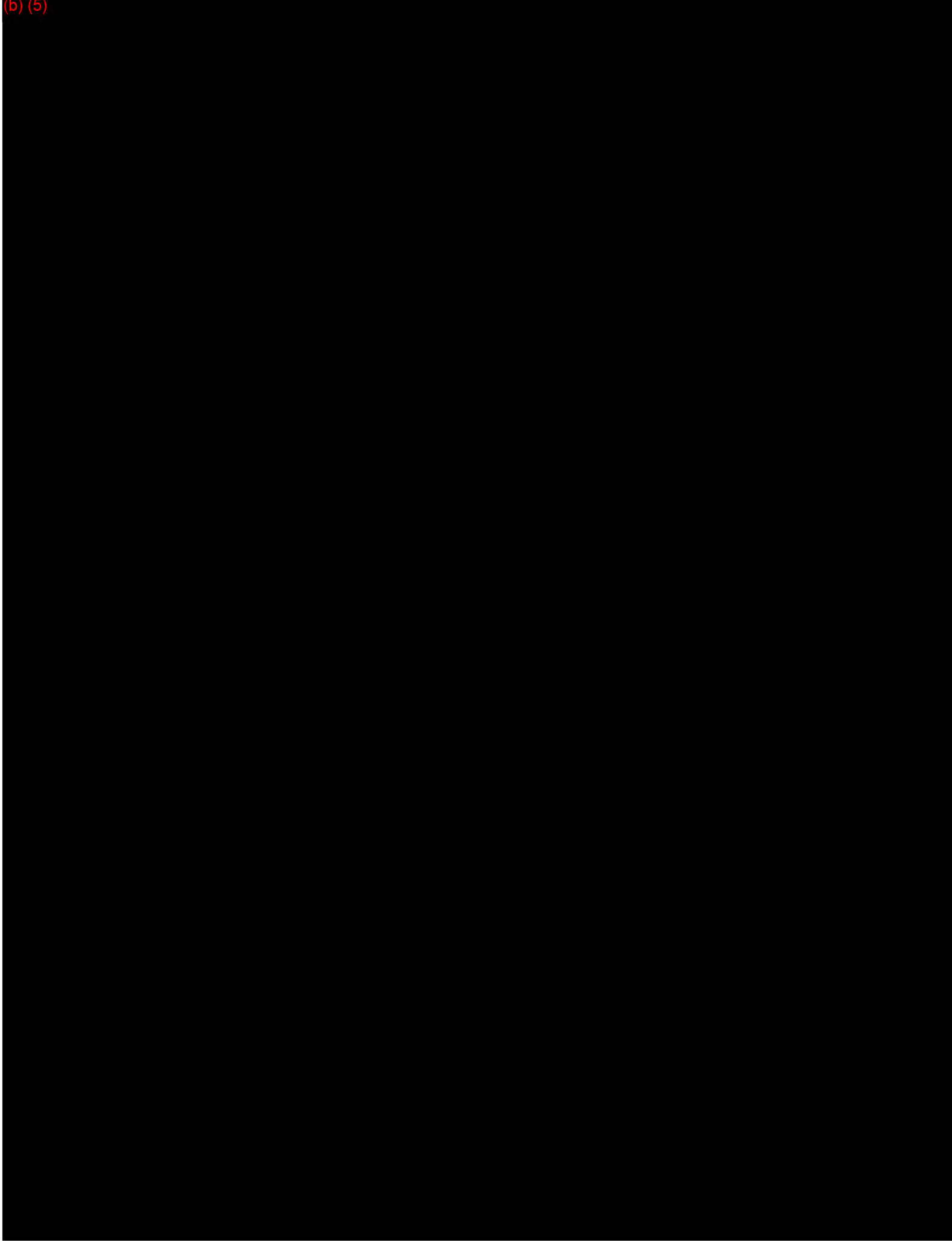


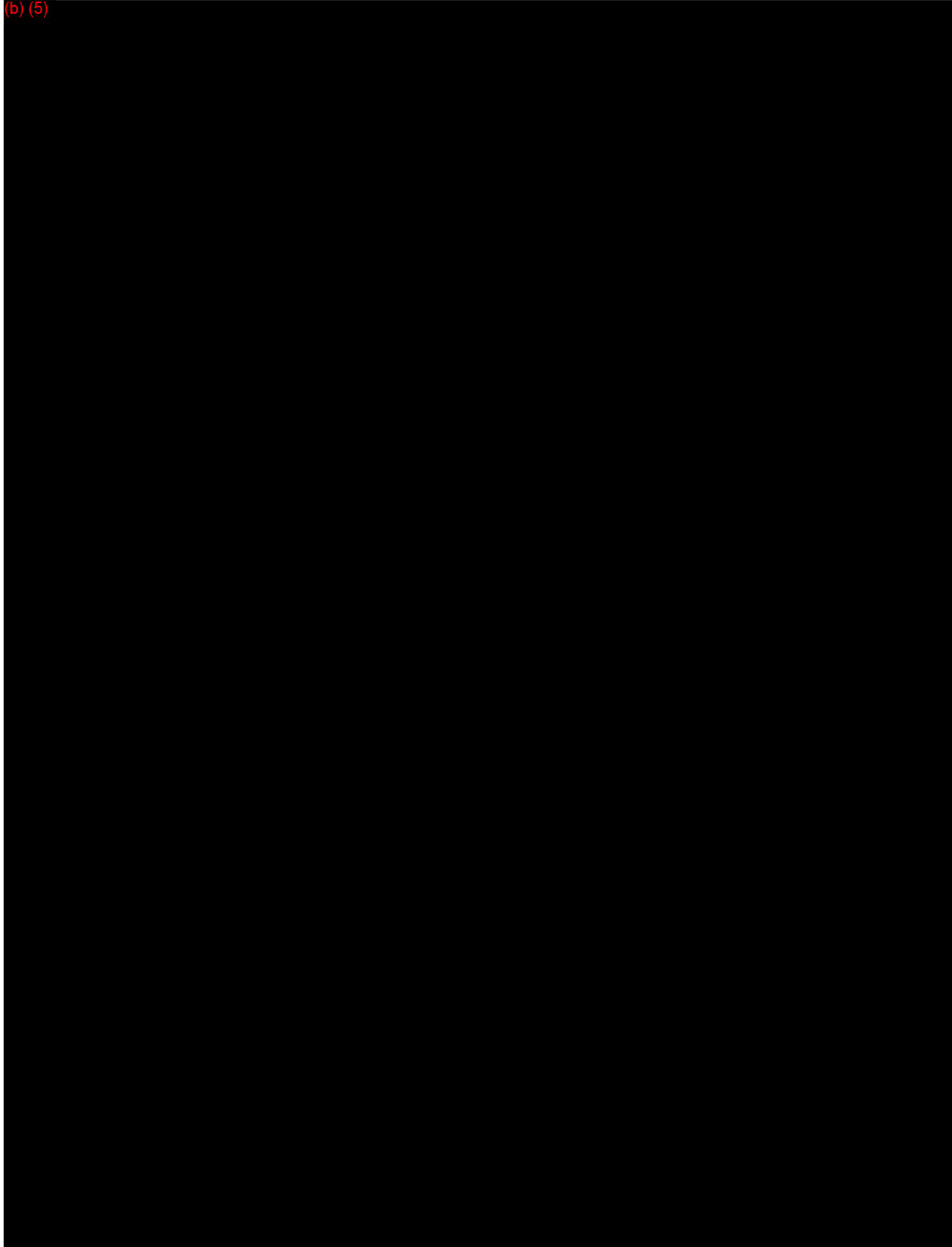


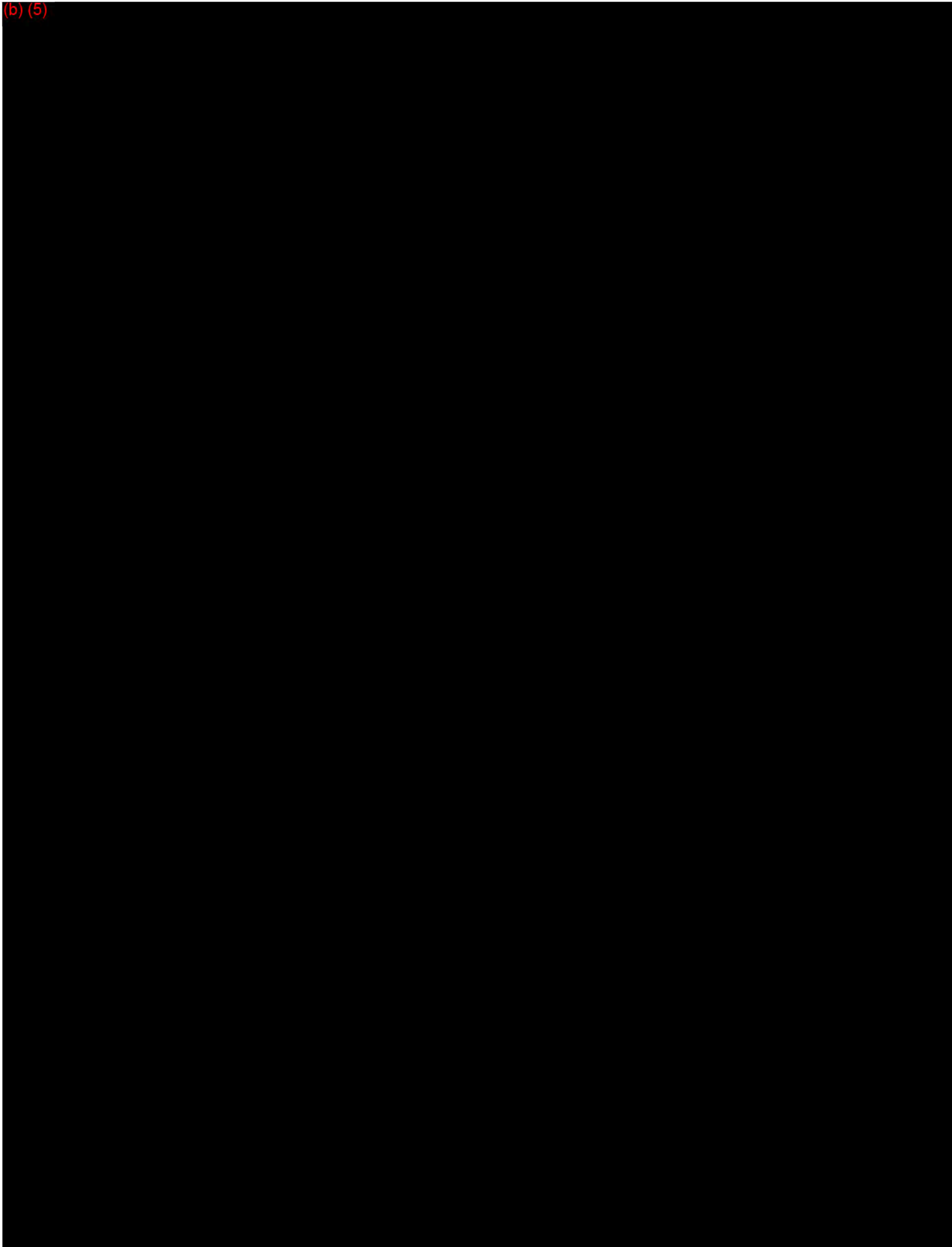


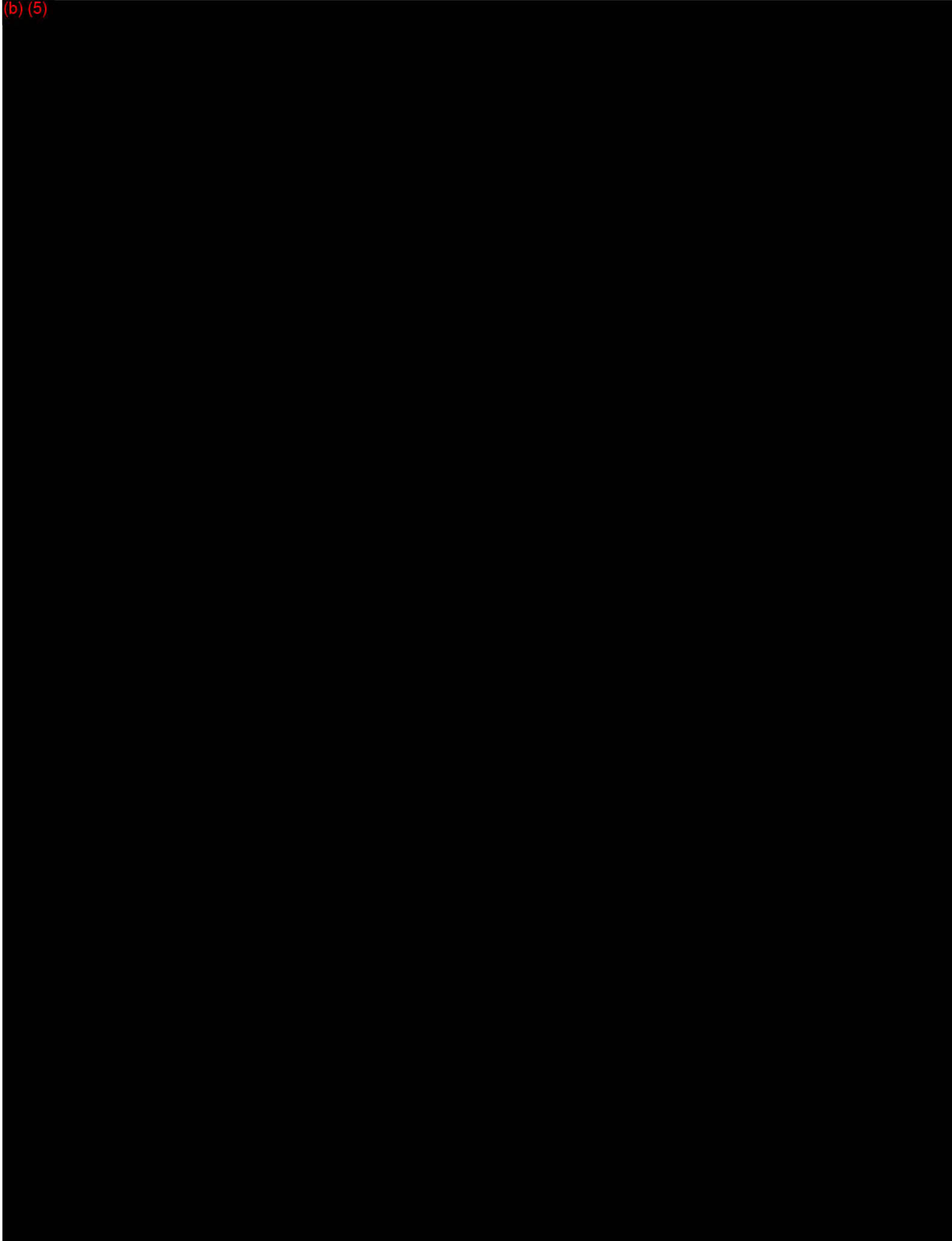














EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

**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 (fydibohf23spdlt)/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](http://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](mailto: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](mailto:nsobczyk@eenews.net)>; Neumayr, Mary B. EOP/CEQ <(b) (6)>

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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](mailto: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

## RE: [EXTERNAL] Comment from CEQ?

---

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

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**Sent:** Monday, May 7, 2018 3:13 PM  
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Office: 202-446-0437  
Cell: (b) (6)  
[@nick\\_sobczyk](#)

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

## 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)

**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?

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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,

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.

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**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?

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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 (fydibohf23spdlit)/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]

## **AGENDA**

- 1) Updates from Agencies
- 2) CAFE Proposed Rule
- 3) NEPA Regulations
- 4) Permitting
- 5) Environmental PCC
- 6) Regulatory/Policy Meetings

## AGENDA

- 1) Updates from Agencies
- 2) CAFE Proposed Rule
  - a. Flexibilities
  - b. Communications plans
  - c. Timeline for review/state of the Document
    - i. EPA regulatory text still not submitted
    - ii. Information in the NPRM still missing
- 3) NEPA Regulations
  - a. Planning to publish ANPRM on Friday
  - b. 2 – 3 people that can serve on an interagency working group
  - c. Aiming for NPRM to OIRA in September
- 4) Permitting
  - a. PCC on Friday/Next Week
  - b. CWA §401 and §404 issues
  - c. Idaho, Missouri state plans and program
  - d. Endangered Species Act
- 5) Environmental PCC
  - a. Planning to be scheduled in a week or two
  - b. Discussion of topic areas
- 6) Regulatory/Policy Meetings
  - a. Would like to schedule meetings with your regulatory offices every 3 months to go over with them what their plan is for the next 3 months to ensure consistency. Would invite the head of the office, NEC, OIRA, OMB, CEQ and WHC, as appropriate
  - b. Expectation of Communications Plans being developed at least 1 month in advance of important announcements

## 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">, "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

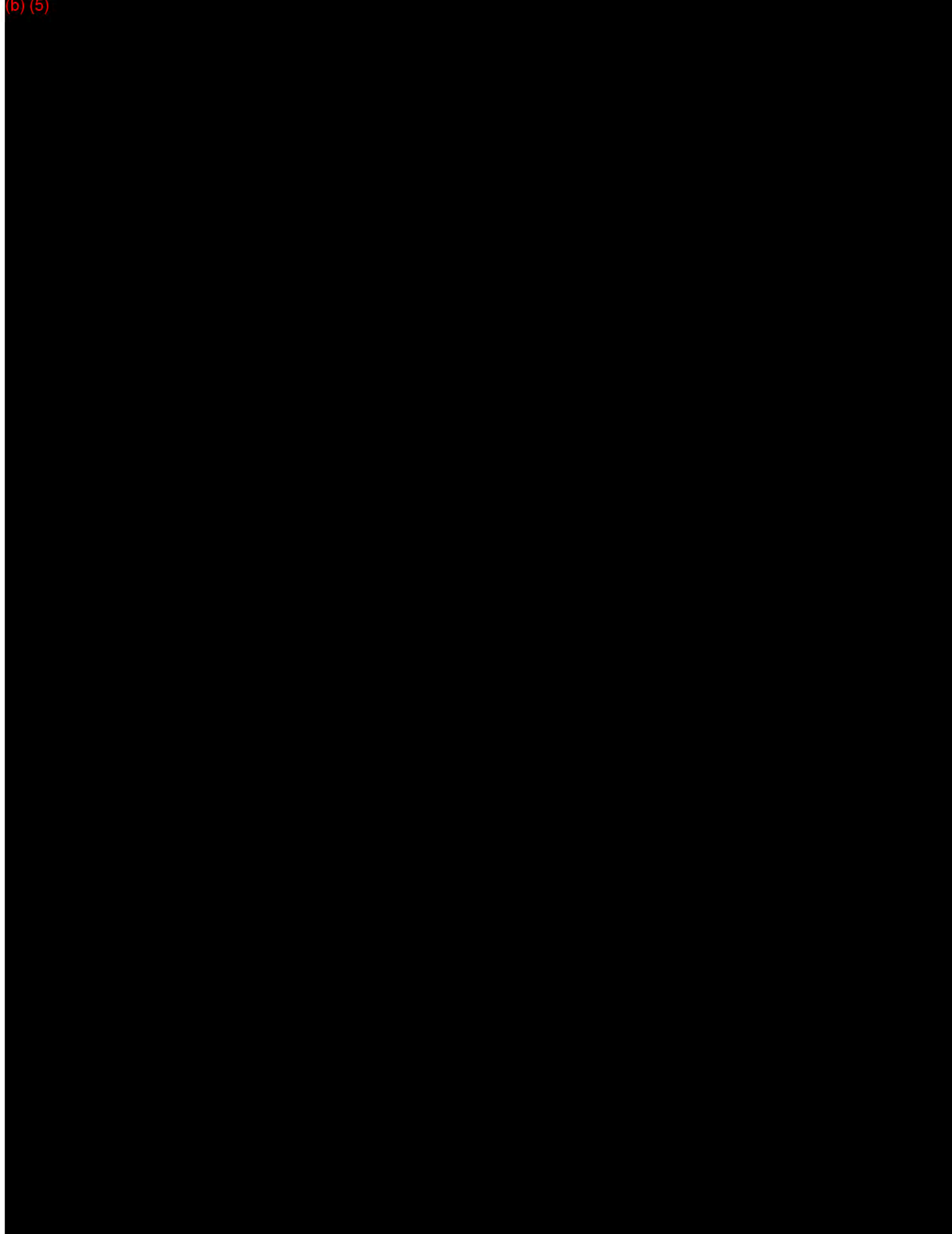
**Attachments**  
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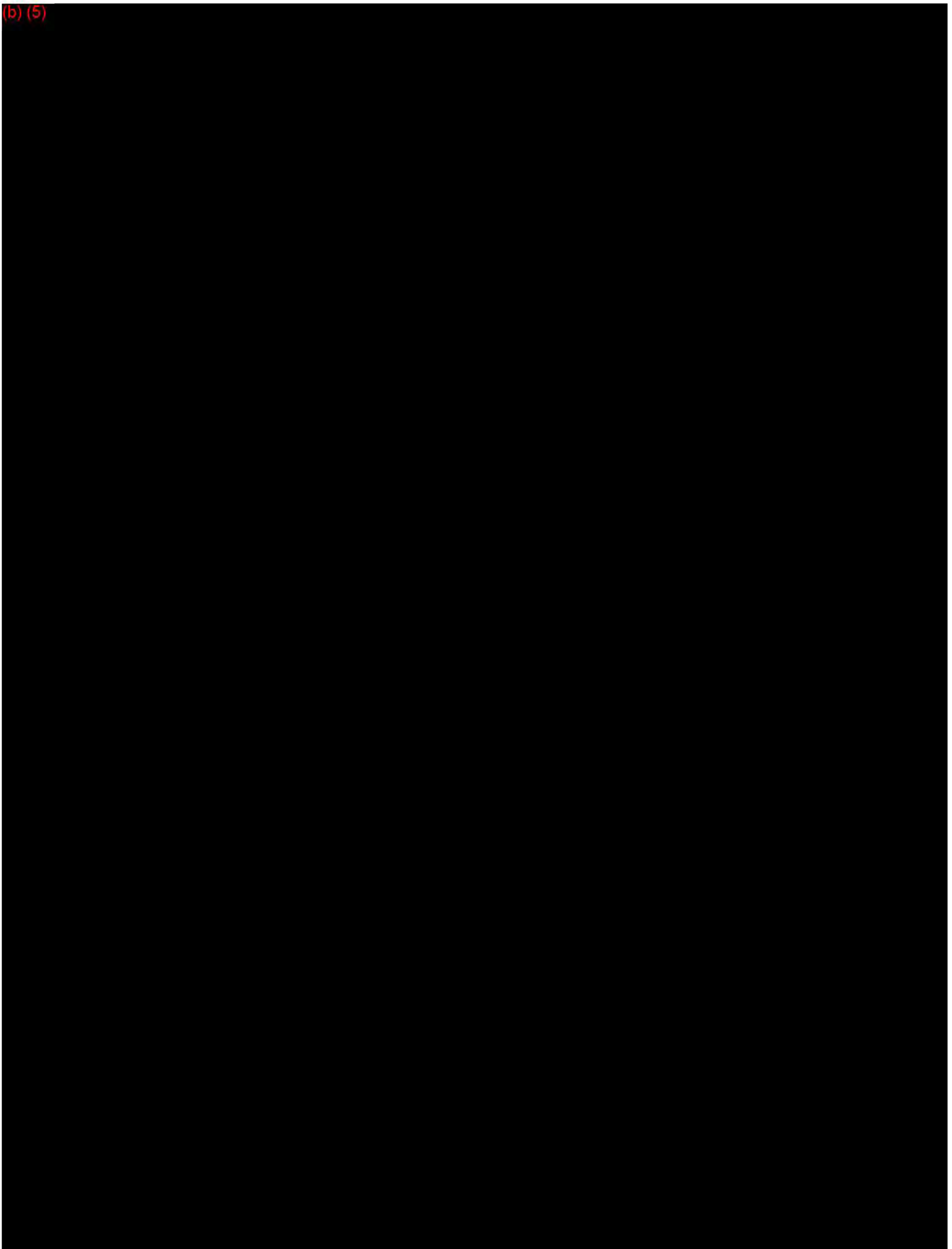
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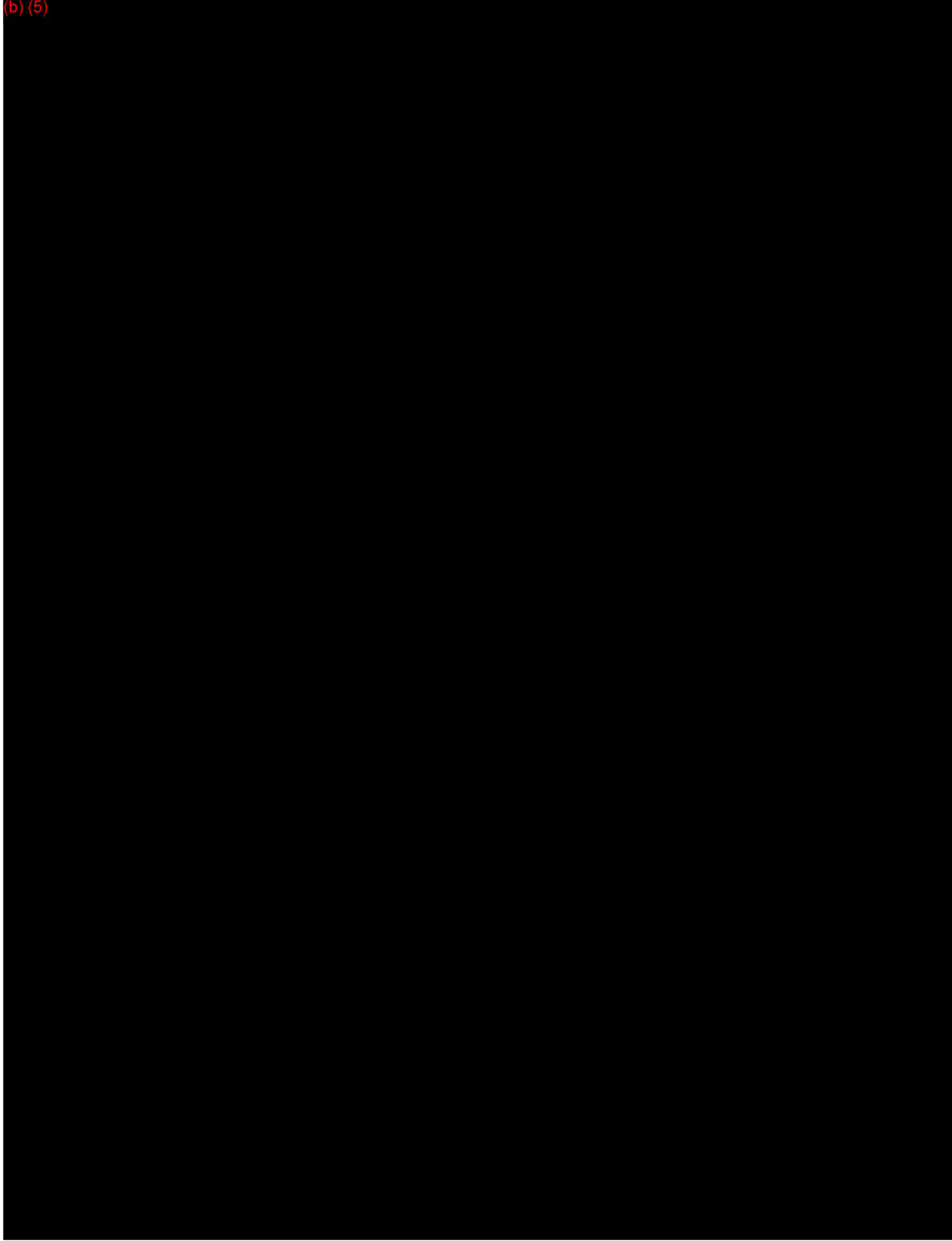
Attached is my current draft. (b) (5)

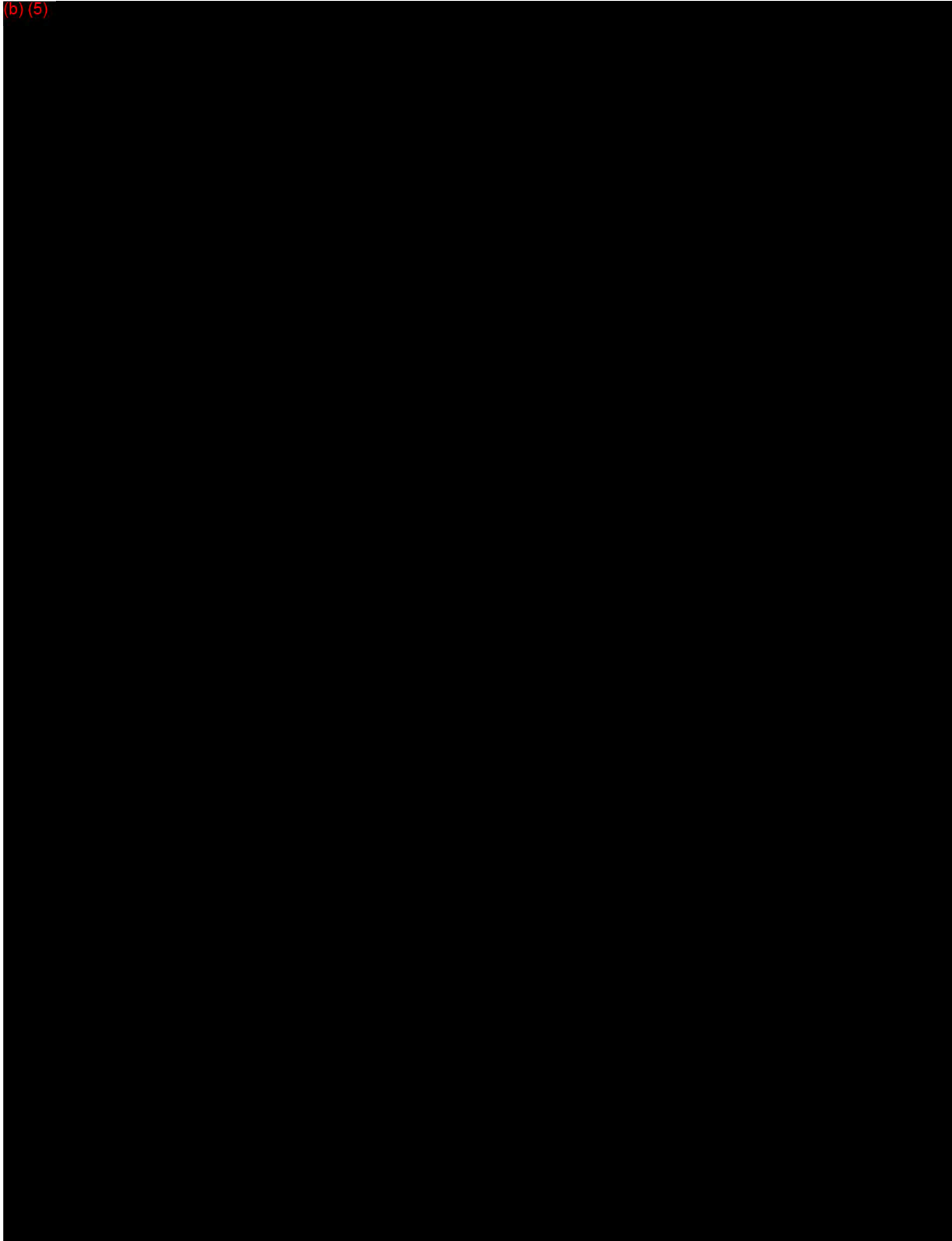
Comments?

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

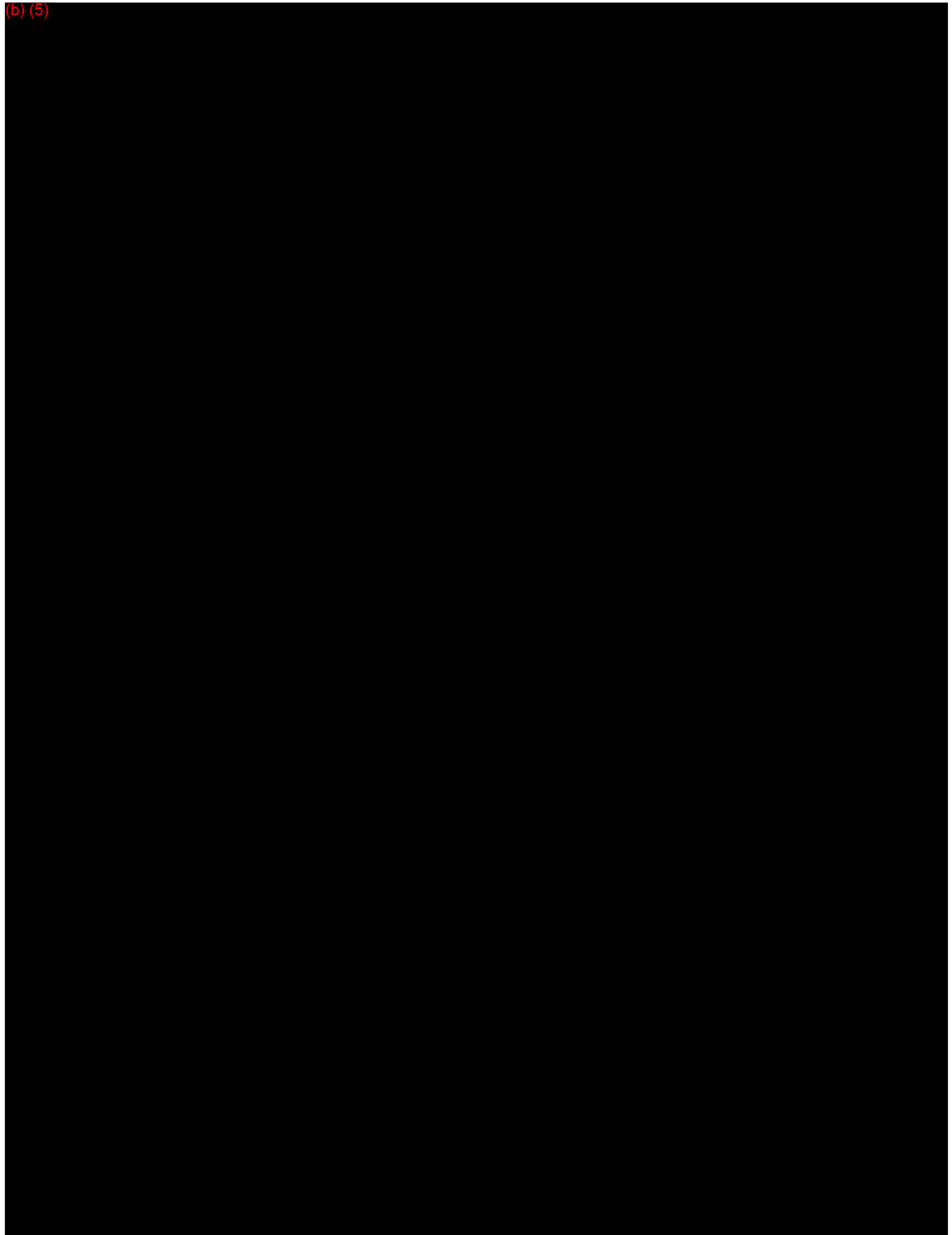


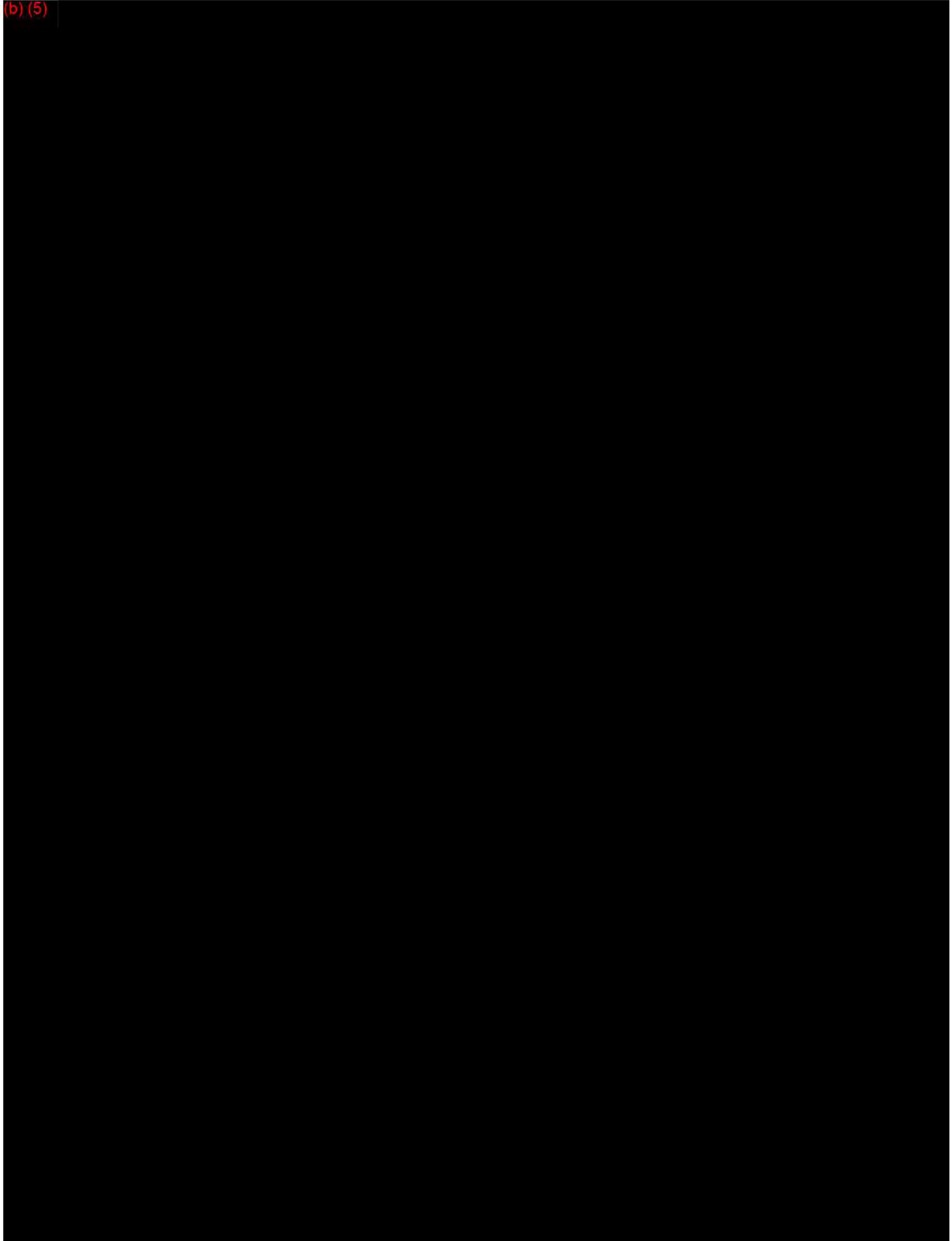


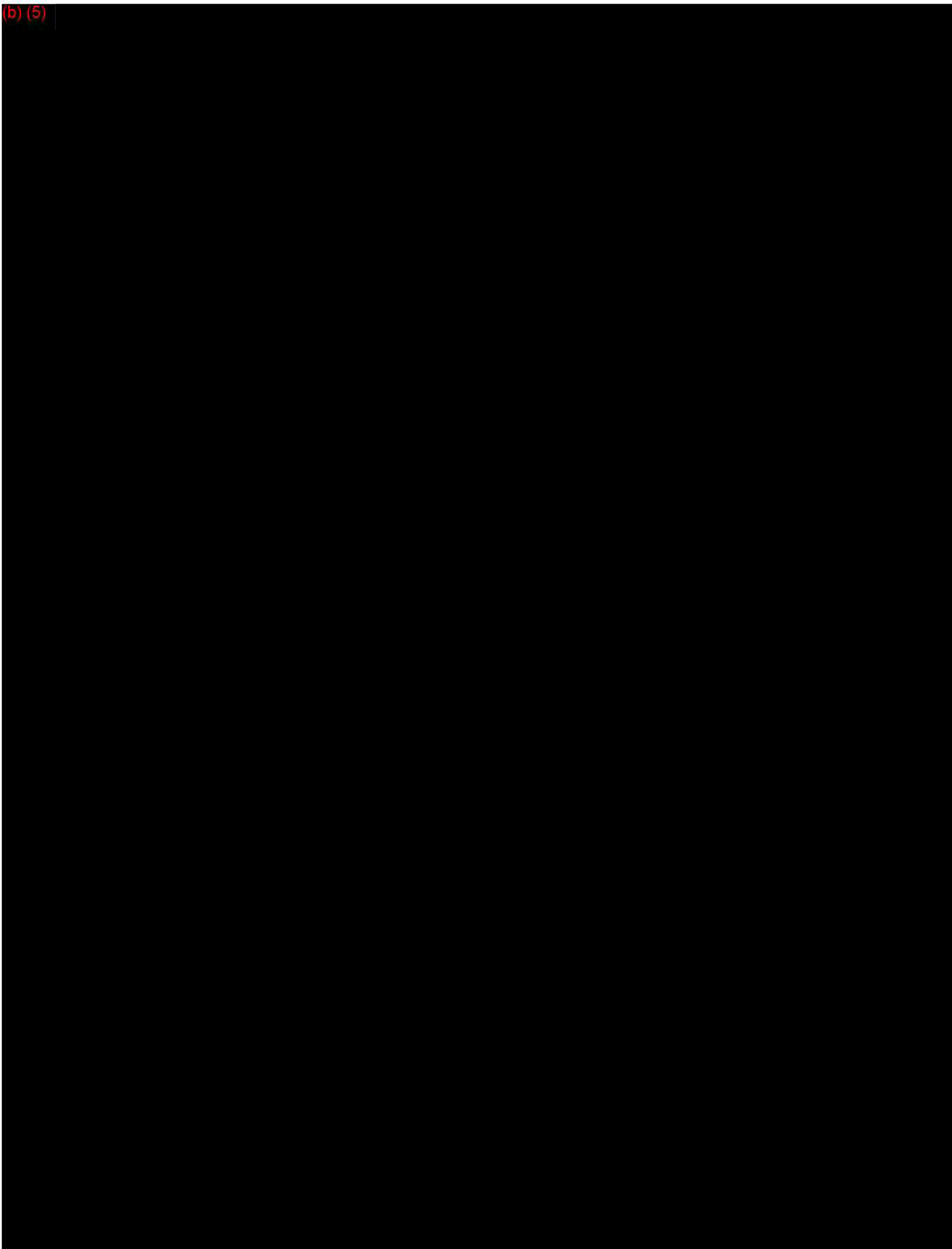


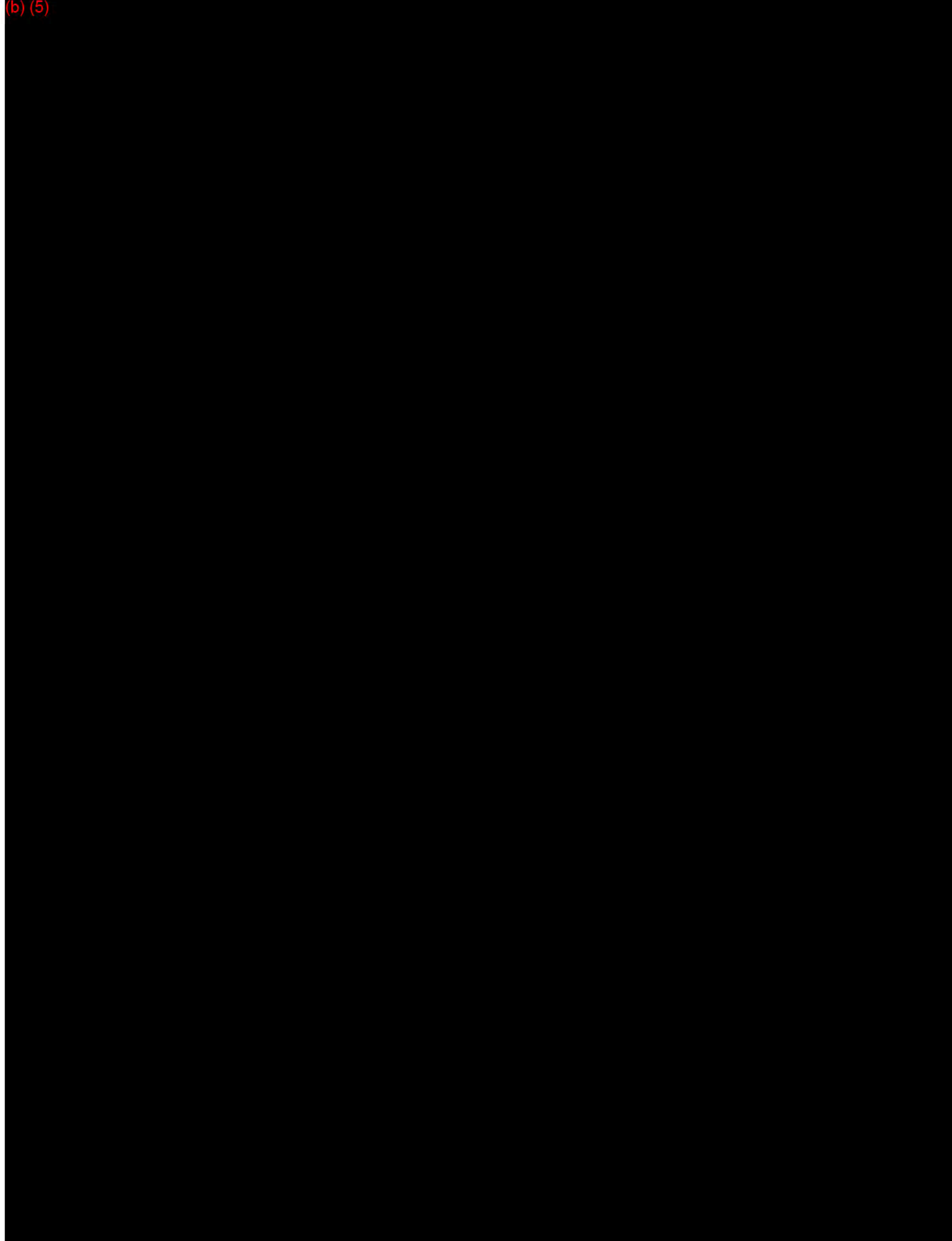


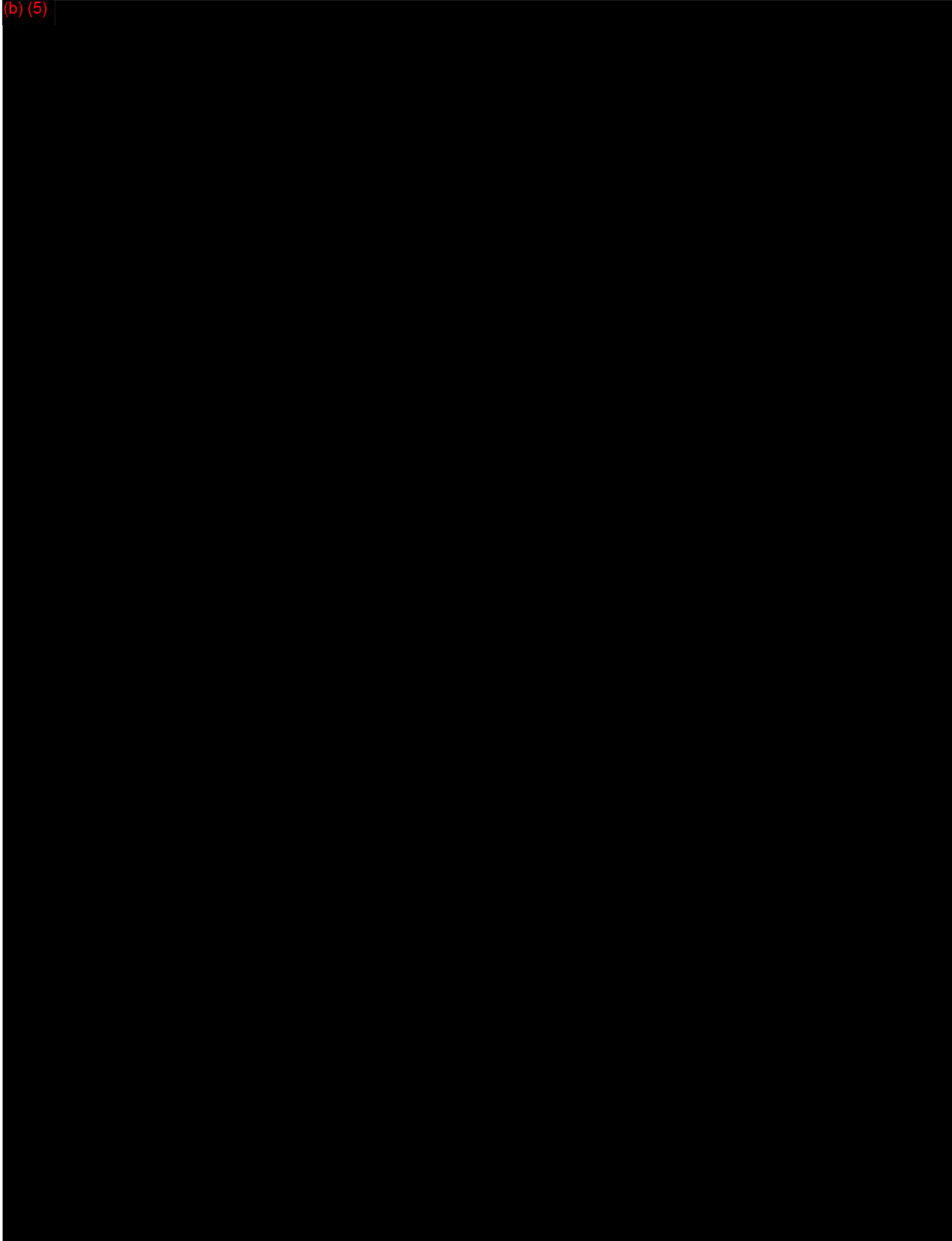


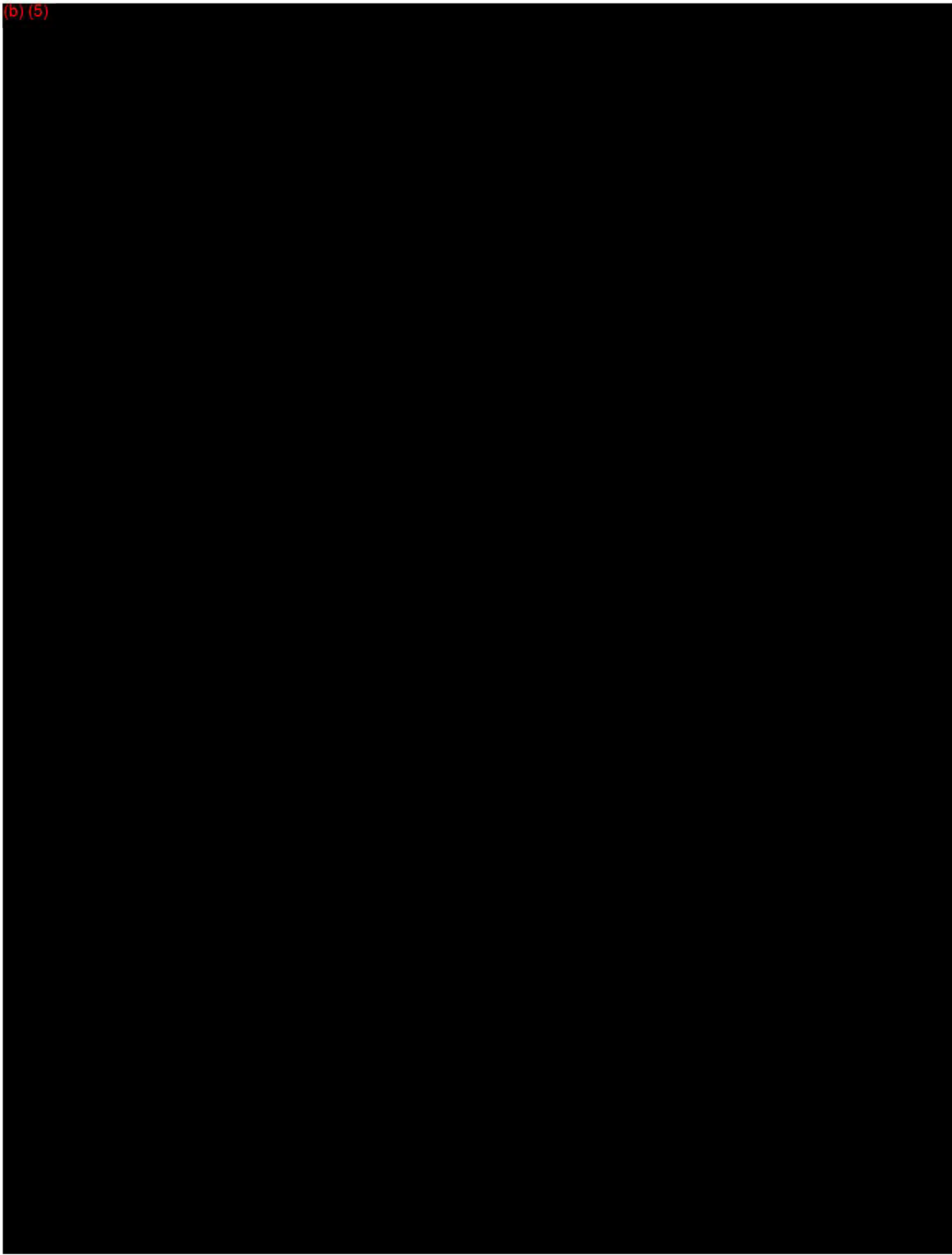


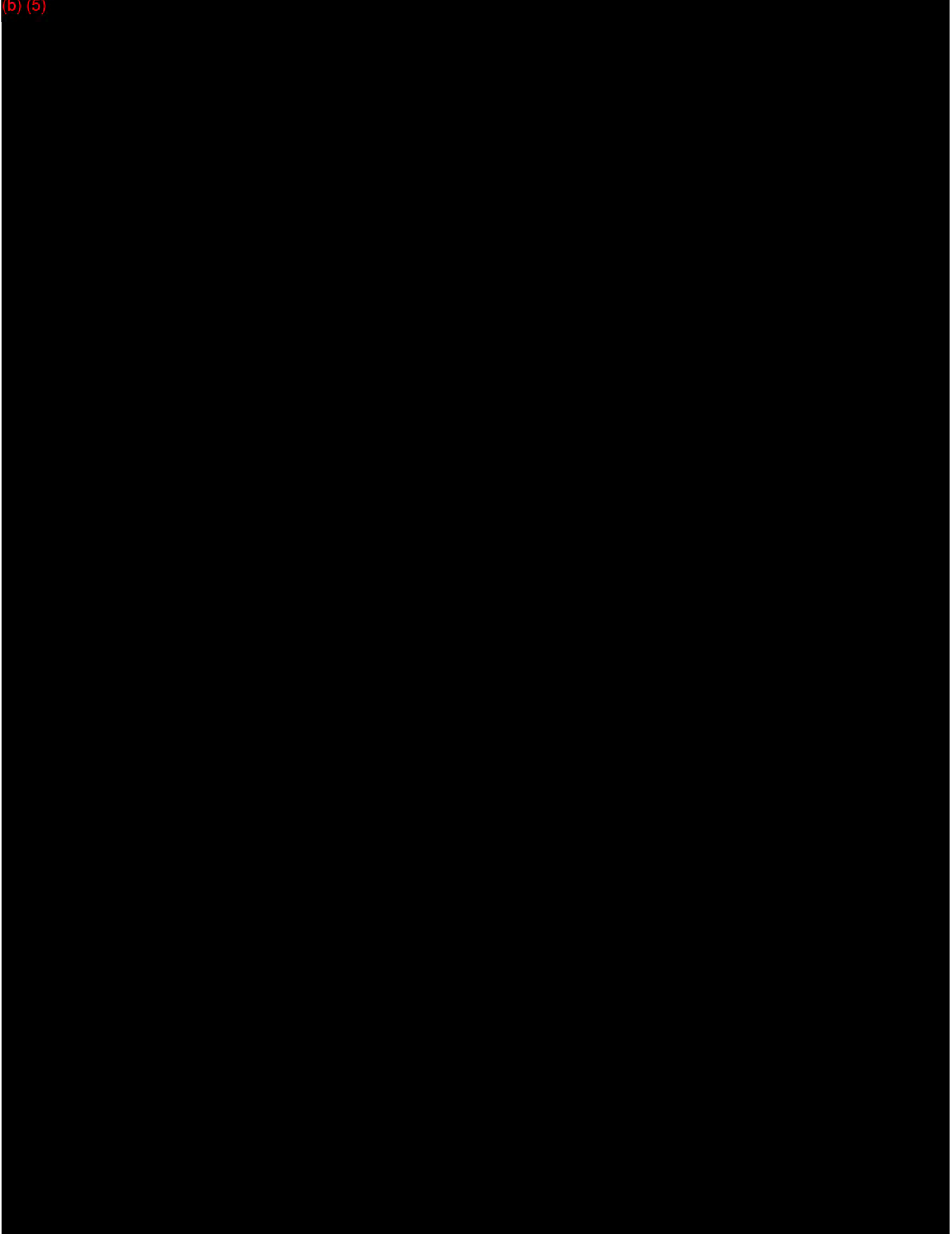












# Fwd: EO 12866 Call on CEQ NEPA Procedural Provisions

## 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) "Bolling, 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](mailto:bolen.brittany@epa.gov)>, "Justin Schwab" (<[schwab.justin@epa.gov](mailto: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]

