

To: Downey Magallanes[downey_magallanes@ios.doi.gov]; Kathleen Benedetto[kathleen_benedetto@ios.doi.gov]
Cc: Brown, Laura[Laura.Brown@sol.doi.gov]
From: Moody, Aaron
Sent: 2017-03-03T17:58:04-05:00
Importance: Normal
Subject: memos
Received: 2017-03-03T17:58:21-05:00
[Signed BE memo.pdf](#)
[map and Proc 74635.pdf](#)
[74635 Bib.pdf](#)
[Memo to President GSENM Aug 15 1996.pdf](#)

And here are the memos for GSENM and Bears Ears (along with the map, proc, and bibliography for the latter).

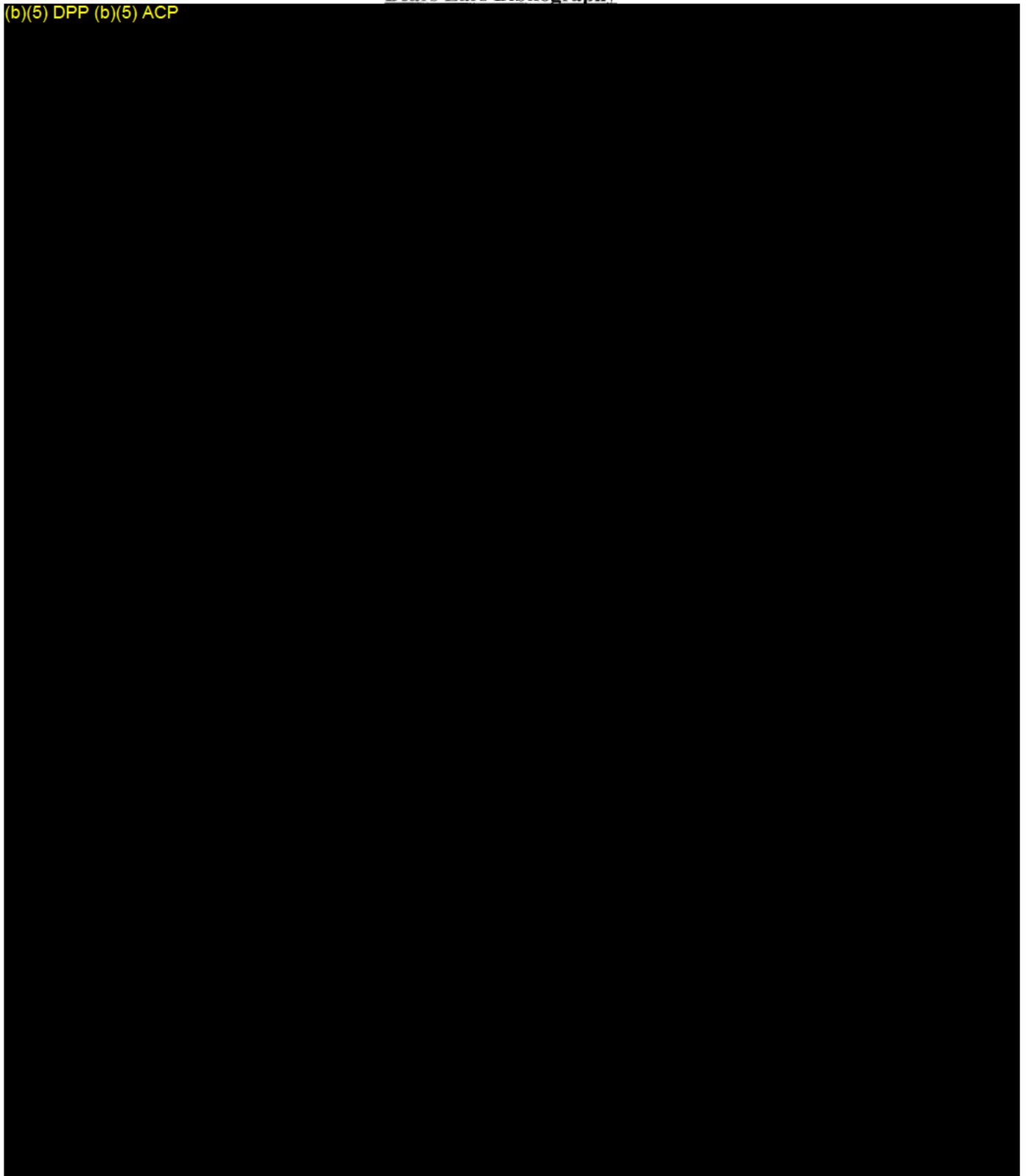
That's all for now. Sorry to bombard.