[Redacted]

Chad

(b) (5)

[Redacted]

(b) (5)



## RE: Updates to NEPA.gov

---

**From:** "Mansoor, Yardena 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](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](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

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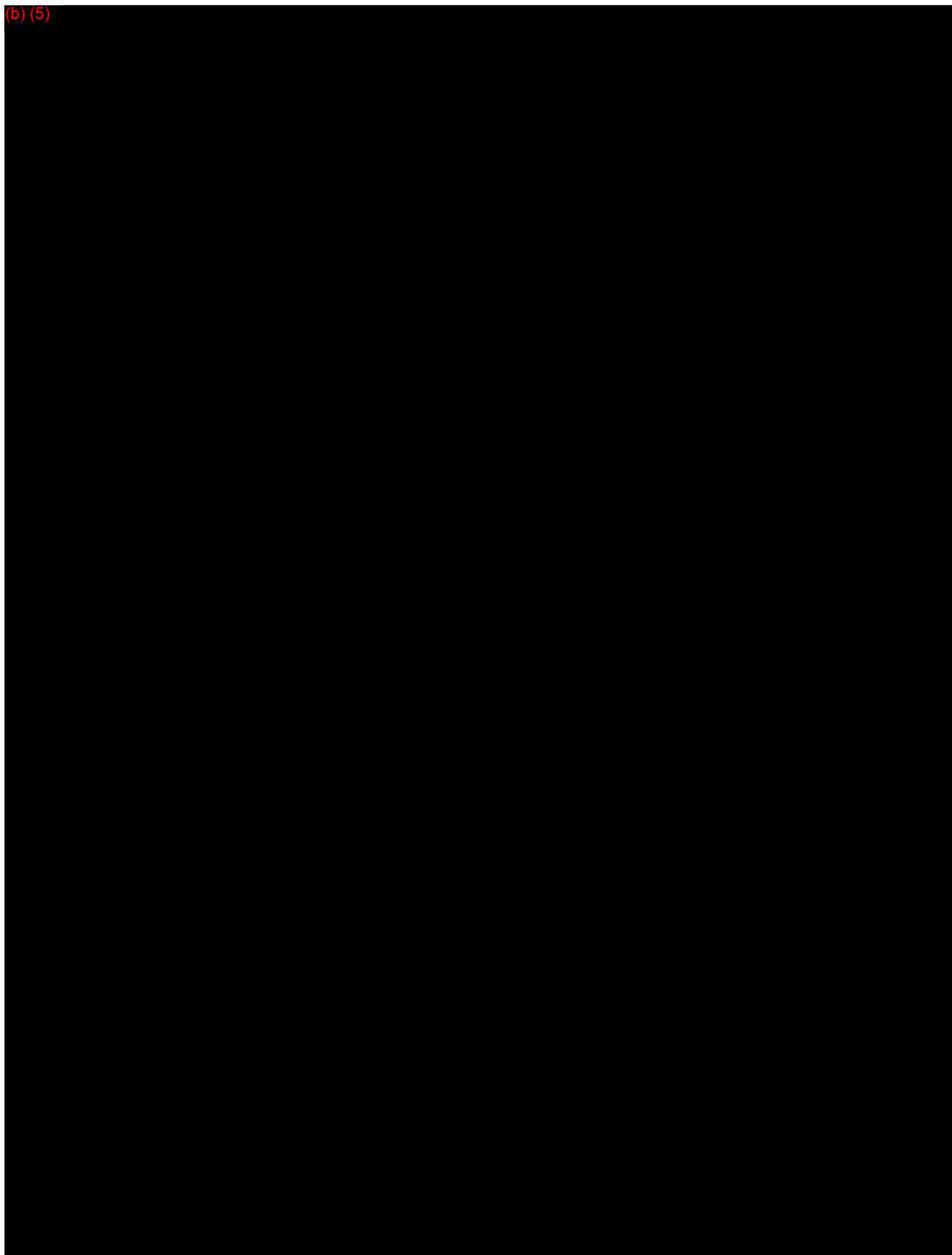
**From:** "Barnett, Steven W. EOP/CEQ" <(b) (6)>  
**To:** "Herrgott, Alex H. EOP/CEQ" <(b) (6)>  
"Drummond, Michael R. EOP/CEQ" (b) (6)  
**Cc:** "Vandegrift, Scott F. EOP/CEQ" <(b) (6)> "Osterhues,  
Marlys A. EOP/CEQ" <(b) (6)>  
**Date:** Mon, 18 Jun 2018 17:44:49 -0400  
**Attachments** Herrgott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

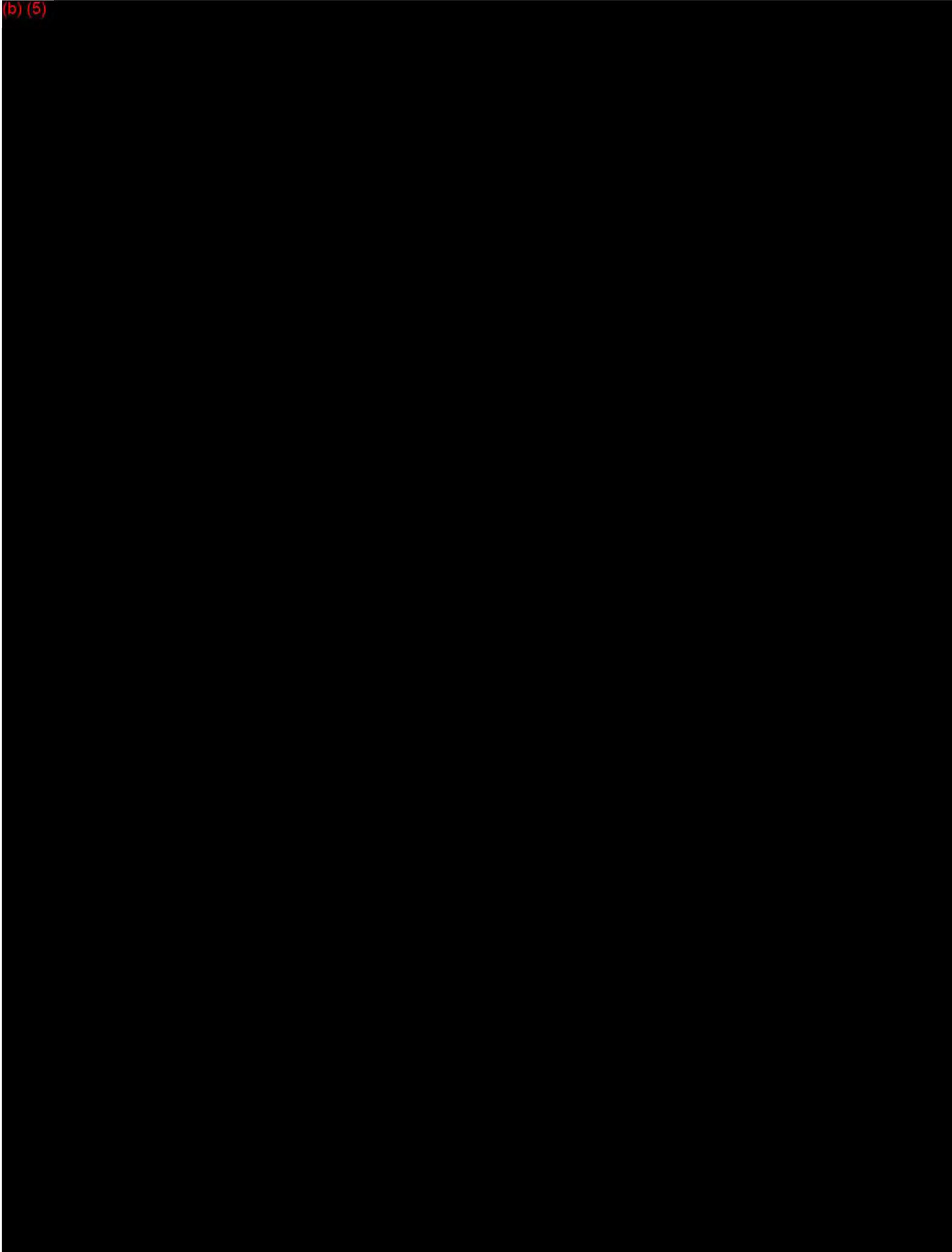
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Alex,

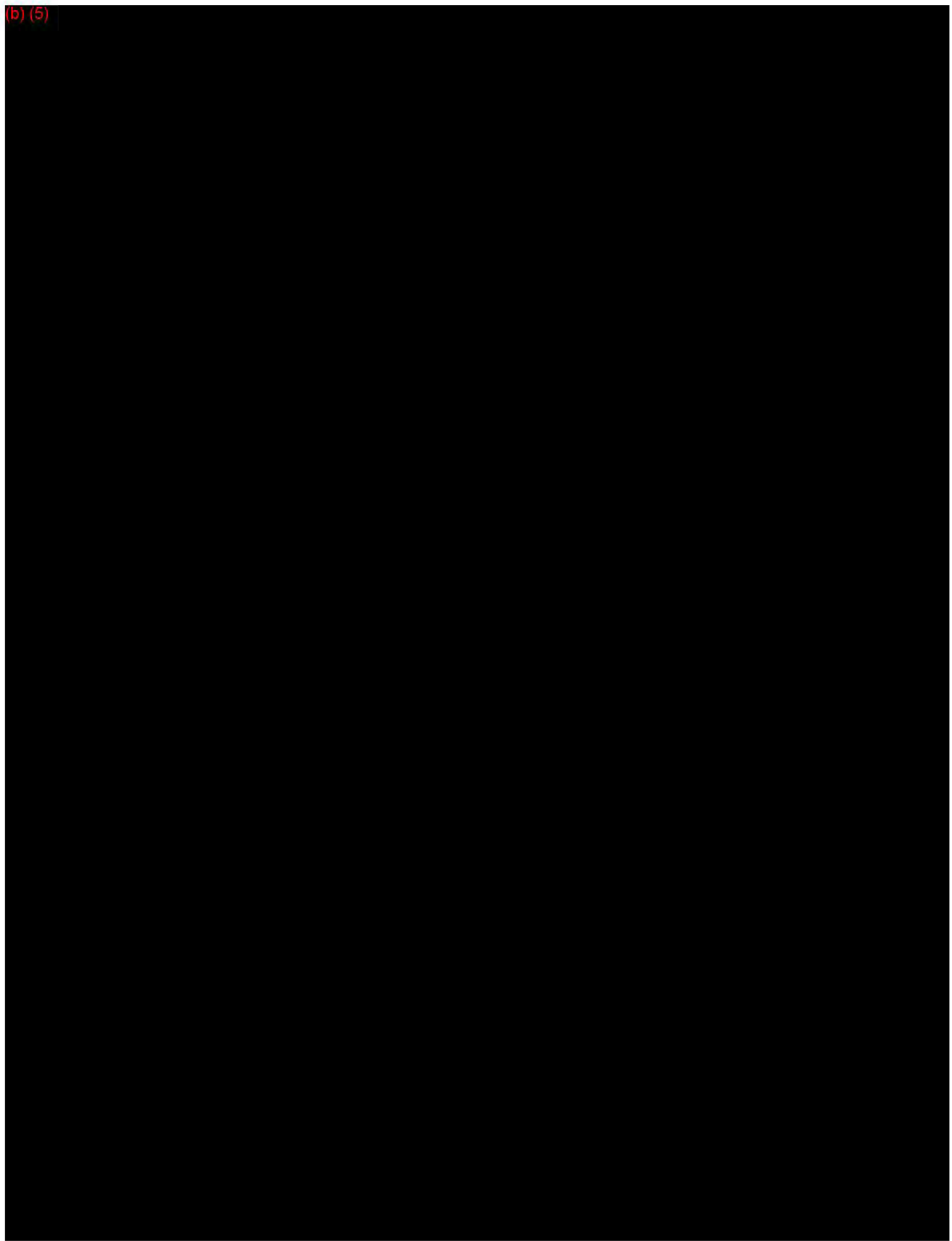
Please find attached a red line and clean copy of your draft testimony.

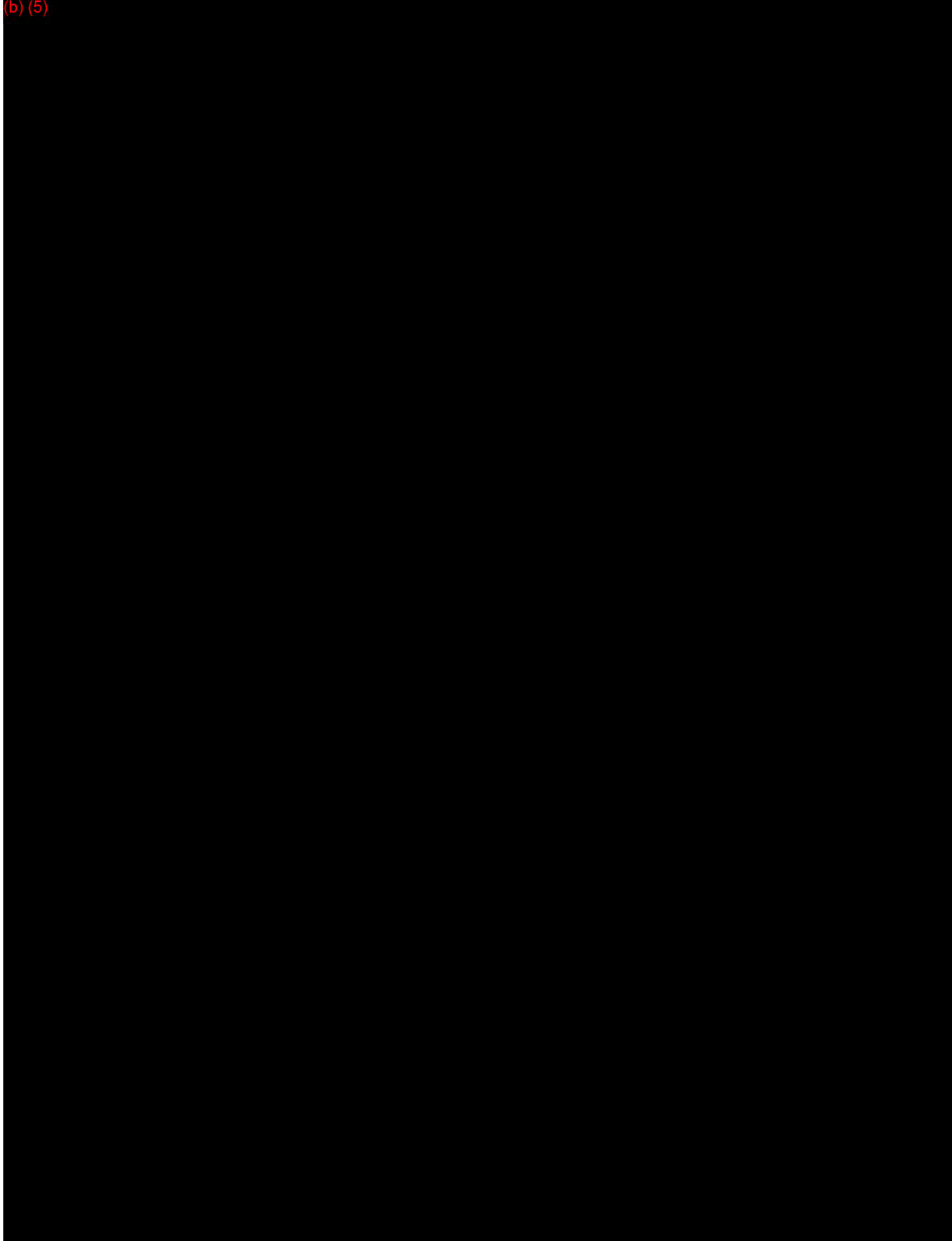
Steven

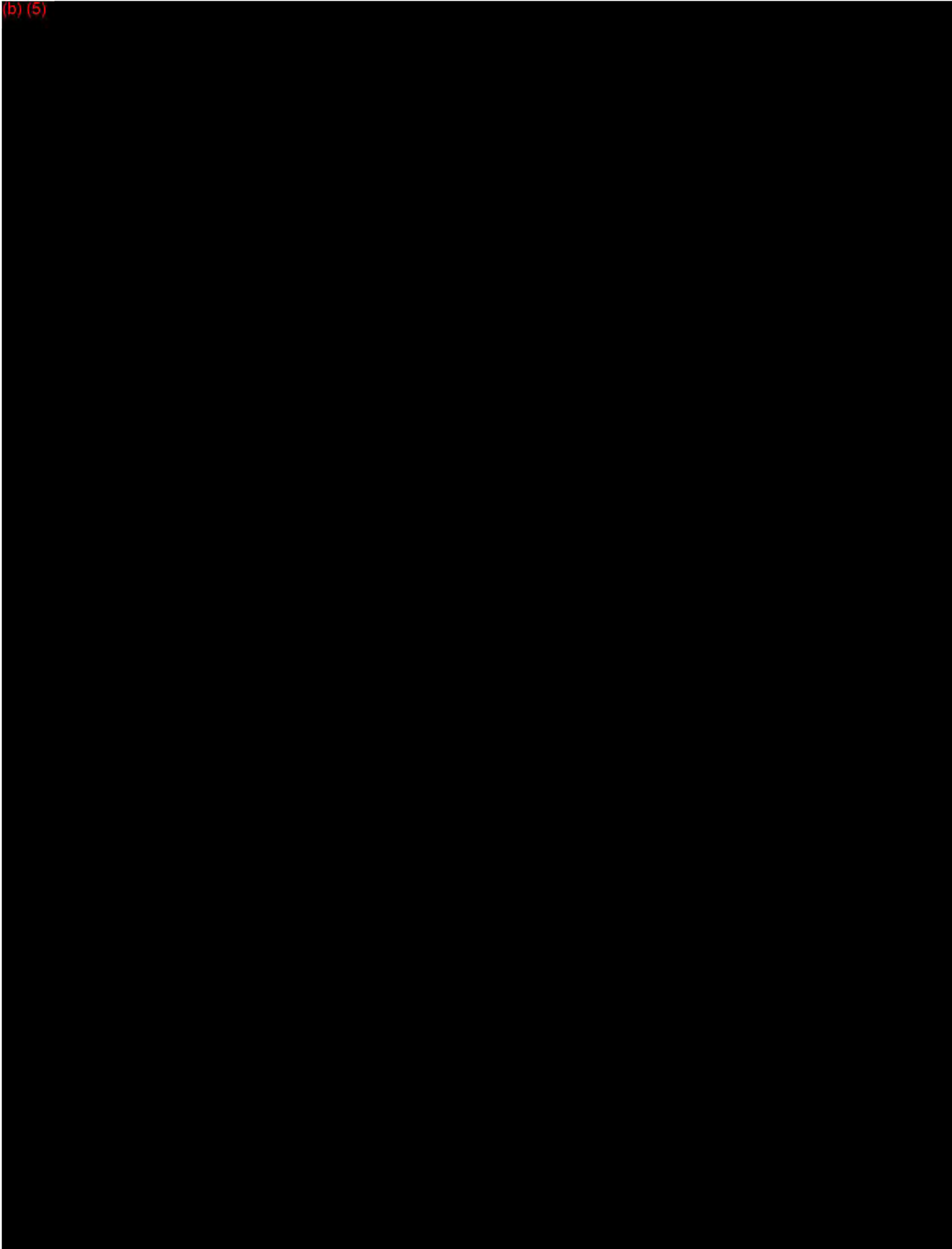


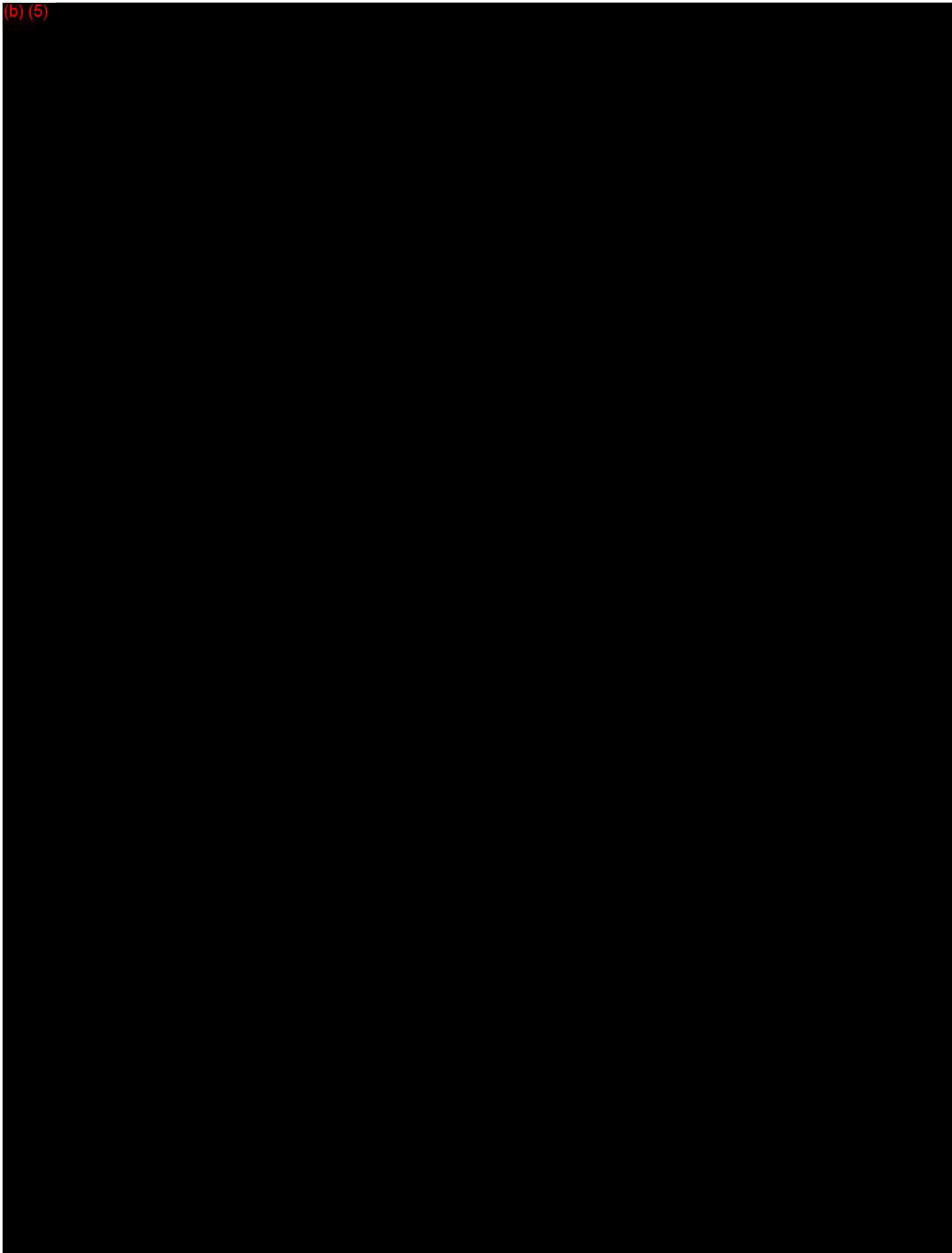


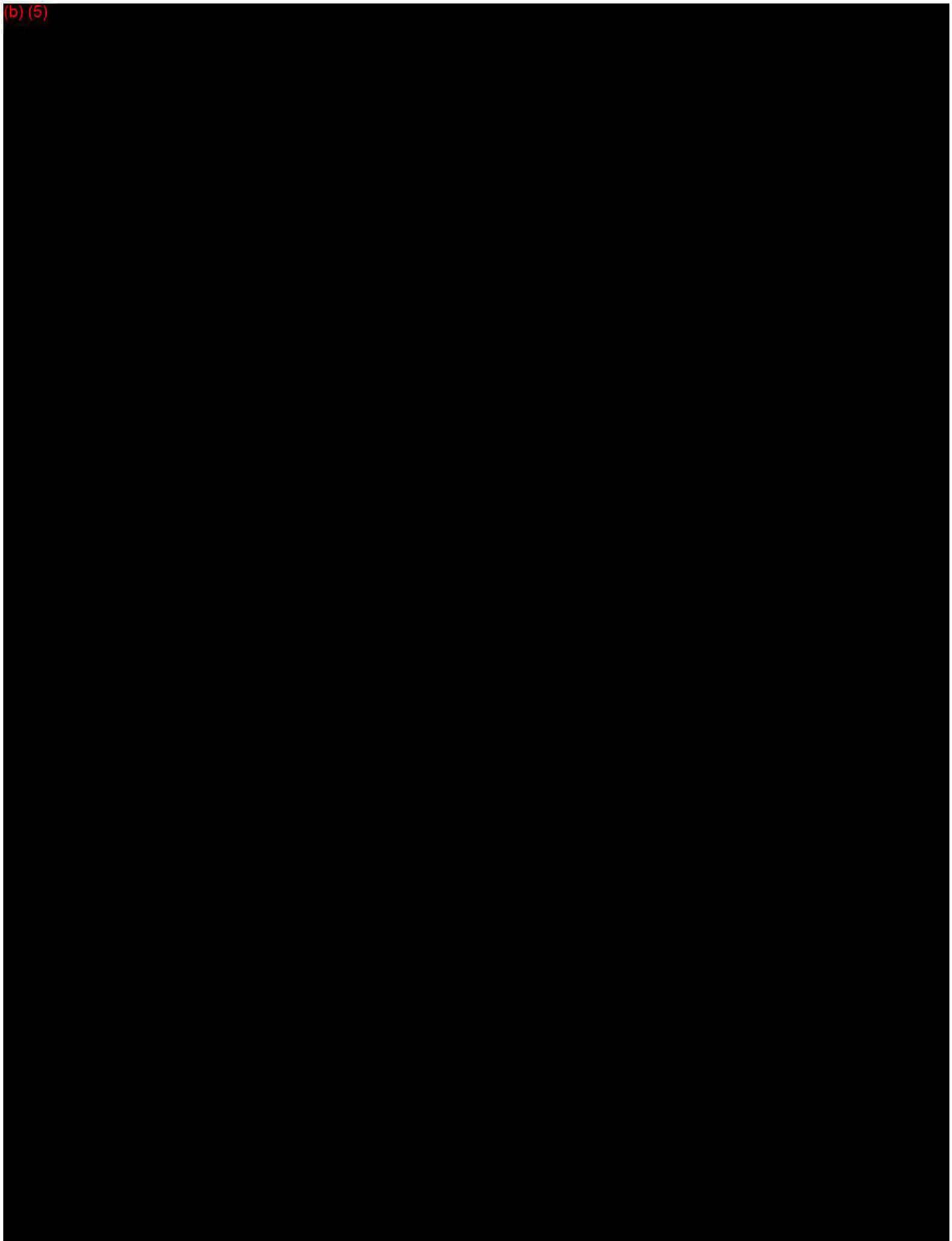


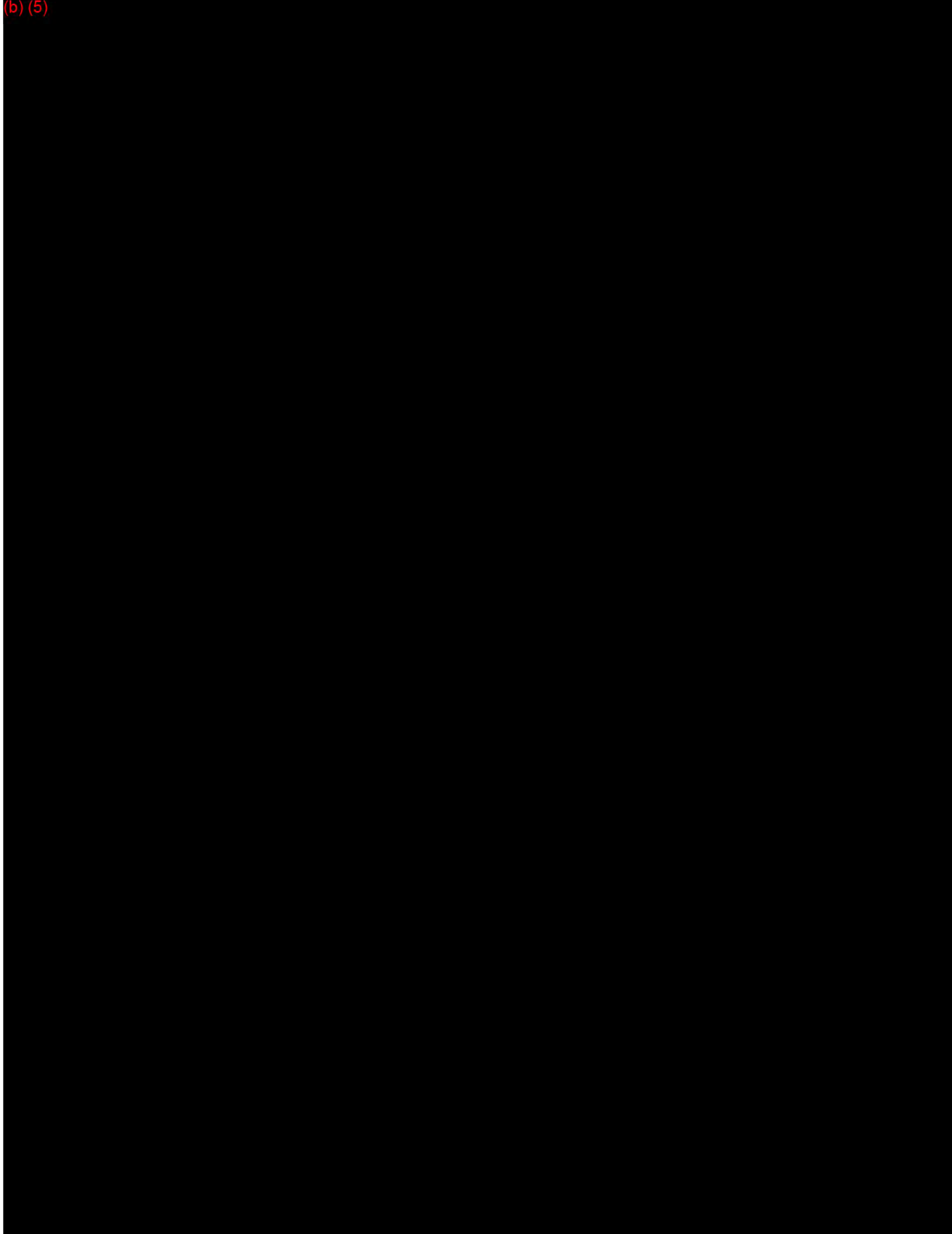












## Draft Herrgott Testimony

---

**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

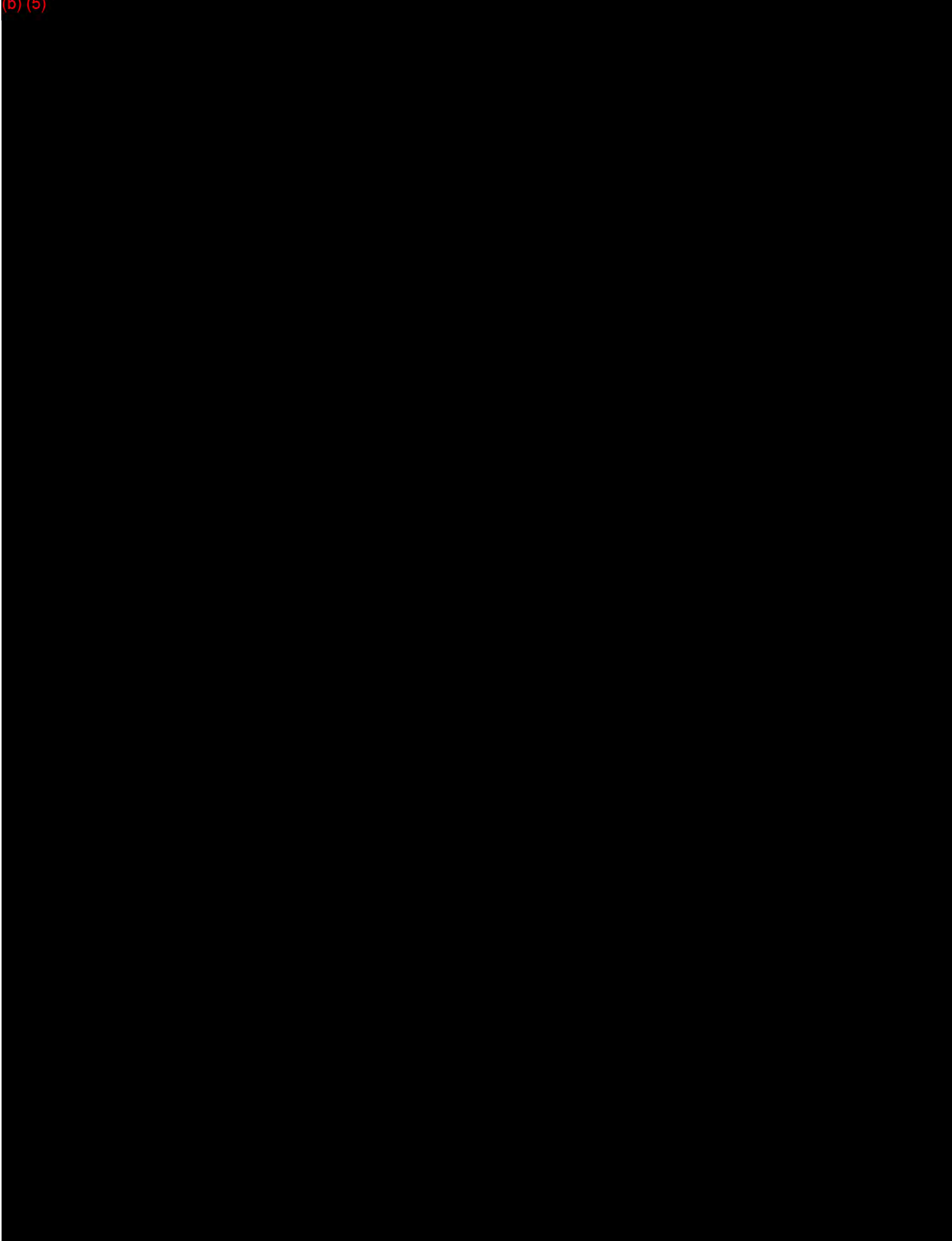
**Attachments**  
:  
Herrgott Testimony 6.27 Roundtable Senate FINAL DS V2 CLEAN.DOCX (29.55 kB)

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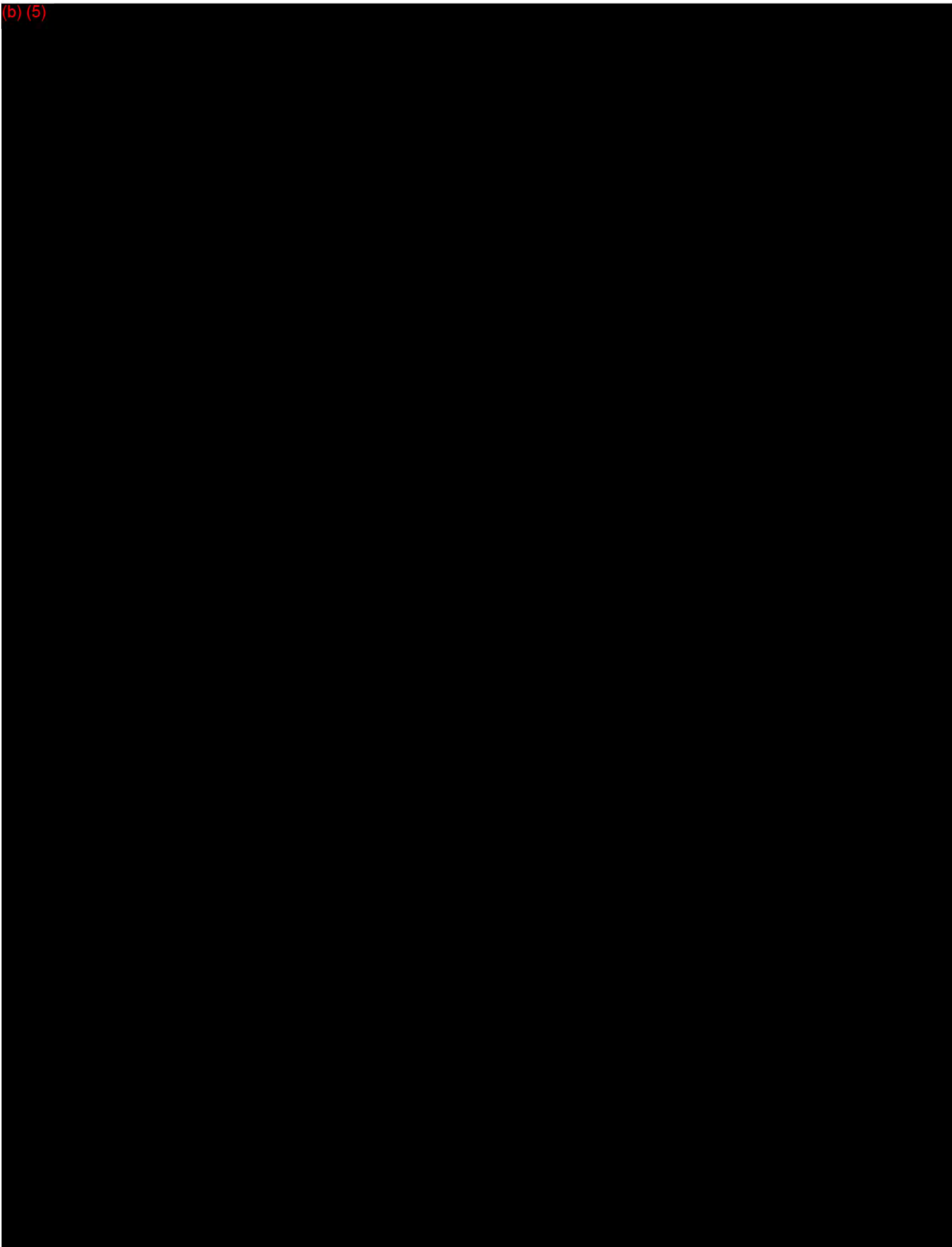
Angie and Karen –

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 OM8. Let's touch base tomorrow morning.

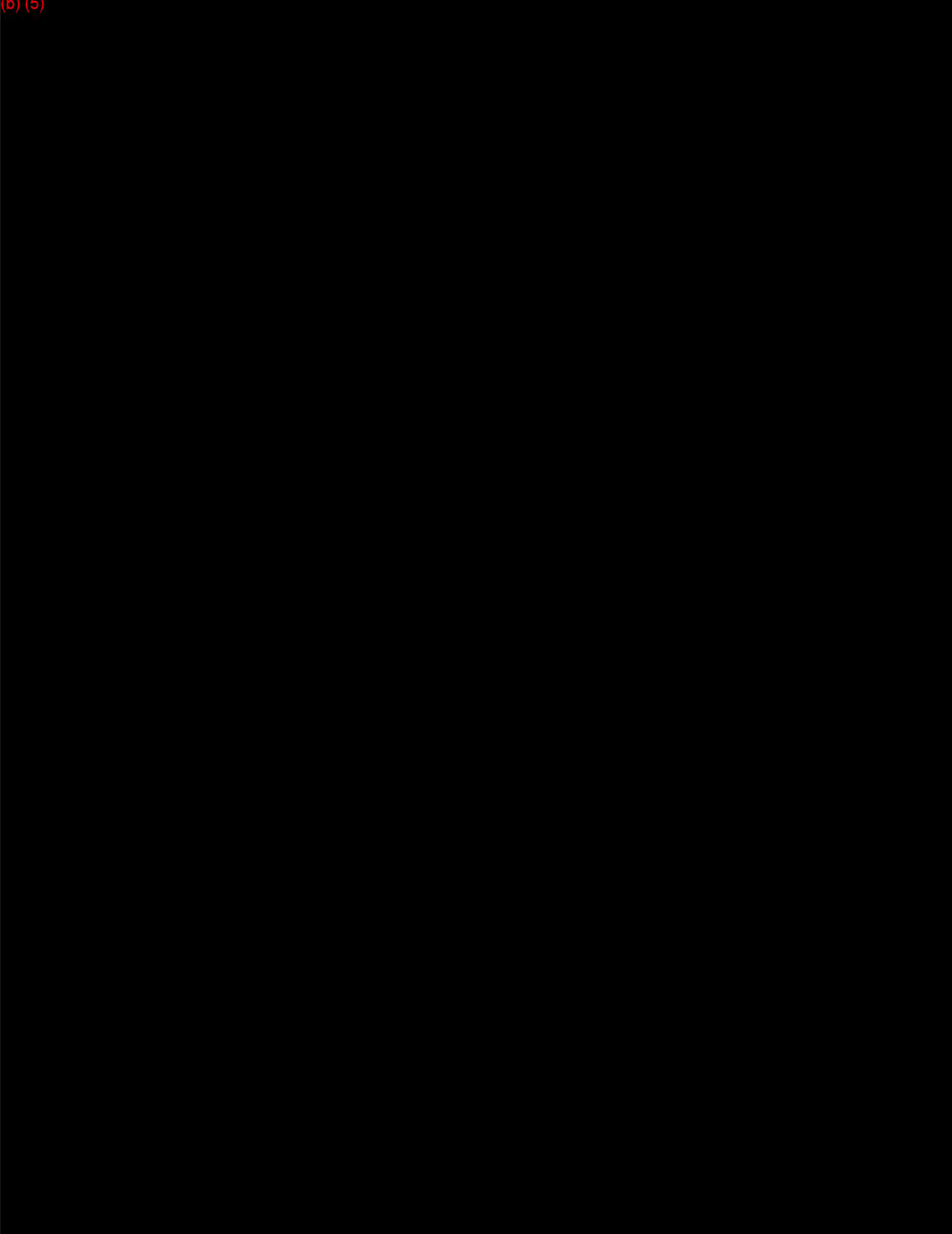
Thanks - Marlys











## 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

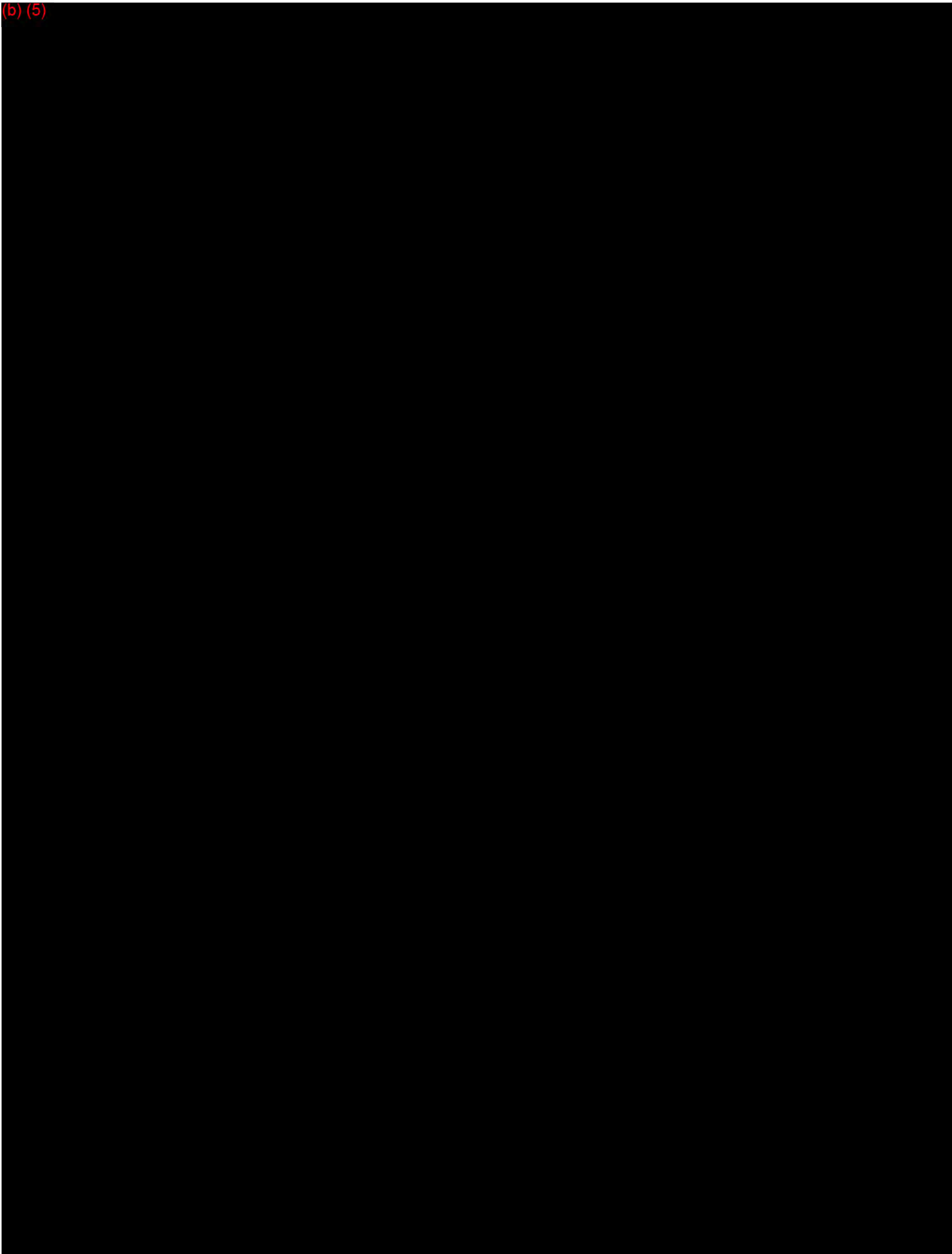
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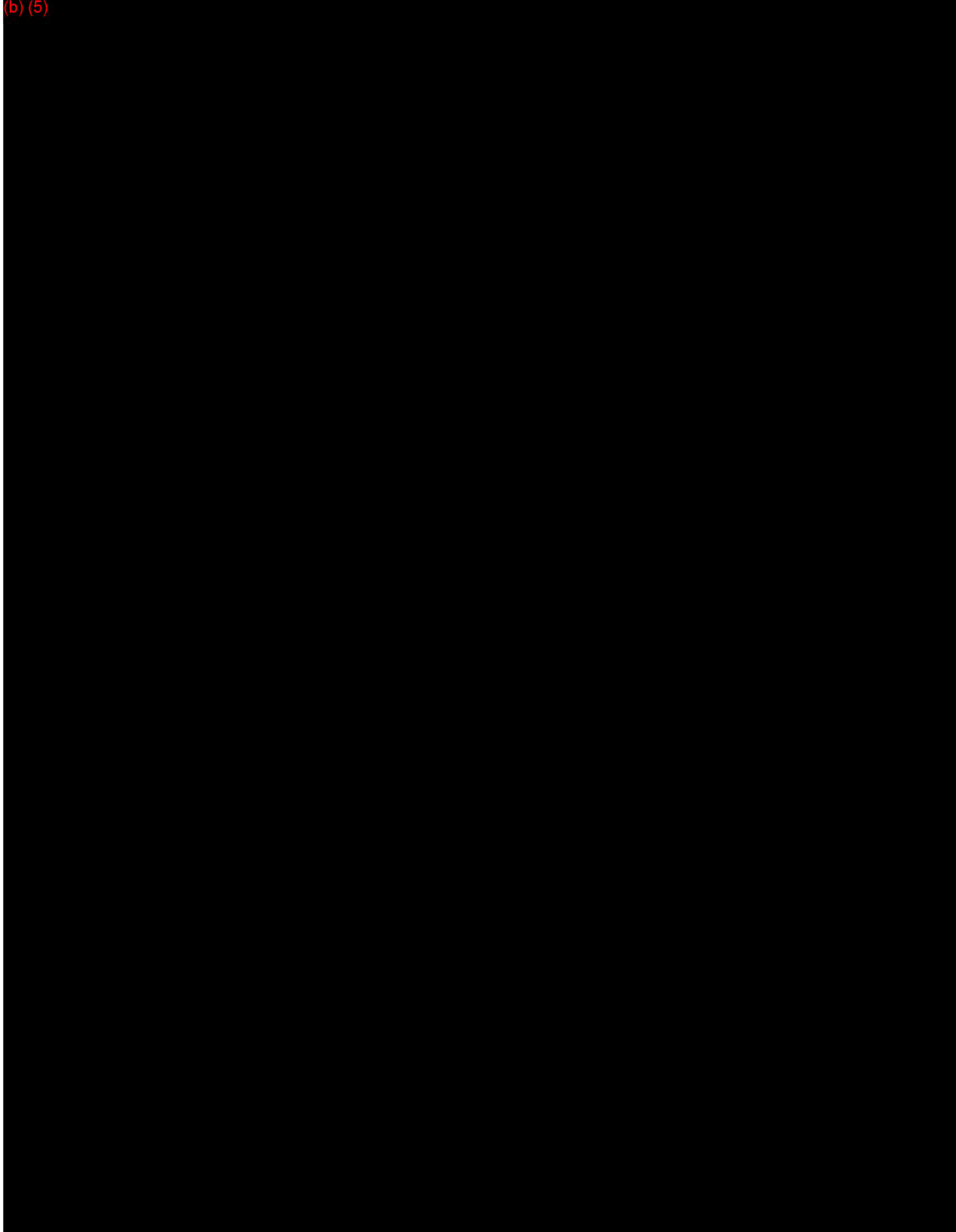
**From:** "Barnett, Steven W. EOP/CEQ" <(b) (6)>  
**Date:** June 18, 2018 at 5:44:49 PM EDT  
**To:** "Herrgott, Alex H. EOP/CEQ" <(b) (6)>  
**Cc:** "Drummond, Michael R. EOP/CEQ" <(b) (6)> "Vandegrift, Scott F. EOP/CEQ" <(b) (6)> "Osterhues, Marlys A. EOP/CEQ" <(b) (6)>  
**Subject:** Draft Herrgott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

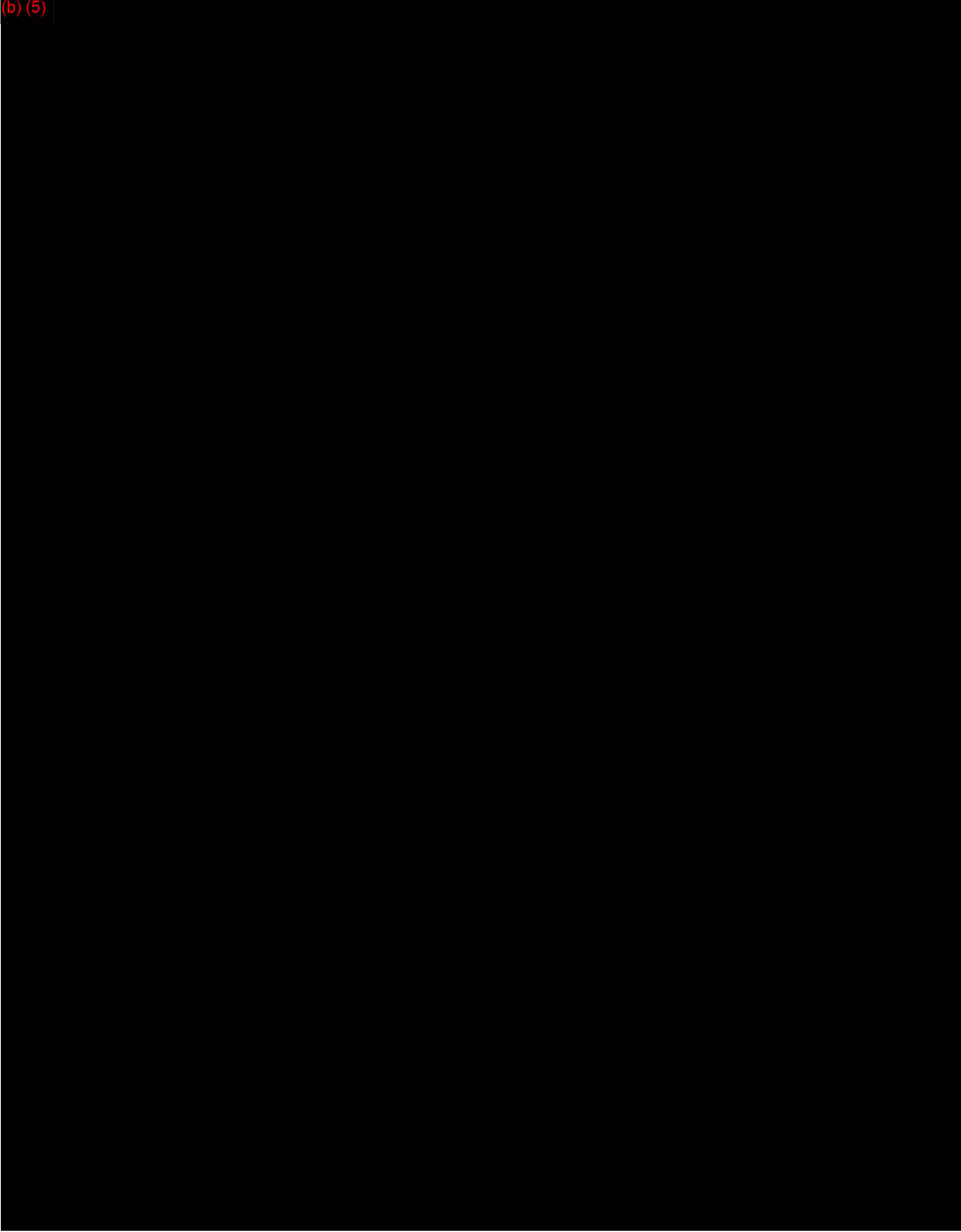
Alex,

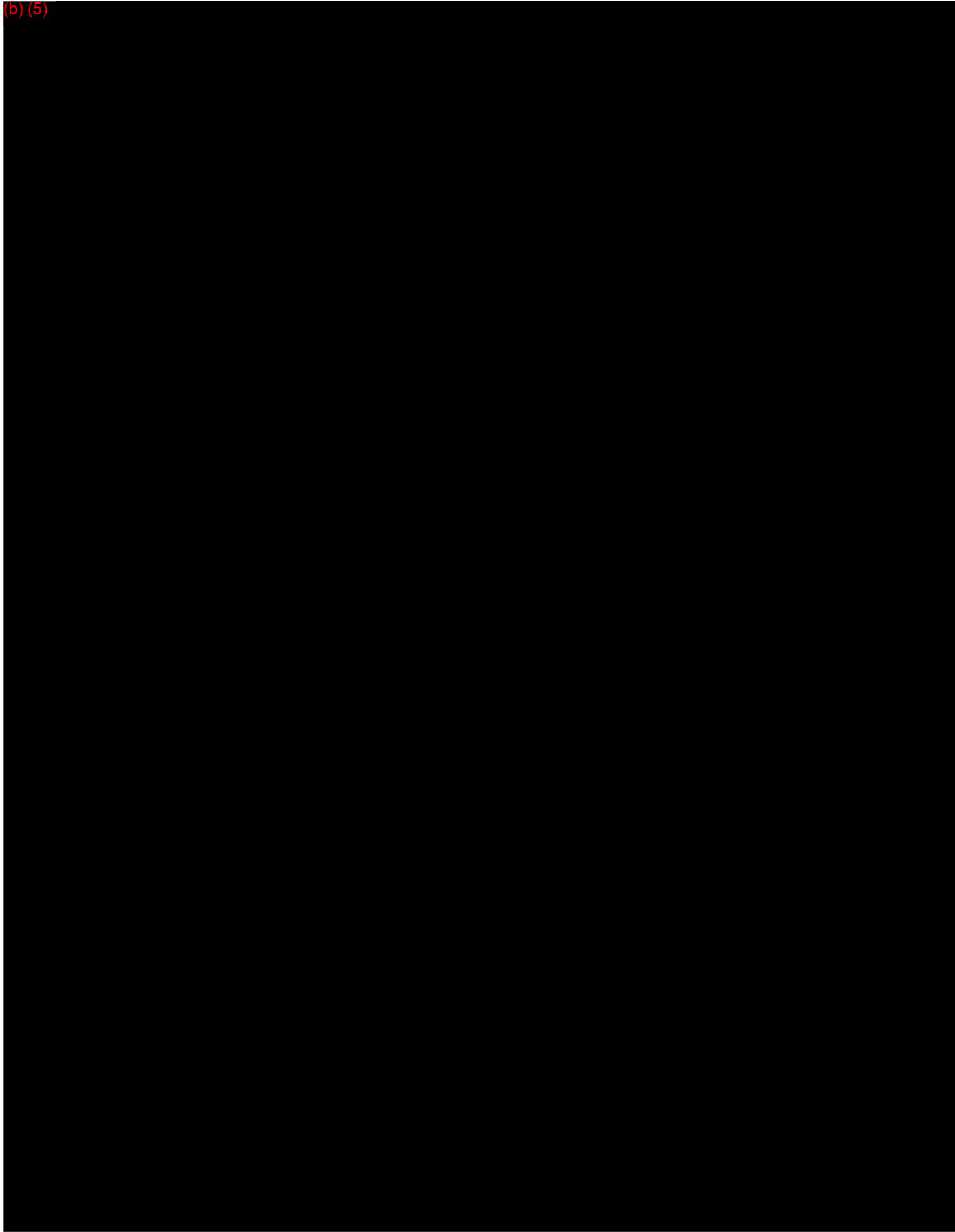
Please find attached a red line and clean copy of your draft testimony.

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, Mariys A. EOP/CEQ"

<(b) (6)> "Herrgott, Alex H. EOP/CEQ"

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

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

**To:** <(b) (6)> "Barnett, Steven W. EOP/CEQ"

<(b) (6)> Amber Levofsky - Y <amber.levofsky@gsa.gov>,  
Janet Pfleeger - Y <janet.pfleeger@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](mailto: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.Sugarnan@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@oscc.usda.gov](mailto:Brooke.Appleton@oscc.usda.gov), [rwoodruff@fs.fed.us](mailto:rwoodruff@fs.fed.us), [gsmith08@fs.fed.us](mailto:gsmith08@fs.fed.us), [sarah.koepffel@hq.dhs.gov](mailto:sarah.koepffel@hq.dhs.gov),  
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[terry.l.bowers14.civ@mail.mil](mailto:terry.l.bowers14.civ@mail.mil), "Pauley, Melissa" <[Melissa.Pauley@hq.doe.gov](mailto:Melissa.Pauley@hq.doe.gov)>, Erika Vaughan  
 <[erika\\_vaughan@ios.doi.gov](mailto:erika_vaughan@ios.doi.gov)>, [joshua.kaplowitz@sol.doi.gov](mailto:joshua.kaplowitz@sol.doi.gov), [frankie.green@fws.gov](mailto:frankie.green@fws.gov), [craig\\_aubrey@fws.gov](mailto:craig_aubrey@fws.gov),  
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[nelson.a.rivera@hud.gov](mailto:nelson.a.rivera@hud.gov), [danielle.l.schopp@hud.gov](mailto:danielle.l.schopp@hud.gov), "Burkhart, Lawrence" <[Lawrence.Burkhart@nrc.gov](mailto:Lawrence.Burkhart@nrc.gov)>,  
[Donna.Williams@nrc.gov](mailto:Donna.Williams@nrc.gov), "Erwin, Kenneth" <[Kenneth.Erwin@nrc.gov](mailto:Kenneth.Erwin@nrc.gov)>, "Kugler, Andrew"  
 <[Andrew.Kugler@nrc.gov](mailto:Andrew.Kugler@nrc.gov)>, [Maureen.Wylic@nrc.gov](mailto:Maureen.Wylic@nrc.gov), [Ben.Ficks@nrc.gov](mailto:Ben.Ficks@nrc.gov), [russell.allwein@nrc.gov](mailto:russell.allwein@nrc.gov), "Kratchman,  
 Jessica" <[Jessica.kratchman@nrc.gov](mailto:Jessica.kratchman@nrc.gov)>, "Kim, Grace" <[Grace.Kim@nrc.gov](mailto:Grace.Kim@nrc.gov)>, Eric MacMillan  
 <[eric.macmillan@noaa.gov](mailto:eric.macmillan@noaa.gov)>, Michelle Lennox - NOAA Federal <[michelle.lennox@noaa.gov](mailto:michelle.lennox@noaa.gov)>,  
[katherine.renshaw@noaa.gov](mailto:katherine.renshaw@noaa.gov), Helen Chabot - NOAA Federal <[helen.chabot@noaa.gov](mailto:helen.chabot@noaa.gov)>,  
[Peter.McVeigh@usdoj.gov](mailto:Peter.McVeigh@usdoj.gov)

Cc: (b) (6), (b) (6), (b) (6)  
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 (b) (6), (b) (6), (b) (6)  
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 Mark A. EOP/OMB" <(b) (6)>, "Colamaria, Angela F. EOP/OMB"  
 <(b) (6)>, (b) (6), "Nusraty, Tim H. EOP/OMB"  
 <(b) (6)>, "Boling, Ted A. EOP/CEQ" <(b) (6)>  
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 <(b) (6)>, (b) (6), Kelly Alexander - AY-Detailee  
 <[kelly.alexander@gsa.gov](mailto:kelly.alexander@gsa.gov)>, (b) (6), "Dorjets, Vlad EOP/OMB"  
 <(b) (6)>, Karen Hanley - Y <[karen.hanley@gsa.gov](mailto:karen.hanley@gsa.gov)>, Janet Pflieger - Y  
 <[janet.pflieger@gsa.gov](mailto:janet.pflieger@gsa.gov)>, Amber Levofsky - Y <[amber.levofsky@gsa.gov](mailto:amber.levofsky@gsa.gov)>, David Yi  
 <(b) (6)>, Blake Fox - AY-C <[blake.fox@gsa.gov](mailto:blake.fox@gsa.gov)>, Robert Noecker - AY-C  
 <[robert.noecker@gsa.gov](mailto:robert.noecker@gsa.gov)>, Meghan Edwards - AY-C <[meghan.edwards@gsa.gov](mailto:meghan.edwards@gsa.gov)>, Kendra Wilson - AY-C  
 <[kendra.wilson@gsa.gov](mailto:kendra.wilson@gsa.gov)>, (b) (6), (b) (6)  
 (b) (6), (b) (6), (b) (6), Jerri  
 Marr - AY-D <[jerri.marr@gsa.gov](mailto:jerri.marr@gsa.gov)>, Kavita Vaidyanathan - AY-DETAILEE <[kavita.vaidyanathan@gsa.gov](mailto:kavita.vaidyanathan@gsa.gov)>, Ross  
 Pilotte <[ross.pilotte@gsa.gov](mailto:ross.pilotte@gsa.gov)>, Robert Lane - AY-C <[robert.lane@gsa.gov](mailto:robert.lane@gsa.gov)>, Robert Hillkirk - AY-C  
 <[scott.hillkirk@gsa.gov](mailto:scott.hillkirk@gsa.gov)>, Nikhil Bhandari - AY-C <[nikhil.bhandari@gsa.gov](mailto:nikhil.bhandari@gsa.gov)>, Nusrat Khan - AY-C  
 <[emma.khan@gsa.gov](mailto:emma.khan@gsa.gov)>, Kelsey Owens - YD-D <[kelsey.owens@gsa.gov](mailto:kelsey.owens@gsa.gov)>, (b) (6)  
 (b) (6), (b) (6), (b) (6)

Edna Curtin  
 Michael Harkins  
 Christine McDonald  
 Jephtha Nafziger  
 Andrew Howe

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.

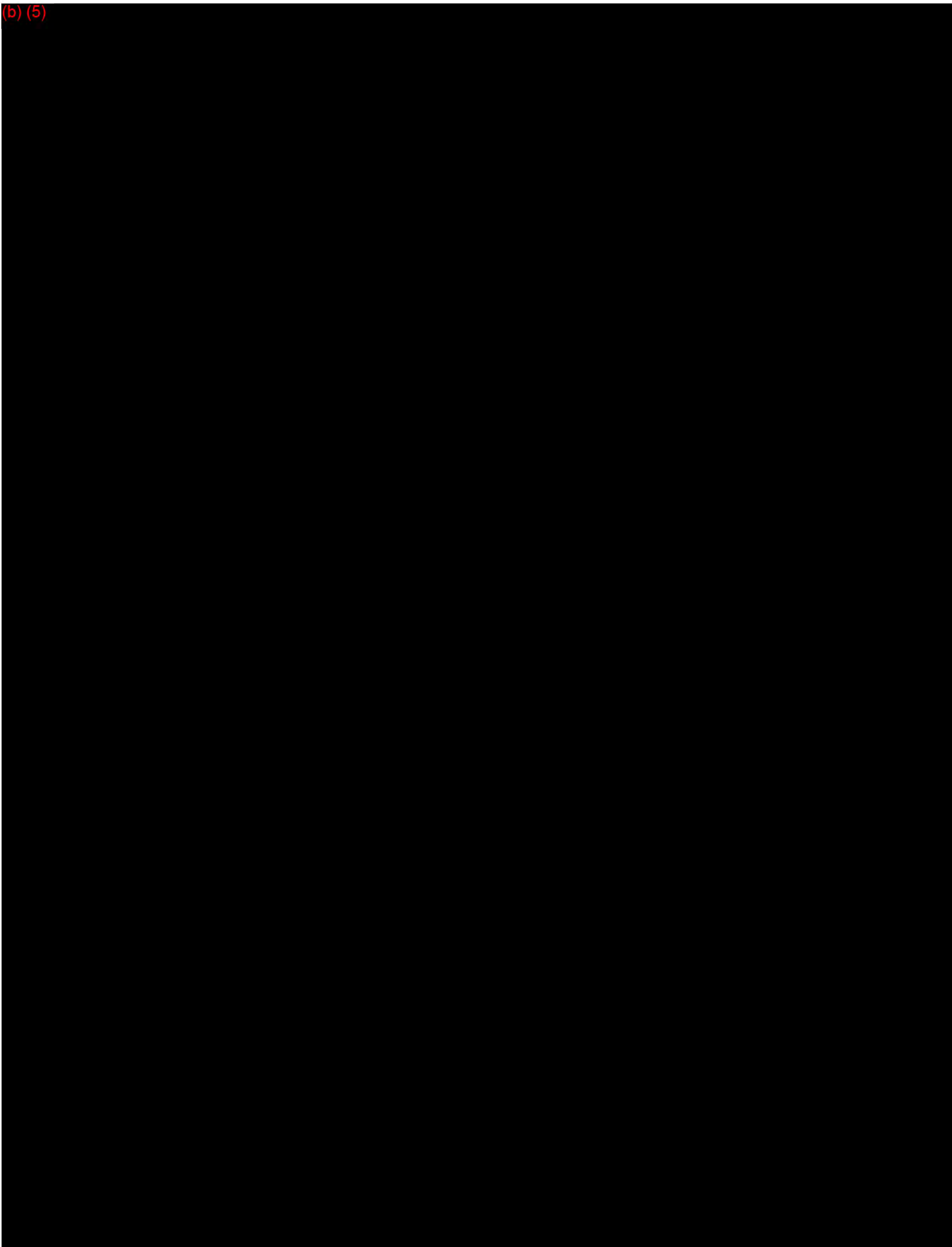
I've attached the draft written statements for FPISC and CEQ. We need to submit the written statements ahead of  
 time so *please provide any edits to both documents by COB Thursday 6/21/18 (tomorrow)*.

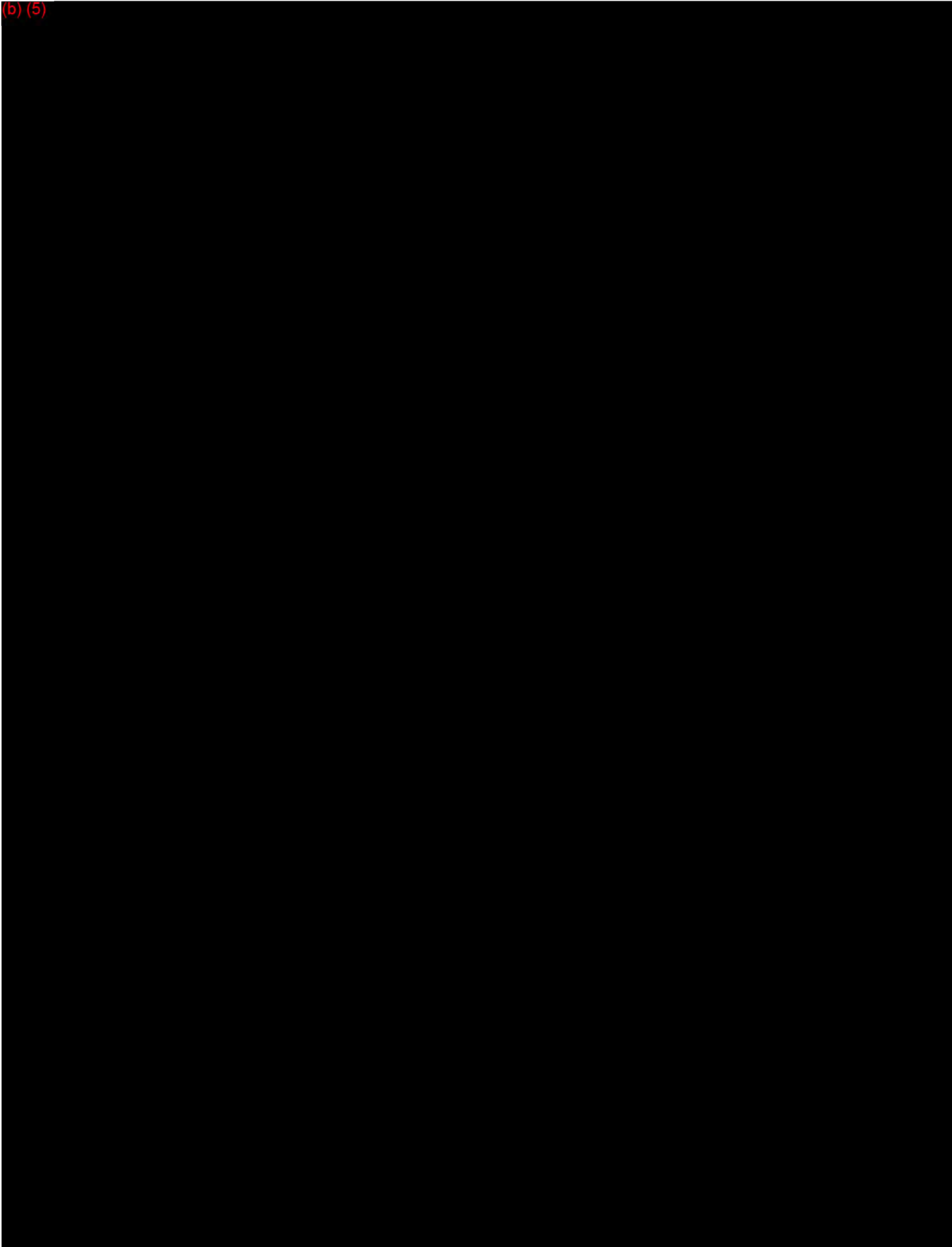
We don't have an official list of participants, but it is our understanding that HSGAC staff have also asked  
 representatives from the RC Byrd and Mid-Barataria projects, the Chamber of Commerce, and Center for American  
 Progress.

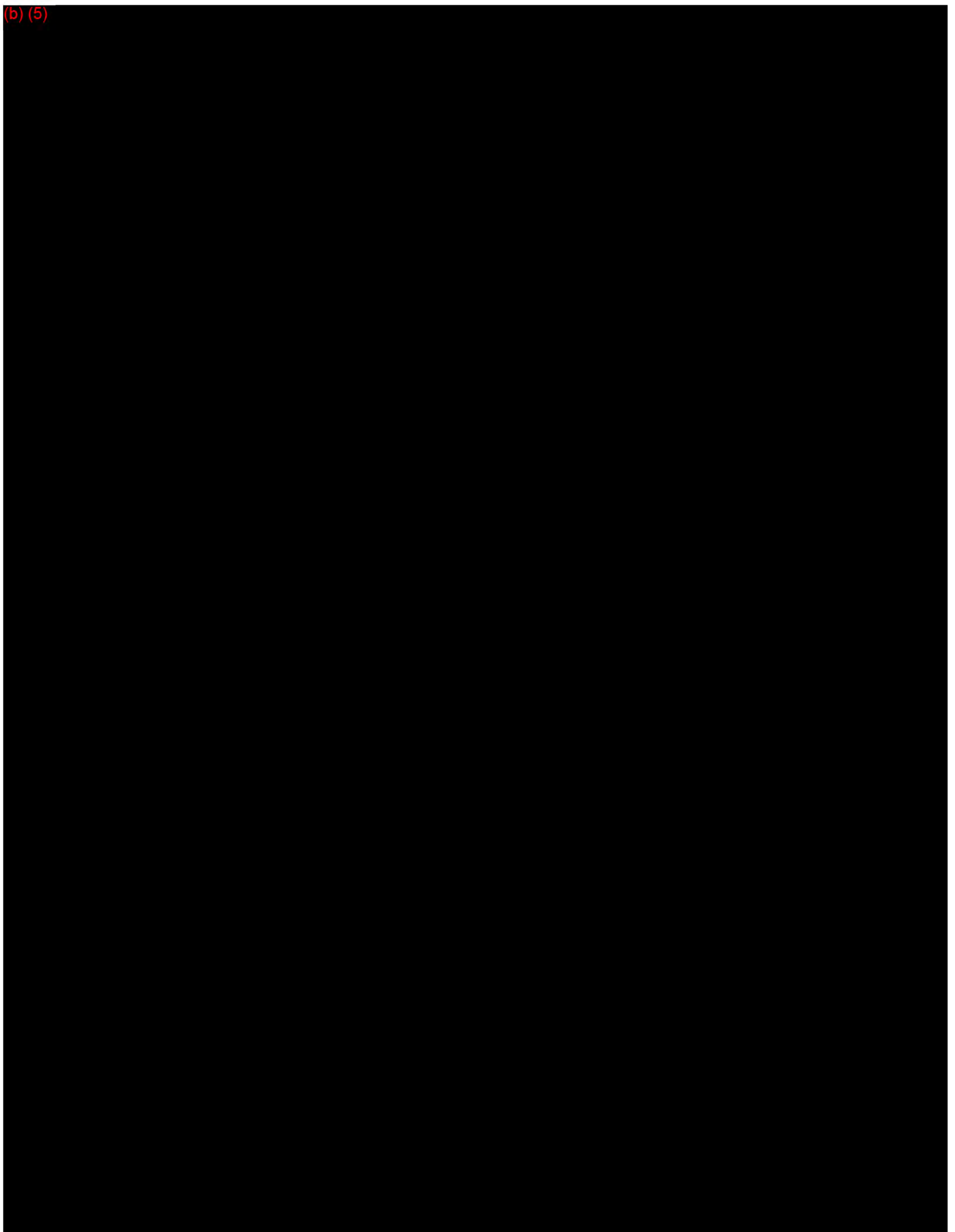
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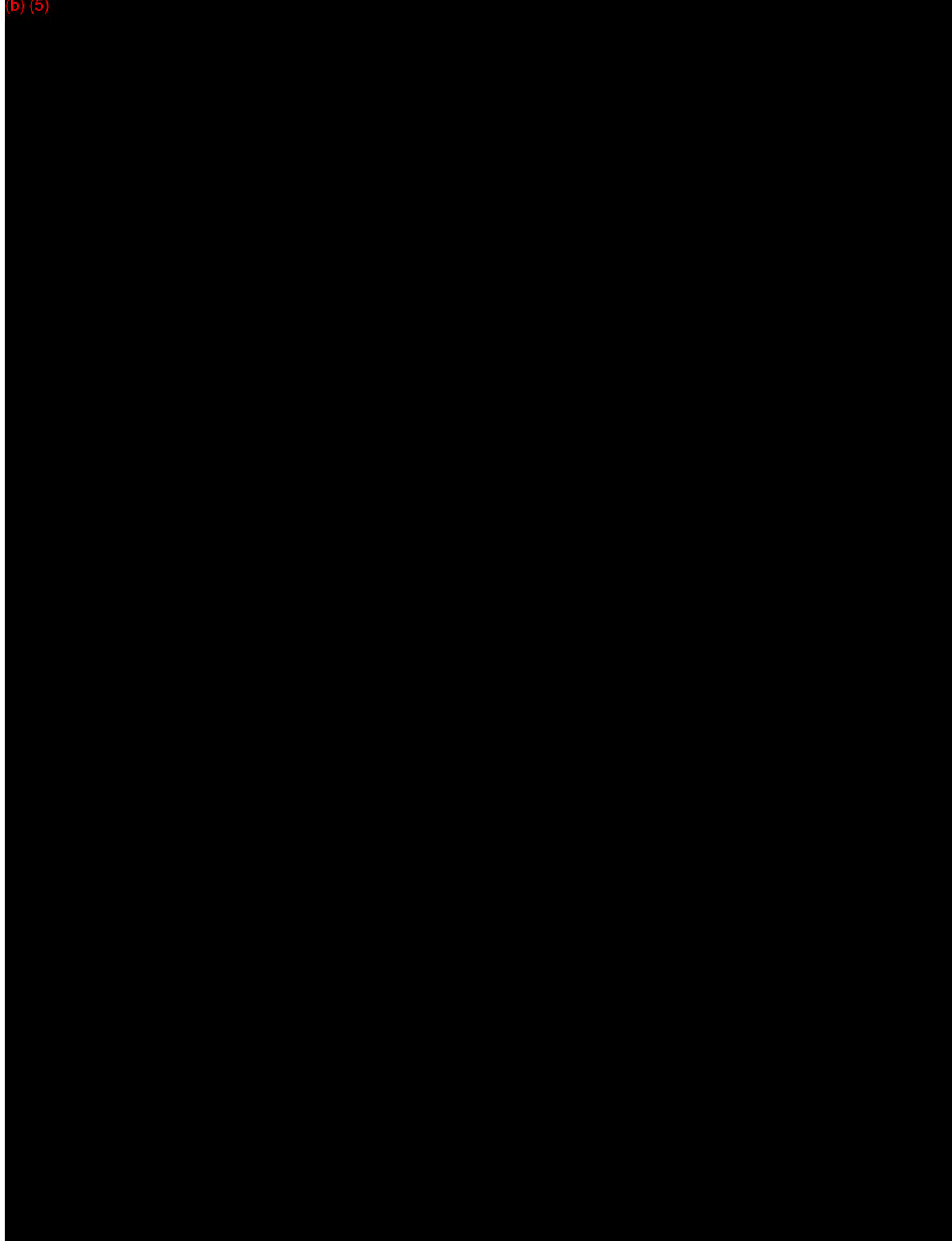
Angie

**Angela F. Colamaria**  
Acting Executive Director  
Office of the Executive Director (FPISC-OED)  
Federal Permitting Improvement Steering Council  
[angela.colamaria@fpisc.gov](mailto: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.tickle4.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)> "Buenvendida, 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"  
Cc: <(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"

<(b) (6)> "Berger, Joseph J. EOP/OMB"  
<(b) (6)> "Lallemand, 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)

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Hi all,

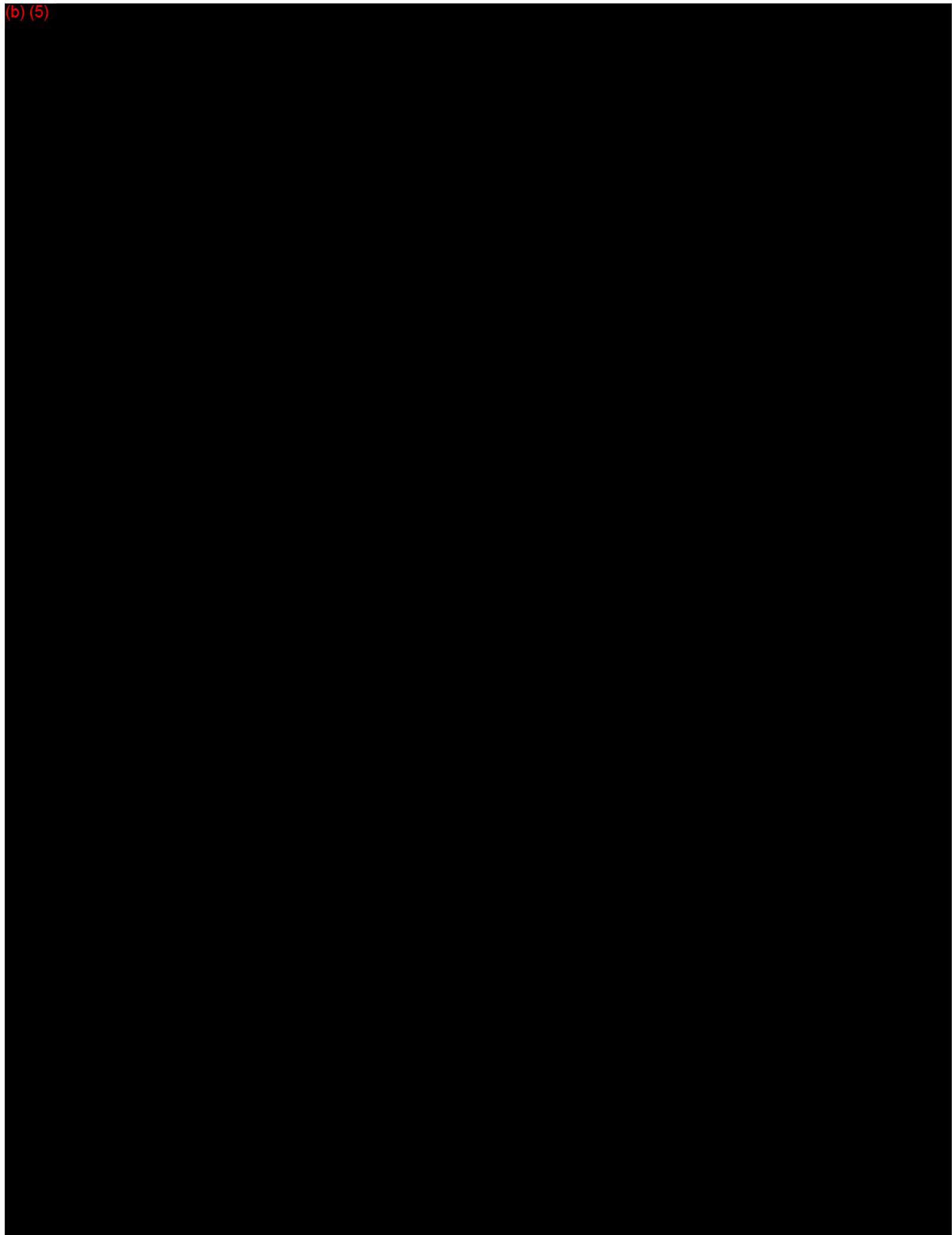
FPISC and CEQ have been asked to participate in a Senate roundtable on infrastructure permitting on June 27 (invite from HSGAC Committee is attached). This is not a formal hearing, but it will be open to the press and written statements will be posted online.

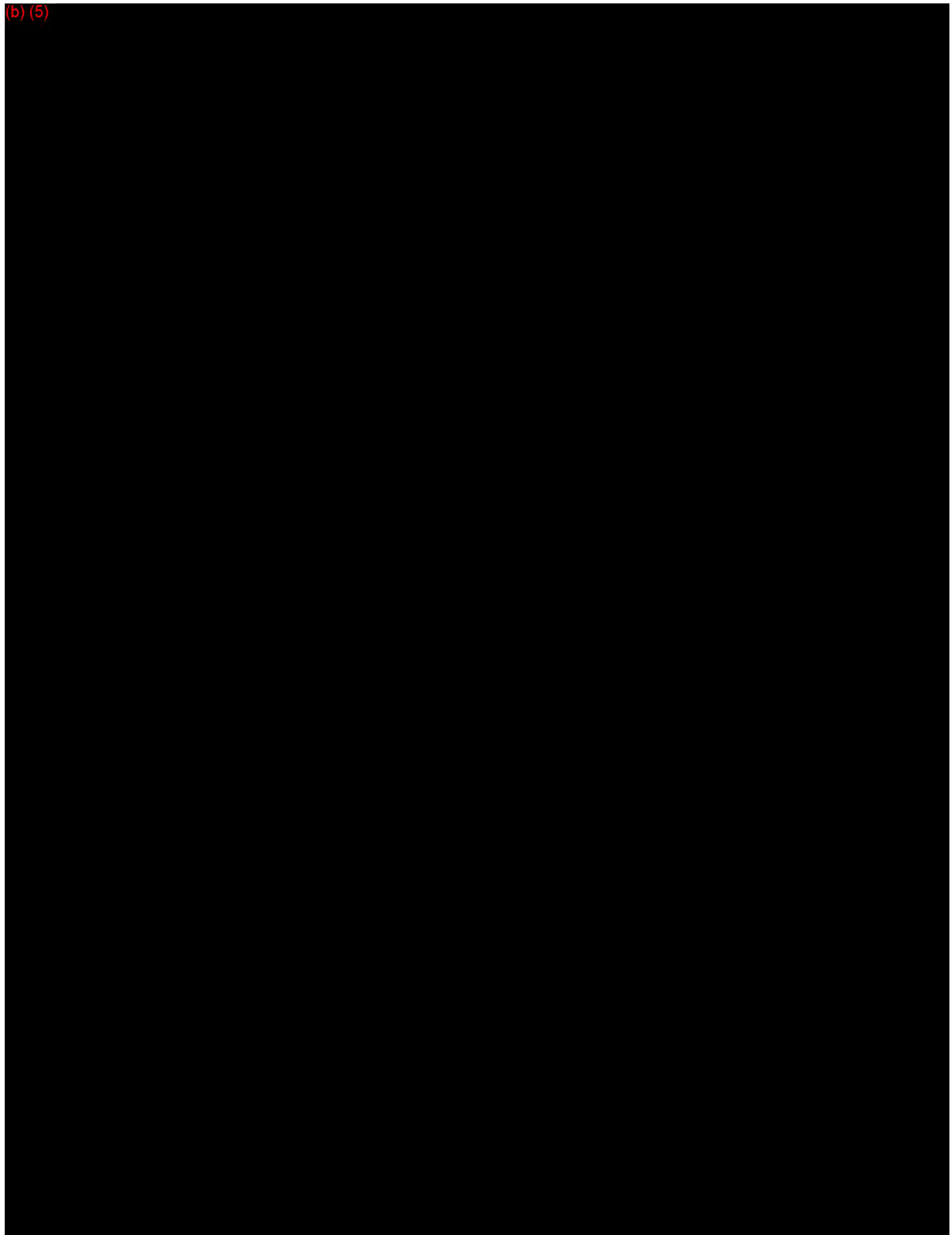
I've attached the draft written statements for FPISC and CEQ. We need to submit the written statements ahead of time so *please provide any edits to both documents by COB Thursday 6/21/18 (tomorrow)*.

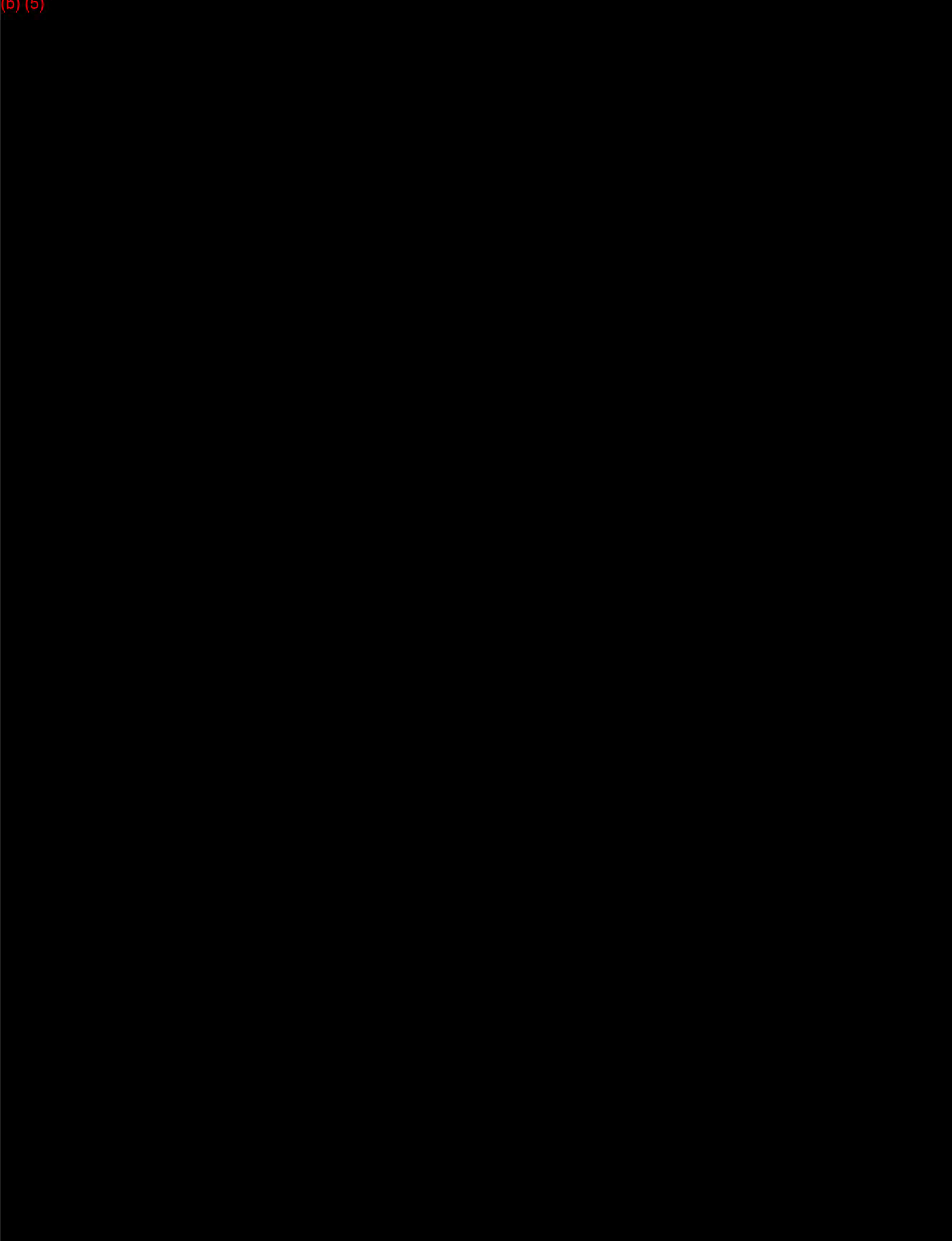
We don't have an official list of participants, but it is our understanding that HSGAC staff have also asked representatives from the RC Byrd and Mid-Barataria projects, the Chamber of Commerce, and Center for American Progress.

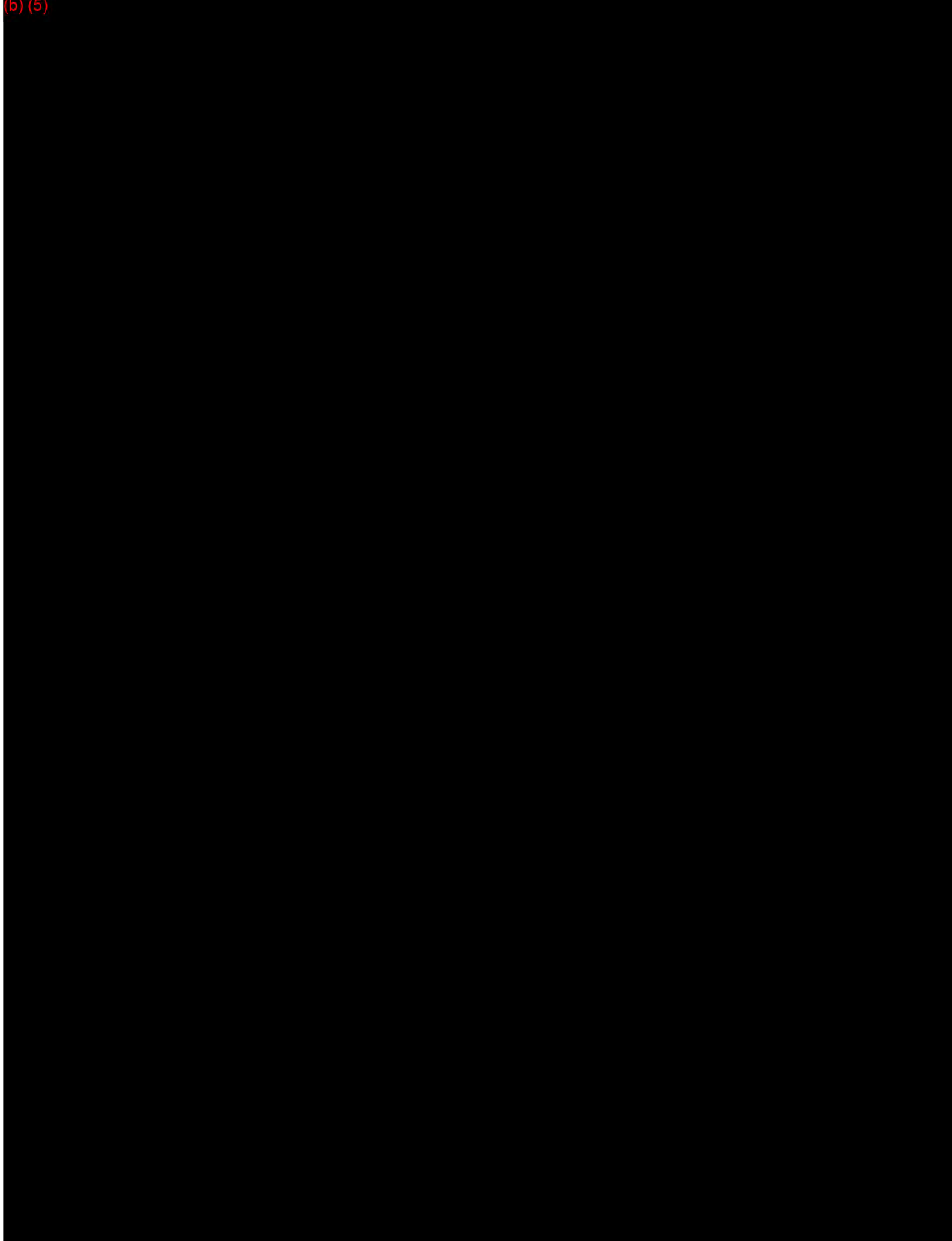
Angie

**Angela F. Colamaria**  
Acting Executive Director  
Office of the Executive Director (FPISC-OED)  
Federal Permitting Improvement Steering Council  
[angela.colamaria@fpisc.gov](mailto: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 [[\(b\) \(6\)](mailto:(b) (6))]  
**Sent:** Wednesday, June 20, 2018 11:02 AM  
**To:** Carter, Marian (CONTR) <[Marian.Carter@hq.doe.gov](mailto:Marian.Carter@hq.doe.gov)>  
**Cc:** Alexander, Lillian <[Lillian.Alexander@hq.doe.gov](mailto: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](mailto:John.Adams@Hq.Doe.Gov)>  
**Subject:** RE: Updates to NEPA.gov - APPROVAL NEEDED FOR BANNER

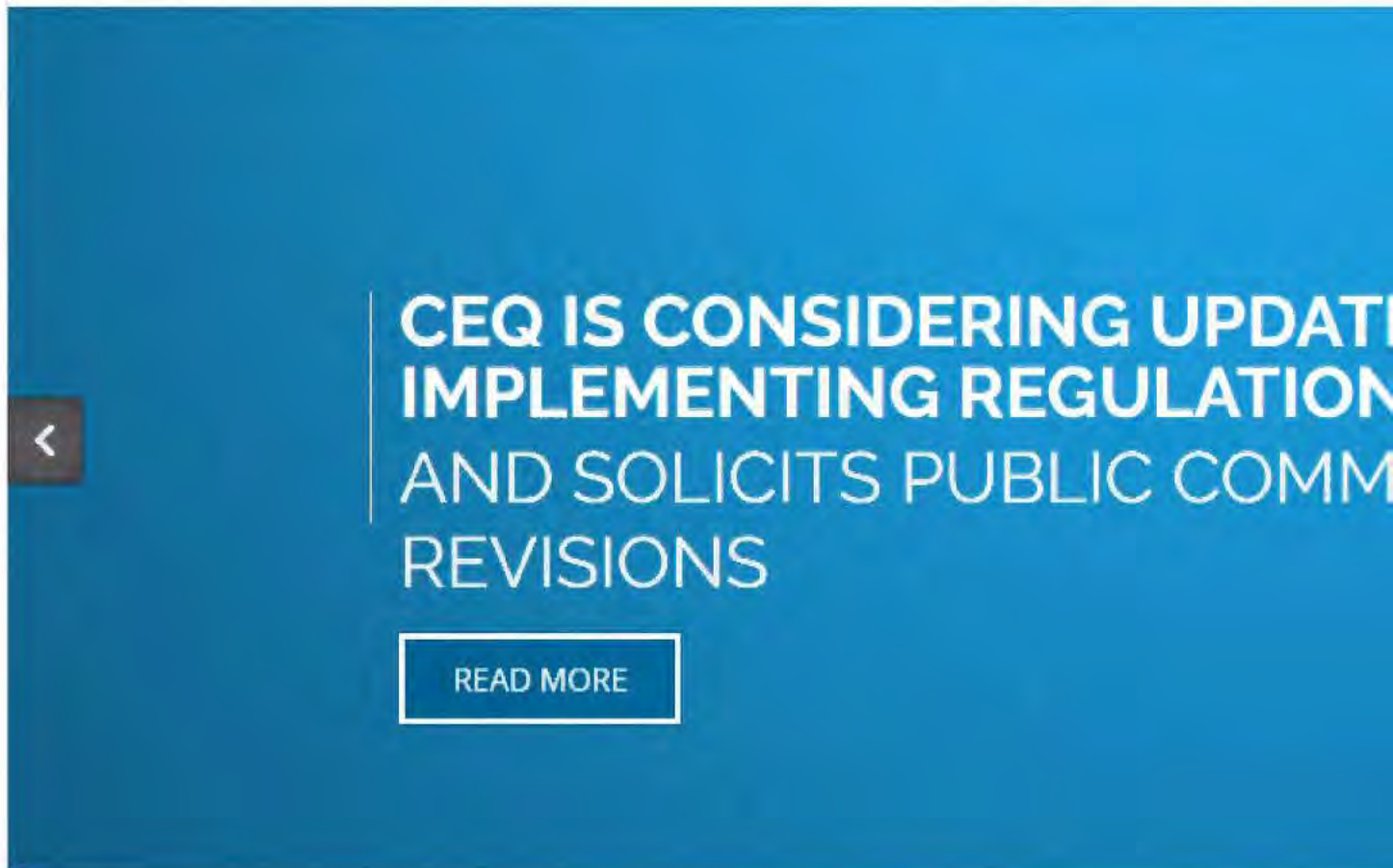
That looks great!  
Thank you!

**From:** Carter, Marian (CONTR) <[Marian.Carter@hq.doe.gov](mailto: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](mailto:Lillian.Alexander@hq.doe.gov)>; Drummond, Michael R. EOP/CEQ

<(b) (6)> Mansoor, Yarden M. EOP/CEQ  
<(b) (6)> Adams, John (AU) (CONTR) <[John.Adams@Hq.Doe.Gov](mailto: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 [mailto:(b) (6)]  
**Sent:** Wednesday, June 20, 2018 8:57 AM  
**To:** Mansoor, Yarden M. EOP/CEQ <(b) (6)> Adams, John (AU) (CONTR) <[John.Adams@Hq.Doe.Gov](mailto:John.Adams@Hq.Doe.Gov)>  
**Cc:** Carter, Marian (CONTR) <[Marian.Carter@hq.doe.gov](mailto:Marian.Carter@hq.doe.gov)>; Alexander, Lillian <[Lillian.Alexander@hq.doe.gov](mailto: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](mailto:John.Adams@Hq.Doe.Gov)>  
**Cc:** Carter, Marian (CONTR) <[Marian.Carter@hq.doe.gov](mailto:Marian.Carter@hq.doe.gov)>; Alexander, Lillian <[Lillian.Alexander@hq.doe.gov](mailto: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](mailto:Marian.Carter@hq.doe.gov)>  
**Cc:** Alexander, Lillian <[Lillian.Alexander@hq.doe.gov](mailto:Lillian.Alexander@hq.doe.gov)>; Boling, Ted A. EOP/CEQ <(b) (6)>  
(b) (6) Drummond, Michael R. EOP/CEQ <(b) (6)>  
(b) (6) Adams, John (AU) (CONTR) <[John.Adams@Hq.Doe.Gov](mailto: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](https://ceq.doe.gov/laws-regulations/regulations.html). [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](mailto:Marian.Carter@hq.doe.gov)>  
**Sent:** Monday, June 18, 2018 1:23 PM  
**To:** Mansoor, Yarden M. EOP/CEQ <(b) (6)>  
**Cc:** Alexander, Lillian <[Lillian.Alexander@hq.doe.gov](mailto: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](mailto:John.Adams@Hq.Doe.Gov)>  
**Subject:** RE: Updates to NEPA.gov

Good Afternoon, Yarden:

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](mailto:marian.carter@hq.doe.gov)*

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

**From:** Mansoor, Yarden 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](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](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.

Yarden M 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 (fydibohf23spdft)/cn=recipients/cn=eae5b047f671428b9b46baf8afd1176a-bo">

**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>

**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)]  
**Sent:** Wednesday, June 20, 2018 8:57 AM  
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**Cc:** Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>; Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Drummond, Michael R. EOP/CEQ <(b) (6)>  
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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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**Sent:** Monday, June 18, 2018 1:53 PM  
**To:** 'Carter, Marian (CONTR)' <[Marian.Carter@hq.doe.gov](mailto:Marian.Carter@hq.doe.gov)>  
**Cc:** Alexander, Lillian <[Lillian.Alexander@hq.doe.gov](mailto: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](mailto:John.Adams@Hq.Doe.Gov)>  
**Subject:** RE: Updates to NEPA.gov

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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:

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**From:** Carter, Marian (CONTR) <[Marian.Carter@hq.doe.gov](mailto: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](mailto: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](mailto:John.Adams@Hq.Doe.Gov)>  
**Subject:** RE: Updates to NEPA.gov

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*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](mailto:marian.carter@hq.doe.gov)*

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**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)>  
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**Subject:** Updates to NEPA.gov

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Thanks, in advance, for your help.

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



## RE: Updates to NEPA.gov

---

**From:** "Adams, John (AU) (CONTR)" <john.adams@hq.doe.gov>  
:  
**To:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
"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)>  
**Date:** Wed, 20 Jun 2018 09:44:17 -0400

Good morning Yardena,

This request has been completed

**From:** Mansoor, Yardena M. EOP/CEQ [mailto:(b) (6)]  
**Sent:** Wednesday, June 20, 2018 9:12 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)>  
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**Subject:** RE: Updates to NEPA.gov

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Deputy Associate Director for NEPA  
Council on Environmental Quality

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

## RE: Updates to NEPA.gov

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**From:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
**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>, "Boling, Ted A. EOP/CEQ"  
**Cc:** <(b) (6)> "Drummond, Michael R. EOP/CEQ"  
<(b) (6)>  
**Date:** Wed, 20 Jun 2018 09:11:33 -0400

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Council on Environmental Quality

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

## RE: Updates to NEPA.gov

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**From:** "Boling, Ted A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=eae5b047f871428b9b46baf8afd1176a-bo">  
**To:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)> "Adams, John (AU) (CONTR)" <john.adams@hq.doe.gov>  
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**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

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**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.
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**From:** Carter, Marian (CONTR) <Marian.Carter@hq.doe.gov>  
**Sent:** Monday, June 18, 2018 1:23 PM  
**To:** Mansoor, Yarden 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;
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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](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](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:** "Adams, John (AU) (CONTR)" <john.adams@hq.doe.gov>  
:  
**To:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
"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)>  
**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?