Aaron G. Moody
Assistant Solicitor, Branch of Public Lands
Division of Land Resources
Office of the Solicitor
U.S. Department of the Interior
202-208-3495

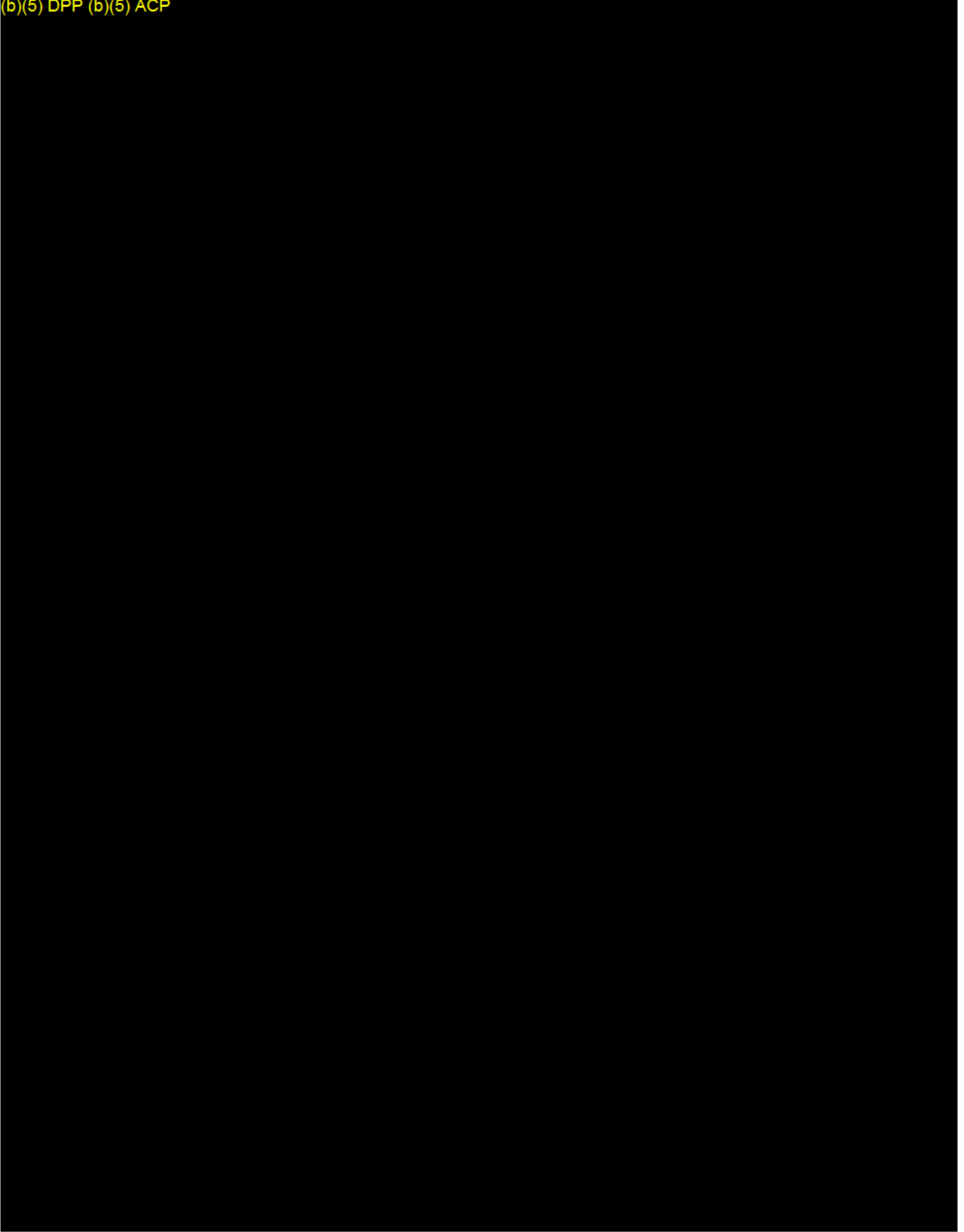
NOTICE: This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies.