**From:** Mansoor, Yardena M. EOP/CEQ [mailto:(b) (6)]  
**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

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**To:** 'Carter, Marian (CONTR)' <[Marian.Carter@hq.doe.gov](mailto: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  
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Sent: Monday, June 18, 2018 1:23 PM  
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Cc: Alexander, Lillian <Lillian.Alexander@hq.doe.gov>; Boling, Ted A. EOP/CEQ  
<(b) (6)> Drummond, Michael R. EOP/CEQ  
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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](mailto:marian.carter@hq.doe.gov)*

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**To:** Adams, John (AU) (CONTR) <[John.Adams@Hq.Doe.Gov](mailto:John.Adams@Hq.Doe.Gov)>  
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[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)

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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)

# 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)>  
Lallemant, 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)

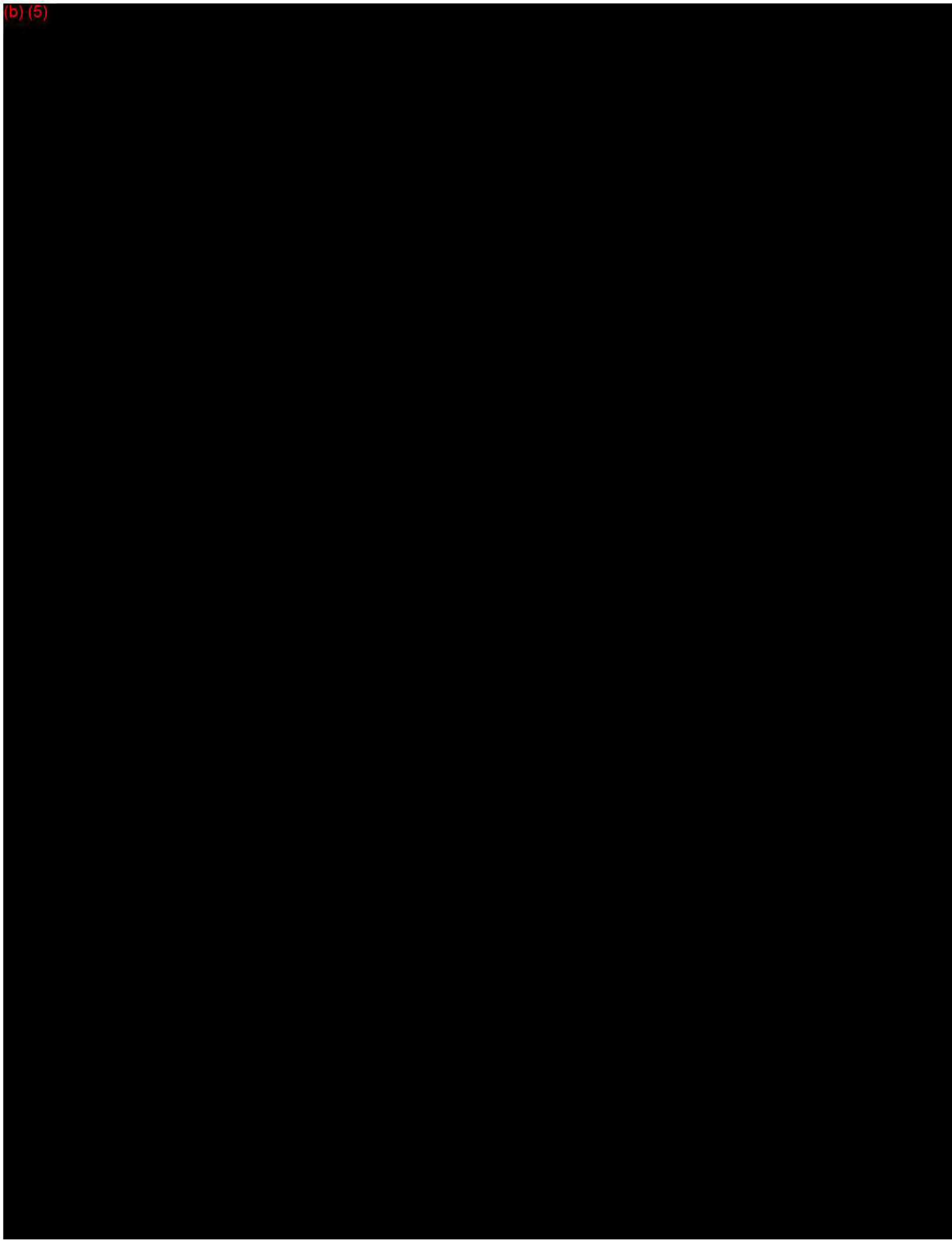
PHONE: (b) (6)

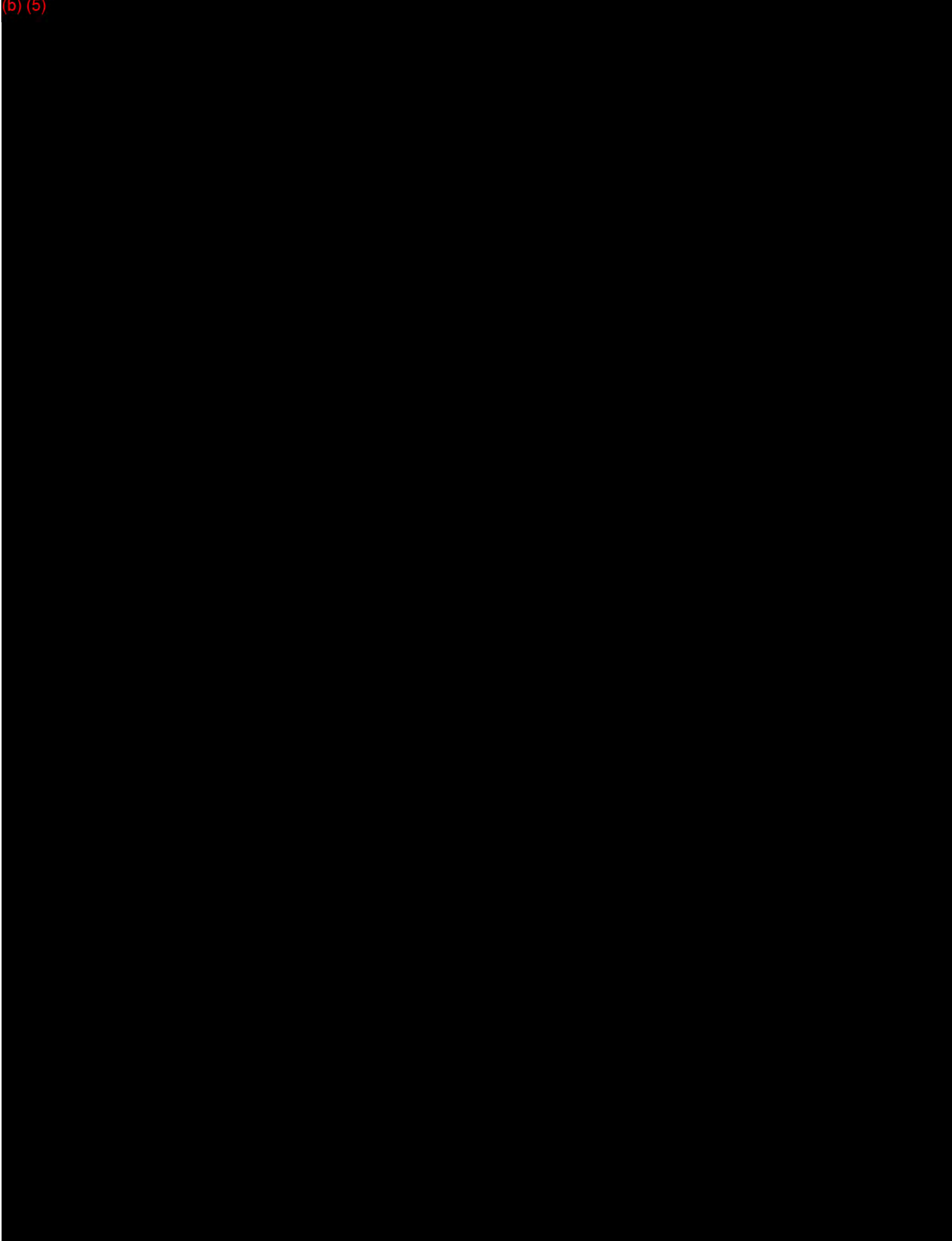
FAX: **(202) 395-3109**

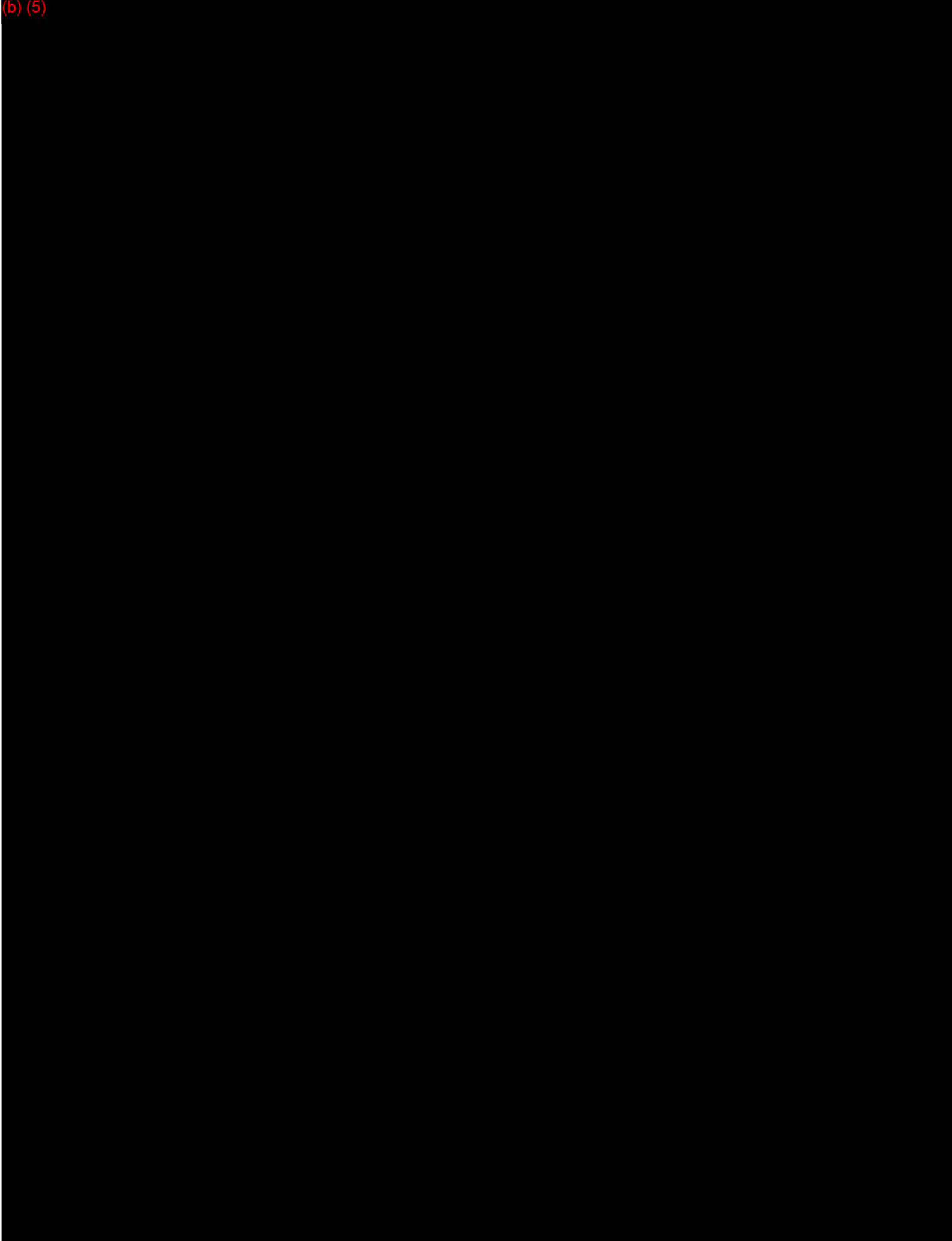
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. By the deadline above, please reply by e-mail or telephone, using the OMB Contact information above.

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.

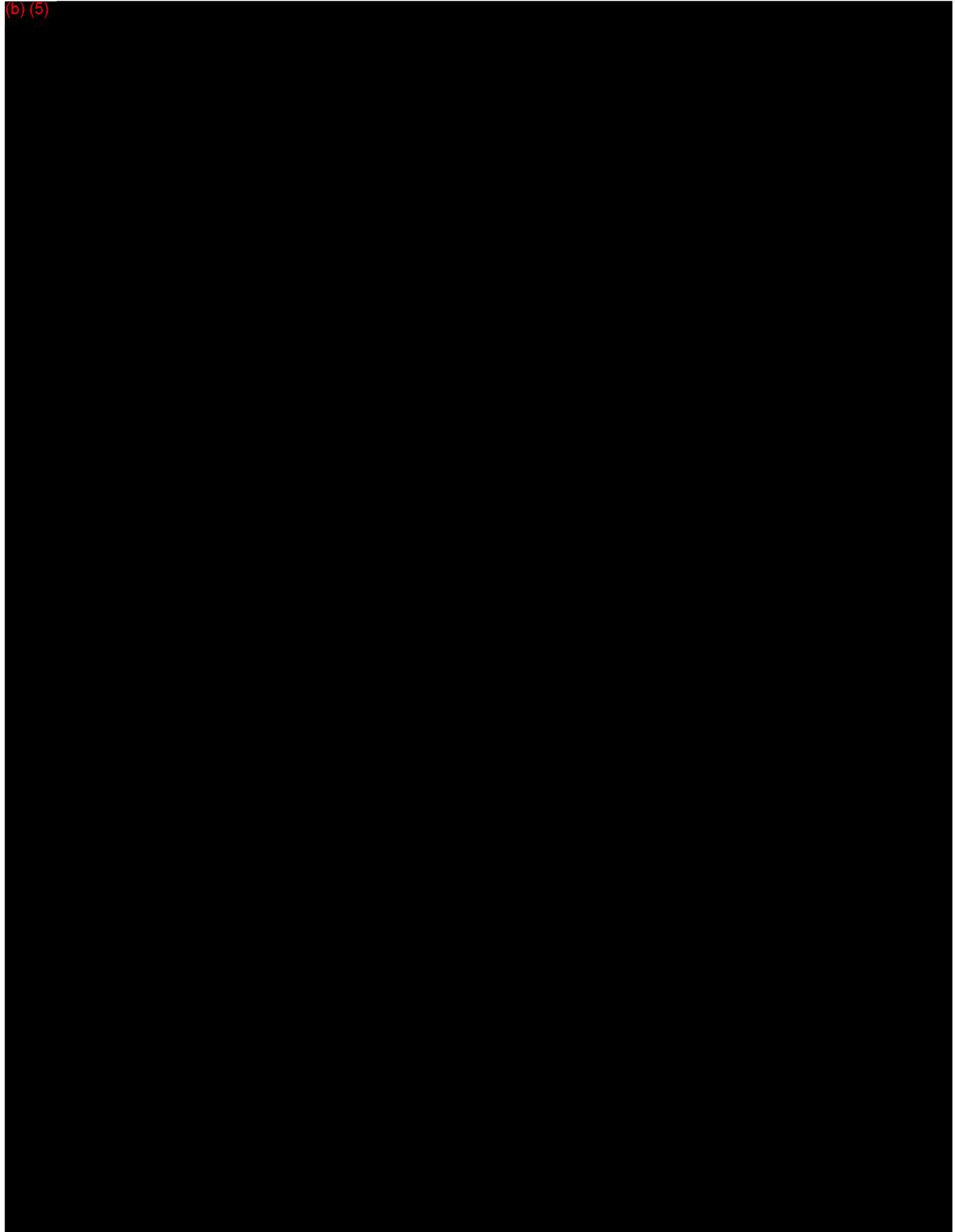
Thank you.











## 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

[APG]

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:

[APG]

- 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.

[APG]

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 Michael

---

**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 26<sup>th</sup> 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 27<sup>th</sup> 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

Pillsbury Winthrop Shaw Pittman LLP

1200 Seventeenth Street NW | Washington, DC 20036-3006

t 202.663.9159 | f 202.663.8007 | m (b) (6)

[elizabeth.moeller@pillsburylaw.com](mailto:elizabeth.moeller@pillsburylaw.com) | [website bio](#)

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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

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**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)>  
**Subject:** [EXTERNAL] 6/27 meeting request - CEO of EDF Renewables

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Kind regards,  
Elizabeth

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## [EXTERNAL] Shipley Group - Podcast

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**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.  
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[jeff.stewart@shipleygroup.com](mailto:jeff.stewart@shipleygroup.com)  
Website: >[www.shipleygroup.com](http://www.shipleygroup.com)<

## FW: Comment - CEQ-2018-001

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**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, Yarden 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**

Legal Assistant 3/Lead  
Counsel for Environmental Protection  
Office of the Attorney General  
800 5th Ave, Suite 2000  
Seattle, WA 98104  
Phone 206-326-5494  
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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  
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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FOR THE STATE OF NEW JERSEY

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Attorney General

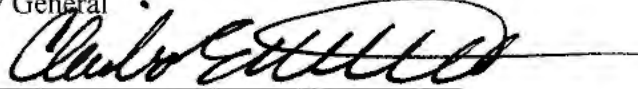
By:

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FOR THE STATE OF NEW YORK

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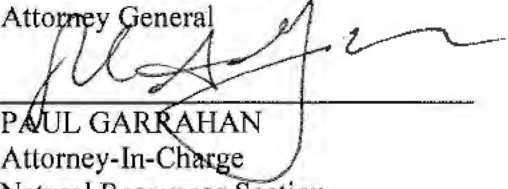
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ELLEN F. ROSENBLUM  
Attorney General

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Salem, OR 97301-4096  
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steve.novick@doj.state.or.us

## 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>; 'jsmall@fs.fed.us' <jsmall@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.Knishkowsky@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  
DOE Environmental Justice Program  
Office of Legacy Management  
[Denise.freeman@hq.doe.gov](mailto:Denise.freeman@hq.doe.gov)  
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## FW: Comment - CEQ-2018-001

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**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](mailto: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 S\* Ave Suite 2000, TB-14  
Seattle, WA 98104-3188  
Office: (206) 233-3391  
Email: [auroraj@atg.wa.gov](mailto:auroraj@atg.wa.gov)



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**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  
Seattle, WA 98104  
Phone 206-326-5494  
[TriciaK@atg.wa.gov](mailto: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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Assistant Attorney General  
AURORA R. JANKE  
Special Assistant Attorney General  
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Attorney General

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Attorney General of Massachusetts

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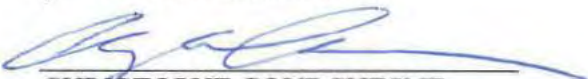
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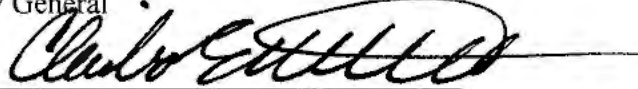
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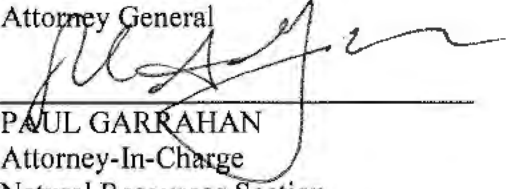
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ELLEN F. ROSENBLUM  
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## FW: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

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**From:** "Boling, Ted A. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdt)/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>; 'jsmall@fs.fed.us' <jsmall@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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<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.Knishkowsky@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

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](mailto:Denise.freeman@hq.doe.gov)  
P: 202-586-7879

## Mary Background Memo

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



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](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

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



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."

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- Neumayr took her post at CEQ in March 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.
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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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- 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.”
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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.

[APG]



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
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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]



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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]

## RE: CEQ Website update request

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**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, Yarden 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, Yarden 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:

### **Proposed Rulemaking:**

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 CEO-2018-0001, through the Federal eRulemaking portal, ><https://www.regulations.gov><. Comments should be submitted on or before **July August** 20, 2018.

[June 20, 2018: Advance Notice of Proposed Rulemaking](#)

[July 11, 2018: Extension of Comment Period](#)

As always, thank you for your help.

Michael Drummond  
Deputy Associate Director for NEPA  
Council on Environmental Quality

(b) (6) [REDACTED]

## RE: Questions, please review

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**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.

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**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

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**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)>

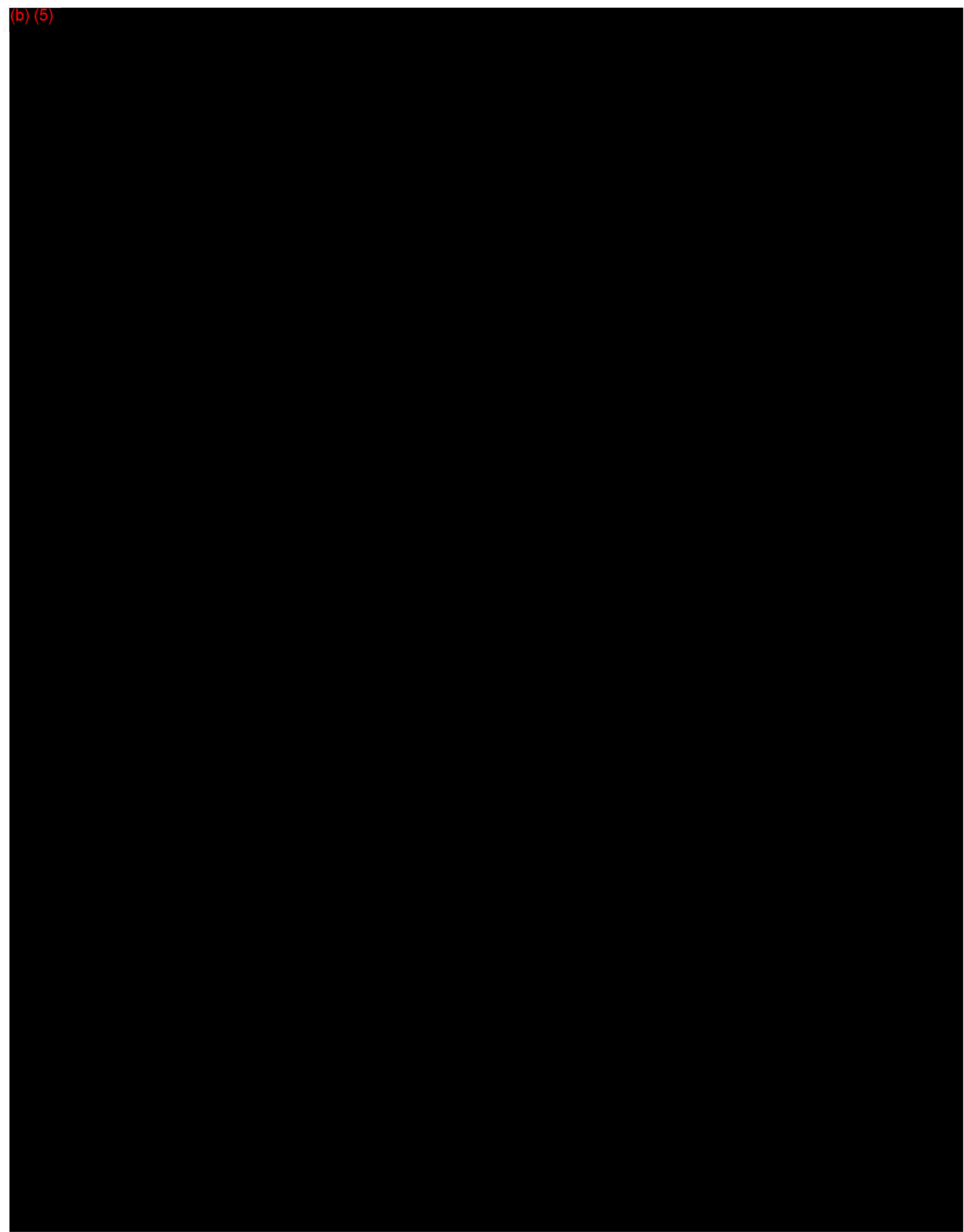
**Subject:** Questions, please review

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

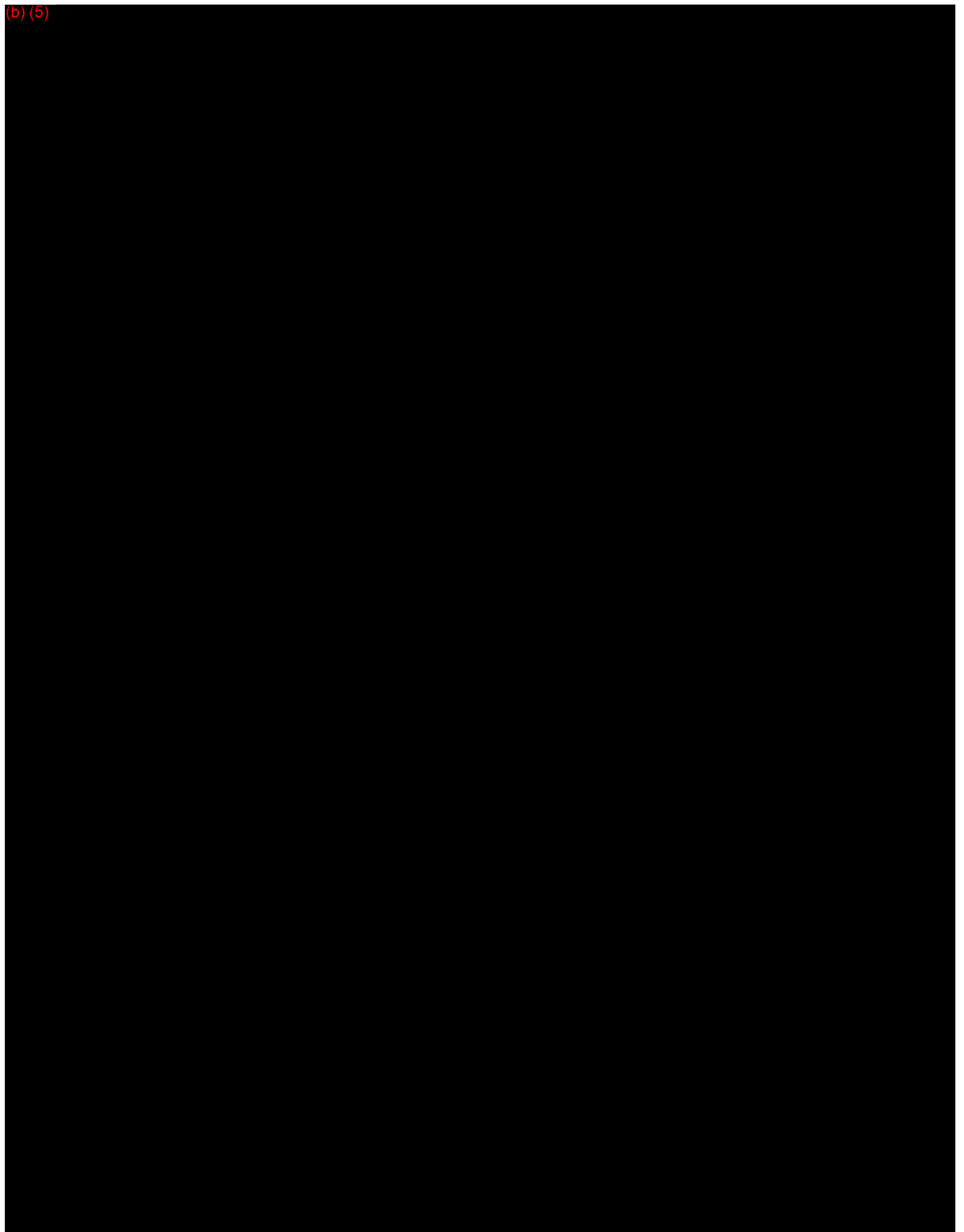
Thank you!

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







## final QFRs submitted

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**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)

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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).
  - a. Were those decisions wrongly decided in your view? If so, please explain why.
  - b. 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?
  - c. 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?
- In your view, do agencies have sufficient resources necessary to implement NEPA? Please explain your response.
  - In your view, do agencies have sufficient staff necessary to implement NEPA? Please explain your response.
  - In your view, do agencies have sufficient training necessary to implement NEPA? Please explain your response.
  - 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.
  - 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?
  - 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.<sup>1</sup> 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**

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<sup>1</sup> 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 documented<sup>2</sup> 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**

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<sup>2</sup> <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.<sup>3</sup> 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

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<sup>3</sup> Final Report Summarizing Findings of the Review of Designations Under the Antiquities Act, available at: [https://www.doi.gov/sites/doi.gov/files/uploads/revise\\_final\\_report.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/revise_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."<sup>4</sup> Do you agree with these statements, if not, why not?

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<sup>4</sup>[https://insideclimatenews.org/sites/default/files/2007\\_Draft\\_Proposed\\_Endangerment\\_Finding.pdf](https://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.<sup>5</sup> Do you agree with the courts that EPA has an obligation to address CO<sub>2</sub>? 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."<sup>6</sup>

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

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

<sup>6</sup> <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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**From:** "Smith, Katherine R. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=e45de0bbb5ca4e87a4c4528ec12a7b03-sm">

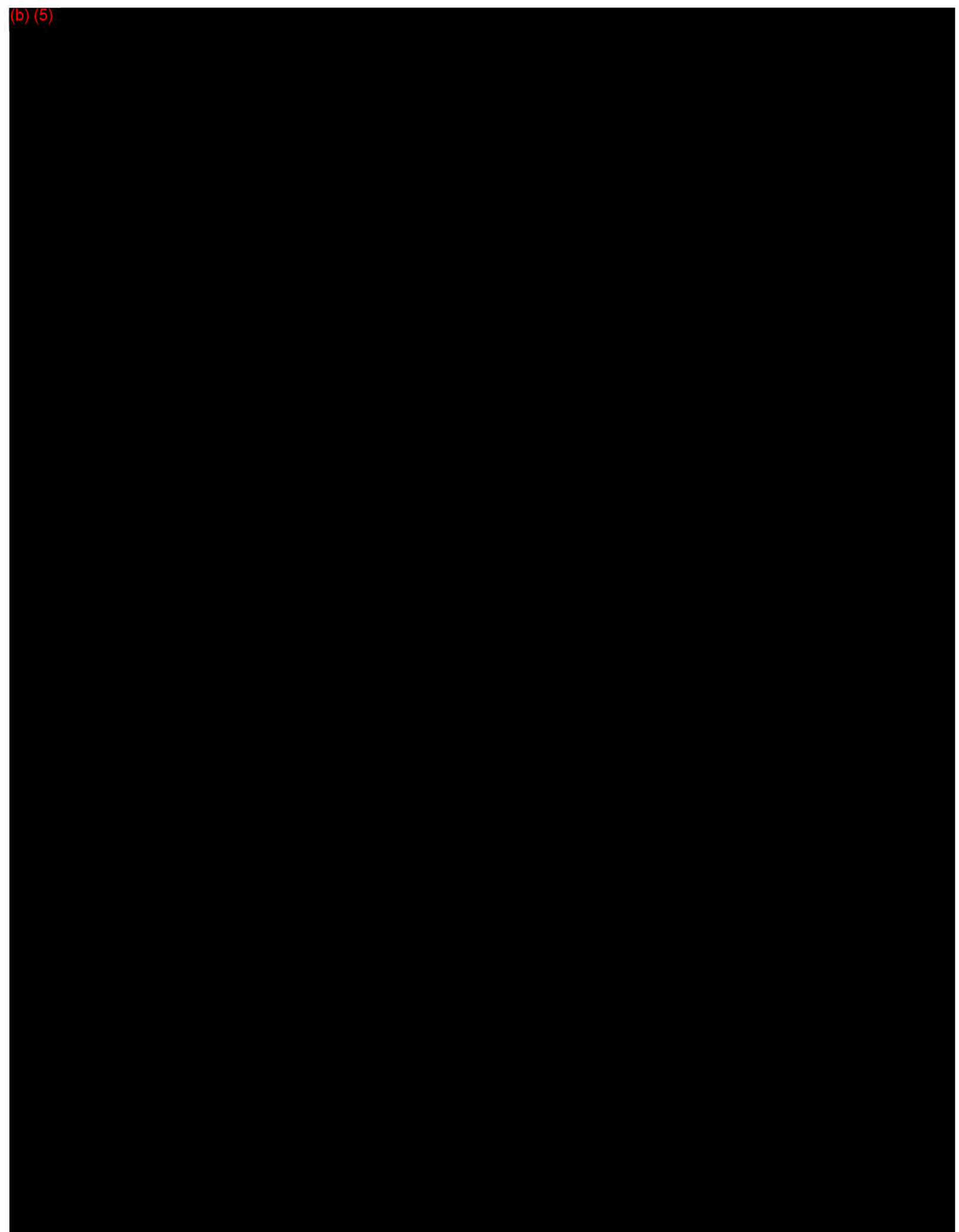
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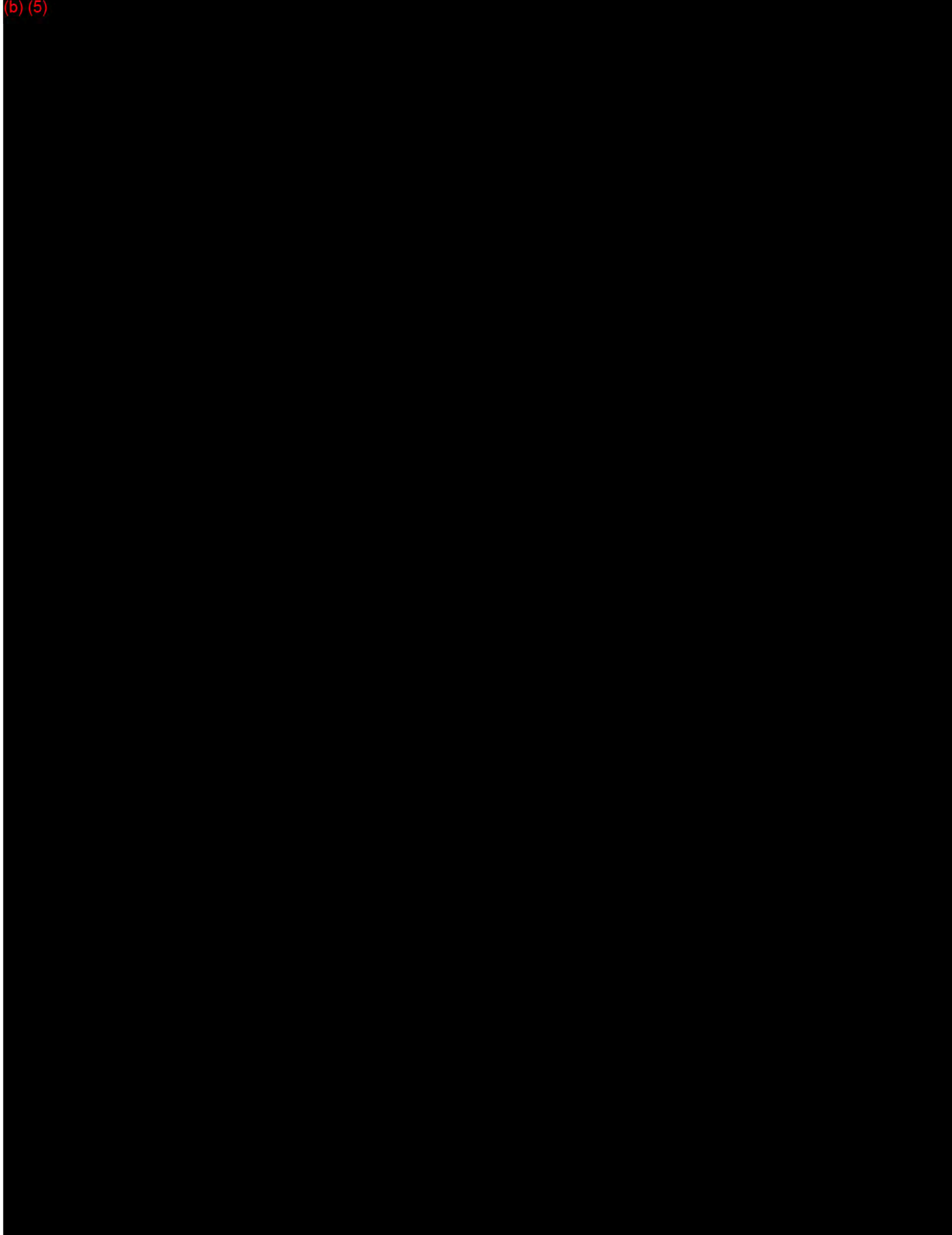
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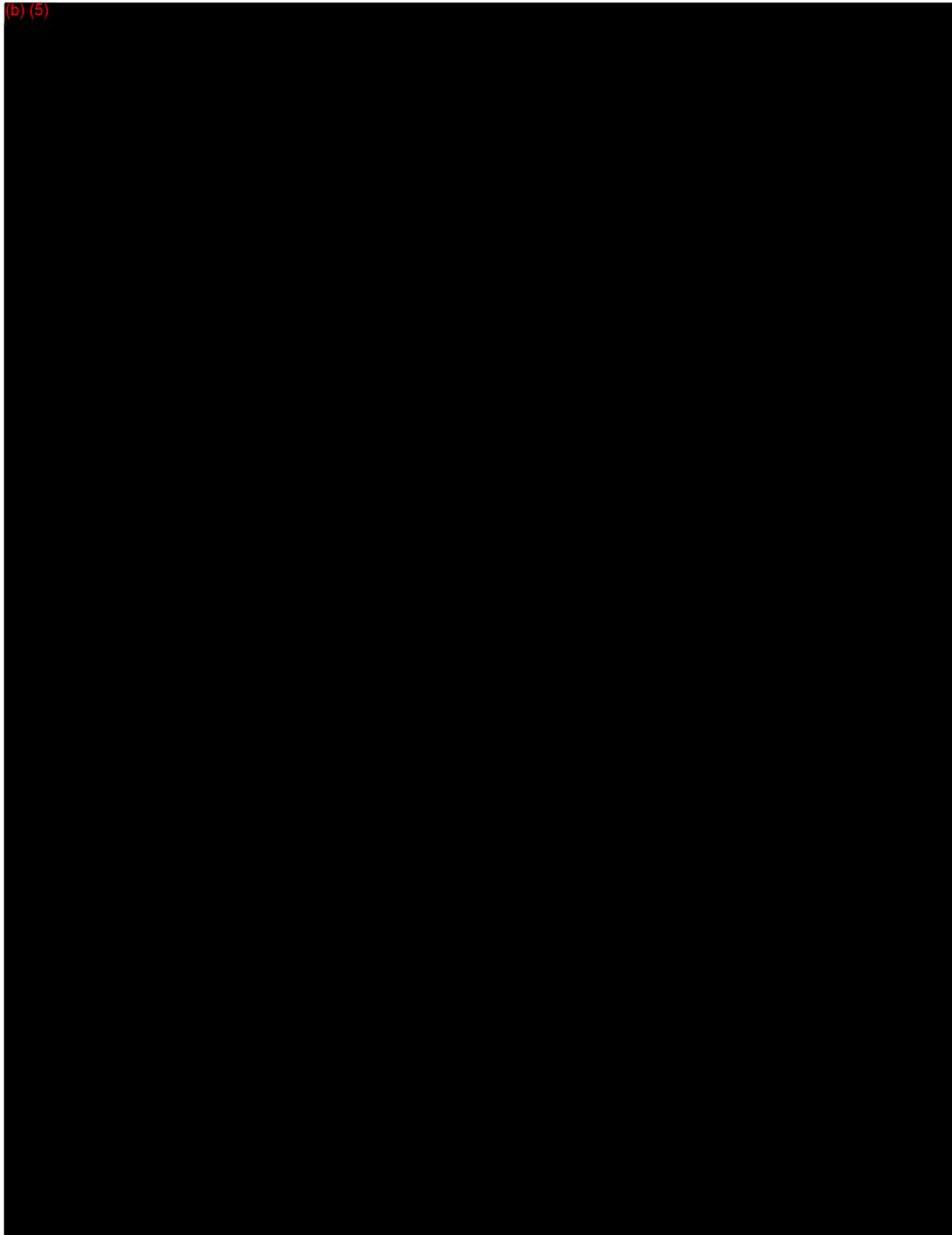
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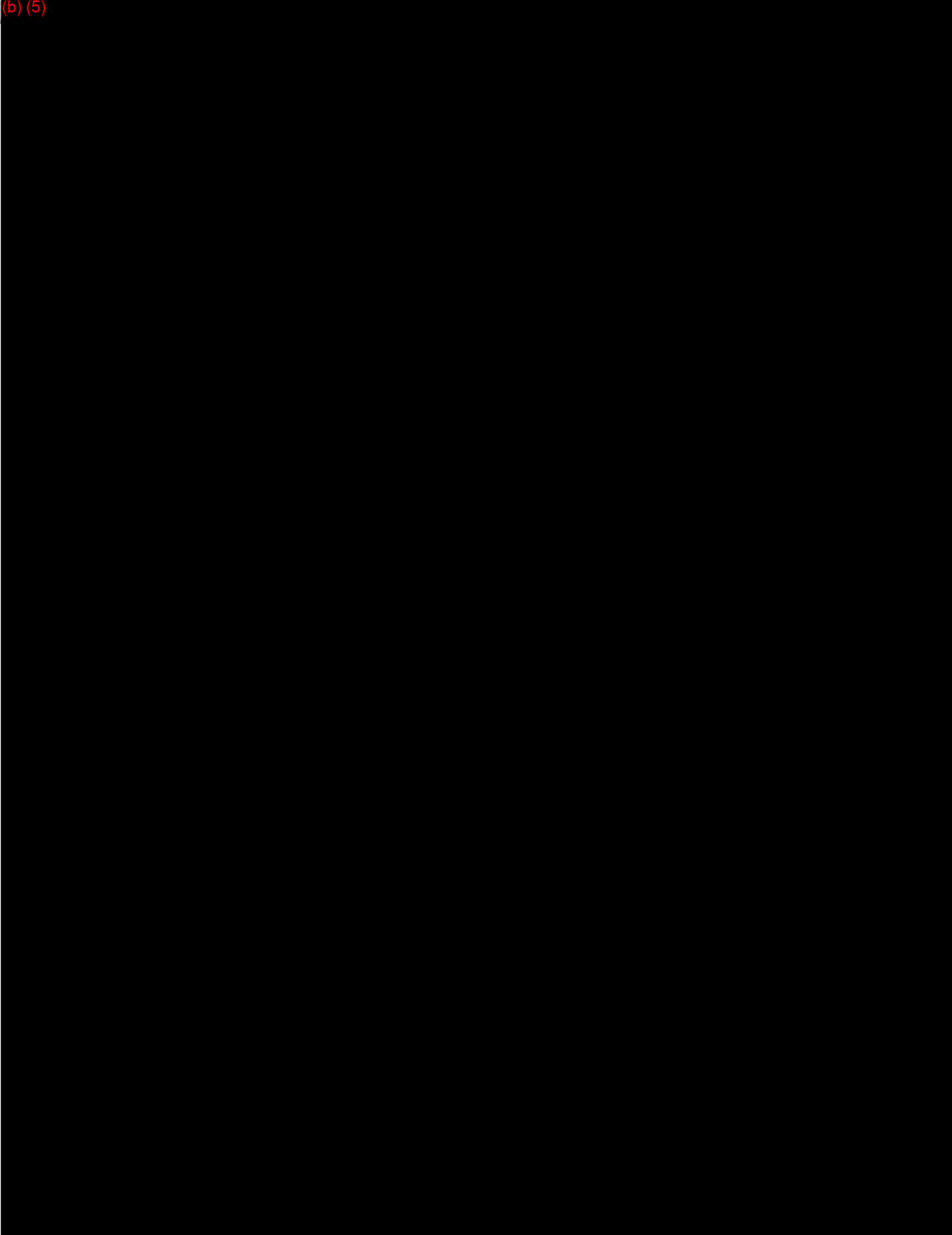
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Katherine Smith  
Special Assistant  
Council on Environmental Quality  
(b) (6)

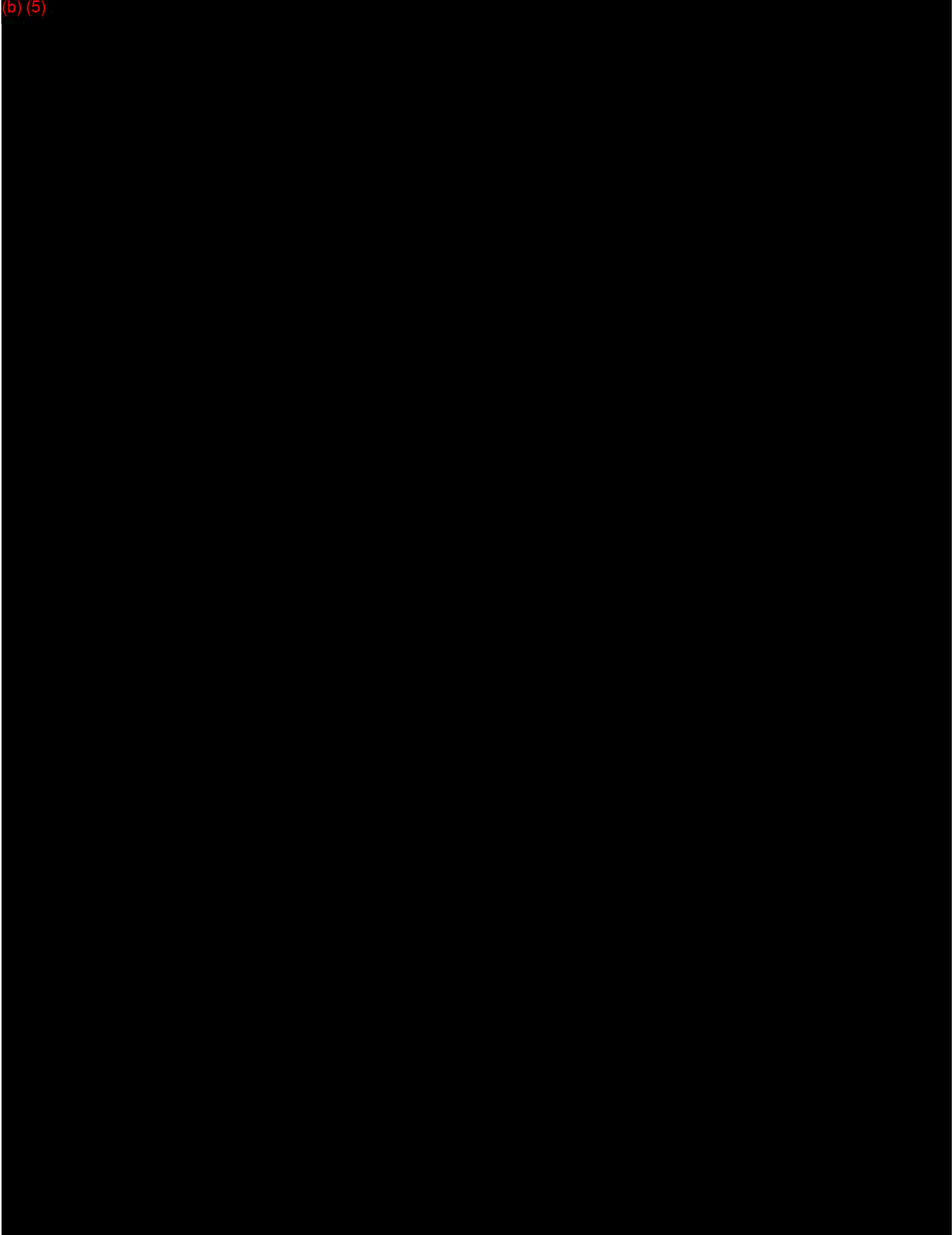


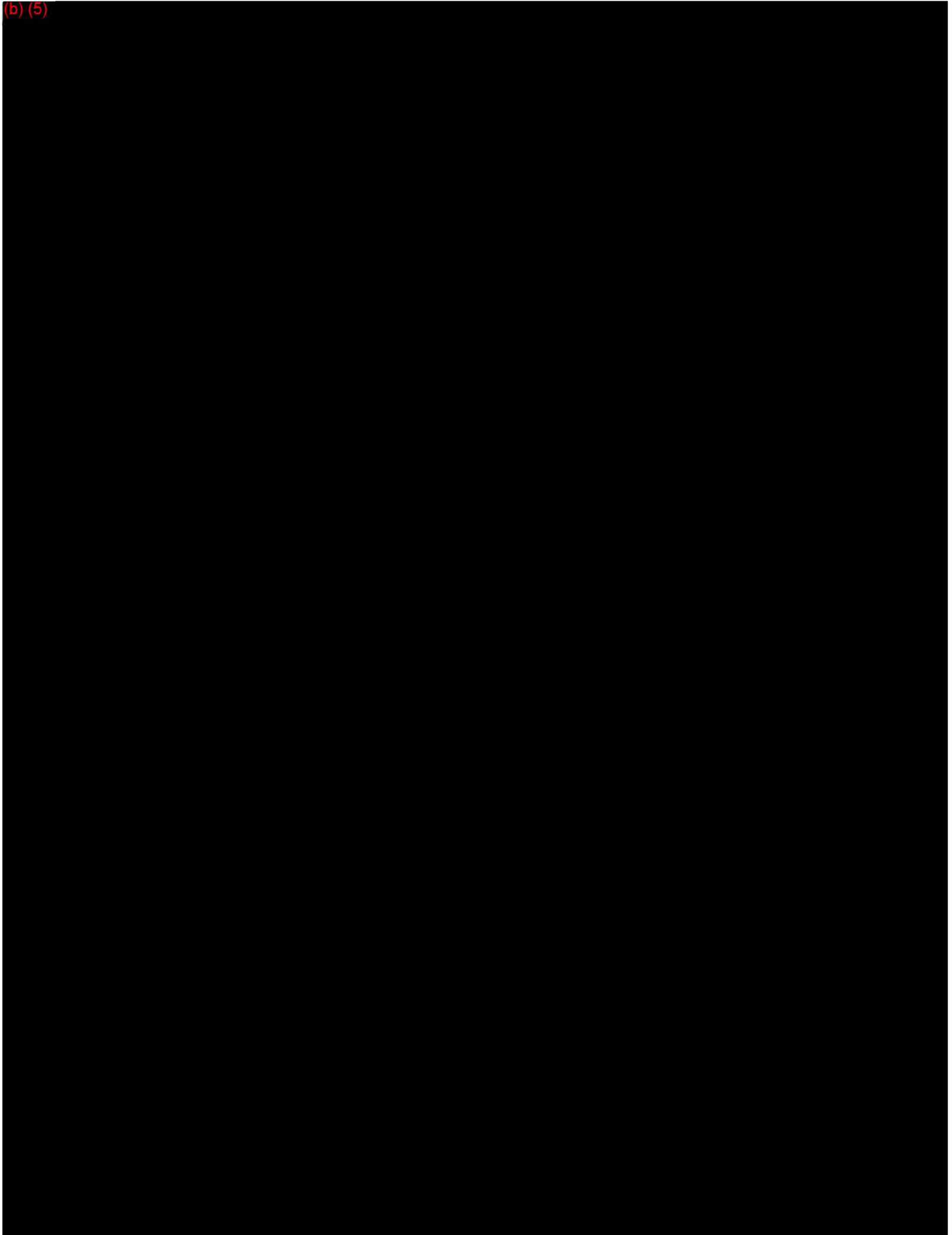


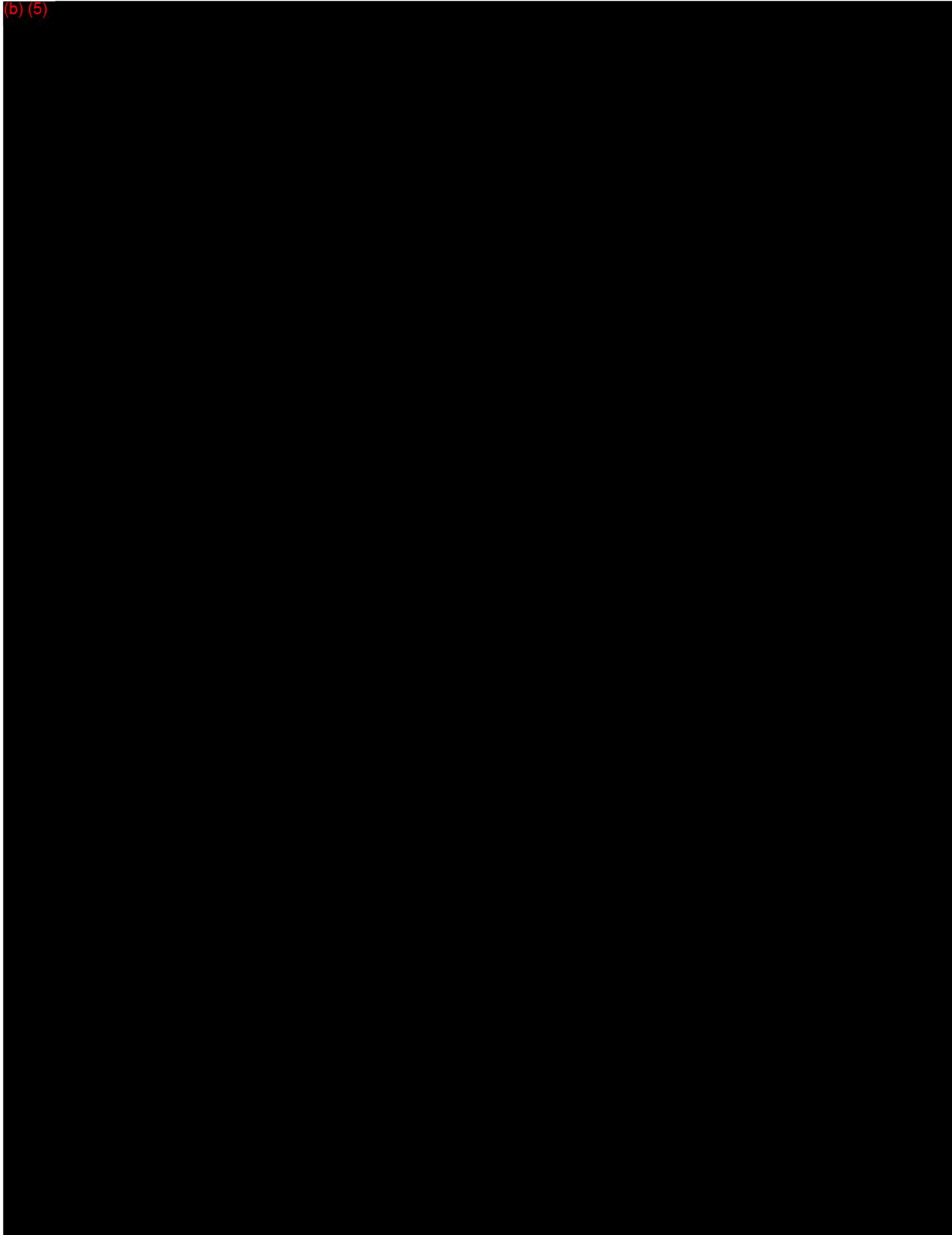


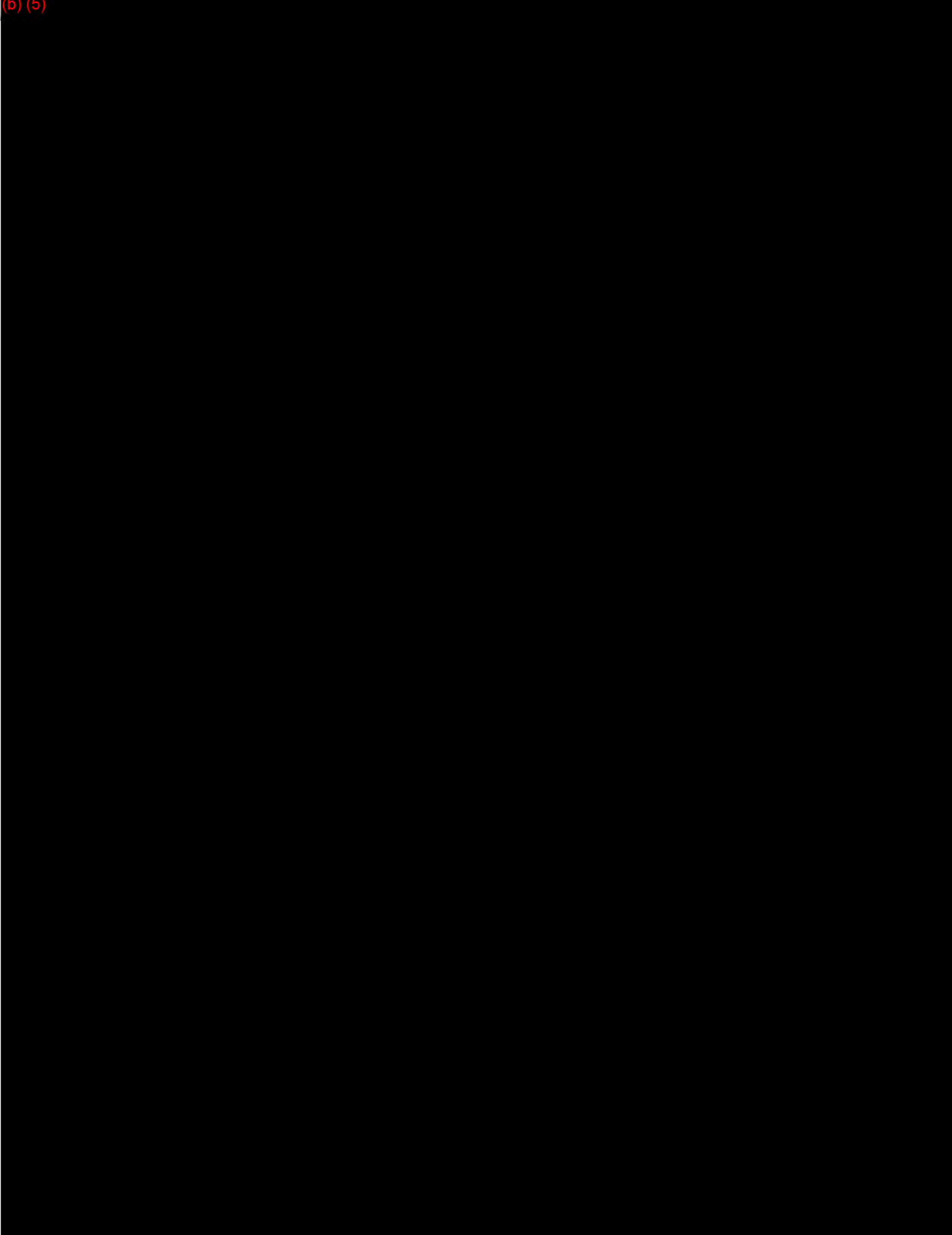


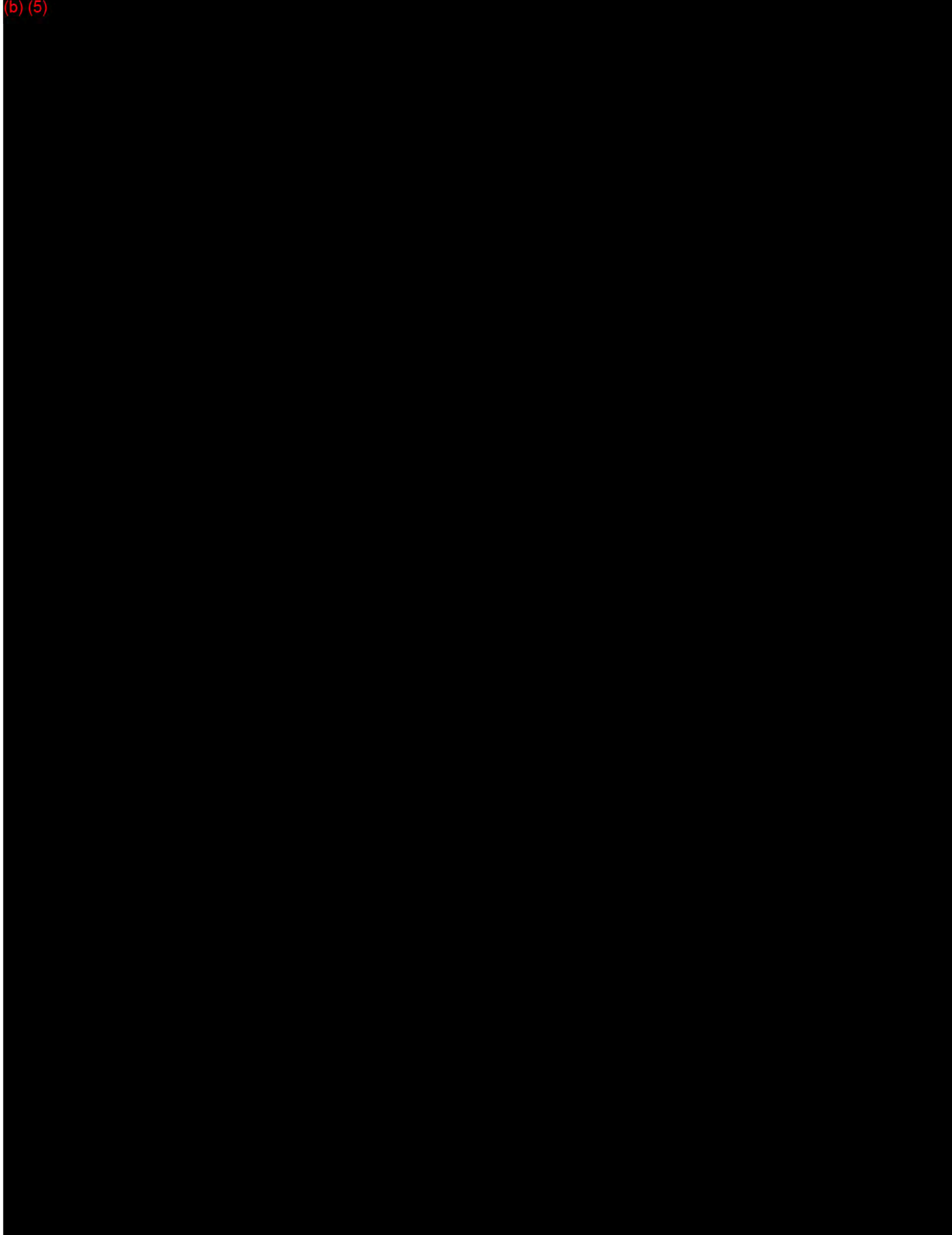


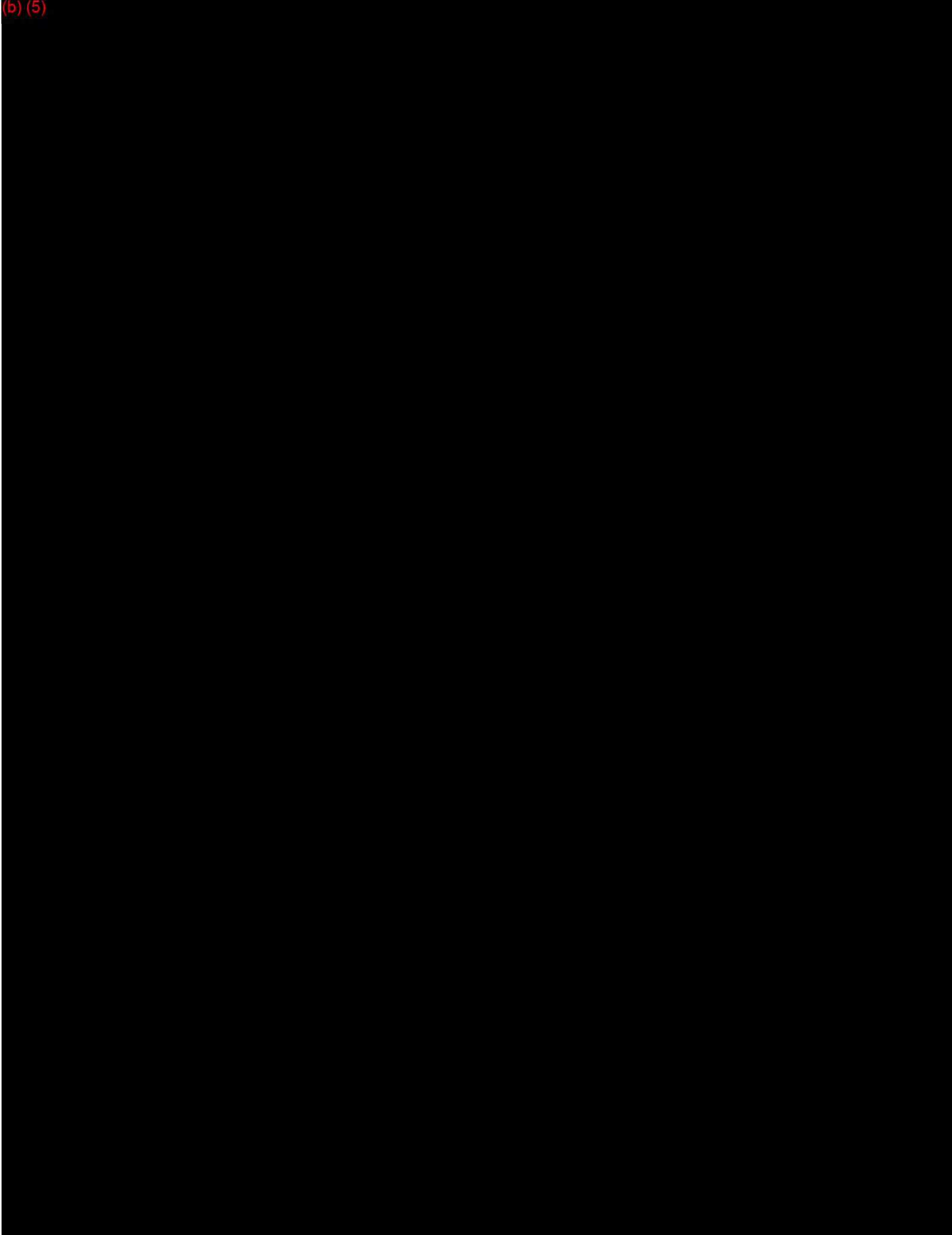


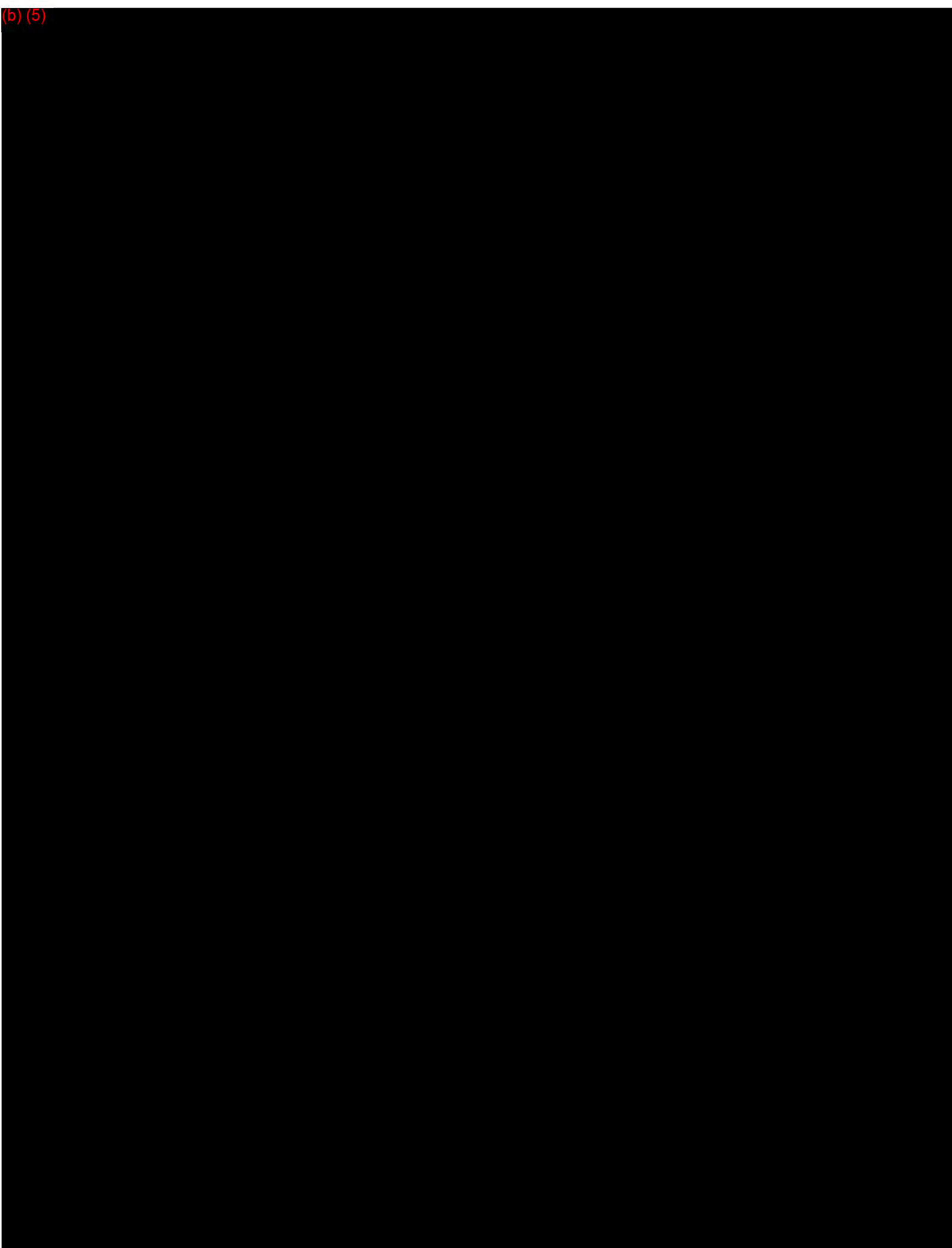


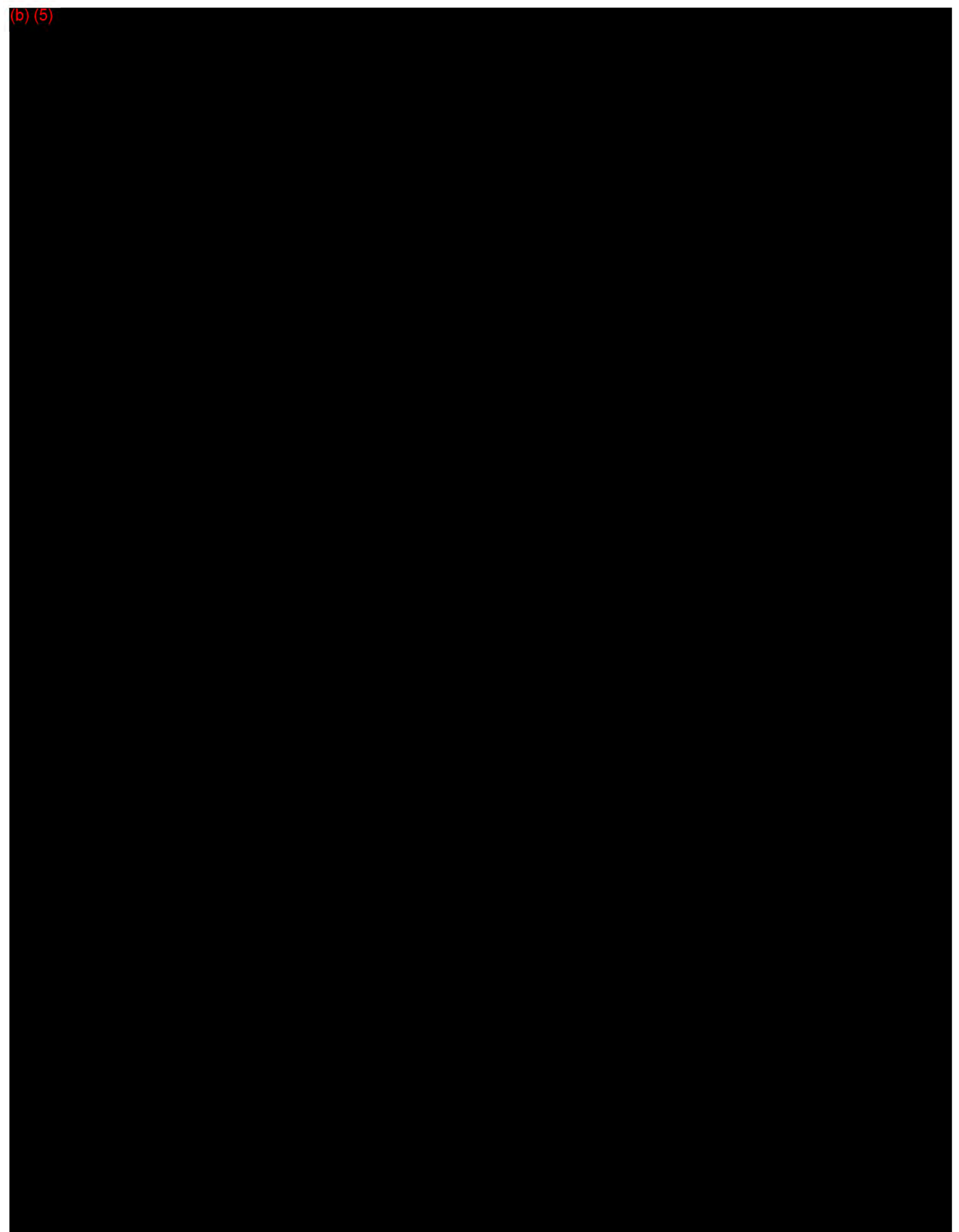




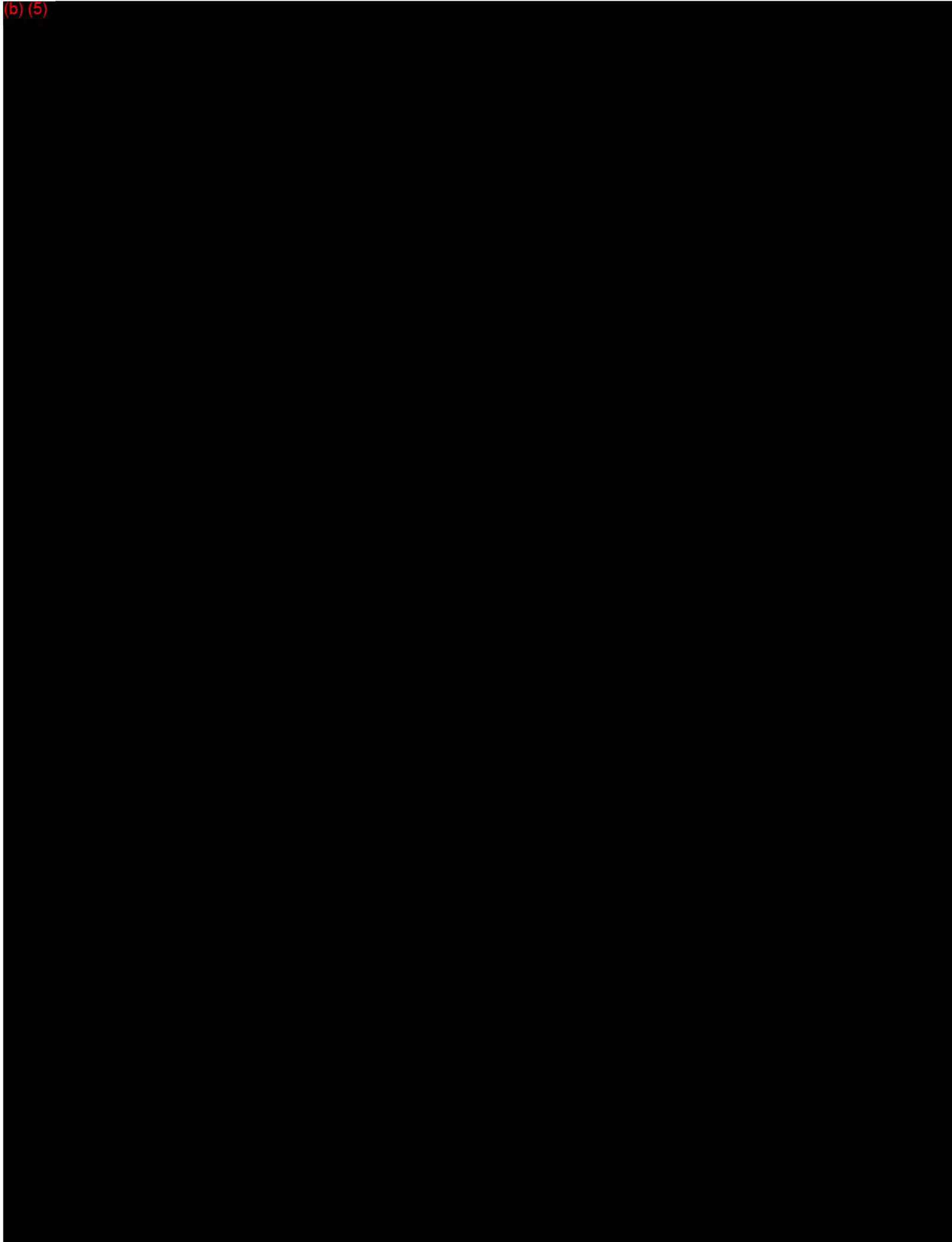


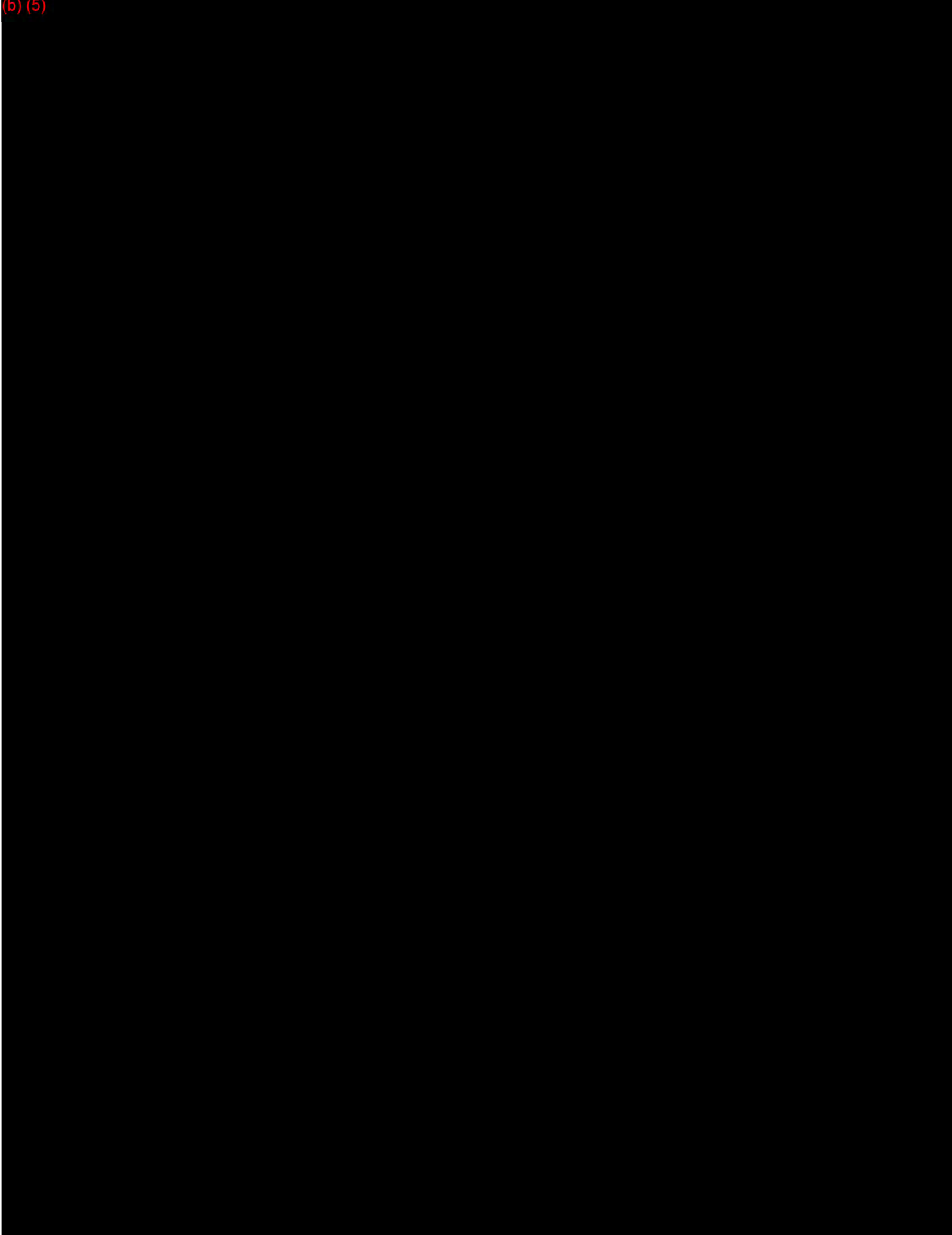


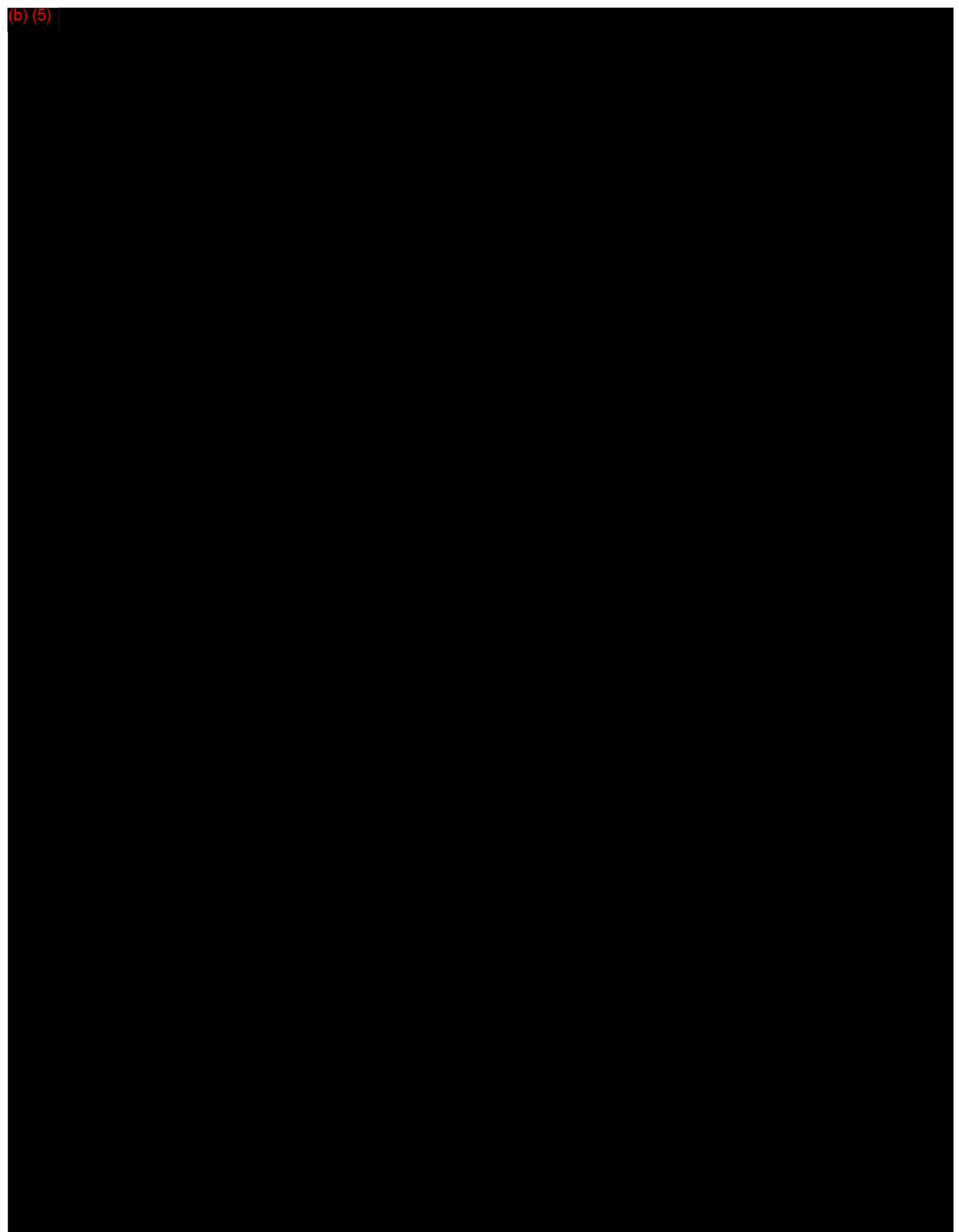


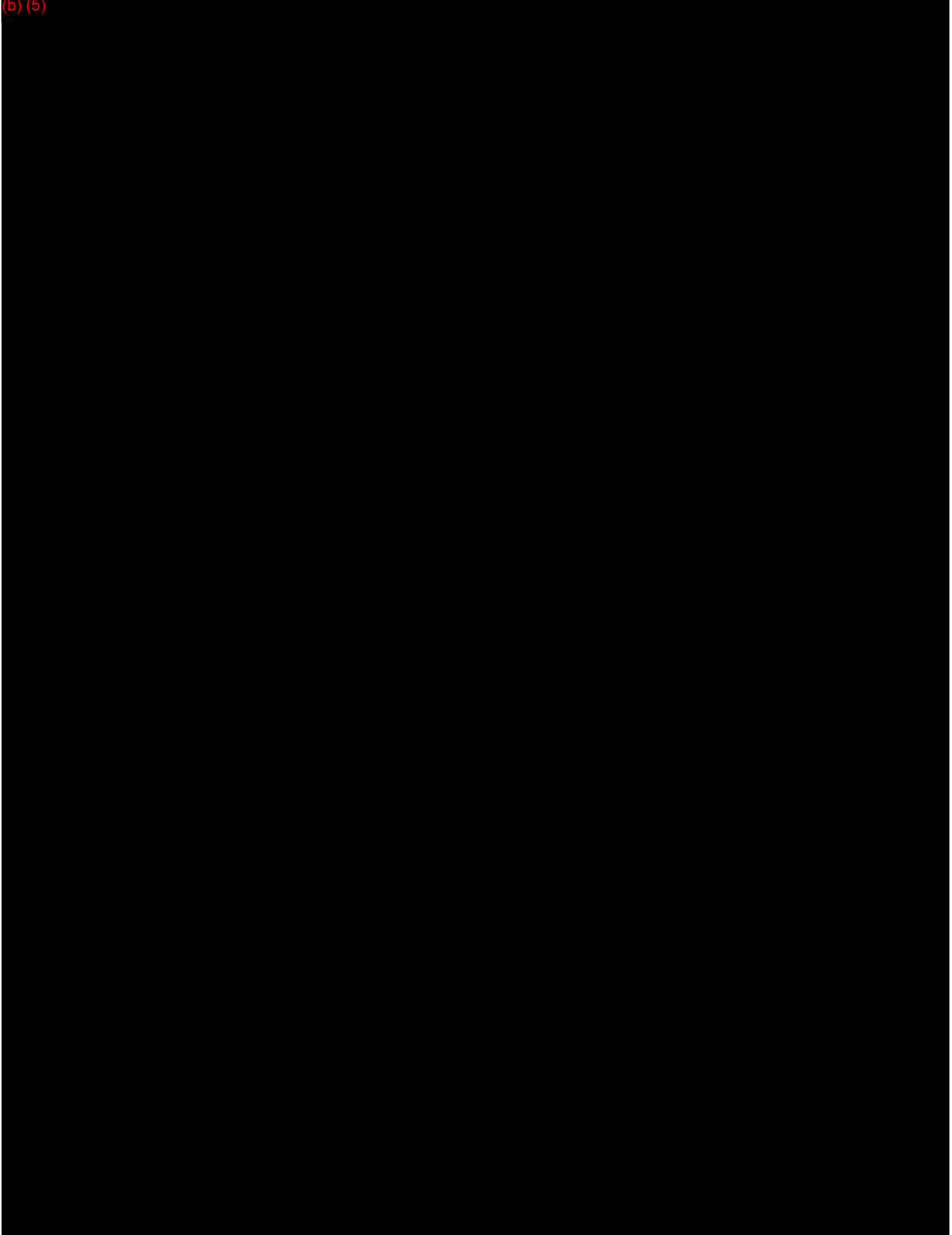


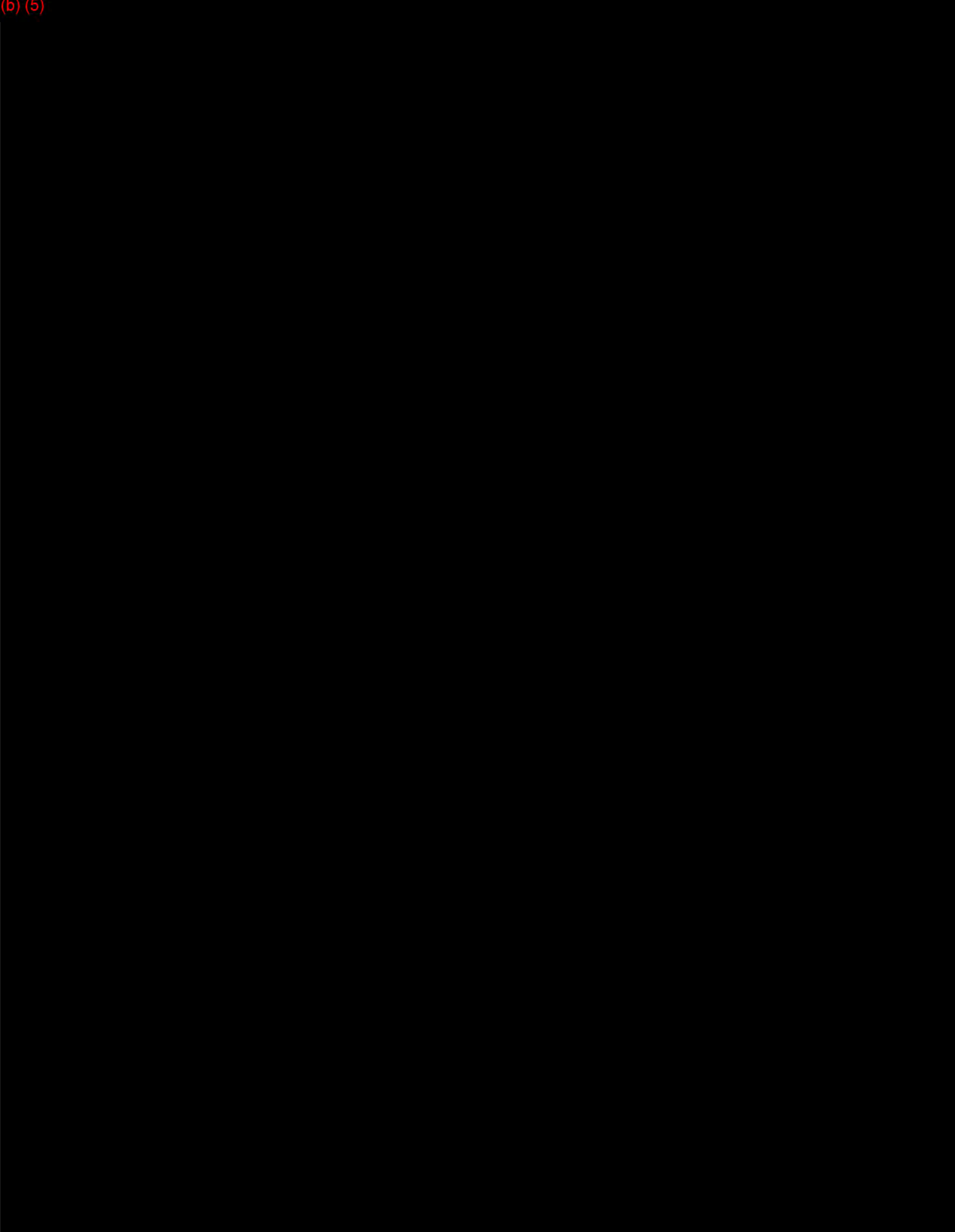


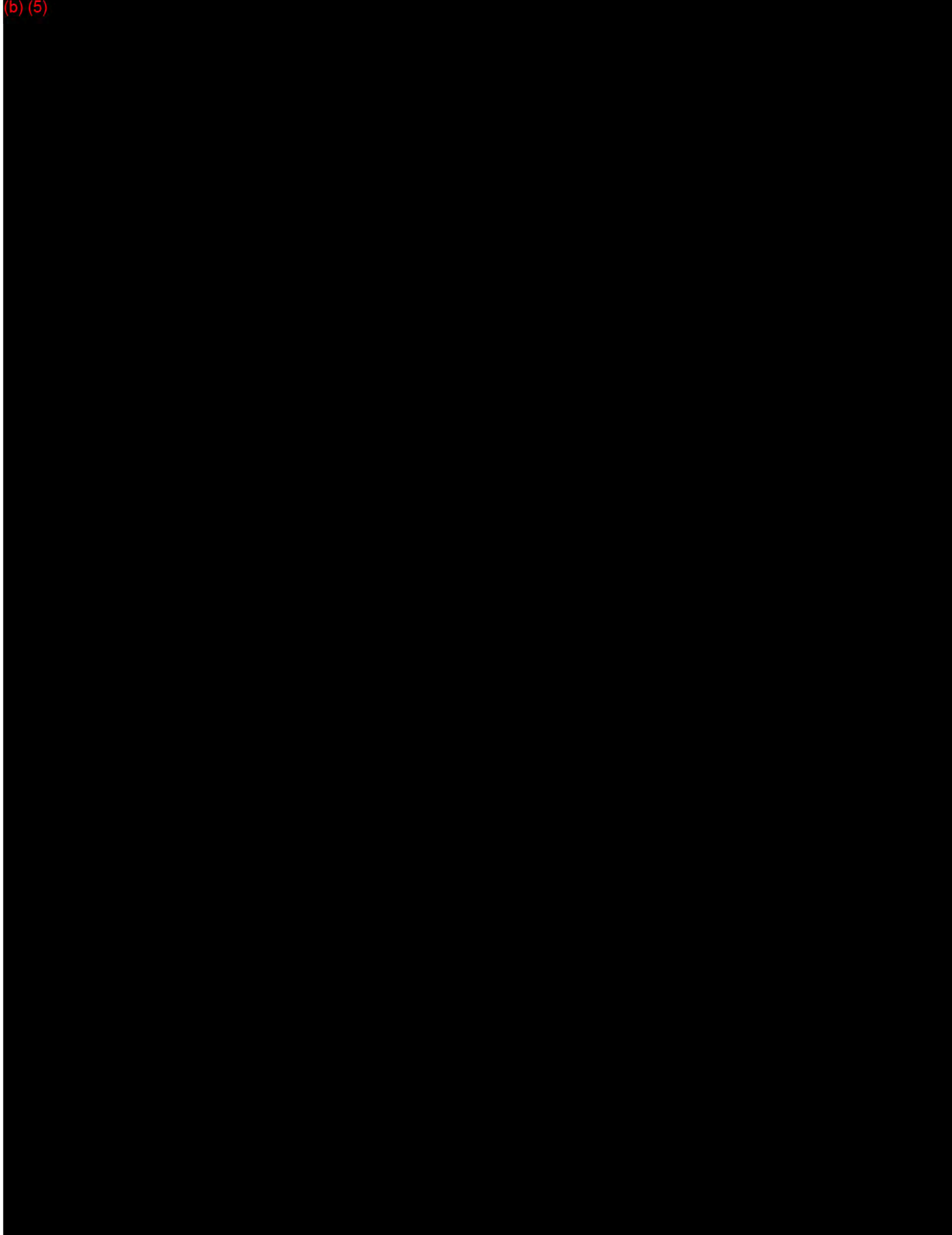


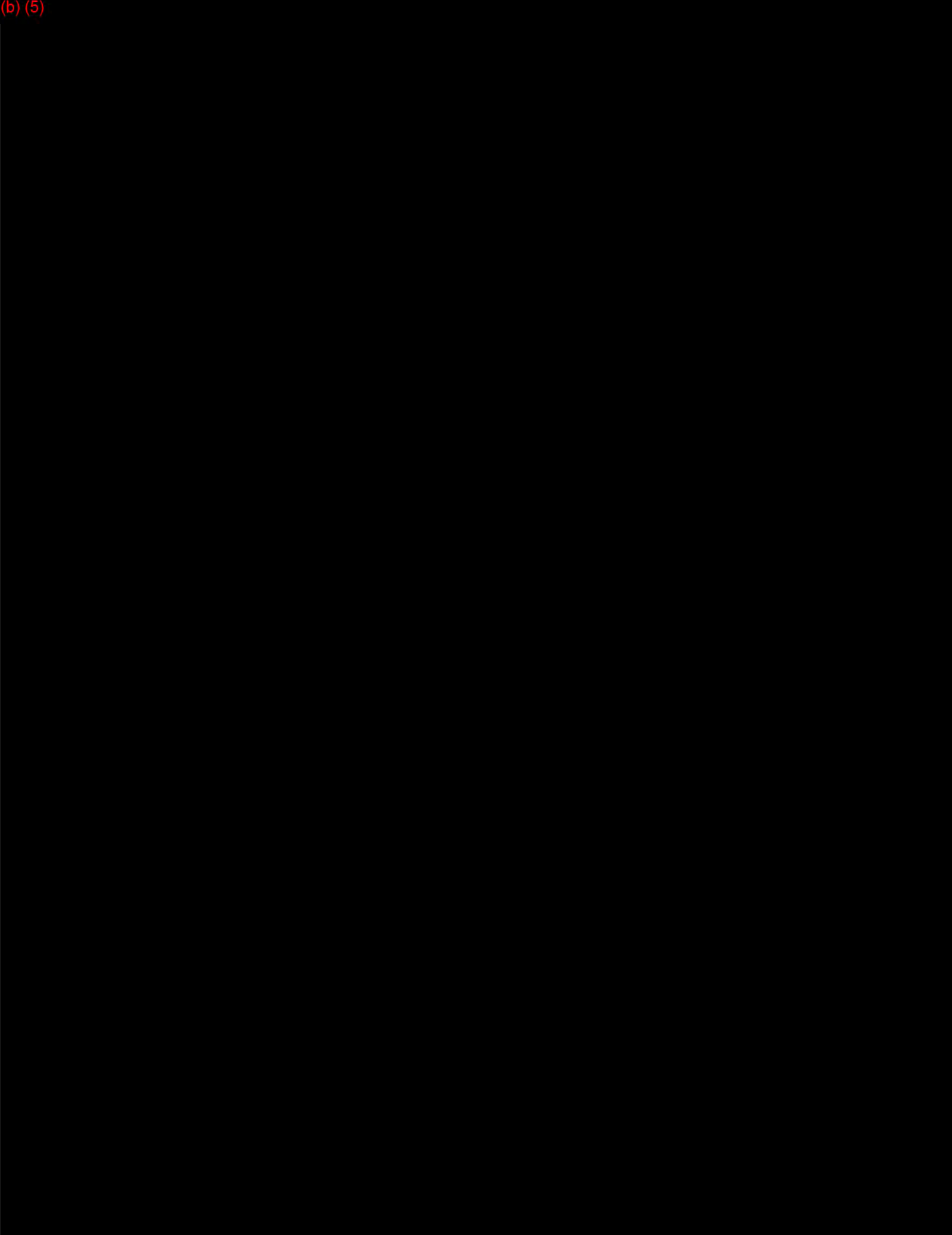












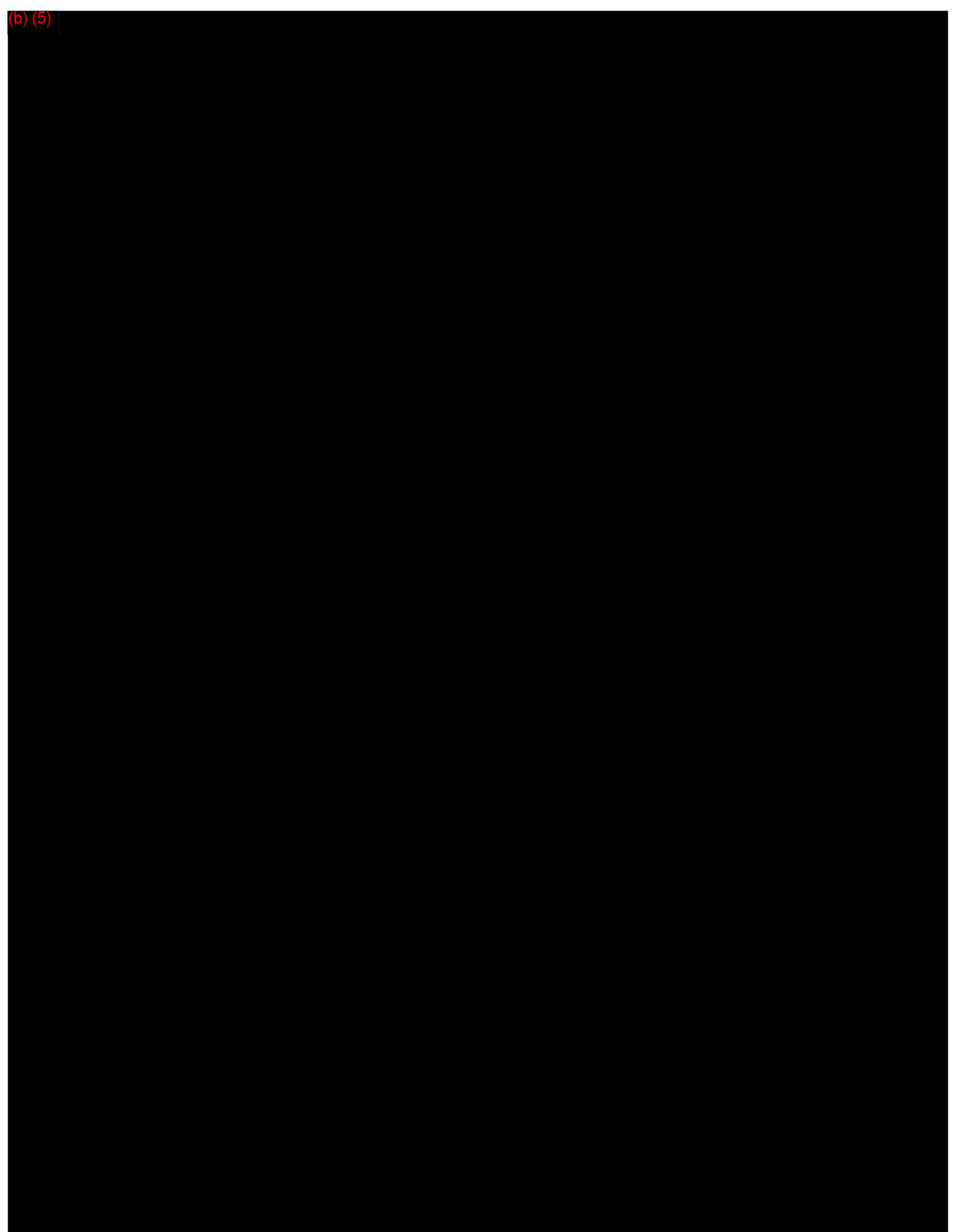
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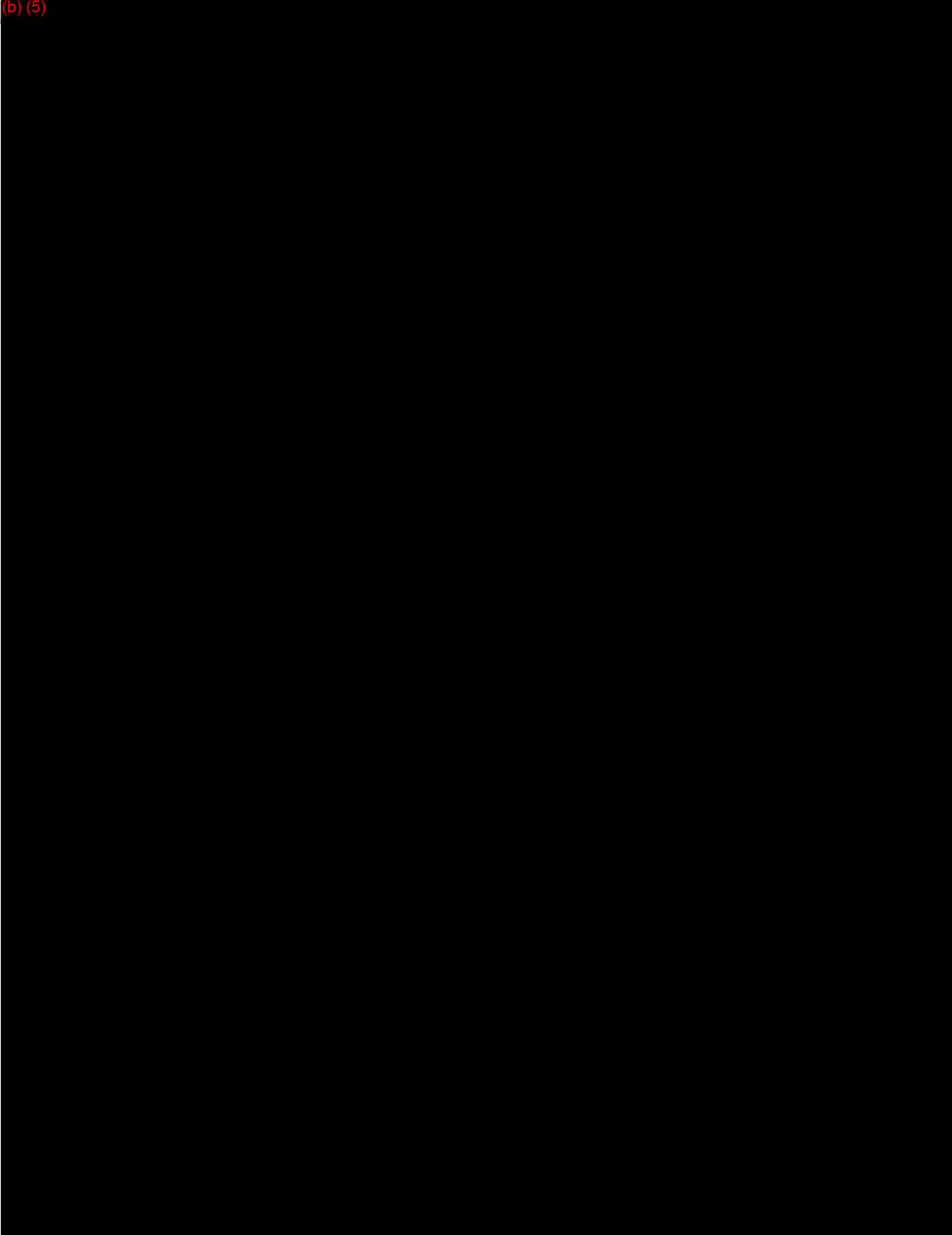
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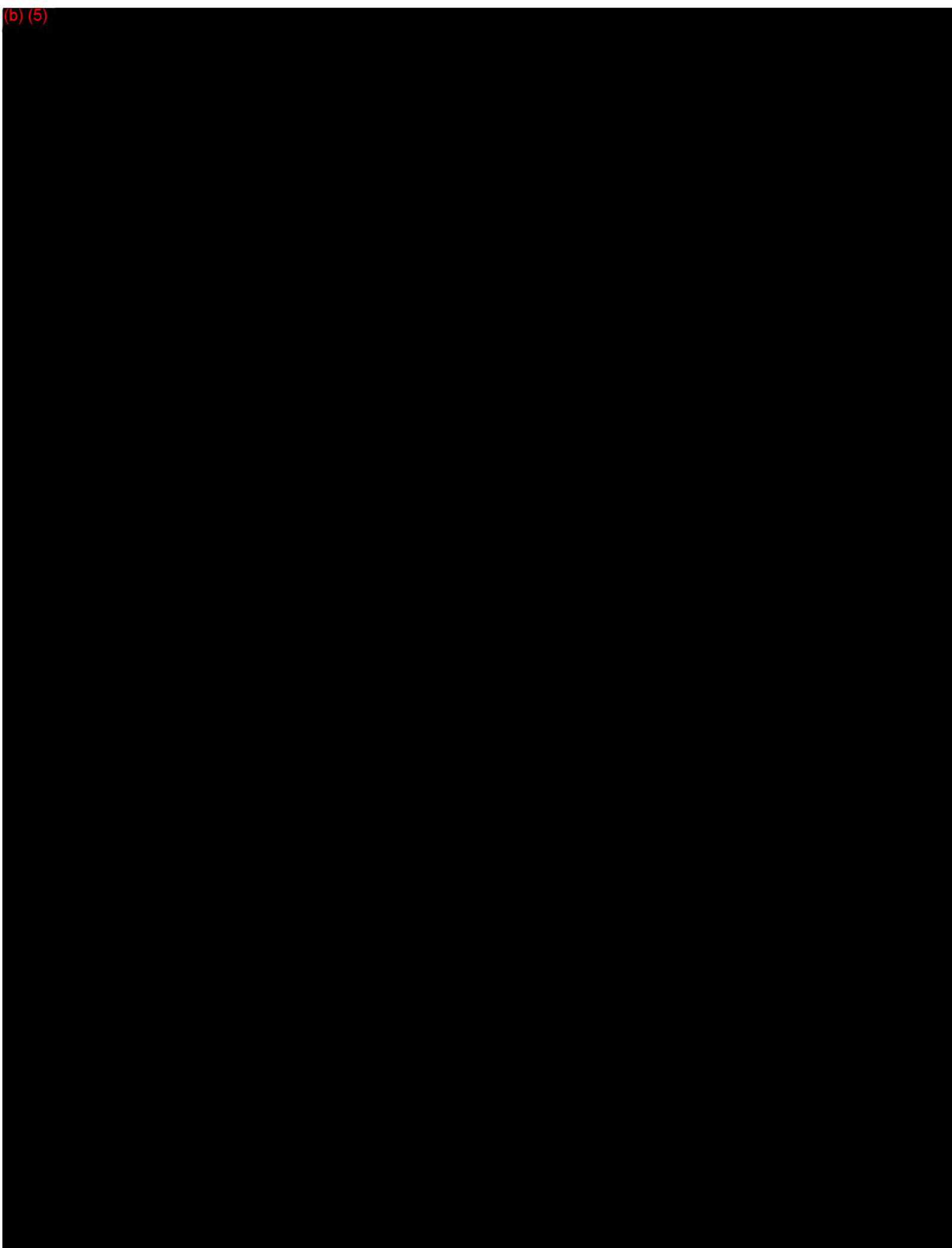
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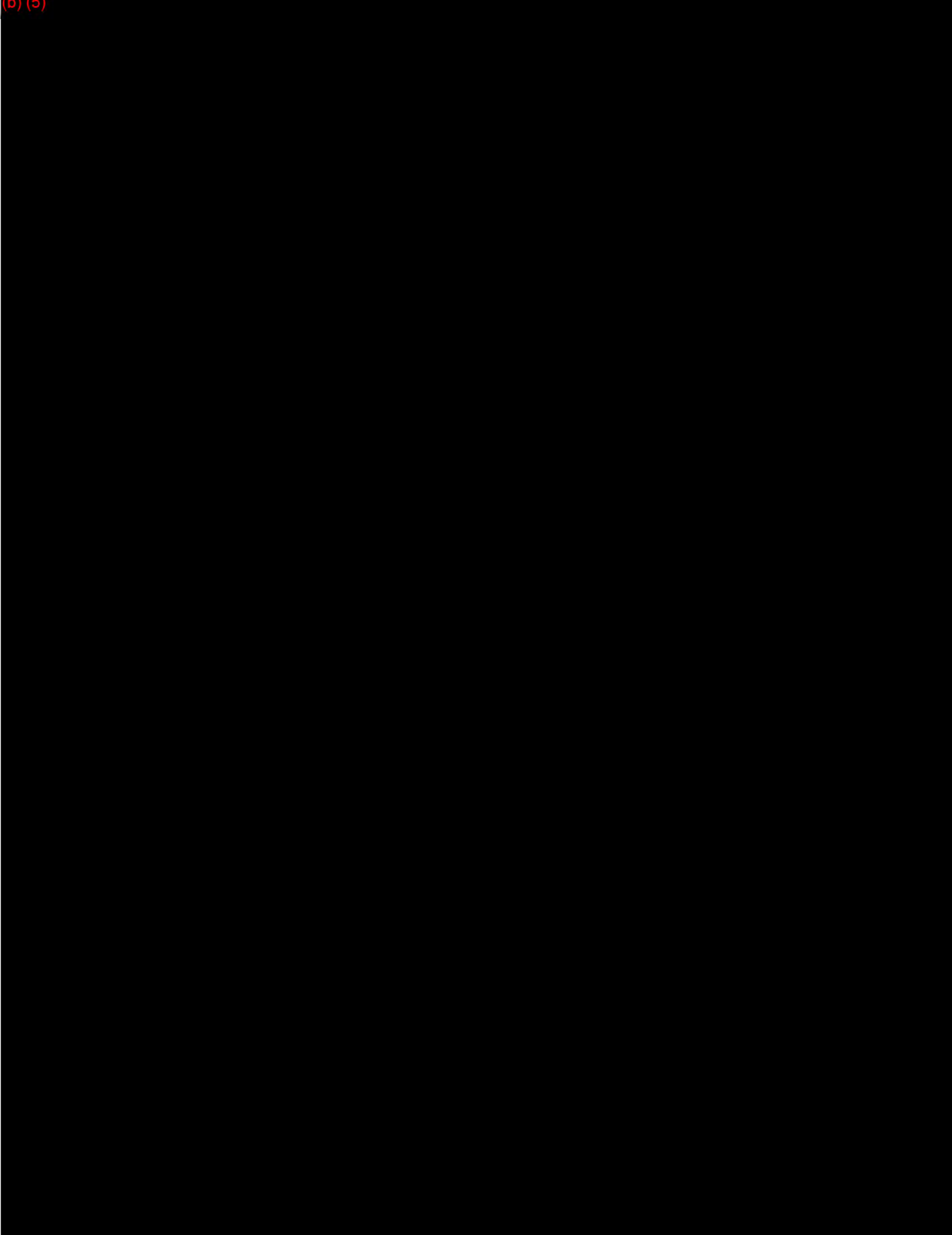


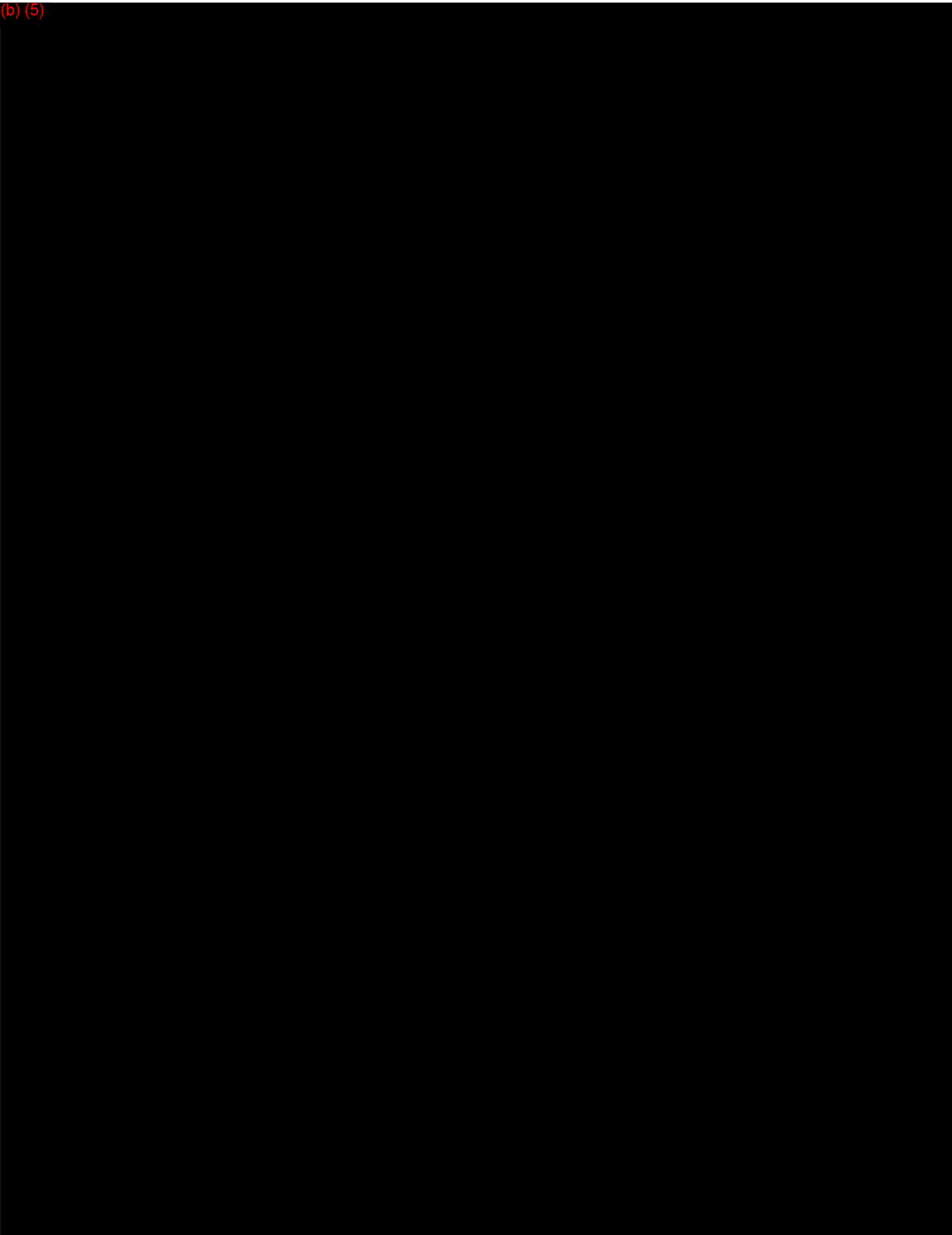


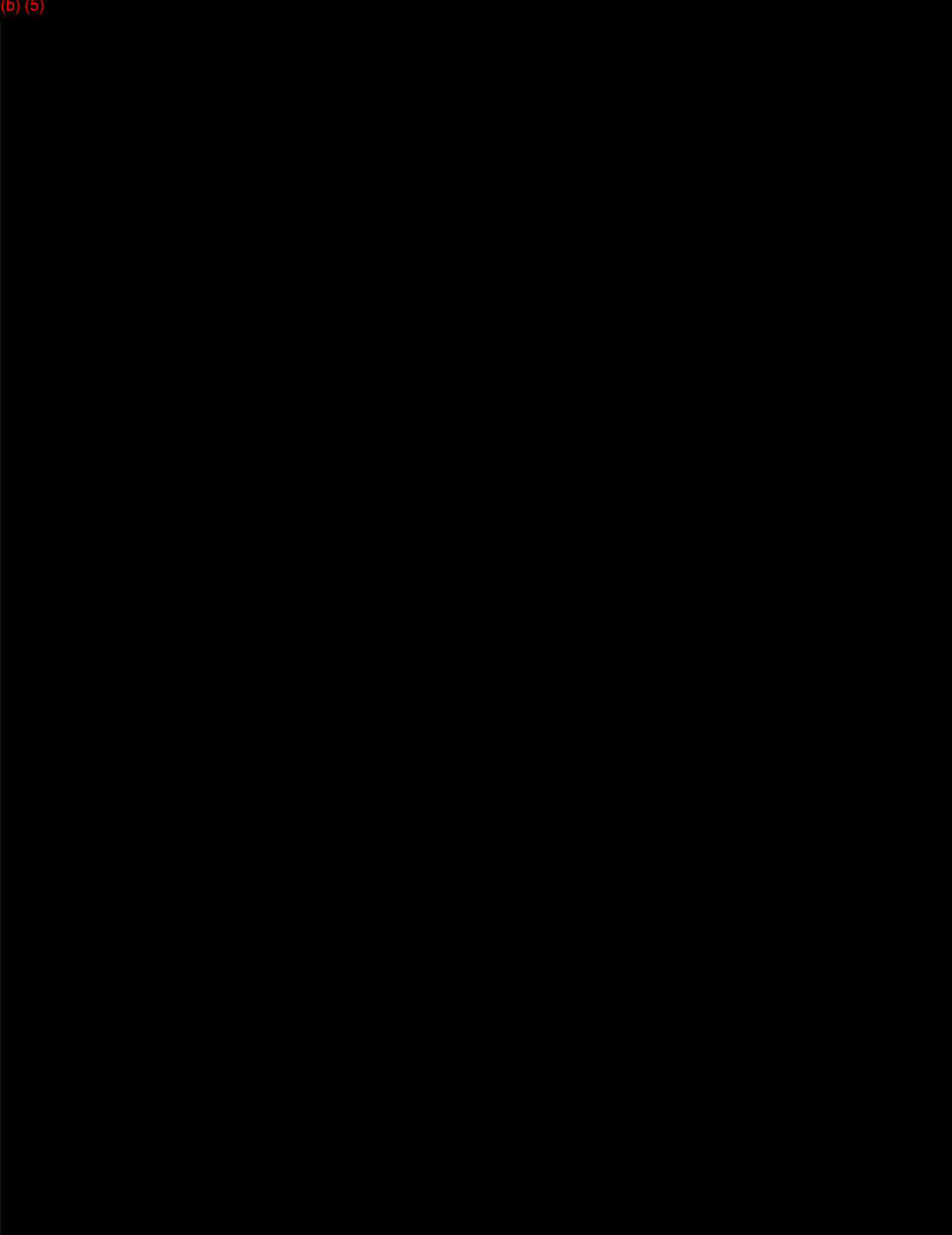
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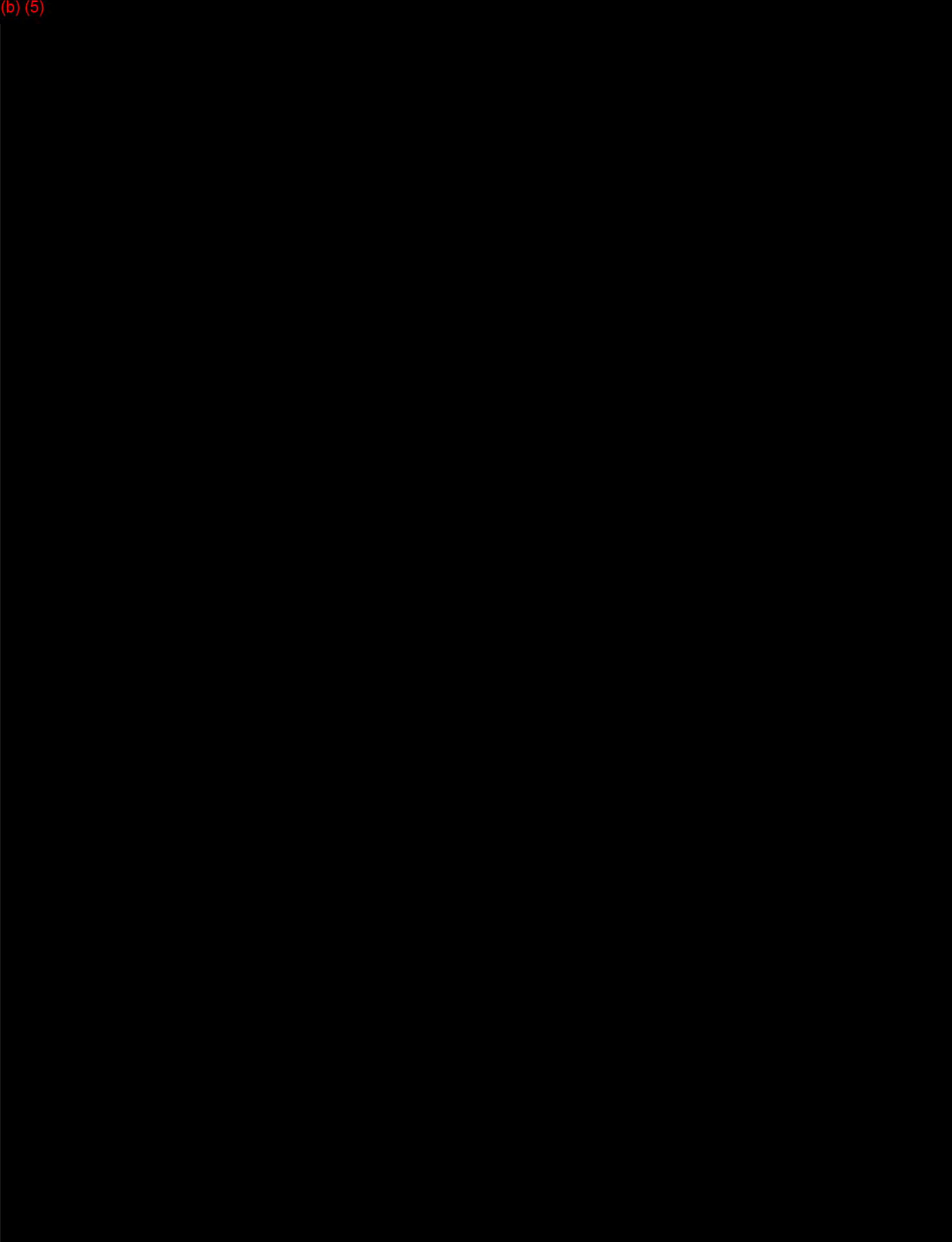


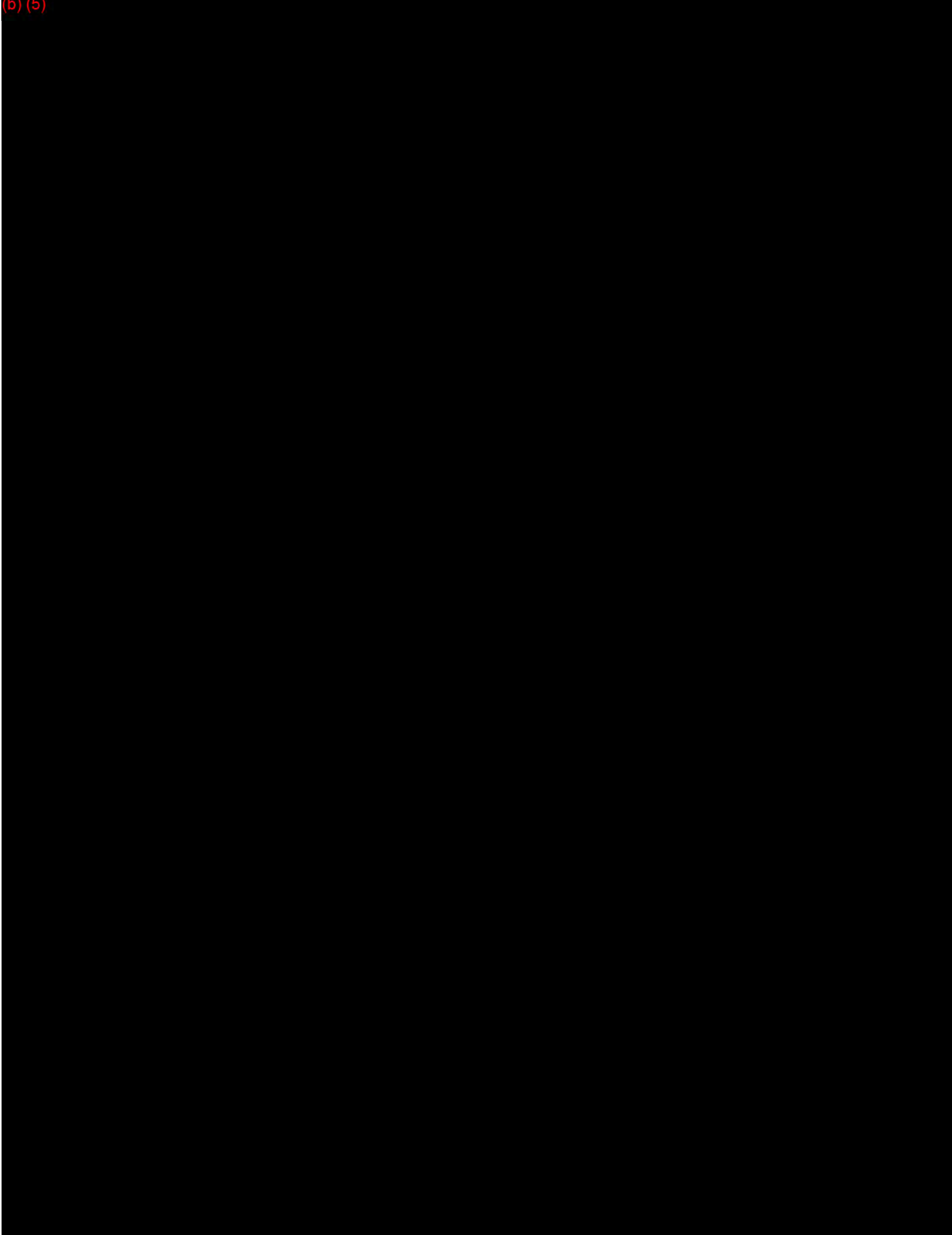




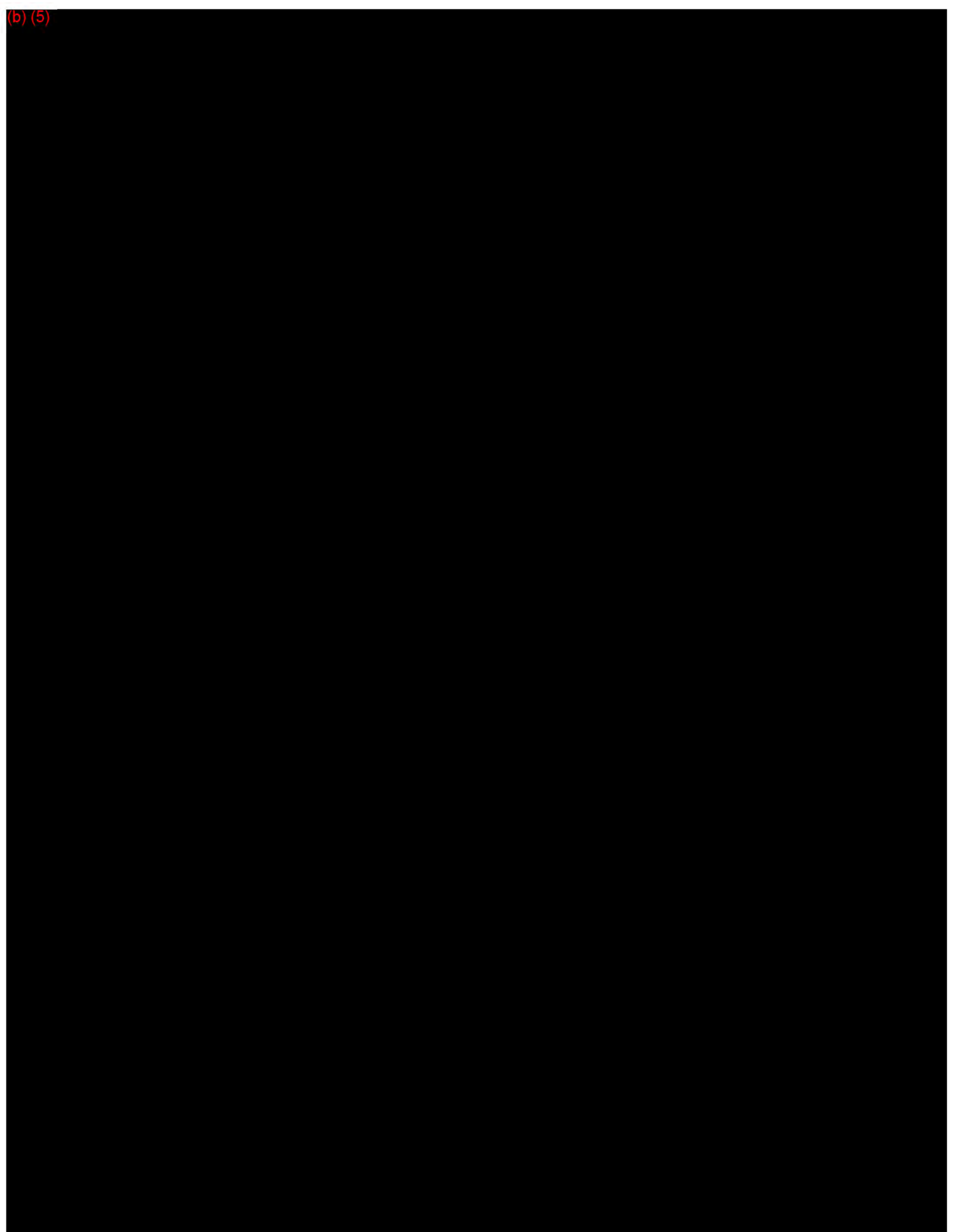




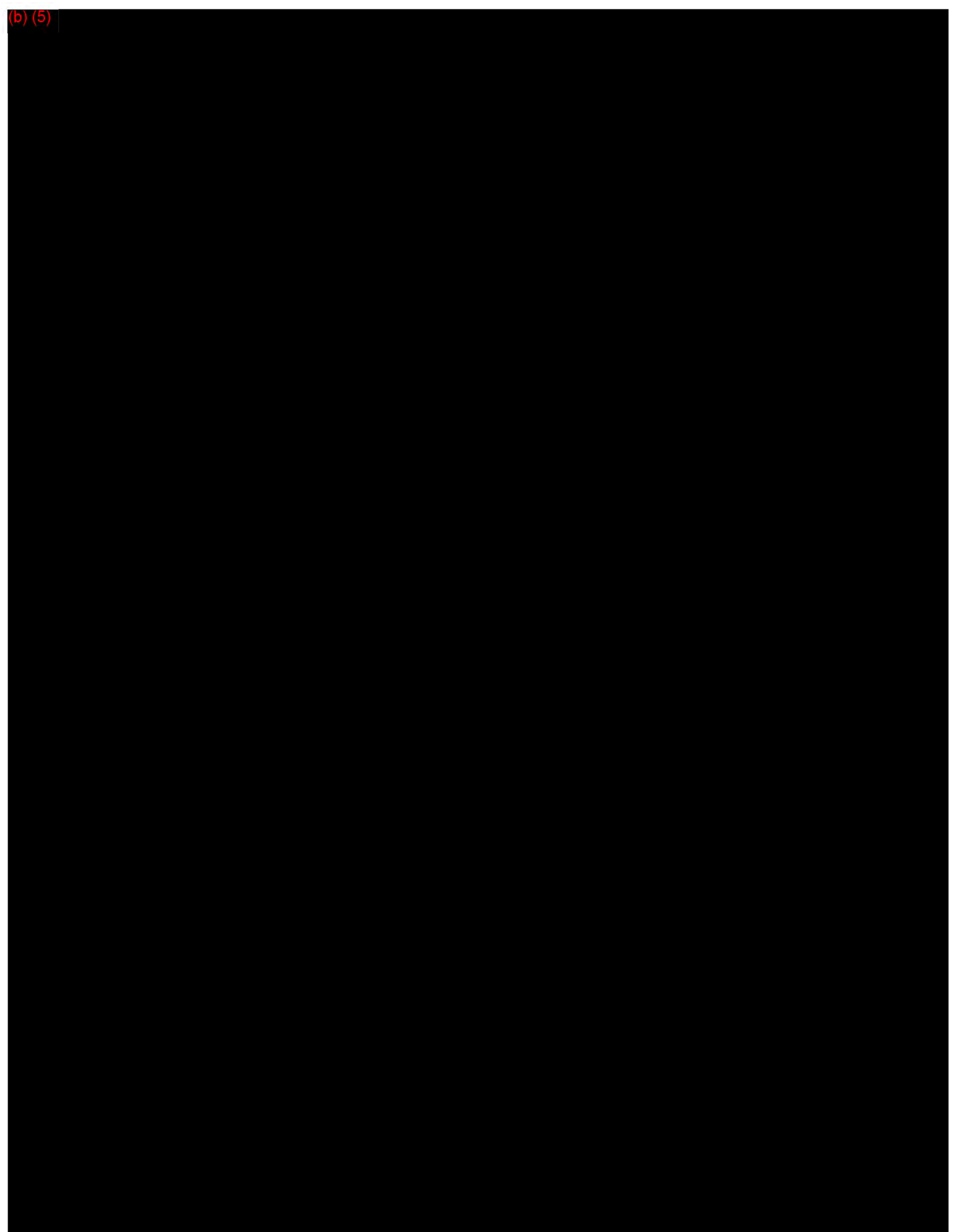




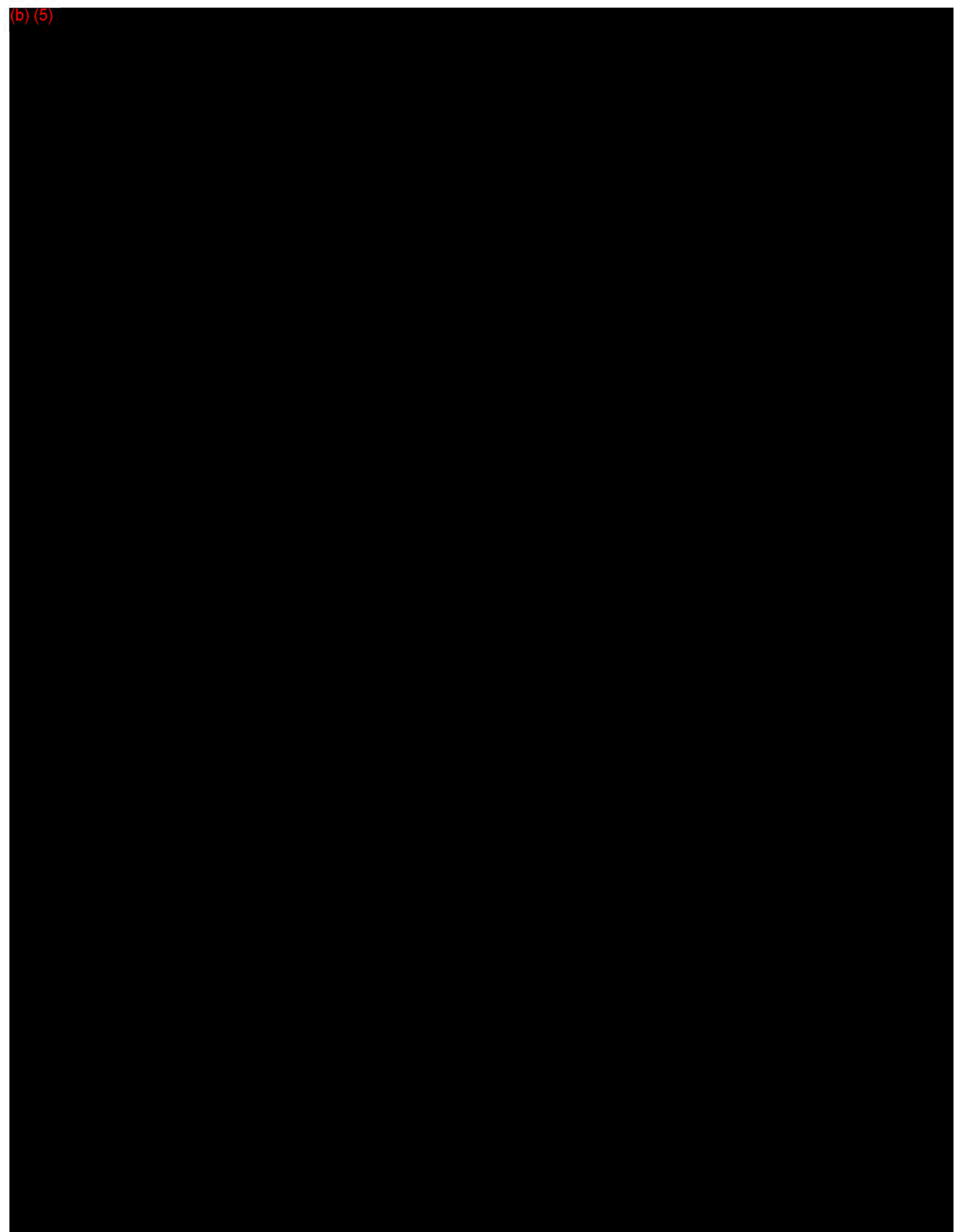


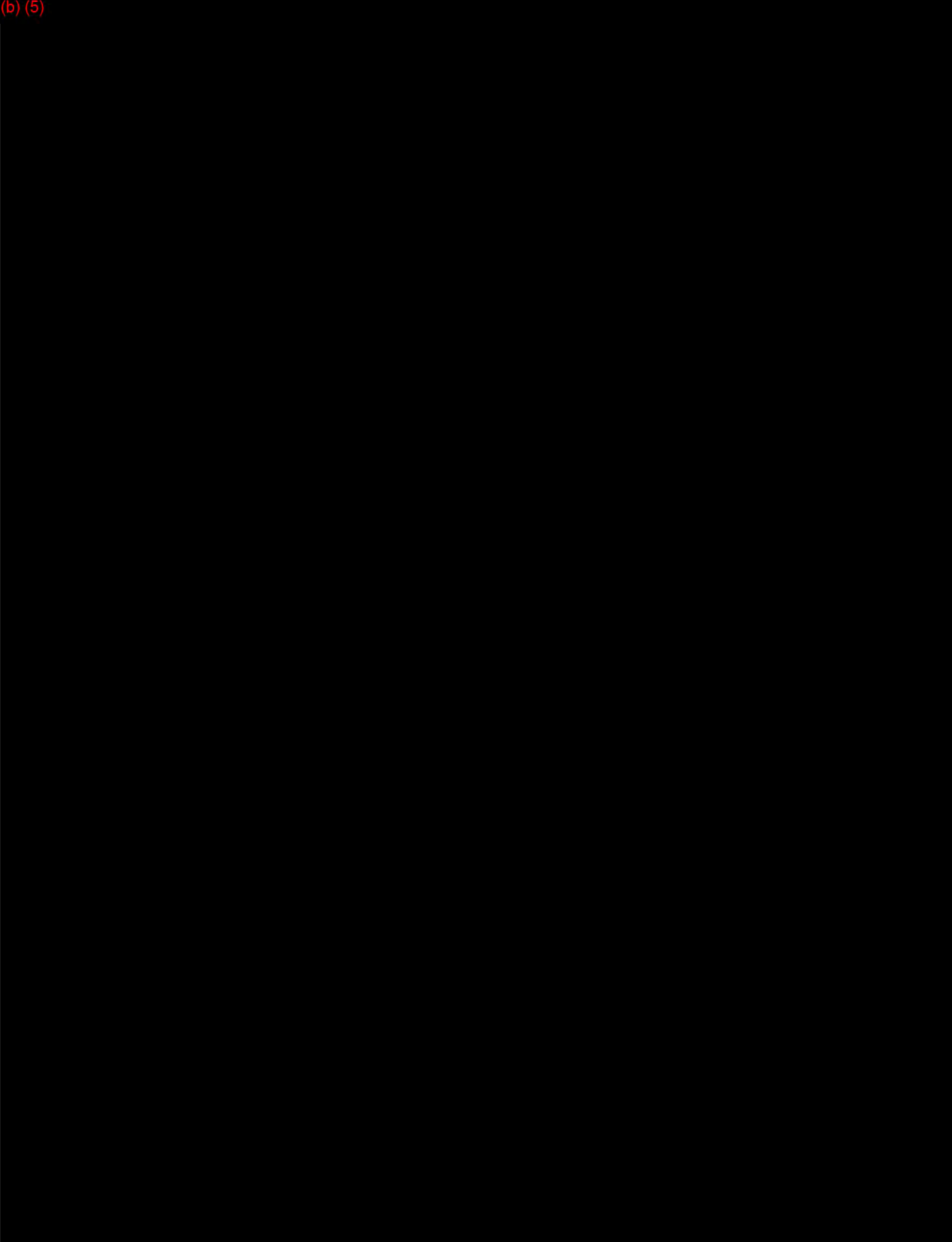


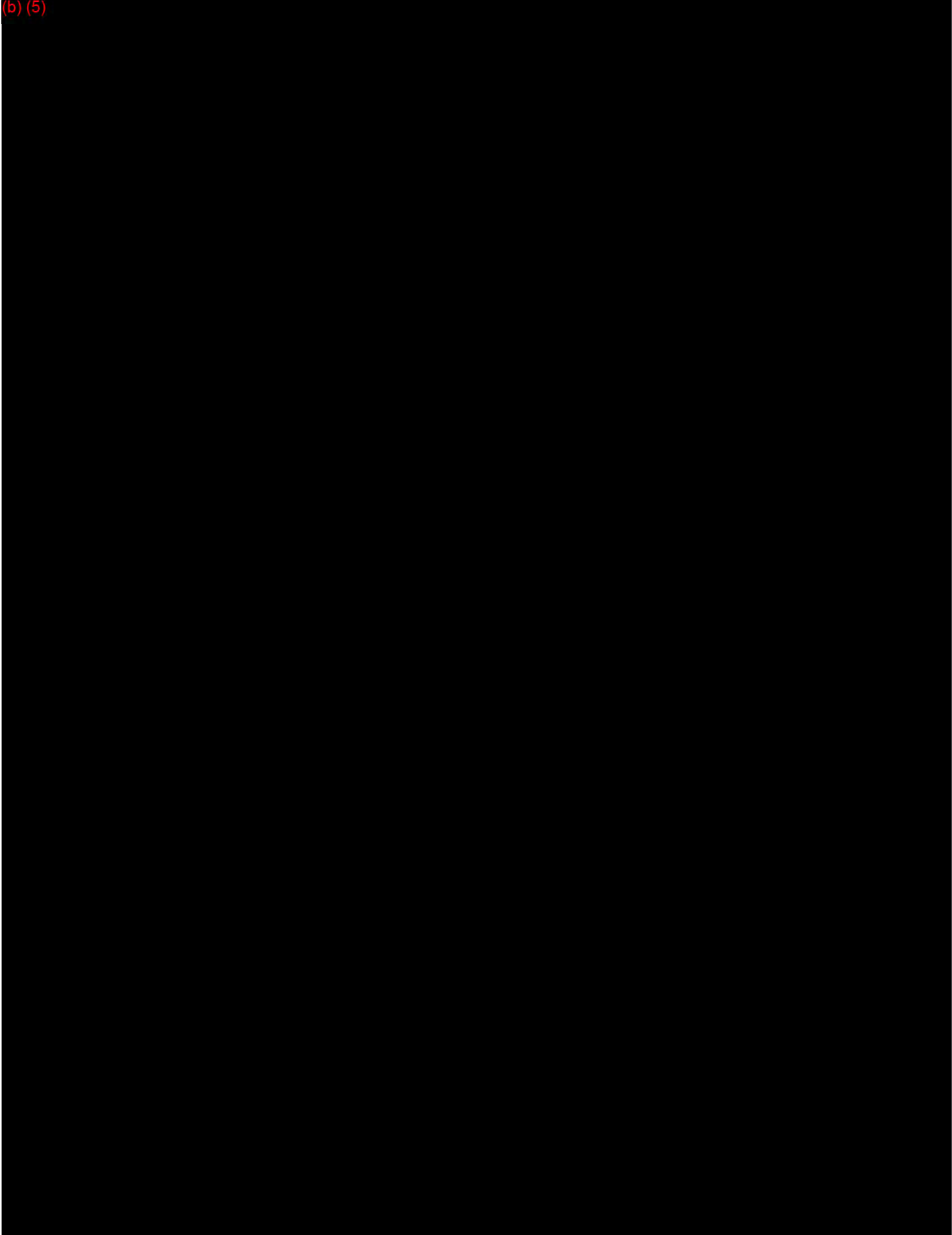
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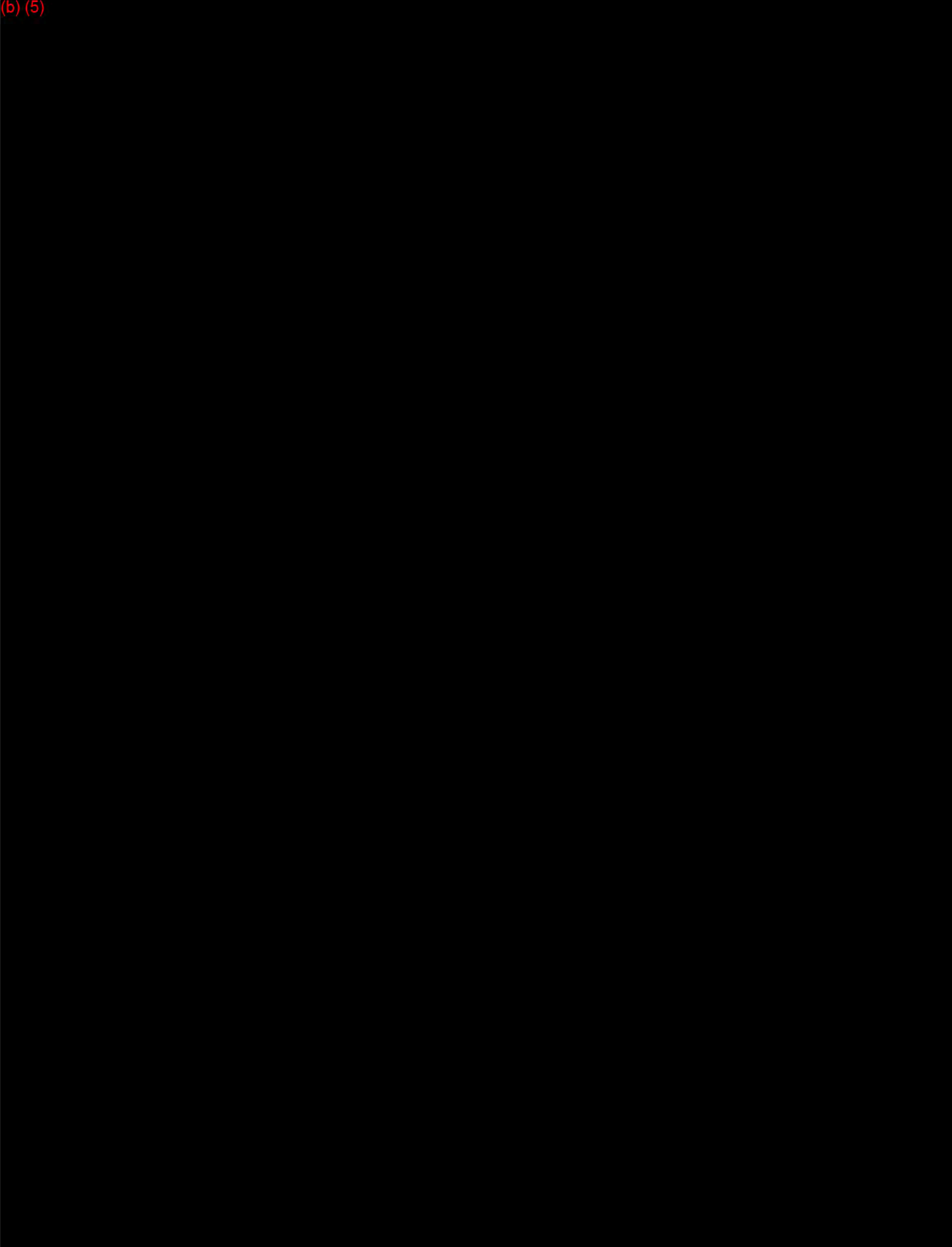


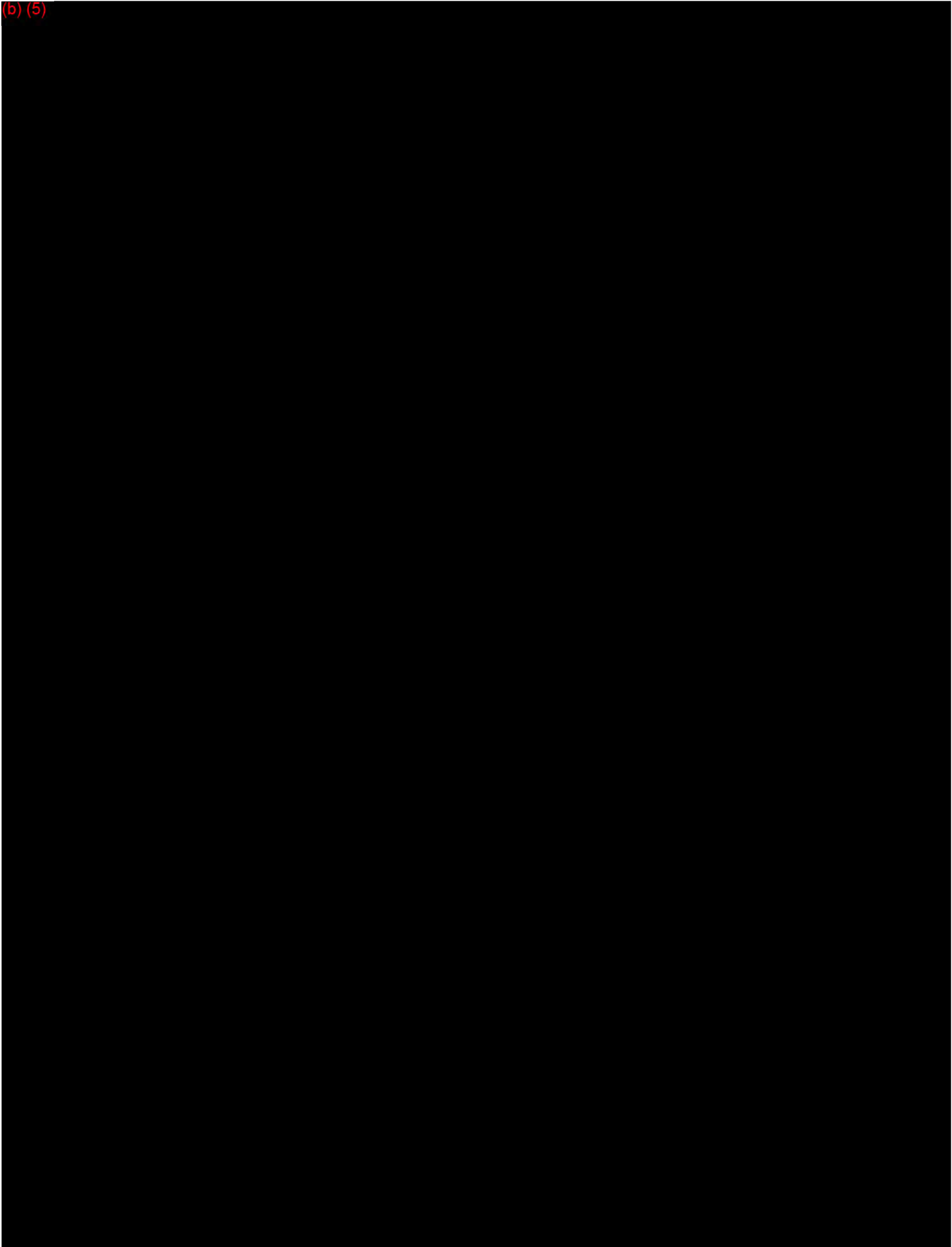
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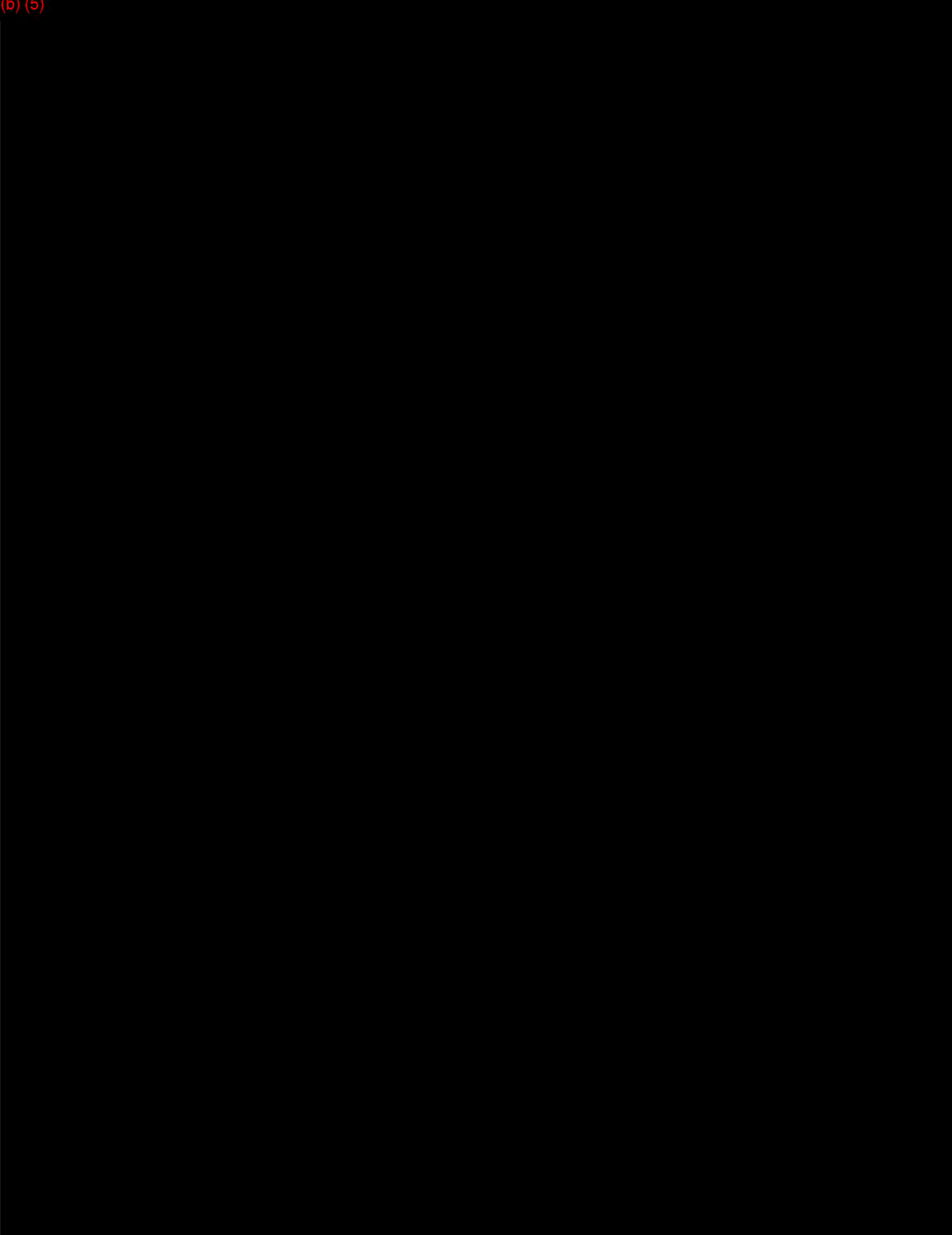




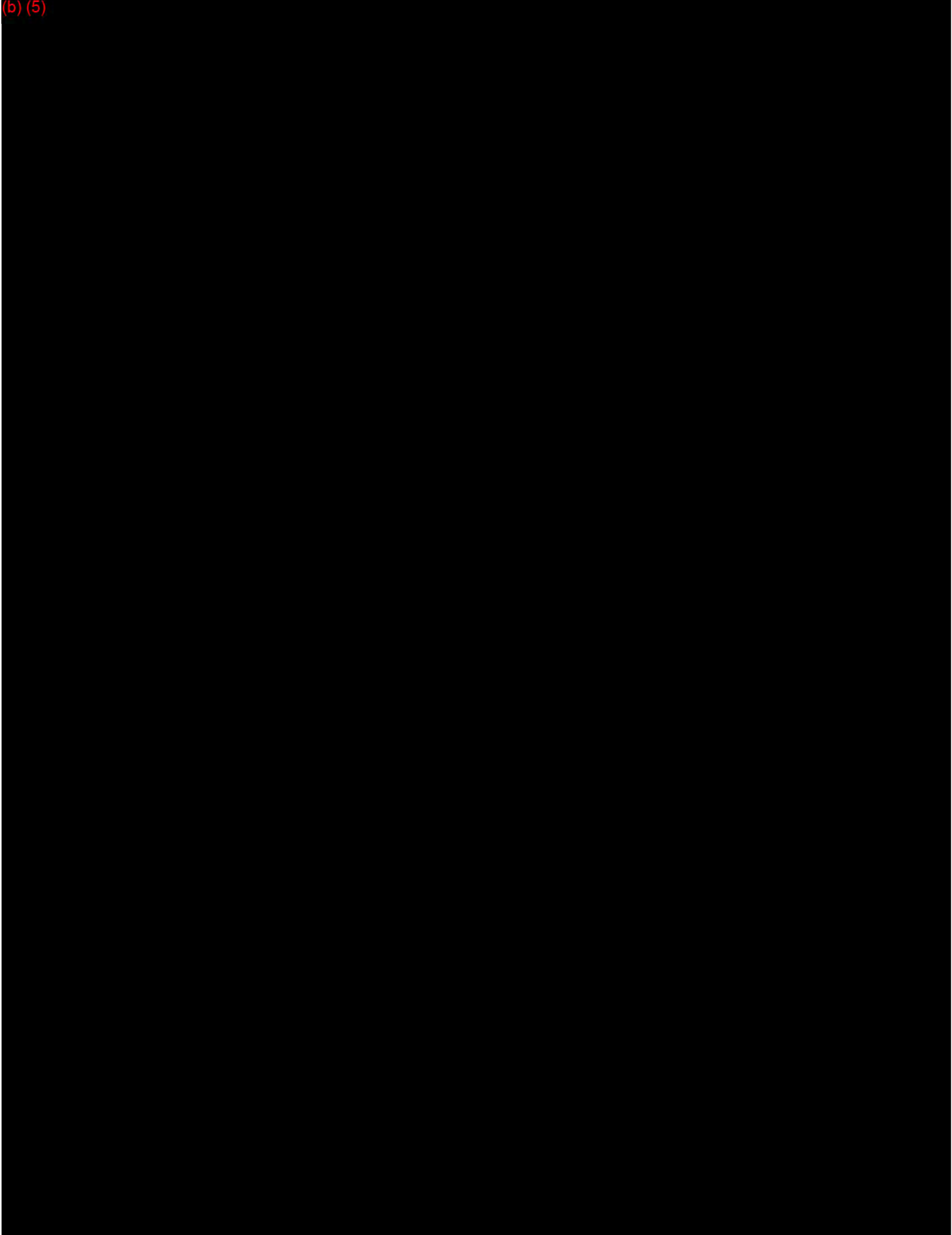


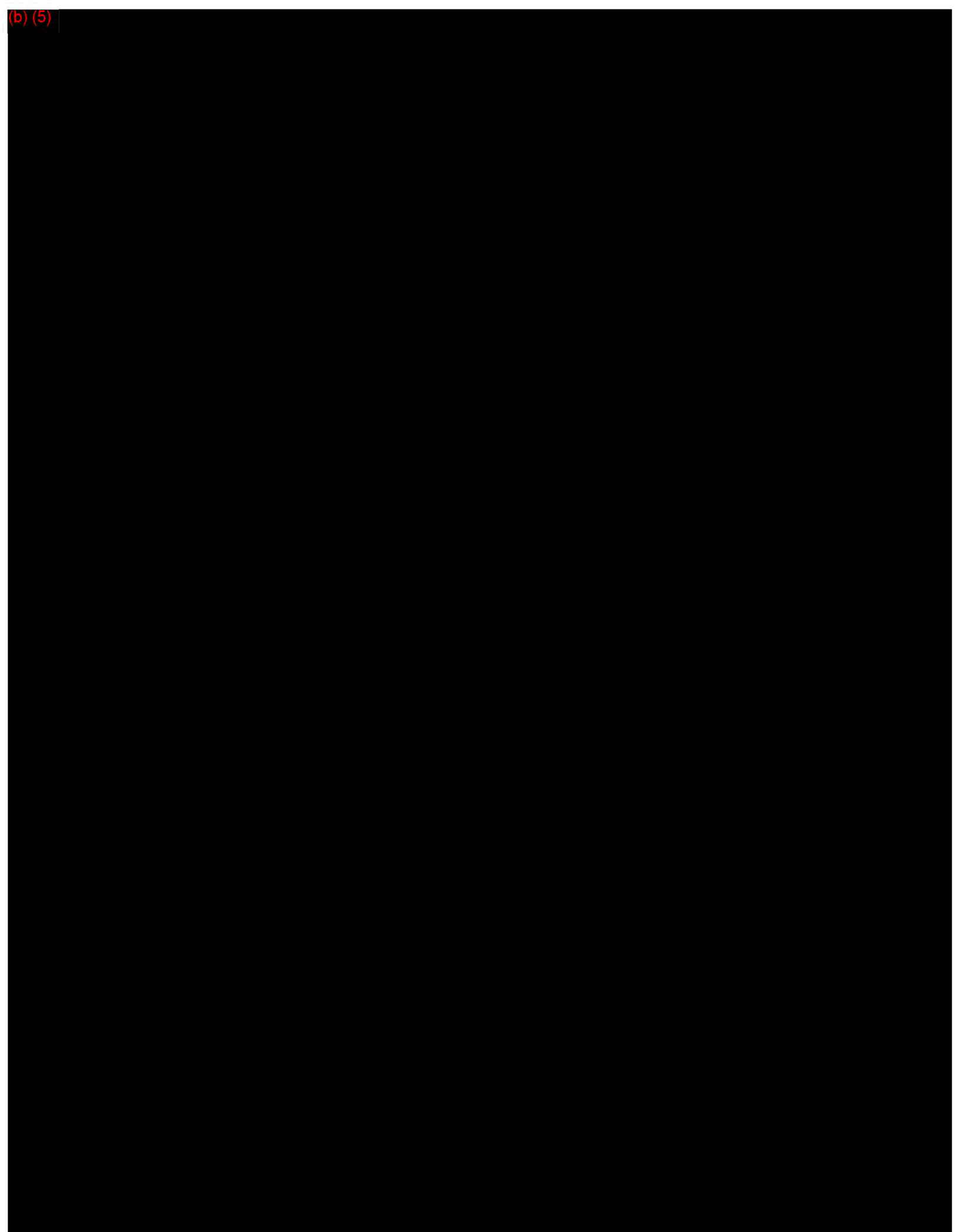




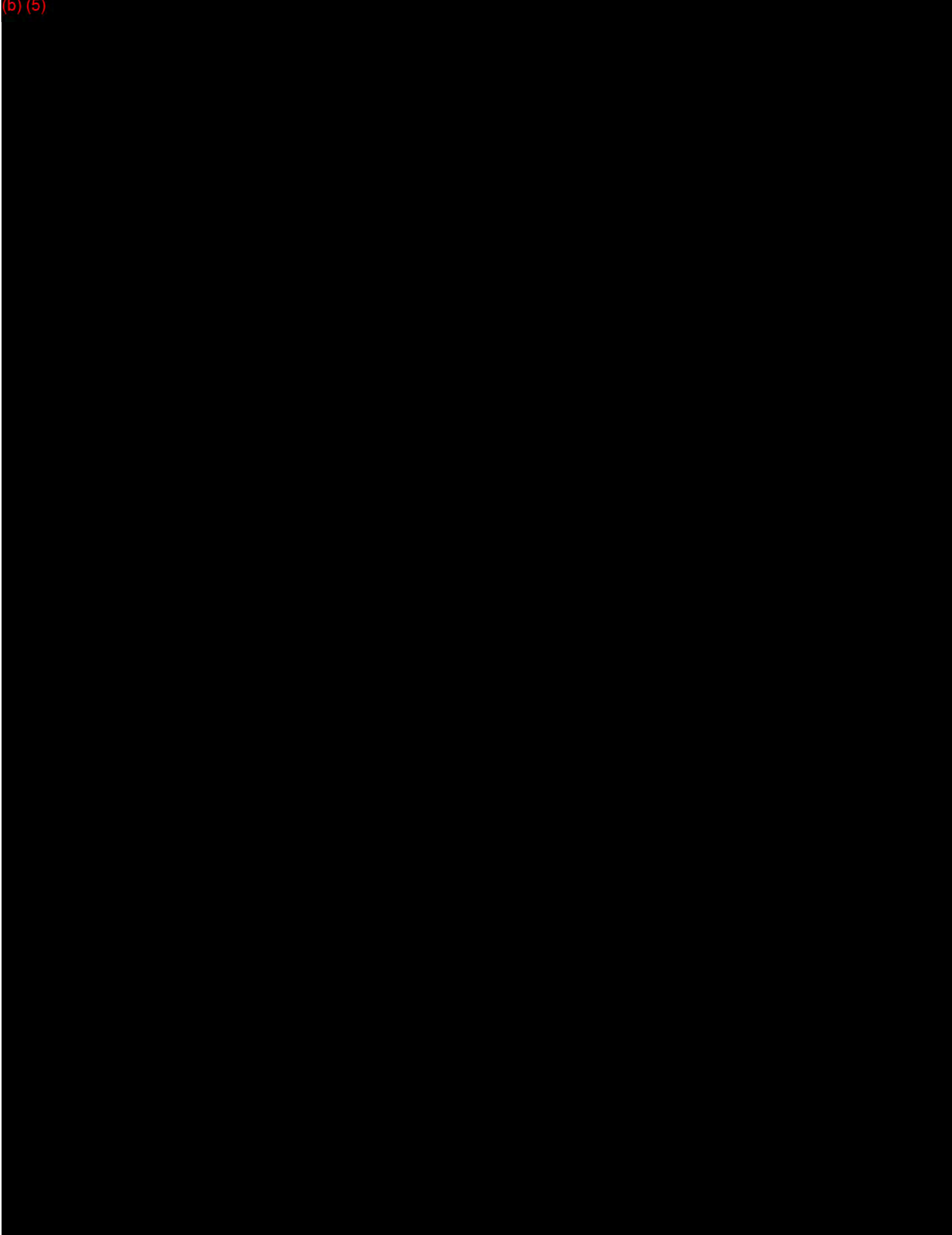


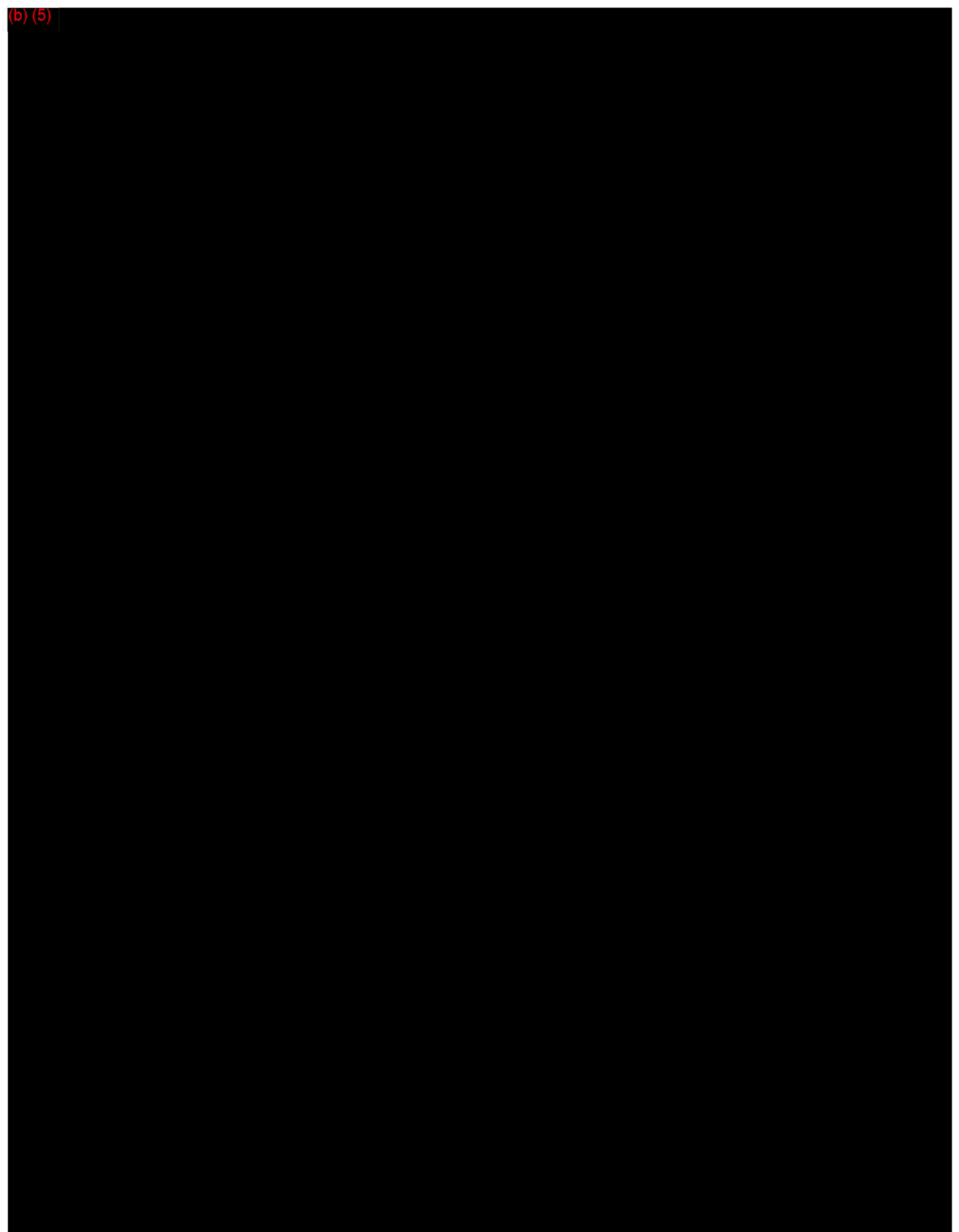






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## CEQ NEPA ANPRM Distribution list.xlsx

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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**  
: CEQ NEPA ANPRM Distribution list.xlsx (34.56 kB)

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## FW: Quick question re EO 12866

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

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

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-----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. 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/eom12866Search>

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

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**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

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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)>  
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**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 (fydibohf23spdf)/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

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**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"

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

**To:**

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

<(b) (6)> "Osterhues, Marlys 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:** Fri, 17 Aug 2018 16:09:22 -0400

---

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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*



NATURAL RESOURCES  
DEFENSE COUNCIL

1152 15TH STREET NW, SUITE 300  
WASHINGTON, DC 20005  
T 202-289-2402

M (b) (6)  
[SSLESINGER@NRDC.ORG](mailto:sslesinger@nrdc.org)  
[NRDC.ORG](http://NRDC.ORG)

Twitter Handle: scottsls1



Ms. Mary Neumayr, Chief of Staff  
Council on Environmental Quality  
730 Jackson Place, N.W.  
Washington, D.C. 20503

Neomi Rao, OIRA Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17<sup>th</sup> 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 on 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 clear<sup>1</sup> 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

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<sup>1</sup> *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 10, 2019 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 21<sup>st</sup> 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  
1620 I Street NW Suite 500  
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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Suffolk County Water Authority

Douglas Yoder  
Miami-Dade Water and Sewer  
Department

**CHIEF EXECUTIVE  
OFFICER**  
Diene VanDe Hei



therefore AMWA encourages CEQ to consider ways to optimize interagency coordination and streamline authorization decisions. AMWA supports improvements to NEPA regulations, particularly those that would improve the efficiency of environmental reviews and authorizations involving multiple agencies, provided that the decision process remains transparent to the applicant and the public's opportunity for input remains intact.

AMWA supports the administration's one federal decision goal of NEPA reviews being conducted in two years or less provided there is still sufficient opportunity for public input and recognition that some decisions may still take longer, whether due to the complexity of the project itself or the number of collaborating agencies participating. Timely, synchronized and concurrent reviews should be conducted, and to the extent possible, the lead federal agency should be responsible for ensuring this occurs.

Finally, in light of the impacts of climate change on our water resources, it's important that NEPA policies and guidelines facilitate adaptation approaches including projects developed to address future needs for resilience to extreme events and weather disasters, such as storms and droughts, which have been well documented in the United States over the past decade.

Therefore, as the White House takes steps to ensure that the federal "environmental review and permitting process for infrastructure projects is coordinated, predictable, and transparent," AMWA supports the efficiency of NEPA reviews and the Administration's one federal decision goal. As stated elsewhere in this letter, AMWA's support also assumes that the integrity of NEPA will be maintained and the opportunity for public participation and comment will remain intact. AMWA appreciates the opportunity to comment and looks forward to working with CEQ throughout this process.

Sincerely,



Diane VanDe Hei  
Chief Executive Officer

## [EXTERNAL] Comments on the CEQ ANPRM -- includes specific issues for OIRA

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**From:** "Slesinger, Scott" <sslesinger@nrdc.org>

**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)>

**Date:** Fri, 17 Aug 2018 13:37:57 -0400

**Attachments**  
: NRDC ANPRM Comments.pdf (756.84 kB)

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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*



NATURAL RESOURCES  
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Ms. Mary Neumayr, Chief of Staff  
Council on Environmental Quality  
730 Jackson Place, N.W.  
Washington, D.C. 20503

Neomi Rao, OIRA Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17<sup>th</sup> 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 on 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 clear<sup>1</sup> 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

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<sup>1</sup> *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 10, 2019 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 21<sup>st</sup> 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.

# **[EXTERNAL] Comments re ANKPRM - Proposed Procedural Revisions of NEPA**

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**From:** Charlotte Roe <charlotteeroe@yahoo.com>

**To:** Mary Neumayr <(b) (6)>

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

**Date:** Mon, 20 Aug 2018 17:04:40 -0400

**Attachments:** CEQ ANPRM CR Comments 8.19.18.pdf (38.33 kB)

I'm submitting these comments via email as I had trouble accessing the Federal eRulemaking portal. Thank you for accepting them. Roe

August 19, 2018

Mary Neumayr, Chief of Staff Council on Environmental Quality 730 Jackson Place NW Washington, DC 20503

RE: Request for Comment, Advanced Notice of Rulemaking Change (ANPRM) to Regulations Implementing the National Environmental Policy Act (83 Fed Reg 28591-28592 June 20, 2018)

Dear Ms. Neumayr,

Thank you for the opportunity to comment on the ANPRM under consideration by the Council on Environmental Quality.

On behalf of In Defense of Animals and The Cloud Foundation, I strongly object to the proposed revisions contained in the Advanced Notice of Proposed Rulemaking (ANPRM) issued by the Council on Environmental Quality with respect to regulations implementing the National Environmental Policy Act (NEPA). CEQ was founded to be a facilitator of robust environmental review and a pillar of the National Environmental Policy Act, our magna carta for environmental protection.

The proposed rule changes are just the opposite. They represent an effort to dismantle these vital regulations that have stood the test of time for decades. They would open the door for commercial interests to block meaningful engagement by the American public and the science community. This has already begun to take place by the Department of Interior's use of Determination of NEPA Adequacy, a procedure not now in the CEQ regulations, that is being used to bypass citizen participation in, or knowledge of, environmental review processes. This is violating an essential public trust. We will not stand silent in the face of such disrespect for the intent and purpose of the National Environmental Policy Act.

I request that CEQ withdraw these proposed rule changes and instead focus on training and education to promote more effective NEPA implementation by federal agencies.

With respect to the proposed categories, should this ill-advised process continue, I offer the following comments:

1. As to the first question regarding multiple agencies: **No changes are necessary.** CEQ is already empowered to encourage timely, efficient inter-agency and multiple agency environmental reviews under Section 1502.2 of CEQ regulations. The best rule to avoid government over-reach or bureaucratic confusion is always: "If it's not broken, don't fix it." This needs no fixing.
2. Should the NEPA process be made 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? **No.** This issue is fully addressed by Section 1501.6(a)(2) of the CEQ regulations. If agencies are not implementing this regulation, the flaw needs to be addressed by better training and leadership, not by more bureaucracy.
3. Should CEQ's NEPA regulations be revised to ensure optimal interagency coordination of environmental reviews and authorization decisions? **No.** Section 1501.6 of the CEQ regulations adequately addresses the need for agency cooperation, encourages early agency cooperation, and spells out procedures such as the lead agency inviting others to be cooperating entities. If this process has broken down in some instances, it is not due to a defect in the regulations but, instead a failure on the part of the agencies. More effective CEQ leadership could help address any gaps in implementation.
4. With reference to the question of format and page length of NEPA documents and time limits for completion: **No revision is needed.** The pertinent regulations, Section 1502.10 (format), Section 1502.7 (page limit), and Section 1501.8 (time limit) already allow for flexibility and common sense measures depending on project size and the nature of the environmental issue. No rule-making change is needed to improve on this guidance.,
5. Should rules be revised to ensure NEPA documents better focus on significant issues that are relevant and useful to decision makers and the public? **No.** The CEQ requirements regarding significance outline a bare minimum of what is required to fulfill the purposes and requirements of NEPA. Substantial case law advises the agencies, the public, and regulated communities providing greater assurance and detail regarding the level of analysis required.  
  
If CEQ wishes to revisit the question of when an EIS is required, it should only strengthen the basis upon which a full environmental review is triggered. In that case, the "intensity" factors calling for an EIS should be broadened to include those such as: a) the degree to which members of the general public and members of the affected community are concerned about the proposed action and its environmental, social, cultural and historical impacts; b) the degree to which the proposed action may impact the future genetic viability of a species, including wild horse and burro herds; and c) the degree to which the proposed action may affect the public's ability to benefit from the preservation of a federally protected species, whether through photography, on-range documentation and monitoring, or tourist activity benefiting the local economy.
6. Should the provisions in CEQ's NEPA regulations relating to public involvement be revised to be more inclusive and efficient? **No changes are needed at this time.** However, if this rulemaking process proceeds, the public's role should be expanded to require comments when changing or defining the categories of actions that may fall under a categorical exclusion (CE).

7. Should definitions of any key NEPA terms in CEQ's NEPA regulations, such as those listed below, be revised? **No.** These definitions are fine in themselves. Their definitions are clarified by case law and best practices, in our American system based on rule of law.

8. Should any new definitions of key NEPA terms be added? **No.** Any effort to add definitions to those which have been working over the life of the statute would only serve to confuse new practitioners. It would undermine the purpose and intent of NEPA.

9. Should the provisions in CEQ's NEPA regulations relating to any of the types of documents noted be revise? **No.** Nonetheless, should this process continue, the following should be clarified and strengthened:

**Supplements -**

CEQ should issue guidance on the use of documents or procedures used either to supplement NEPA review under Section 1502.9(c) of the CEQ regulations or to avoid such review. For example, the Department of Interior has increasingly used an agency protocol, Determination of NEPA Adequacy (DNAs), to bypass public comment, accountability and the need for environmental review. This is an unacceptable attack on the core purpose of NEPA.

10. Should the provisions in CEQ's NEPA regulations relating to the timing of agency action be revised? **No.** Section 1501.2 of CEQ regulations clearly spells out the why and how to "Apply

NEPA early in the process." To revise these regulations can only lead to confusion, delay and NEPA avoidance.

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? **No.** Nonetheless, if this process continues, we would accept a strengthening of Section 1506.5 of the CEQ regulations. This regulation states that contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. The execution of any disclosure statement under Section 1506.5 should be made public.

12. Should the provisions in CEQ's NEPA regulations relating to programmatic NEPA documents and tiering be revised? **No.** Existing regulations allow agencies to tier off a programmatic EIS to avoid repetitive analyses of an issue and save energy while taking a thorough look at the case in hand.

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? **No.** The consideration of alternatives is at the heart of the NEPA process, and this is emphasized in CEQ regulations. The determination of whether a certain alternative is appropriate depends, and must arise, from the facts of each case.

14. Are any provisions of the CEQ's NEPA regulations currently obsolete? **I do not recommend** revising CEQ regulations on the pretext that a few references are out-dated. The question should be: Do such references harm or weaken the implementation of the statute? The answer is no.

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? **No.** Nonetheless, without any change in regulations, CEQ could and should take the initiative to create a central collection of all NEPA documents including draft EISs, environmental assessments, preliminary EAs, finding of no significant impacts, categorical exclusions, and record of decisions along with appendices, comments and responses for any of the aforementioned documents.

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? **No, and no again.** Section 1502.25 of the CEQ regulations states that agencies "[t]o the fullest extent possible" shall prepare draft EISs concurrently with and integrated with other environmental reviews..." Combining NEPA environmental reviews and other decision documents would indelibly harm public participation, as it would cause confusion and obfuscation. If that is the intent of this proposed rulemaking process, it should be dropped immediately.

17. Are there additional ways CEQ's NEPA regulations should be revised to improve the efficiency and effectiveness of the implementation of NEPA? **No.** NEPA regulations have not impeded the capacities of federal agencies in their application of this vital legislation. On the contrary, the types of changes now being considered by CEQ would lead to delays and uncertainty and in all likelihood trigger litigation that would delay federal projects.

18. Are there ways in which the role of tribal governments in the NEPA process should be clarified in CEQ's NEPA regulations? **No changes** are necessary in CEQ regulations to address this issue. If the rulemaking process continues, a revision of language should be considered to broaden the engagement of native American tribes whether or not cultural

artifacts are identified on the present location of Indian reservations. For example, where Section 1503.1(a)(2)(ii) of the CEQ regulations reads, "when the effects may be on a reservation" it could best be replaced with the broader terms "if their interests may be affected," so that the section reads: "Indian tribes, if their interests may be affected; and."

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? This question was answered in responses found above to questions 1, 2, 3, 4 & 17.

20. Are there additional ways CEQ's NEPA regulations related to mitigation should be revised? **No changes** are needed to improve mitigation. CEQ's "Final Guidance for Federal Departments and Agencies on the Appropriate Use of Mitigation and Monitoring and Clarifying

the Appropriate Use of Mitigated Findings of No Significant Impact," should be followed by agencies which have in the past often downplayed the mitigation process. Mitigation is a crucial part of NEPA implementation and a prime responsibility of the agencies. The regulations are clear. They need to be followed.

Respectfully yours,

Charlotte Roe  
Science Advisor, The Cloud Foundation  
Wild Horse and Burro Project Partner, In Defense of Animals 1621 So. County Rd. 13  
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[charlotteroe@yahoo.com](mailto:charlotteroe@yahoo.com)





August 19, 2018

Mary Neumayr, Chief of Staff  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, DC 20503

RE: Request for Comment, Advanced Notice of Rulemaking Change (ANPRM)  
to Regulations Implementing the National Environmental Policy Act  
(83 Fed Reg 28591-28592 June 20, 2018)

Dear Ms. Neumayr,

Thank you for the opportunity to comment on the ANPRM under consideration by the Council on Environmental Quality.

On behalf of In Defense of Animals and The Cloud Foundation, I strongly object to the proposed revisions contained in the Advanced Notice of Proposed Rulemaking (ANPRM) issued by the Council on Environmental Quality with respect to regulations implementing the National Environmental Policy Act (NEPA). CEQ was founded to be a facilitator of robust environmental review and a pillar of the National Environmental Policy Act, our magna carta for environmental protection.

The proposed rule changes are just the opposite. They represent an effort to dismantle these vital regulations that have stood the test of time for decades. They would open the door for commercial interests to block meaningful engagement by the American public and the science community. This has already begun to take place by the Department of Interior's use of Determination of NEPA Adequacy, a procedure not now in the CEQ regulations, that is being used to bypass citizen participation in, or knowledge of, environmental review processes. This is violating an essential public trust. We will not stand silent in the face of such disrespect for the intent and purpose of the National Environmental Policy Act.

I request that CEQ withdraw these proposed rule changes and instead focus on training and education to promote more effective NEPA implementation by federal agencies.

With respect to the proposed categories, should this ill-advised process continue, I offer the following comments:

1. As to the first question regarding multiple agencies: **No changes are necessary.** CEQ is already empowered to encourage timely, efficient inter-agency and multiple agency environmental reviews under Section 1502.2 of CEQ regulations. The best rule to avoid government over-reach or bureaucratic confusion is always: "If it's not broken, don't fix it." This needs no fixing.
2. Should the NEPA process be made 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? **No.** This issue is fully addressed by Section 1501.6(a)(2) of the CEQ regulations. If agencies are not implementing this regulation, the flaw needs to be addressed by better training and leadership, not by more bureaucracy.
3. Should CEQ's NEPA regulations be revised to ensure optimal interagency coordination of environmental reviews and authorization decisions? **No.** Section 1501.6 of the CEQ regulations adequately addresses the need for agency cooperation, encourages early agency

cooperation, and spells out procedures such as the lead agency inviting others to be cooperating entities. If this process has broken down in some instances, it is not due to a defect in the regulations but, instead a failure on the part of the agencies. More effective CEQ leadership could help address any gaps in implementation.

4. With reference to the question of format and page length of NEPA documents and time limits for completion: **No revision is needed.** The pertinent regulations, Section 1502.10 (format), Section 1502.7 (page limit), and Section 1501.8 (time limit) already allow for flexibility and common sense measures depending on project size and the nature of the environmental issue. No rule-making change is needed to improve on this guidance.,

5. Should rules be revised to ensure NEPA documents better focus on significant issues that are relevant and useful to decision makers and the public? **No.** The CEQ requirements regarding significance outline a bare minimum of what is required to fulfill the purposes and requirements of NEPA. Substantial case law advises the agencies, the public, and regulated communities providing greater assurance and detail regarding the level of analysis required.

If CEQ wishes to revisit the question of when an EIS is required, it should only strengthen the basis upon which a full environmental review is triggered. In that case, the “intensity” factors calling for an EIS should be broadened to include those such as: a) the degree to which members of the general public and members of the affected community are concerned about the proposed action and its environmental, social, cultural and historical impacts; b) the degree to which the proposed action may impact the future genetic viability of a species, including wild horse and burro herds; and c) the degree to which the proposed action may affect the public’s ability to benefit from the preservation of a federally protected species, whether through photography, on-range documentation and monitoring, or tourist activity benefiting the local economy.

6. Should the provisions in CEQ’s NEPA regulations relating to public involvement be revised to be more inclusive and efficient? **No changes are needed at this time.** However, if this rulemaking process proceeds, the public’s role should be expanded to require comments when changing or defining the categories of actions that may fall under a categorical exclusion (CE).

7. Should definitions of any key NEPA terms in CEQ’s NEPA regulations, such as those listed below, be revised? **No.** These definitions are fine in themselves. Their definitions are clarified by case law and best practices, in our American system based on rule of law.

8. Should any new definitions of key NEPA terms be added? **No.** Any effort to add definitions to those which have been working over the life of the statute would only serve to confuse new practitioners. It would undermine the purpose and intent of NEPA.

9. Should the provisions in CEQ’s NEPA regulations relating to any of the types of documents noted be revise? **No.** Nonetheless, should this process continue, the following should be clarified and strengthened: **Supplements -**

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artifacts are identified on the present location of Indian reservations. For example, where Section 1503.1(a)(2)(ii) of the CEQ regulations reads, "when the effects may be on a reservation" it could best be replaced with the broader terms "if their interests may be affected," so that the section reads: "Indian tribes, if their interests may be affected; and."

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Respectfully yours,

Charlotte Roe  
Science Advisor, The Cloud Foundation  
Wild Horse and Burro Project Partner, In Defense of Animals  
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Berthoud, CO 80513  
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## [EXTERNAL] CEQ NEPA RULEMAKING 2018 Comments

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**From:** Geraldine Link <glink@nsaa.org>  
**To:** "Boling, Ted A. EOP/CEQ" <(b) (6)>  
**Cc:** "French, Chris -FS" <cfrench@fs.fed.us>, "Wetterberg, Sean B -FS" <swetterberg@fs.fed.us>  
**Date:** Mon, 20 Aug 2018 16:55:44 -0400  
**Attachments**  
: CEQNEPARULEMAKING2018Comments.docx (35.53 kB)

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Hi all,  
I wanted to copy you on the comments that NSAA filed today on CEQ's NEPA ANPR.  
Best regards,  
Geraldine

NATIONAL  
SKI AREAS  
ASSOCIATION



August 20, 2018

*Submitted via regulations.gov*

Council of Environmental Quality  
730 Jackson Place NW  
Washington, DC 20503

RE: Comments of National Ski Areas Association on NEPA Advanced Notice of Proposed Rulemaking, Docket No. CEQ-2018-0001

Dear Council on Environmental Quality:

The National Ski Areas Association (“NSAA”) submits these comments in response to the Council on Environmental Quality’s June 20, 2018 advance notice of proposed rulemaking for the agency’s National Environmental Policy Act (“NEPA”) regulations published at 83 Fed. Reg. 28,591. Please add these comments to the administrative record for the rulemaking.

#### Interest of NSAA in the Rulemaking

NSAA is the national trade association for ski area owners and operators. NSAA has 320 ski area members, accounting for over 90 percent of the skier and snowboarder visits nationwide. One hundred and twenty-two (122) of these ski area members are located on National Forest System (NFS) lands and operate under permit pursuant to Ski Area Permit Act of 1986. These public land resorts work in partnership with the U.S. Forest Service to deliver an outdoor recreation experience unmatched in the world. Our longstanding partnership—dating back to the 1940s, is a model public-private partnership that greatly benefits the American public. The recreation opportunities provided at public land ski areas provide a boost to rural economies, improve the health and fitness of millions of Americans of all ages, promote appreciation for the natural environment, and deliver a return to the U.S. government through fees paid for use of the land.

NSAA’s member resorts have considerable experience as applicants in the NEPA process, and with the CEQ’s implementing regulations. Actions proposed and implemented at NSAA’s member resorts located on National Forest System lands are frequently the subject of NEPA documents prepared by or for the Forest Service. NSAA’s member resorts are often the private proponent of an action on public lands that triggers NEPA and, thus, will be directly affected by the CEQ’s proposal to improve the efficiency of its NEPA implementing regulations.



## Comments

### 1. NSAA Supports the Rulemaking

NSAA supports the CEQ's proposed rulemaking. According to the CEQ's regulations, the purpose of NEPA is "to foster excellent action," rather than to generate paperwork. 40 C.F.R. § 1500.1(c). Too often, however, a NEPA process can promote paperwork over effective decision-making. NSAA commends the CEQ for launching a rulemaking to improve the efficiency of its decision-making process. NSAA intends to participate in the rulemaking process to help the CEQ accomplish its objectives. NSAA appreciates that the CEQ has taken the extra step of requesting comments in the advance notice of proposed rulemaking, before releasing proposed rules for comment. NSAA looks forward to the opportunity to review and comment on the proposed regulations.

### 2. Use of Existing Studies and Analysis (Question 2)

NSAA supports revisions to CEQ's NEPA regulations that would facilitate agency use of environmental studies, analysis, and decisions conducted in earlier Federal, State, tribal or local environmental reviews or authorization decisions. Such use would make the NEPA process more efficient for all stakeholders. NEPA decision making should be driven by actual impacts, rather than fear of litigation, and it needs to be based on full recognition of the amount of analysis that has already taken place, and the impacts that have already occurred, on the land at issue. Ski area permit lands are without a doubt some of the most analyzed acres on the National Forest. Countless studies have been conducted over many decades on the same acres of land. Yet currently, the level of NEPA applied to ski area lands is often that which would apply to an area of the forest that had not been analyzed before. This really needs to change, as it wastes resources for both the Forest Service and the industry, does not adequately recognize the previous studies or work that have been done on those lands, and ultimately does not result in better decision making.

CEQ regulations should be amended to facilitate the use of existing analyses not only on the same site in the future, but also for different projects, even in a different region, to the extent that it can help support new decisions or at least provide a starting point on unfamiliar issues. A database of NEPA decisions and underlying studies that is easily accessible to project analysis teams could help increase efficiency by reducing the time and resources spent by agencies in addressing commonly analyzed issues. It could help with the sharing of information among the various agencies that address resort NEPA.

### 3. Better Interagency Coordination (Question 3)

Revising CEQ's NEPA regulations to improve interagency coordination of environmental reviews is something NSAA strongly supports. In particular, CEQ regulations should require agencies to run parallel reviews when seeking the participation of consulting agencies. Under the current regulations, agencies often run consultations sequentially, which adds unnecessary time and delay to the process. Incorporation of simultaneous inter-agency review would dramatically increase efficiency in consulting agency review.

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#### 4. Selection of Third-Party Contractors (Question 11)

NSAA member resorts and other private stakeholders who operate on federal government lands often engage third-party contractors to prepare NEPA documents for the federal land manager. Currently, CEQ regulations require that a third-party contractor selected to prepare a NEPA document be chosen “solely” by the agency. 40 C.F.R. § 1506.5(c). Some agencies have issued handbooks or guidance documents providing more specificity regarding how a proponent can participate in the contractor selection process. CEQ regulations, however, provide very little direction on this issue.

The CEQ should revise its regulations, including in particular 40 C.F.R. § 1506.5(c), to clarify the extent to which a proponent may participate in selection of a third-party contractor. Revised regulations should expressly permit a proponent to (1) solicit bids or proposals from contractors and then pass them along to the agency, and (2) develop criteria to aid the agency in selecting the contractor.

This would provide increased certainty to project proponents by establishing clear direction that proponents may participate in selection of third-party contractors. Increased proponent participation would relieve agencies from some of the burden involved in the NEPA process, resulting in a quicker and more efficient NEPA process.

#### 5. Proponent Funding for Agency NEPA Review (Question 11)

The CEQ should make it easier for project proponents to fund preparation of NEPA documents. Typically, the project proponent and the responsible agency enter into a memorandum of understanding under which the proponent agrees to fund preparation of the NEPA document. The agency will then engage a third-party contractor to prepare the NEPA document. Under existing CEQ regulations, the agency must evaluate and take responsibility for the NEPA document. 40 C.F.R. § 1506.5(c). Agencies, however, often lack resources to quickly evaluate NEPA documents, resulting in delays in the NEPA process because agencies may lack staff to review the NEPA analysis prepared by an agency-approved contractor.

The CEQ should revise its regulations, including in particular 40 C.F.R. § 1506.5, to make it clear that agencies may—and are encouraged to—accept proponent funding to hire contract employees or specialized consultants to evaluate a particular NEPA document. Currently, it appears that no provision of law prevents agencies from accepting proponent funding to satisfy the requirement that the agency evaluate the NEPA document prepared by a contractor. However, the CEQ should provide additional clarity to agencies regarding the scope of their authority to do so. Individual agencies might then issue regulations or prepare guidance documents providing additional clarity to project proponents. These revisions would increase the speed and efficiency of the NEPA process, without increasing costs to the agencies.

#### 6. Proponent Participation in Agency’s Interdisciplinary Team Review of NEPA Documents (Question 11)

CEQ regulations do not discuss whether and to what extent a proponent may participate in the agency’s interdisciplinary preparation of a NEPA document. This lack of guidance often results in an agency’s taking an overly conservative view of how much a proponent may participate,

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and cutting off the ability of the proponent to provide information to the agency to make the NEPA review process more efficient and effective.

The CEQ should revise its regulations, including in particular 40 C.F.R. §§ 1500.5, 1501.2, and 1502.6 to provide that a proponent—the party most knowledgeable about the proposed project and, often, the environment to be affected—may participate in the agency’s interdisciplinary team in preparation of the NEPA document. This participation would relieve the responsible agency of some of the burdens involved in the NEPA process, and make it easier for the agency to access information needed to complete the NEPA review.

Existing CEQ regulations require agencies to “reduce delay” by taking a number of measures, including establishing deadlines, early resolution of agency disputes, combining environmental documents, etc. 40 C.F.R. § 1500.5. This “reducing delay” regulation does not recognize the proponent’s unique ability to provide information and assist in the preparation of a NEPA document. The CEQ should revise its regulations to encourage agencies to solicit information from the proponent to the maximum extent permitted by law.

7. Definition of “Trivial Violation” (Question 8(d))

Existing CEQ regulations provide that the intent of the regulations is that any “trivial violation” of the regulations does not give rise to a claim that the agency has violated NEPA. 40 C.F.R. § 1500.3. The regulations do not define or discuss what constitutes a “trivial violation.” Such a definition could generally define a “trivial violation” as, for example, failure to comply with a requirement that is not central to NEPA’s objectives. Alternatively, the definition could reference certain requirements which, if violated, do not give rise to a cause of action. Supplying a regulatory definition of “trivial violation” would provide more certainty to responsible agencies and project proponents, while ensuring that NEPA’s core objective—ensuring that agency actions are taken only after considering environmental impacts—is achieved.

\* \* \*

NSAA appreciates the CEQ’s efforts to modernize and improve its NEPA implementing regulations. Thank you for this opportunity to comment.

Respectfully submitted,

Geraldine Link  
Director of Public Policy  
National Ski Areas Association

[APG]

## ELI comments

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**From:** "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
**To:** "Boling, Ted A. EOP/CEQ" (b) (6) "Drummond, Michael R. EOP/CEQ" (b) (6)  
**Date:** Mon, 20 Aug 2018 16:13:59 -0400  
**Attachments**  
: 11058 Environmental Law Institute.pdf (307.88 kB)

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Attached and at <https://www.regulations.gov/document?D=CEQ-2018-0001-11058>



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August 20, 2018

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

Re: CEQ-2018-0001

Dear Mr. Boling:

The Environmental Law Institute (ELI) offers the following comments in response to CEQ's Advance Notice of Proposed Rulemaking, 83 Fed. Reg. 28591 (June 20, 2018), which seeks advice concerning possible changes to the National Environmental Policy Act (NEPA) regulations.

ELI is a non-profit, non-partisan research and policy organization. Our members and board of directors represent all facets of the environmental professions, bringing together the private sector, government, advocacy organizations, and academia. Our mission is to foster innovative, just, and practical law and policy solutions to enable leaders across borders and sectors to make environmental, economic, and social progress. ELI builds the skills and capacity of tomorrow's leaders and institutions; researches and analyzes complex and pressing environmental challenges; promotes and disseminates the best thinking through print and electronic media; and convenes people with diverse perspectives to build understanding through robust debate.

Throughout our history, ELI has been the leading non-partisan, non-governmental source of information on NEPA and its implementation. Incorporated in 1969 on the same day that NEPA passed the Senate, ELI began its operations in 1970, the year NEPA began to inform U.S. government decisions. ELI prepared the first study of NEPA litigation in 1973, and in 1981 prepared for CEQ a commissioned series of studies of NEPA compliance by nineteen federal agencies. ELI is the publisher of the standard reference work, *The NEPA Deskbook*, now in its fourth edition (2014), and of studies including [\*Rediscovering the National Environmental Policy Act: Back to the Future\*](#) (1995), [\*Judging NEPA: A 'Hard Look' at Judicial Decision Making Under the National Environmental Policy Act\*](#) (2004), and [\*NEPA Success Stories: Celebrating 40 Years of Transparency and Open Government\*](#) (2010).

In addition, ELI has published over a hundred articles on NEPA and NEPA practice in the *Environmental Law Reporter*, and retrospectives on NEPA implementation in *The Environmental Forum* at the 20th, 25th, 30th, and 40th anniversaries of the law. We have organized evaluations, continuing education courses, interactive training for federal agencies and policy forums on NEPA implementation. ELI has also trained environmental officials, judges, academics, and advocates in over 40 countries on Environmental Impact Assessment (EIA) best practices, including comparisons of NEPA with other EIA regimes across the globe.

Based on this record, our comments address key facets of NEPA implementation that will need attention should CEQ contemplate changes to the regulatory framework. (We have not addressed each of CEQ's 20 questions, but we identify question numbers to which each comment is relevant.)

► **Robust alternatives identification and analysis in EAs and EISs** (Questions 8a, 9c, 13). NEPA §§102(2)(C)&(E) and its implementing regulations (40 CFR 1502.14, 1503.4(a), 1508.9(b), 1508.25) are grounded in robust identification and analysis of alternatives, which the regulations identify as the “heart” of the environmental analysis. One of the key advantages of NEPA over EIA regimes in other countries is that it relies on consideration of alternatives to the proposed action, including partial alternatives, and that it solicits identification of additional alternatives from affected communities, tribes, businesses, and members of the public. CEQ's regulations, bolstered by a long line of judicial decisions under the Administrative Procedure Act, require the lead agency to evaluate all “reasonable alternatives” and explain its exclusion of any alternative from analysis (40 CFR 1502.14).

Restricting the range of alternatives or establishing narrow criteria for consideration of alternatives could undermine the value of the analysis and deprive federal agencies of key information that they need. In numerous cases, NEPA alternatives proposed by towns, tribes, individuals and others were selected by federal agencies in preference to those the agency started with. See “The Role of NEPA Alternatives,” 35 *Env'tl. L. Rep.* 10911 (Dec. 2005) (list of citizen and non-federally proposed alternatives that produced superior outcomes). See also, Center for the Rocky Mountain West, *Reclaiming NEPA's Potential: Can Collaborative Processes Improve Environmental Decisionmaking?* (2000) and CEQ, *The National Environmental Policy Act: A Study of Its Effectiveness After Twenty-five Years* (1997). See generally, Russell Train, Foreword to ELI, *NEPA Success Stories: Celebrating 40 Years of Transparency and Open Government* (2010) (“No longer could federal agencies say ‘we know best’ ... [NEPA] recognized that citizens, local and state governments, Indian tribes, corporations, and other federal agencies have a stake in government actions—and often unique knowledge of hazards, consequences and alternatives that can produce better decisions”), and the case studies collected therein.

In many instances, federal agencies have grounded their final actions and mitigation measures in a combination of the alternatives analyzed. Premature exclusion of alternatives, or narrowing the range of alternatives under consideration to a narrow band, often leads to poor decisions. ELI noted in response to a Congressional inquiry some years ago that limiting alternatives to those already “supported by feasibility and engineering studies” and certain economic effects would convert the process into one wholly dictated by the federal agency. ELI, *Considering NEPA: Comments to the National Environmental Policy Act Task Force* (2006).

➤ **Public participation and transparency** (Questions 1, 6, 9c, 15). The NEPA regulations enlist the participation of the public in order to ensure that government agencies benefit from expertise and ideas that would otherwise be unavailable. The existing rules for scoping, commenting, and responses to comments (40 CFR Part 1503, 1506.6) have worked well to maintain the perception of legitimacy for federal decision-making and to improve the quality of decisions. Among the most significant provisions is the requirement that the agency explain itself in responding to comments (40 CFR 1503.4), which has been very effective in ensuring that federal agencies actually address all substantive comments.

Public participation could be improved by supplementing 40 CFR 1501.4(b), 1501.7, 1508.9 to add express authority for, and encouragement of, the use of “scoping” when an agency is preparing an EA — and particularly when the action is one that involves substantial construction, land development, or other activities that may have a long-term impact, even if mitigated to below the significance threshold. Given the extensive reliance by federal agencies on EAs, it may also be worth considering whether to expand the circumstances under which public comments on an EA/FONSI are normally indicated (40 CFR 1501.4(e)(2)).

Finally, CEQ should note that if updating NEPA practices to address use of electronic media and technologies, many underserved and poor communities still lack broadband, cellular telephone service, and other services, and residents may lack the resources to access these even if geographically available. Thus, CEQ should take into account the environmental justice aspects of its own regulatory updates, in accordance with E.O. 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”) and CEQ’s *Environmental Justice Guidance under the National Environmental Policy Act* (1997).

➤ **Maintain a full range of mitigation options** (Questions 20, 9c). CEQ’s regulations have shaped the entire field of mitigation for forty years, and have been incorporated into numerous federal programs, permits, and regulations (from mitigation “sequencing” under the Corps of Engineers §404 program, to federal agency practices in construction, contracting, and planning). The five-part definition of mitigation in 40 CFR 1508.20 provides a well-understood foundation that should be maintained, as it is fully integrated across numerous government programs. As use of the mitigated FONSI has increased with support of agencies and the courts, and as noted in CEQ’s mitigation guidance, it could be suitable to add to the regulations a definition for mitigated FONSI to confirm its proper use. This would include recognition of the need for implementation of the mitigation actions in order to maintain the finding of no significant impact.

➤ **Maintain stable terminology and consistent application** (Questions 7, 8, 9). NEPA is a mature program based on a concise statute and regulations whose every substantive term has been litigated. *See generally*, A. Ferlo, K. Sheldon, M. Squillace, *The NEPA Litigation Guide* (2d. ed) (American Bar Assoc. 2012) (discussing court decisions interpreting each term of the regulations). The CEQ regulations have created well-settled expectations, and have received extraordinary deference from the federal courts. *Andrus v. Sierra Club*, 442 U.S. 347, 357-58 (1979) (regulations entitled to “substantial deference” as a “single set of uniform, mandatory

regulations”). NEPA practice has evolved under this stability such that most federal actions can be, and are, readily addressed as categorical exclusions, simple EAs, or mitigated EA/FONSI.

Because of this, CEQ should in general eschew changes to NEPA terms, as this is likely to produce more litigation (with concomitant delay and uncertainty) over the meaning and implementation of revised or new terms going forward. It would also create complex questions about the extent to which courts may rely upon their prior NEPA judicial precedents. Federal agency NEPA procedures and administrative tribunals have also adopted and interpreted these terms; so changes in definitions may cause substantial disruption to government operations.

➤ **Efficiencies in NEPA implementation are achievable** (Questions 1-3, 16-19). There are many opportunities to improve coordination among agencies and reduce inefficiencies. Most of these are available under the current regulations but will require greater attention and investment by the agencies tasked with implementation. For example, recent moves to increase reliance on a single NEPA document for multiple agencies and to establish agreed timelines are authorized by the regulations. As the [final report](#) of the December 2014 Cohen NEPA Summit (co-sponsored by ELI, the Nicholas Institute for Environmental Policy Solutions, and Perkins Coie LLP) found, most reforms can be carried out within existing regulations.

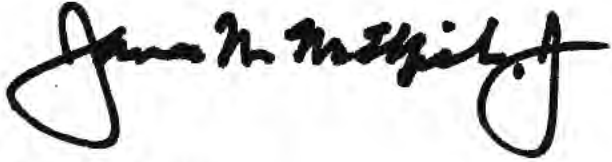
Greater use can be made of cooperating agency status (40 CFR 1508.5); and indeed where there are multiple permitting entities for a single project, cooperating agency status could be made the default approach (requiring affirmative opt-out for clear reasons). Reliance on prior environmental analysis via tiering and adoption is also helpful. Authority to tier to EAs as well as to EISs could be made explicit. In any integration of documents, it will be important to maintain core NEPA characteristics of robust consideration of alternatives, meaningful public participation, and appropriate mitigation. For example, if there is interest in relying on state documents to meet NEPA requirements, these must not limit full consideration of alternatives or public participation in ways that cannot be remedied by the federal process they inform. Also, if timing targets are under consideration, it will be important not to make these hard deadlines or default approvals. As ELI has observed previously, with a “deemed complete” or “deemed approval” mechanism, “the risk of agency misfeasance would fall entirely on the public, including the local governments, tribes, and business organizations that also rely on NEPA.” ELI, *Considering NEPA* (2006).

➤ **The regulations could advance sustainability** (Question 5). 40 CFR 1505.1 directs agencies to adopt procedures to ensure that decisions are made in accordance with the policies and purposes of the Act, including procedures “to achieve the requirements of sections 101 and 102(1).” These include the goals of NEPA, which are parsed out in NEPA §101(b) into six objectives: trust responsibility for future generations, environmental equity, beneficial use, historical, cultural and biological diversity and individual liberty, high standards of living, and management for quality and conservation. CEQ could adopt regulations for agencies to incorporate measures for assessing proposed agency actions with respect to these objectives. ELI, [Rediscovering NEPA: Back to the Future](#) (1995).



ELI appreciates the opportunity to share these views. We would be pleased to perform our traditional and frequent convening role if CEQ decides to engage in further discussions among the affected communities. Please let us know if we may be of assistance in this way.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. McElfish, Jr.", written in a cursive style.

James M. McElfish, Jr.  
Senior Attorney, Director Sustainable Use of Land Program

**[EXTERNAL] FW: Your Comment Submitted on Regulations.gov  
(ID: CEQ-2018-0001-0001)**

---

**From:** gtsiolis@nj.rr.com  
**To:** "Boling, Ted A. EOP/CEQ" <(b) (6)>  
**Cc:** Sarah Richman <srichman@arizonamining.com>  
**Date:** Mon, 20 Aug 2018 15:36:52 -0400  
**Attachments** 2018-8-20f - Arizona Minerals' Comments on CEQ's ANPR re NEPA Rules.pdf  
: (76.82 kB)

Dear Mr. Boling,

Attached please find Arizona Minerals Inc.'s comments on CEQ's advance notice of proposed rulemaking, which were submitted into the rulemaking docket earlier today.

If you have any questions, please don't hesitate to let me know.

Thank you.

George A. Tsiolis  
Attorney at Law  
602-319-4021  
201-408-4256  
[www.gtsiolis.com](http://www.gtsiolis.com)

Counsel for Arizona Minerals Inc.

**From:** no-reply@regulations.gov <no-reply@regulations.gov>  
**Sent:** Monday, August 20, 2018 3:28 PM  
**To:** gtsiolis@nj.rr.com  
**Subject:** Your Comment Submitted on Regulations.gov (ID: CEQ-2018-0001-0001)



*Please do not reply to this message. This email is from a notification only address that cannot accept incoming email.*

**Your comment was submitted successfully!**

**Comment Tracking Number:** 1k2-94yj-6m4k

**Your comment may be viewable on Regulations.gov once the agency has reviewed it. This process is dependent on agency public submission policies/procedures and processing times. Use your tracking number to find out the status of your comment.**

**Agency:** Council on Environmental Quality (CEQ)

**Document Type:** Rulemaking

**Title:** Implementation of Procedural Provisions of National Environmental Policy Act

**Document ID:** CEQ-2018-0001-0001

**Comment:**

Arizona Minerals Inc. Comments on CEQ's Advance Notice of Proposed Rulemaking re NEPA Rules

**Uploaded File(s):**

- 2018-8-20f - Arizona Minerals' Comments on CEQ's ANPR re NEPA Rules.pdf

**This information will appear on Regulations.gov:**

First Name: George A. Tsiolis

Last Name: Attorney at Law

Organization Name: Arizona Minerals Inc.

**This information will not appear on Regulations.gov:**

*All of the information will appear on Regulations.gov*

**For further information about the Regulations.gov commenting process, please visit <https://www.regulations.gov/faqs>.**

**GEORGE A. TSIOLIS**  
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Web: [www.gtsiolis.com](http://www.gtsiolis.com)

August 20, 2018

**Via Docket**

<https://www.regulations.gov>

Docket ID No. CEQ-2018-0001

U.S. Environmental Protection Agency

**Re: Arizona Minerals' Comments on the 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), 83 Fed. Reg. 32071 (July 11, 2018)**

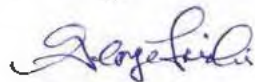
Dear Council on Environmental Quality:

On behalf of Arizona Minerals Inc., I am submitting the attached comments on the above-referenced advance notice of proposed rulemaking. The comments consist of proposed revisions of 40 C.F.R. § 1502.13 (purpose and need) and 40 C.F.R. § 1508.27 (significantly) and include legal rationales for the proposed revisions.

Arizona Minerals Inc. appreciates the opportunity to participate in the rulemaking. If you have any questions, please let me know at [gtsiolis@nj.rr.com](mailto:gtsiolis@nj.rr.com) or 602-319-4021.

Thank you.

Sincerely,



George A. Tsiolis, Attorney at Law  
Counsel for Arizona Minerals Inc.

cc: Ted A. Boling, EOP/CEQ ([eboling@ceq.eop.gov](mailto:eboling@ceq.eop.gov))  
Sarah Richman, Environmental Coordinator, Arizona Minerals Inc.  
([srichman@arizonamining.com](mailto:srichman@arizonamining.com))

**§ 1502.13 Purpose and need.**

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action. If the proposed action is a decision to grant a federal permit, approval or other form of license of a specific project, then, absent circumstances that require a different specification, which should be enumerated in the statement, the statement shall:

(a) Specify that the underlying need to which the agency is responding is the need under affirmative law to make a decision, in response to an application therefor, of whether or under what conditions to grant the federal permit, approval or other form of license; and

(b) Describe the underlying purposes to be achieved by the agency's decision in terms of: (i) the specific purposes that the applicant would achieve if the federal permit, approval or other form of license is granted; and (ii) the specific purposes that the agency would achieve if it grants the federal permit, approval or other form of license.

Rationale

*The published opinions of federal courts that have considered the meaning and application of § 1502.13 have produced no clear, generally applicable guidelines on how a statement of purpose and need should be structured. Faced with no guidance in the rule itself, the courts have generally held that agencies enjoy “considerable discretion” to define the purpose and need of a project and have upheld statements of purpose and need as long as they were “reasonable” and not unduly “narrow” or overly “broad.”<sup>1</sup> In the context of license applications, the result has often been the inclusion, within the scope of an EIS’ detailed alternatives analysis, of alternatives that do not necessarily satisfy or give enough weight to purposes that the applicant actually sought to achieve in seeking the license or purposes that the agency is required to advance under its organic statutes and implementing rules.<sup>2</sup> The above proposed revision of § 1502.13 would tend to yield statements of purpose and need that avoid these problems.<sup>3</sup>*

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<sup>1</sup> See *National Parks & Conservation Ass’n v. BLM*, 606 F.3d 1058, 1070-72 (9th Cir. 2010); *Little Traverse Lake Prop. Owners Ass’n v. Nat’l Park Serv.*, 883 F.3d 644, 656-57 (6th Cir. 2018); *Utah Env’tl. Cong. v. Bosworth*, 439 F.3d 1184, 1195 (10th Cir. 2006); *Webster v. United States Dep’t of Agric.*, 685 F.3d 411, 422-23 (4th Cir. 2012); *Citizens Against Burlington, Inc. v. Busey*, 938 F.3d 190, 196-97 (D.C. Cir. 1991).

<sup>2</sup> See, e.g., *National Parks & Conservation Ass’n v. BLM*, 606 F.3d 1058, 1070-72.

<sup>3</sup> See *Protect Our Cmty. Found. v. Jewell*, 825 F.3d 571, 579-580 (9th Cir. 2016) (“In a context, as here, where the agency is tasked with deciding whether to issue a permit or license, the statement of purpose and need may include ‘private goals’ alongside statutory policy objectives . . . The EIS’s purpose-and-need statement reflects both the agency’s immediate objective, “to respond” to Tule Wind’s right-of-way request, as well as the broader policy goals that the agency considered in deciding among alternative proposals.”); *Citizens for Smart Growth v. Sec’y of the DOT*, 669 F.3d 1203, 1212 (11th Cir. 2012) (“[A]gencies must look hard at the factors relevant to the definition of purpose” and “should take into account the needs and goals of the parties involved in the application.”) (quoting *Citizens Against Burlington, Inc.*, 938 F.2d at 196).

**§ 1508.27 Significantly.**

“Significantly” as used in NEPA requires considerations of both context and intensity:

(a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial, [although the potential for litigation regarding the proposed action in itself does not necessarily indicate such effects are likely to be highly controversial.](#)

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

**August 20, 2018 – Arizona Minerals Inc. Proposed Revisions of Certain CEQ NEPA Rules  
in Response to Advance Notice of Proposed Rulemaking, 83 Fed. Reg. 28591 (June 20, 2018), 83  
Fed. Reg. 32071 (July 11, 2018)**

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

Rationale

*Federal agencies often treat attention to the federal action (such as website publications in opposition to the action) by organizations with a history of threatening or instituting NEPA litigation as enough, in itself, to meet the “highly controversial” threshold and thus trigger the requirement of an environmental impact statement. This is inconsistent with the body of court opinions that have interpreted § 1508.27(b)(4).<sup>4</sup> The above proposed revision of subparagraph (b)(4) would codify the case law. The practical effect of the revision would be that the lead agency would decide to require the preparation of an environmental impact statement based on the “highly controversial” threshold only if the agency has previously received public comments regarding a proposed FONSI or other concrete indications that a substantial dispute with the agency or otherwise exists regarding the size, nature or effects of the federal action.<sup>5</sup>*

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<sup>4</sup> See *Blue Mts. Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1212 (9th Cir. 1998) (“We have held that ‘controversial’ is ‘a substantial dispute [about] the size, nature, or effect of the major federal action rather than the existence of opposition to a use.’”) (quoting *Greenpeace Action v. Franklin*, 14 F.3d 1324, 1335 (9th Cir. 1992)); *Cold Mt. v. Garber*, 375 F.3d 884, 893 (9th Cir. 2004) (“the existence of opposition does not automatically render a project controversial”); *Town of Cave Creek v. FAA*, 325 F.3d 320, 331 (D.C. Cir. 2003) (“The term ‘controversial’ refers to cases where a substantial dispute exists as to the size, nature, or effect of the major federal action rather than to the existence of opposition to a use.”) (quoting *Found. for N. Am. Wild Sheep v. U.S. Dep’t of Agric.*, 681 F.2d 1172, 1182 (9th Cir. 1982)) (emphasis in the original); *National Parks Conservation Ass’n v. Semonite*, 2018 U.S. Dist. LEXIS 87555, \*22 (D.D.C. 2018) (“Courts in this circuit have found that ‘something more is required besides the fact that some people may be highly agitated and be willing to go to court over the matter.’”) (citations omitted); *Middle Rio Grande Conservancy Dist. v. Norton*, 294 F.3d 1220, 1229 (10th Cir. 2002) (“Controversy in the NEPA context does not necessarily denote public opposition to a proposed action, but a substantial dispute as to the size, nature, or effect of the action.”); *WildEarth Guardians v. Conner*, 2017 U.S. Dist. LEXIS 203421, \*27 (D. Colo. 2017) (“Mere opposition to a project does not render it highly controversial”); see also *National Parks & Conservation Ass’n v. Babbitt*, 241 F.3d 722, 736-37 (9th Cir. 2001) (finding a substantial controversy existed because the bulk of 450 comments received by the agency “urged that the EA’s analysis was incomplete”).

<sup>5</sup> See *National Parks & Conservation Ass’n v. Babbitt*, 241 F.3d at 736 (“A substantial dispute exists when evidence, raised prior to the preparation of an EIS or FONSI . . . casts serious doubt upon the reasonableness of an agency’s conclusions.”) (emphasis added); see also *Greenpeace Action*, 14 F.3d at 1334 (holding a party may not establish controversy *post hoc*, when at the time of the agency’s action no controversy existed).

## [EXTERNAL] Comments on ANPR

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**From:** Timothy Male <tmale@policyinnovation.org>  
**To:** "Drummond, Michael R. EOP/CEQ" (b) (6) "Boling,  
Ted A. EOP/CEQ" <(b) (6)>  
**Date:** Mon, 20 Aug 2018 09:52:25 -0400  
**Attachments**  
: EPIC comments on CEQ ANPR.pdf (141.07 kB)

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Morning, Ted and Michael!

Attached are our comments on the advanced notice of proposed rulemaking. We have submitted them electronically as well.

Best to you both – so fun to see you (and be at!) the Crab Feast!

Cheers,

Tim

Timothy Male  
Executive Director  
Environmental Policy Innovation Center  
1015 15<sup>th</sup> Street NW, Suite 600  
Washington, DC 20005

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(w) >[www.policyinnovation.org](http://www.policyinnovation.org)<







August 17, 2018

Mr. Edward A Boling  
Associate Director  
White House Council on Environmental Quality  
730 Jackson Place NW  
Washington, DC 20503

Subject: Docket ID Number: CEQ-2018-0001

The Council on Environmental Quality last issued National Environmental Policy Act regulations in 1980 – we’ve learned a lot since then. The world has changed. We are confident there is value in Council on Environmental Quality’s effort to update them.

These comments are focused on the extent to which a major purpose of the National Environmental Policy Act – to inform the public of the consequences of a proposed government action – is frustrated by the current structure, medium, and length of the National Environmental Policy Act documents.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Male".

Timothy Male, Executive Director  
Environmental Policy Innovation Center

***“too damn many pages for any man to understand”***

As Lin-Manuel Miranda’s Thomas Jefferson states, *“too damn many pages for any man to understand.”* There are many environmental assessments more than 1,000 pages long and some impact statements that exceed 15,000 pages (without counting appendices). The length and complexity of these documents defy comprehension. Period. The Council on Environmental Quality is correct to consider limiting them.

To provide a stronger basis for your action, we encourage you to seek input from social science experts on the cognitive limits of human brains and how exceedingly long documents may frustrate the purpose of National Environmental Policy Act in informing the public about government actions and in giving government employees and project proponents actionable analysis. We also urge you to please consider taking a more logical approach to the page limits you choose. For example, a study of bestsellers has found that the average book length has increased by 25% over the last 15 years – about 350 letter-sized pages. While it is unlikely that any Environmental Impact Statement will ever make a bestseller list, this 350-page target might be a reasonable approximation of the level of text that the public (or experts) can reasonably process, consume, and use. Because analysis should increasingly be shared online, in formats other than pages or text, we also encourage you to establish language that directs agencies to adopt word count limits and other measures of document size that roughly correlate with the page limits you choose. In addition, the Council on Environmental Quality should establish electronic file size limits, as very large file sizes are a barrier to access to members of the public in large parts of the country where reliable access to high speed internet services is lacking.

**In with technology**

Imagine that your round of National Environmental Policy Act regulations survives for as long as the last – 32 years. Can you honestly imagine that page limits will be relevant to the audiences for these documents in 2050?

In reality, the world has moved past pages and paper altogether and that trend will continue. Technologies that have evolved since the 1970s allow us to consume information using rich, visual and interactive formats delivered through the internet. Visual tools to convey and improve comprehension of information are more pervasive in our schools, media, businesses, and daily lives. Visuals are processed 60,000 times faster than text.<sup>1</sup> Thus, ‘readability’ is the wrong frame for the Council on Environmental Quality to use – comprehension and understanding are more general and appropriate terms and we encourage you to replace the former with the latter in Council on Environmental Quality regulations and policy.

Because of both the length and complexity of documents, the public is largely excluded from access to and understanding the documents. For example, this Council on Environmental Quality Federal Register notice is written at a 16<sup>th</sup> grade level, way beyond the comprehension ability of most of the public. Just the single opening introductory paragraph of your notice scores as ‘very confusing’ on the Flesch Reading Ease scale developed by the U.S. Navy (a ‘16’ on that scale of 100, compared to Harry Potter books at 65 out of 100). There is a limit to how simple National Environmental Policy Act documents can be made, but at present there is not even a meaningful effort to make this a significant step in decisions around the length and complexity of documents. Requirements of the Plain Writing Act of 2010 do not apply to Council on Environmental Quality or other regulations, however, should apply to National Environmental Policy Act documents because they provide information about a Federal Government service.

We encourage the Council on Environmental Quality to build additional content into regulations to give comprehension, understanding, and utility – which are central purposes of the statute – a more powerful role in dictating how agencies and practitioners develop National Environmental Policy Act documents and how courts review them. We offer a number of recommendations for how to do so:

- 1) Provide more direction to agencies to limit their review to issues that are truly significant to the action in question and direct them to ensure that the content of analyses is proportionally focused

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<sup>1</sup> <http://misrc.umn.edu/workingpapers/fullpapers/1986/8611.pdf>

on issues that are significant and the minimum background necessary to understand that significance.

- 2) Require agencies, during the scoping process, to explicitly consider and seek input on whether visual versus text presentation of specific information and issues would better allow the public and other audiences to understand the issue and its significance *and* how the information is presented affects comprehension and understand of the totality of the analysis.
- 3) Require that all documents be provided in open, machine-readable format and posted online. For example, Thomas, the Congressional website that tracks legislation, provides all legislative documents in three formats: HTML, text, and (machine-readable) PDF. Today, many National Environmental Policy Act documents exist in only one format and that format is often a non-machine-readable PDF. Providing machine-readable text is also consistent with the requirements of the Americans with Disabilities Act.
- 4) We encourage the Council on Environmental Quality to 'lean in' through regulatory language that directs agencies to continuously seek and use technologies that expand the use of visual, interactive, and virtual information that improves understanding of the significant effects of a proposed government action.
- 5) Require agencies to provide all data used in analyses in machine-readable form and to restrict agencies from putting information in appendices that is essential to understanding the significant effects covered by the analysis. Appendices are appropriate places to include public and agency comments. Appendices are appropriate for the storage of raw data, including that which allows those with disabilities to access information that is otherwise provided in graphical, visual, or other formats that are especially difficult for those with disabilities to access.
- 6) Where agencies seek exception to go beyond page or content limits you create, require them to document the effects that providing additional content will have in making the entire analysis – and the analysis of significant effects – less accessible to its intended audiences.
- 7) Require agencies to establish accessibility accommodation procedures that make it easier to use visual and interactive

display analyses using the accommodation procedures under the Americans with Disabilities Act.

### **Electronic storage**

The Council on Environmental Quality is, or was until recently, collocated with the U.S. Digital Service, an agency whose expertise is perfectly situated to help the Council on Environmental Quality figure out better options for the storage and archiving of National Environmental Policy Act analyses, appendices, data, and required monitoring reports. Developing a better storage solution would serve the Council on Environmental Quality's goals around public involvement and engagement but it would also enable the Council on Environmental Quality to expand its regulatory direction to agencies to direct them eliminate repeated text from analyses and instead incorporate it by reference to past documents or other online resources. General descriptions of environmental conditions are routine in National Environmental Policy Act documents but could be avoided by using material already developed in the past. Storage of data is an extreme problem because Federal agencies and project proponents pay for repeated data collection on the same environmental attributes and potential project effects without consistent ability to make use of past datasets that cover the same subject. Just as scientific research and data funded by Federal granting agencies must be made publicly available within 12 months, the Council on Environmental Quality should consider requirements to make data required for analyses or monitoring publicly available.

### **Mitigate to Find No Significant Impact**

The Council on Environmental Quality established helpful guidance that should allow more projects to use compensatory approaches to achieve a net effect that negates the need to develop an environmental impact statement. But few agencies have followed or fully implemented this guidance. We encourage you to make it mandatory for agencies to maximize application of your 2011 guidance.

### **Alternatives in Environmental Assessments**

The National Environmental Policy Act statute provides no direction or requirement for alternatives to be analyzed when potential projects do not have significant environmental effects. The Council on Environmental Quality should make clear that the inclusion of an alternatives analysis in environmental assessments is discretionary for agencies and that they must make clear to project proponents that it is discretionary. The Council on Environmental Quality could also amend the definition of 'environmental assessment' to make clear it does not include alternatives analysis.

### **Mitigation Hierarchy**

The Council on Environmental Quality regulations define mitigation to include avoidance, minimization, rectification, reduction, and compensation. We encourage you to amend the definition to exclude rectifying and reducing as these terms are not in frequent, current use and are subsidiary to 'avoid' and 'minimize.'

### **Projects with Benefits**

We believe the Council on Environmental Quality should revise its definition of 'significantly' and associated parts of your regulations to make clear that significant beneficial effects should be described in statements or assessments, but are not themselves triggers for requiring an environmental impact statement and that, where a project only has significant beneficial effects, it is appropriate to consider the use of a categorical exclusion. For some resources, the current definition already focuses significance only on adverse effects. For example, the definition focuses only on adverse effects to endangered species or their habitat and on historic structures. The Council on Environmental Quality should consider how to more broadly limit significance determinations to harmful or adverse effects or those proposed actions that have a net harmful or adverse outcome.

## RE: First batch of ANOPR comments ready for review

---

From

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

:

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

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

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

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

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

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

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

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

<(b) (6)>

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

Date: Tue, 21 Aug 2018 21:15:24 -0400

Yardena,

(b) (5)



(b) (5)

Thank you very much and please let me know if you have any questions.

**From:** Mansoor, Yardena M. EOP/CEQ  
**Sent:** Friday, August 17, 2018 4:09 PM  
**To:** Barnett, Steven W. EOP/CEQ <(b) (6)> Boling, Ted A. EOP/CEQ  
<(b) (6)> Drummond, Michael R. EOP/CEQ  
<(b) (6)> Loyola, Mario A. EOP/CEQ <(b) (6)>  
Mansoor, Yardena M. EOP/CEQ <(b) (6)> Osterhues, Marlys 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)>  
**Subject:** First batch of ANOPR comments ready for review

(b) (5)

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



## ANPRM Comments

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

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

**Date:** Tue, 21 Aug 2018 16:54:12 -0400

**Attachments**  
:  
1418 Western Governors Association.pdf (297.33 kB); 1036 Tripp, Environmental Defense Fund (with law review article on strea....pdf (2.19 MB); 12056 Dinah Bear.pdf (161.77 kB); 12161 Ray Clark.pdf (113.82 kB); 12381 Horst Greczmiel.pdf (431.04 kB); 11812 Multistate AG comments (76 pages).pdf (3.62 MB); 8267 AASHTO.pdf (378.5 kB); 9917 GW Regulatory Studies Center.pdf (323.46 kB); 9917 GW Regulatory Studies Center.pdf (323.46 kB); 11898 Nicholson (NAEP).pdf (196.87 kB)

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Michael Drummond  
Deputy Associate Director for NEPA  
Council on Environmental Quality

(b) (6)

# [EXTERNAL] National Trust - NEPA Advance Notice of Rulemaking Comments

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**From:** Sharee Williamson <[swilliamson@savingplaces.org](mailto:swilliamson@savingplaces.org)>  
**To:** "Boling, Ted A. EOP/CEQ" <(b) (6)> [jfowler@achp.gov](mailto:jfowler@achp.gov)  
**Cc:** Betsy Merritt <[emerritt@savingplaces.org](mailto:emerritt@savingplaces.org)>, Tom Cassidy <[tcassidy@savingplaces.org](mailto:tcassidy@savingplaces.org)>  
**Date:** Tue, 21 Aug 2018 11:06:18 -0400  
**Attachments:** NTHP Comment Ltr on CEQ regs 8-20-2018.pdf (323.32 kB)  
:

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Mr. Boling & Mr. Fowler – Please find attached a copy of the comments submitted yesterday on behalf of the National Trust for Historic Preservation regarding the Advance Notice of Rulemaking, Docket No. CEQ-2018-0001.

Sincerely,

**Sharee Williamson | Associate General Counsel**  
P 202.588.6194 | E [SWilliamson@savingplaces.org](mailto:SWilliamson@savingplaces.org)

**NATIONAL TRUST FOR HISTORIC PRESERVATION**  
The Watergate Office Building  
2600 Virginia Avenue NW Suite 1100 Washington, DC 20037  
[SavingPlaces.org](http://SavingPlaces.org)





**National Trust *for*  
Historic Preservation**  
*Save the past. Enrich the future.*

August 20, 2018

Ms. Mary Neumayr, Chief of Staff  
Council on Environmental Quality  
730 Jackson Place, 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:

The National Trust for Historic Preservation in the United States (National Trust) offers the following comments in response to the Advance Notice of Proposed Rulemaking (Advance Notice) recently published by the Council on Environmental Quality (CEQ) indicating that revisions to the implementing regulations for the procedural provisions of the National Environmental Policy Act (NEPA) are under consideration. The National Trust offers the following comments with the goal of improving the effectiveness of NEPA.

### **Statement of Interest**

The National Trust is a private nonprofit organization chartered by Congress in 1949 to “facilitate public participation” in the preservation of our nation’s heritage, and to further the historic preservation policy of the United States. See 54 U.S.C. § 312102(a). Congress intended the National Trust “to mobilize and coordinate public interest, participation and resources in the preservation and interpretation of sites and buildings.” S. Rep. No. 1110, 81st Cong., 1st Sess. 4 (1949). With more than one million members and supporters around the country, the National Trust works to protect significant historic sites and to advocate historic preservation as a fundamental value in programs and policies at all levels of government.

The underlying goal of NEPA is to lead to better informed federal decision-making. The National Trust frequently participates in project reviews under

The Watergate Office Building 2600 Virginia Avenue NW Suite 1100 Washington, DC 20037  
E [info@savingplaces.org](mailto:info@savingplaces.org) P 202.588.6000 F 202.588.6038 [www.PreservationNation.org](http://www.PreservationNation.org)

NEPA and has experienced firsthand how the statute's "hard look" at alternatives can lead to improved decisions and win-win outcomes that protect natural and cultural resources while allowing projects to proceed. The existing NEPA regulations have proven to be more than adequate to satisfy the goals of NEPA. If CEQ decides to move ahead and revise these regulations, the National Trust believes that such changes should recognize that the existing regulations work well and only minor, targeted changes, such as those described below, should be made.

### **Revising the NEPA Regulations is Premature**

We are concerned that any effort by CEQ to revise its NEPA regulations is premature, given Section 1 of Executive Order 12,866. Section 1 states:

"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."

58 Fed. Reg., No. 190 (Oct. 4, 1993) (emphasis added). The text of the Advance Notice does not indicate that this type of cost-benefit analysis has been completed. Instead, the Advance Notice indicates that CEQ is considering revising the NEPA regulations just because they have not been revised recently. There is no detailed information explaining why amending these regulations would be helpful or necessary to meet the goals of NEPA.

Under Office of Management and Budget policy, an important threshold question before an agency conducts a rulemaking is whether developing agency "guidance" would be a better option. From the text of the Advance Notice, it appears that this option has not been considered. Many of the National Trust's answers to the questions in the Advance Rulemaking identify areas where agency guidance would be the best way to address any identified concerns. Overall, we believe that the existing NEPA regulations already

provide a solid foundation for NEPA reviews and that CEQ has not provided sufficient justification for why a regulatory overhaul would be warranted.

### **Increased Funding Should be Made Available to Support NEPA Compliance**

The National Trust believes that the current regulations provide clear directions and encourage agencies to work efficiently in implementing their obligations under NEPA. Over the decades since NEPA was enacted, agencies have developed and refined their own NEPA regulations, coordinating their reviews under various federal laws, and using available tools, like categorical exclusions and tiering, to streamline their review procedures. The result is that the preparation of detailed Environmental Impact Statements under NEPA is fairly limited. Despite this reality, NEPA has developed a false reputation for being a major cause of regulatory delay.<sup>1</sup>

When reviews under NEPA are delayed, the main cause is not inefficient regulation, it is inadequate funding.<sup>2</sup> Agencies that are understaffed or lack adequate training and expertise will struggle to implement regulations effectively, even if they are revised. In our view, the best way to improve NEPA implementation is to ensure that all agencies have the staff, experience, information technology, resource databases, and training to complete NEPA reviews expeditiously and without sacrificing quality.

### **Changing NEPA Regulations Will Result in Uncertainty**

Existing law under NEPA has been developed over decades and is a relatively settled area of the law. Major changes to the NEPA regulations are likely to result in uncertainty, new review processes, and increased litigation. Regulatory amendments are unlikely to speed up project reviews. Instead,

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<sup>1</sup> The Congressional Research Service has concluded that NEPA is not a major cause of project delay. Luther, Linda, *The Role of the Environmental Review Process in Federally Funded Highway Projects: Background and Issues for Congress*. Congressional Research Service Report 7-5700 (2012) (available at [https://environment.transportation.org/pdf/proj\\_delivery\\_stream/crs\\_report\\_envrev.pdf](https://environment.transportation.org/pdf/proj_delivery_stream/crs_report_envrev.pdf)).

<sup>2</sup> A December 2016 report of the U.S. Department of Treasury, found that inadequate funding is “by far the most common challenge to completing” major transportation infrastructure projects. AECOM, *40 Proposed U.S. Transportation and Water Infrastructure Projects of Major Economic Significance*, Page 2 (2016) (available at <https://www.treasury.gov/connect/blog/Documents/final-infrastructure-report.pdf>).

they are likely to slow them down. Given that the existing regulations are already effective, CEQ should closely consider whether amendments are necessary.

### **NEPA is the Primary Mechanism that Facilitates Local Input into Federal Decisions**

One of the primary reasons for the passage of NEPA was the recognition that federal agencies need to take local concerns into account when making decisions. NEPA is intended to provide opportunities for communities to weigh in on projects before federal decisions that impact them are made. Despite NEPA's public participation requirements, achieving robust participation can be challenging. For example, agencies sometimes focus more on whether precise procedural steps are followed, rather than on whether meaningful public participation opportunities are afforded. Public participation that occurs *after* alternatives have already been developed and considered is another common problem. Any changes to NEPA's regulations regarding public participation should be focused on improving opportunities for the public to participate *early* in the federal decision-making process. Requiring federal agencies to actively solicit and consider input from the local communities that their decisions affect will lead to better outcomes.

### **Questions and Responses**

The National Trust offers responses to the following questions included in the Advance Notice:

- 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?**

The existing regulations provide sufficient opportunities to coordinate NEPA reviews with reviews required by other federal laws. In fact, the regulations already require that "to the fullest extent possible," agencies prepare draft EISs "concurrently with and integrated with environmental impact analyses and related surveys and studies" required by other environmental laws. 40 C.F.R. § 1502.25. If CEQ has identified any specific needs for additional coordination, guidance can be developed on a case-by-case basis. One successful example of guidance being used to coordinate reviews is the

2013 handbook<sup>3</sup> developed jointly by CEQ and the Advisory Council on Historic Preservation that provides guidance to agencies to streamline and integrate project review under NEPA and Section 106 of the National Historic Preservation Act. This handbook could provide a model for CEQ to work with other federal agencies where a specific need to enhance coordination has been identified.

Additionally, before making any changes to address a *perception* that coordination needs to be improved, CEQ should first gather data from federal agencies and the public to identify any *actual* on-the-ground barriers to efficient coordination. This information could be used to identify areas where additional agency guidance would be beneficial.

**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?**

CEQ’s current regulations allow agencies to use existing, professional and reliable, environmental studies and analyses in their reviews under NEPA. Additional use of NEPA’s tiering process is another way that agencies can rely on analysis conducted in prior reviews. When used properly, this review mechanism can help to increase the efficiency and effectiveness of agency reviews under NEPA.

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

CEQ’s existing regulations provide an effective framework for coordination between agencies. Like our answer to Question 1 above, if CEQ identifies a need for improved interagency coordination, CEQ should consider developing guidance specifically tailored to address the identified deficiency.

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<sup>3</sup> NEPA and NHPA, A Handbook for Integrating NEPA and Section 106; available at <https://www.achp.gov/digital-library-section-106-landing/nepa-and-nhpa-handbook-integrating-nepa-and-section-106>.

**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?**

CEQ's regulations already provide useful guidance and factors for agencies to consider when establishing timelines and page limits for individual projects. The current suggested page limits in 40 C.F.R. § 1502.7 are reasonable. Appropriately, the current regulatory language sets target page limits, but does not mandate arbitrary page limits for large or complex projects that require additional pages to conduct a full consideration. Likewise, the factors that agencies are to consider in setting review schedules (which are included in existing regulations) correctly recognize that prescribing compulsory time limits for all projects regardless of their complexity is too inflexible and unworkable in practice. 40 C.F.R. § 1501.8.

**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?**

Yes. CEQ's regulations should be revised to clarify federal agencies' obligations regarding tribal consultation under NEPA. Revisions are needed in 40 C.F.R. §§ 1503.1(a)(2)(ii) and 1506.6(b)(3)(ii) regarding inviting comments from and providing public notice to Indian tribes. The current language limits the request for comments from Indian tribes to projects that may cause effects on tribal land within reservations. Federal agencies are responsible for considering impacts to tribally significant cultural resources whether they are located on or off reservation lands. This language should be modified to require agencies to request comments of Indian tribes and Native Hawaiian Organizations for any project that may impact resources of significance to those communities.

**Questions 7 & 8. Requesting suggestions for definitional changes or additions.**

The existing definitions of NEPA terms are clear and effective as is, and no additional terms need to be defined. The meaning of these terms is well understood by agencies and the public. Changes are unnecessary and likely to lead to confusion, and potentially to litigation.



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

The existing regulation at 40 C.F.R. § 1502.5 establishes a sound and reasonable approach for agencies to coordinate their NEPA review process to their decision-making regarding a proposed action.

**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?**

Changes to this regulatory section are not warranted and could create legal uncertainty, slow down the review process, and undercut the effectiveness of NEPA. Instead of regulatory changes, CEQ could consider developing guidance intended to help agencies better coordinate the development and consideration of alternatives, particularly at the early phases of review, i.e. during the pre-scoping and scoping process.

**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?**

There have been changes in technology that can help to increase the efficiency of permitting reviews under NEPA. The primary barrier to increased use of these technologies is a lack of funding, not a need for regulatory changes.

The most effective way to save time and money in reviewing impacts to historic resources under NEPA is to develop better 21<sup>st</sup>-century digital maps and databases that identify where historic and cultural resources have already been located and where more are likely to be found. Currently, much of the survey data about the location of important cultural resources (including previously completed state and federal surveys, and information about property boundaries for resources listed on the National Register of Historic Places or designated as National Historic Landmarks) is still stored in paper files and rudimentary databases in state, tribal and federal offices around the country.

Increased availability of survey data in digital formats could significantly reduce the cost and review time needed to consider impacts to historic

resources by making access to this information available electronically to agency staff. Improving the availability of cultural resource survey data would also ensure that resource type and location information was available at the earliest stages of project review. This would reduce the likelihood of resources being discovered late in the project review process and causing agencies to have to significantly revise their consideration of potential project alternatives.

The federal government should ensure that State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs) have the resources to invest in digitized GIS-based databases. Fully funding the Historic Preservation Fund (HPF), which supports SHPOs and THPOs, would help enable this transition to new technology.

**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?**

Please see answer to Question 2.

**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?**

Please see answer to Questions 1 and 3.

**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?**

As discussed in the answer to Question 6 above, CEQ's regulations should be amended to clarify agencies' responsibilities to invite comments and ensure the public involvement of tribal governments.

**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?**

As discussed above, the key to increasing effectiveness and reducing any delays in NEPA reviews is to ensure that agencies have adequate funding, training and other necessary resources. Regulatory language changes do not address these types of lack of capacity issues, and may in fact exacerbate them by requiring retraining for existing staff.

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

This is another area where developing additional guidance for agencies rather than revising regulations could be helpful. CEQ's existing guidance on "Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact" is a helpful document, but could be expanded upon. To ensure appropriate mitigation outcomes, guidance stressing the importance of ensuring that mitigation commitments are monitored and enforced, could improve outcomes.

**Conclusion**

The National Environmental Policy Act and its implementing regulations play a key role in ensuring that the federal government carefully weighs impacts to natural and cultural resources prior to making decisions. The National Trust appreciates the opportunity to comment on the important issues raised in the Advance Notice. Please don't hesitate to contact us with any questions. We would be pleased to discuss any of the issues raised herein directly with CEQ staff.

Sincerely,



Sharee Williamson  
Associate General Counsel

CC: Ted Boling, Council on Environmental Quality  
John M. Fowler, Advisory Council on Historic Preservation

## RE: Thank you & NEPA Comments

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**From:** "Smith, Katherine R. EOP/CEQ" </o=exchange organization/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=e45de0bbb5ca4e87a4c4528ec12a7b03-sm">  
**To:** "Boling, Ted A. EOP/CEQ" <(b) (6)>  
**Date:** Wed, 22 Aug 2018 15:53:49 -0400

Will do! Waiting on confirmation, should have it on the calendar by the end of the day

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**From:** Boling, Ted A. EOP/CEQ  
**Sent:** Wednesday, August 22, 2018 3:48 PM  
**To:** Smith, Katherine R. EOP/CEQ <(b) (6)>  
**Cc:** Neumayr, Mary B. EOP/CEQ <(b) (6)>  
**Subject:** FW: Thank you & NEPA Comments

Katherine – Mary asked that I be included in the meeting with AWEA that you are scheduling. Attached, for background, are AWEA comments on the ANPRM.

Best,  
Ted

---

**From:** Nancy Sopko <NSopko@awea.org>  
**Sent:** Tuesday, August 21, 2018 4:44 PM  
**To:** Boling, Ted A. EOP/CEQ <(b) (6)>  
**Cc:** Lauren Bachtel <LBachtel@awea.org>; Gene Grace <GGrace@awea.org>  
**Subject:** [EXTERNAL] Thank you & NEPA Comments

Hi Ted,

I wanted to send a quick note thanking you for meeting with our members and us last week to talk about issues impacting the offshore wind industry. It was a great opportunity for our companies to discuss the One Federal Decision MOU, greater interagency coordination on offshore wind permitting, and fisheries issues. We will continue to keep you and your colleagues abreast of the progress we're making in the permitting process and areas where we could use your help.

I also wanted to make sure you saw the attached comments AWEA filed on CEQ's Update to the Regulations for Implementing the Procedural Provisions of NEPA. Please let us know if you have any questions or comments.

Thanks,

Nancy

**Nancy Sopko**

Director | Offshore Wind Policy & Siting

American Wind Energy Association

[nsopko@awea.org](mailto:nsopko@awea.org)

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## FW: Thank you & NEPA Comments

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

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

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

**Date:** Wed, 22 Aug 2018 15:48:15 -0400

**Attachments:** AWEA Comments to CEQ on NEPA ANPR.pdf (124.91 kB)

Katherine – Mary asked that I be included in the meeting with AWEA that you are scheduling. Attached, for background, are AWEA comments on the ANPRM.

Best,  
Ted

**From:** Nancy Sopko <NSopko@awea.org>  
**Sent:** Tuesday, August 21, 2018 4:44 PM  
**To:** Boling, Ted A. EOP/CEQ <(b) (6)>  
**Cc:** Lauren Bachtel <LBachtel@awea.org>; Gene Grace <GGrace@awea.org>  
**Subject:** [EXTERNAL] Thank you & NEPA Comments

Hi Ted,

I wanted to send a quick note thanking you for meeting with our members and us last week to talk about issues impacting the offshore wind industry. It was a great opportunity for our companies to discuss the One Federal Decision MOU, greater interagency coordination on offshore wind permitting, and fisheries issues. We will continue to keep you and your colleagues abreast of the progress we're making in the permitting process and areas where we could use your help.

I also wanted to make sure you saw the attached comments AWEA filed on CEQ's Update to the Regulations for Implementing the Procedural Provisions of NEPA. Please let us know if you have any questions or comments.

Thanks,

Nancy

**Nancy Sopko**  
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August 20, 2018

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

*Submitted electronically via [www.regulations.gov](http://www.regulations.gov)  
Docket ID: Docket ID CEQ-2018-0001*

**RE: AWEA Comments on the Council of Environmental Quality’s Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.**

The American Wind Energy Association (“AWEA”)<sup>1</sup> submits these comments in response to the Council on Environmental Quality’s (“CEQ”) June 20, 2018 Advance Notice of Proposed Rulemaking—Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (“NEPA”) (the “Notice”).<sup>2</sup> AWEA appreciates that CEQ is considering an update to its NEPA implementing regulations and for the extension of time to allow for meaningful review and opportunity to provide comments on the proposed changes.<sup>3</sup>

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<sup>1</sup> AWEA is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers, and their advocates.

<sup>2</sup> 83 Fed. Reg. 28,591 (Jun. 20, 2018).

<sup>3</sup> 83 Fed. Reg. 32,071 (July 11, 2018).





## I. Background

NEPA requires federal agencies to incorporate environmental considerations in their planning and decision-making through a systematic interdisciplinary approach. NEPA's statutory requirements are implemented through CEQ regulations, which are binding on all federal agencies. It is these regulations that are currently under review by CEQ and upon which these comments focus.

Among other things, the NEPA process is triggered for projects that occur on land that is owned or managed by the federal government and for projects subject to U.S. Fish and Wildlife Service control. As of March 2018 there were 35 Bureau of Land Management ("BLM") approved wind energy projects on public lands,<sup>4</sup> totaling one percent of the cumulative installed U.S. wind power capacity.<sup>5</sup> For each project, the BLM conducted a NEPA analysis, and any future wind energy development on federal land will require the same.

While wind energy development on public lands currently represents a somewhat small percentage of total wind energy development in the United States, the potential for offshore wind development is vast. Estimates show that ten gigawatts of offshore wind will be installed by 2027, with an expected total of 86 gigawatts installed by 2050.<sup>6</sup> Many of these

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<sup>4</sup> BLM, *Wind Energy Fact Sheet*, [https://www.blm.gov/sites/blm.gov/files/energy\\_renewablewindfactsheet.pdf](https://www.blm.gov/sites/blm.gov/files/energy_renewablewindfactsheet.pdf) (March 2018).

<sup>5</sup> AWEA, 2017 Annual Market Report at 83.

<sup>6</sup> United States Department of Energy and United States Department of the Interior, *National Offshore Wind Strategy*, viii (Sept. 2016), available at <https://www.energy.gov/sites/prod/files/2016/09/f33/National-Offshore-Wind-Strategy-report-09082016.pdf>.



offshore wind farms will be sited in waters managed by the Bureau of Ocean Energy Management (“BOEM”) and will undergo NEPA analysis prior to leasing and development. As wind development on federal land and in federal waters continues to grow, a coordinated, efficient, and legally sufficient NEPA process is critical to ensuring timely development in the coming years.

NEPA can also be triggered by applications for issuance of federal permits for wind energy projects on private lands, such as eagle take permits under the Bald and Golden Eagle Protection Act or incidental take permits under the Endangered Species Act. Since the overwhelming percentage of wind energy facilities are deployed on privately-owned lands,<sup>7</sup> NEPA related to issuance of federal permits for species and similar issues for wind projects on private lands projects is of particular importance to AWEA members.

## **II. Comments**

AWEA supports CEQ revising its NEPA regulations to ensure that all environmental reviews and authorization decisions are conducted in a coordinated, consistent, timely, and legally sufficient manner. Due to the breadth of the subject matter, AWEA has focused its comments below on those questions posed by CEQ that may significantly affect the wind industry.

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<sup>7</sup> AWEA, 2017 Annual Market Report at 83.



**A. NEPA Process**

- Notice Question #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?*

AWEA supports CEQ revising its NEPA regulations to ensure that previously conducted environmental studies, analyses, and decision documents are incorporated at an early stage of the review process. During the scoping process, the Lead Agency should be required to reach out to all relevant Federal, state, or local governmental agencies to invite submissions of previously conducted environmental studies, analyses, and decision documents. The Lead Agencies should then be required to review such documents and data to determine whether they can be incorporated in the current analysis. By requiring the Lead Agency to both consider and incorporate, where appropriate, information from preexisting reviews early in the NEPA process, it will prevent duplicative processes.

The agencies should exercise all efforts to streamline the NEPA process in accordance with Executive Order 13807. At the same time, agencies' actions under NEPA should be transparent in that all science and studies used to inform decision-making be made available through appropriate government data portals (i.e. BOEM's Marine Cadastre and the FWS's Environmental Conservation Online System ("ECOS")). These changes will ensure that the agency preparing the ultimate NEPA document has a full and complete picture of the underlying purpose, need, setting, and context of the action, as well as access to relevant and



specific information gathered or obtained by Federal, state, and local agencies and tribes with particular expertise in the matter.

- Notice Question # 3 - *Should CEQ's NEPA regulations be revised to ensure optimal interagency coordination of environmental reviews and authorization decision, and if so, how?*

AWEA supports revising the CEQ regulations to ensure optimal interagency coordination through the NEPA review process by making sure all of the necessary agencies are brought into the review early in the process. Section 102(C) of NEPA requires that, prior to conducting an environmental impact statement, the Lead Agency must “consult with and obtain the comments of any Federal agency with jurisdiction by law or special expertise regarding the environmental impacts involved.”<sup>8</sup> However, at the expense of a fully informed and efficient review, agencies often do not seek special expertise if they perceive that expertise may challenge their in-house experts or policy goals. The CEQ regulations should be modified to emphasize that the Lead Agency is required to request the participation of each agency with jurisdiction by law or special expertise in the NEPA process. This will ensure that all of the necessary agencies are brought to the table.

The CEQ regulations also need to be modified to ensure that cooperating agencies are brought in prior to initiation of the scoping process. As written, CEQ regulation § 1501.6 requires, among other things, that the lead agency request participation of cooperating agencies “at the earliest possible time.” The CEQ regulations should be modified to clarify

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<sup>8</sup> 42 U.S.C. § 4332(C).



that this “earliest possible time” is prior to the initiation of the scoping process. This will ensure that the cooperating agencies can be involved in the scoping process and help shape the review from the very beginning, thereby reducing the chance for unforeseen delays and duplication of work in the review process.

In addition, there needs to be increased transparency and adherence to strict timelines. Cooperating agencies should expressly told the timeline allowed for the completion of each step of the review process. If a cooperating agency misses a deadline, the process shall continue without the input of that agency.

**B. Scope of NEPA Review**

- Notice Question # 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?*

AWEA supports streamlining the NEPA process by, among other things, incorporating time and page limits for NEPA documents. Such limitations will force agencies to review their current process to eliminate duplicative actions and unnecessary delays, and will likely result in more concise and comprehensible NEPA documents. However, the page and time limits need to be reasonable and take into consideration the technical complexity of projects subject to NEPA review, as well as the legal sufficiency that is required for such analysis to withstand legal challenge.

AWEA recommends that CEQ require Federal agencies to adopt or amend their existing agency-specific NEPA procedures to provide for shorter, more readable documents. While such procedures should include both page and time limitations, there should be a clear



process within each agency for receiving variances where, for example, the complexity of a Federal action warrants a departure from the limitations that would otherwise apply. This will help ensure that strictly enforced time or page limits will not make certain NEPA documents more susceptible to Administrative Procedure Act challenges because an agency needs additional space or time to fully explore the range of alternatives, environmental consequences, or mitigation associated with a complex project or one that is likely to face strong public opposition.

In addition, in order to effectively streamline NEPA without causing delays for pending projects, CEQ should require that agencies grandfather all pending NEPA analyses that have been substantially completed. AWEA recommends that “substantially completed” include NEPA analyses that have been published as drafts. Otherwise, agencies may cause further delays trying to revise draft NEPA analyses to fit within the newly established page limitations.

- Notice Question # 7 - *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. *Categorical Exclusions Documentation*

Agencies are not fully utilizing Categorical Exclusions as a tool to satisfy NEPA obligations. To assist with the streamlining process, the CEQ regulations relating to Categorical Exclusions should be revised to ensure that agencies can properly and efficiently apply exclusions to all qualifying actions. Currently, the regulations define categorical exclusions as “a category of actions which do not individually or cumulatively have a



significant effect on the human environment... and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.”<sup>9</sup> Agencies, not CEQ, create a categorical exclusion for certain classes of activities. While CEQ encourages the use of categorical exclusions to reduce unnecessary paperwork and delays,<sup>10</sup> the regulations need to be modified to provide enough clarity as to what constitutes a “significant effect” to assist agencies in determining what falls under the exclusion.

There are multiple actions that occur during wind energy development that have limited effect on the human environment and thus should always be categorically excluded from NEPA. These include, among others: (1) deployment of floating instrument buoys, such as FLiDAR, for offshore wind development; and (2) placement of meteorological towers for land-based wind development. While AWEA will continue to engage with the necessary agencies for specific categorical exclusions, the CEQ regulations should be modified to provide for an efficient and streamlined approach for the development and use of categorical exclusions by all Federal agencies. CEQ should require that agencies maximize the use of Categorical Exclusions and make all Categorical Exclusions available in a publicly searchable database. This approach will reduce costs, promote infrastructure development, and satisfy NEPA requirements. Furthermore, the Categorical Exclusions relied on by one agency with jurisdiction shall be available to all agencies for similar actions.

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<sup>9</sup> 40 C.F.R § 1508.4.

<sup>10</sup> 75 Fed. Reg. 75632 (Dec. 6, 2010)(“[a]ppropriate reliance on categorical exclusions provides a reasonable, proportionate, and effective analysis for many proposed actions, helping agencies reduce paperwork and delay.”).



- Notice Question # 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?*

Many NEPA project proponents end up paying twice for the necessary NEPA analysis for their project or action. While the Lead Agency often hires a private company and/or contractor to prepare the NEPA document for the agency at the expense of the proponent, the project proponent typically also hires outside help to assist with navigating the NEPA process. To correct this problem, AWEA recommends that CEQ provide or push for action agencies to get the necessary funding to effectively complete the NEPA analysis required for all projects and actions. In the alternative, the CEQ regulations should be revised to specifically allow the project proponent, or its contractor, to prepare the draft NEPA documents.

- Notice Question # 12 - *Should the provisions in CEQ's NEPA regulations relating to programmatic NEPA documents and tiering be revised, and if so, how?*

CEQ should revise its regulations to specifically state that the Bureau of Land Management (BLM) is to permit tiering off of existing BLM Wind Energy Programmatic Environmental Impact Statements ("PEIS"). This would allow projects within the PEIS purview to utilize the PEIS and conduct site-specific NEPA analysis only as needed. CEQ should clarify what constitutes a new and significant issue that would trigger the need for additional analysis after the issuance of a PEIS. In addition, these modifications would allow wind energy projects to avail themselves of the incentives of locating in Designated Leasing Areas under BLM regulations.





- Notice Question # 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?*

In many circumstances a Federal agency's involvement in an action that requires NEPA compliance stems from an application for Federal permitting, licensing, or other authorization of a project. For these matters the agency's role is limited to determining whether such application is consistent with the relevant statutory or regulatory framework. The agency has very little discretion to make material changes to the underlying activity. Accordingly, the CEQ regulations should be revised to account for these circumstances. It should not require the agency to spend time and resources providing an exhaustive list of alternative actions when such a course is an exercise in futility.

### **C. General**

- Notice Question # 20 - *Are there additional ways CEQ's NEPA regulations related to mitigation should be revised, and if so, how?*

Federal agencies are not obligated under NEPA to mitigate the potential adverse environmental impacts of a proposed action or to require an applicant to do so before the issuance of a permit or license. However, Federal agencies often propose mitigation as a means to reduce impacts associated with a proposed action in order to allow for a finding of no significant impact ("FONSI") for the project. These determinations are called "mitigated FONSI." While the CEQ regulations define "mitigation,"<sup>11</sup> the regulations are currently

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<sup>11</sup> See 40 C.F.R. 1508.20.



silent as to the use of such mitigated FONSI. AWEA suggests that CEQ revise its regulations to direct the use and implementation of mitigated FONSI.

**III. Conclusion**

AWEA appreciates the opportunity to comment on CEQ's update to its regulations implementing NEPA, and looks forward to engaging with CEQ throughout this process.

Sincerely,

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## Fwd: [EXTERNAL] Comment submission

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**From:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**To:** "Boling, Ted A. EOP/CEQ" <(b) (6)> "Mansoor, Yardena M. EOP/CEQ" <(b) (6)>  
**Date:** Wed, 22 Aug 2018 09:03:29 -0400  
**Attachments**  
: Proposed NEPA Changes 8-20-18 for filing (2).pdf (1.41 MB)

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Ted,

Shall we scan and post this late entry? I have a feeling they attempted to send via fedex or similar and were turned away due to our security protocols.

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

Begin forwarded message:

**From:** "McLaurin, Juschelle D. EOP/CEQ" <(b) (6)>  
**Date:** August 22, 2018 at 8:51:07 AM EDT  
**To:** "Drummond, Michael R. EOP/CEQ" <(b) (6)>  
**Subject:** FW: [EXTERNAL] Comment submission

Good Morning,

Michael this was sent to my email on yesterday , and as you know it's my day off.

Juschelle

**From:** Marina Micic <[marina@cg-la.com](mailto:marina@cg-la.com)>  
**Sent:** Monday, August 20, 2018 4:54 PM  
**To:** McLaurin, Juschelle D. EOP/CEQ <(b) (6)>  
**Subject:** [EXTERNAL] Comment submission

Hello,

We tried to submit our comment by mailing it to the address noted on the filing instructions, but the delivery was not possible. Could you please help us deliver the attached document to the right person/department?

Thank you so much for your assistance!

Marina

The CEQ is extending the comment period on the ANPRM, which was scheduled to close on July 20, 2018, for 31 days until August 20, 2018. The CEQ is making this change in response to public requests for an extension of the comment period.

**DATES:** Comments should be submitted on or before August 20, 2018. **ADDRESSES:** Submit your comments, identified by docket identification number CEQ-2018-0001 through the Federal eRulemaking portal at [https:// >www.regulations.gov<](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [https:// >www.regulations.gov<](https://www.regulations.gov). CEQ may publish

any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (e.g., audio, video) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make.

Comments may also be submitted by mail. Send your comments to: Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, Attn: Docket No. CEQ-2018-0001.

**FOR FURTHER INFORMATION CONTACT:**

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

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**MARINA MICIC**

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[3225-F8]

August 20, 2018

Comments of Blueprint 2025

Re: 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.

Docket No. CEQ-2018-0001 - RIN: 0331-AA03

The Blueprint 2025 (“BP2025”) initiative is collaboration among infrastructure professionals, leading infrastructure development companies and public sector project managers, which advances and supports plans and policies to restore the U.S. position as the country with the world’s best, most efficient and most productive infrastructure. A central tenet of BP 2025’s policy is the recognition that reform of the permitting process for major infrastructure projects is absolutely essential if the U.S. is to modernize its infrastructure in time to allow development of the new technologies which will enable us to keep pace with the modernization programs of our major global competitors. As outlined in our recently updated position paper on modernization of the NEPA process (Annex A attached), the current process is cumbersome, inefficient and antiquated, it needs to be modernized and brought into the 21st century through better use of available technology.

A major reason for the failure, up to this point, to optimize the NEPA process lies in the facts, outlined in Annex A, that no one knows what NEPA review costs the government and the private sector and there are no performance metrics to evaluate the government’s performance. In this context, there has been no incentive to make the process more efficient or to reduce its cost. These deficiencies should be addressed as priority subjects pursuant to this ANPR as it is clear that the NEPA process imposes very direct and substantial costs on both government and the private sector. Perhaps more important, costs arising from NEPA delays may increase project costs by 50% or more and, for cutting edge projects, may substantially reduce the useful life between startup and technical obsolescence.

Against that background, we have the following comments in response to the specific questions presented in the advance notice:

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?

*Both the FAST 41 efforts and those pursuant to the President’s “One Federal Action” order have operated on the basis of consensus among agencies and, as a result, have yielded complex and convoluted compromise procedures. An appropriate environmental*

*review procedure would adopt the “one window” approach mandated by laws such as the Deepwater Port Act and the Deep Seabed Hard Mineral Resources Act in which the lead agency is, in fact, the lead agency, with final decision making authority. Other affected agencies should be required to participate and exercise only the authorities granted by the laws which they are responsible for implementing. Experience shows that, by this approach, complex and controversial environmental reviews can be completed in less than a year.*

*As noted above, the time delay associated with the current NEPA review process not only imposes substantial costs on both government and the private sector, it impedes the development of the technology of the future and handicaps our Country's efforts to maintain its global leadership position.<sup>1</sup>*

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?

*Yes. As noted in the attached Update, the use of modern technologies can facilitate the development and maintenance of a National Environmental Database which can be drawn upon as necessary and relevant. Modern Data analytics can speed and regularize the environmental review process, minimize opportunities for agency bias and make judicial review more expeditious and predictable.*

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

*Yes. See response to Question 1 above.*

#### **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?

*The current suggested page limits seem appropriate, but should be enforced through appropriate entry software. To the extent necessary, supporting data can be included in*

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<sup>1</sup> As we have noted on a number of occasions, the Congress used to identify and “put its shoulder behind” projects which it believed to be of national importance and the agencies were by and large responsive to directives under laws such as the Trans Alaska Pipeline System Act, the Deepwater Port Act, the Deep Seabed Hard Mineral Resources Act and the Alaska Natural Gas Transportation System Act. In recent years, there has been more reluctance to address specific projects and projects which have been high on BP 2025's top fifty list, such as the Cadiz Water Project in California, the Clean Line Transmission Project, the Texas Central Rail Project the SeaOne Energy Transportation Project have languished and a few have been stalled by opposition from a very small number of members. President Trump's Executive Order 13766, directing priority processing of critical infrastructure projects has largely been ignored. If we are to keep pace with “Made in China” this situation must be remedied.

*searchable and linked data attachments. A digitized process would allow more expeditious review and enforcement of hard time limits.*

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 decision makers and the public, and if so, how?

*In accordance with the existing statutes and regulations, NEPA analysis should address only the direct and indirect effects which are subject to regulation by the lead or participating agencies, NEPA documents should not address federal actions which are non-discretionary or impacts which are not subject to federal regulation. Agencies should participate in the lead agency process throughout the life of the project and their input should be limited to matters within their jurisdiction.<sup>2</sup>*

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?

*Public involvement regulations should be predicated on an assumed basic level of computer literacy, should be developed with a view towards maintenance of efficient digital processes and should have timing requirements consistent with the capabilities of digital processes. Software protocols should seek to enforce basic requirements regarding relevance and supporting references.*

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;

*The existing formulation a federal action which will have a direct or indirect effect which is within federal jurisdiction and which has the potential for significant environmental impacts is appropriate but often not followed. The "within federal jurisdiction" element is too often ignored. Agencies often interpret the "no action" alternative to mean "no project" and thus allow them to expand their jurisdiction to cover the entire project rather than only the aspect, such as an air or water discharge, over which they exercise jurisdiction. It needs to be made clear that NEPA does not expand agency jurisdiction but only permits agencies to consider effects within their jurisdiction. It should also be made clear that "categorical exclusion" is not the first step in the environmental review process. The CATEX*

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<sup>2</sup> The Deepwater Port Act provides for a perpetual license which functions to provide all authorizations required for the construction and operation of the Ports and put in place a continuous environmental review process to assure that the Ports continue to utilize best available technology to minimize impacts on the marine environment. EPA participates in the licensing process and issues Clean Water Act Permits for the very minor domestic and cooling water discharges associated with Port Operations. Some EPA officials have taken the position that since the Ports are originally "new sources" and since water permits expire every five years, new and separate environmental reviews addressing the Ports' operations are required at five year intervals PS.