Bears Ears Bibliography

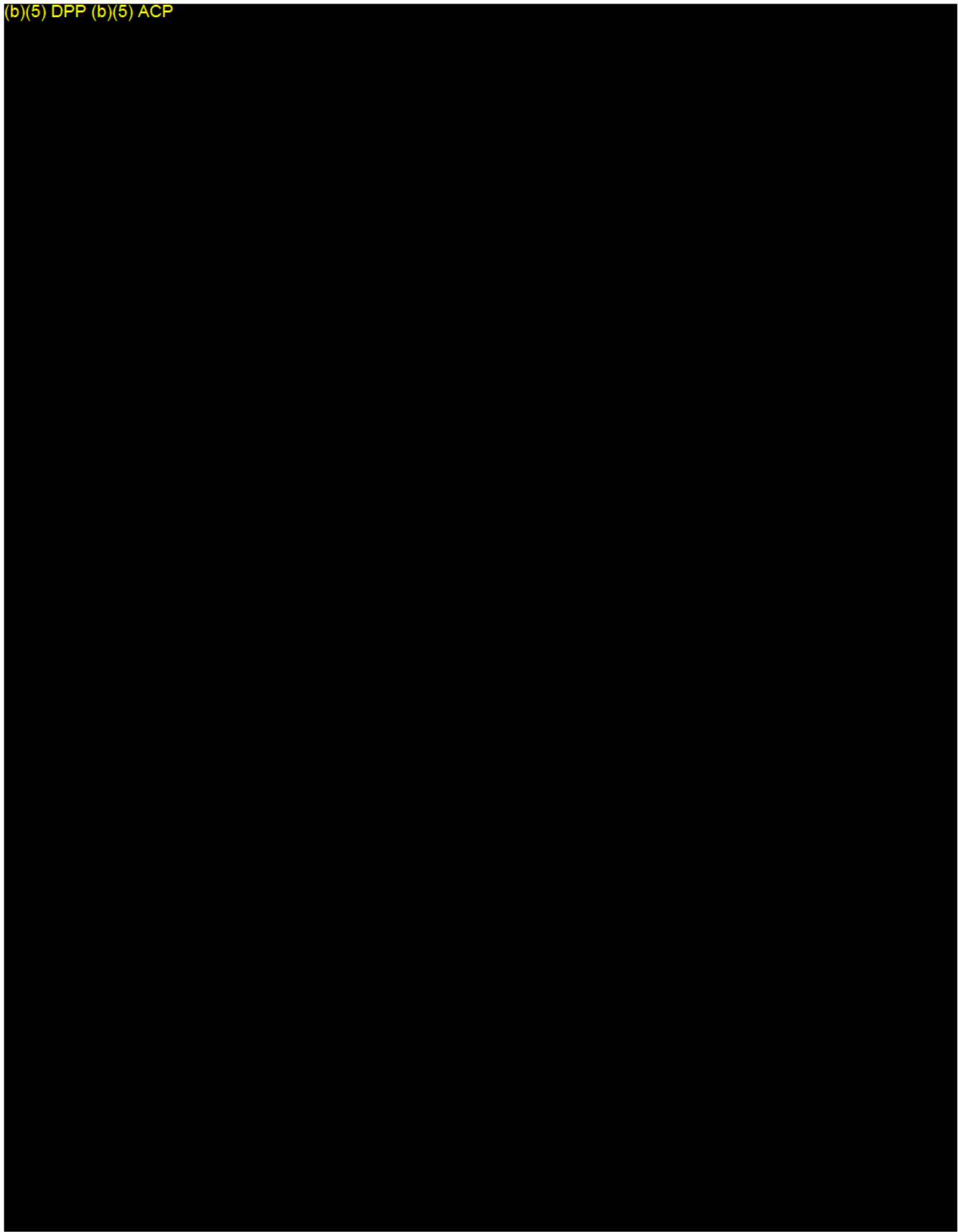
(b)(5) DPP (b)(5) ACP



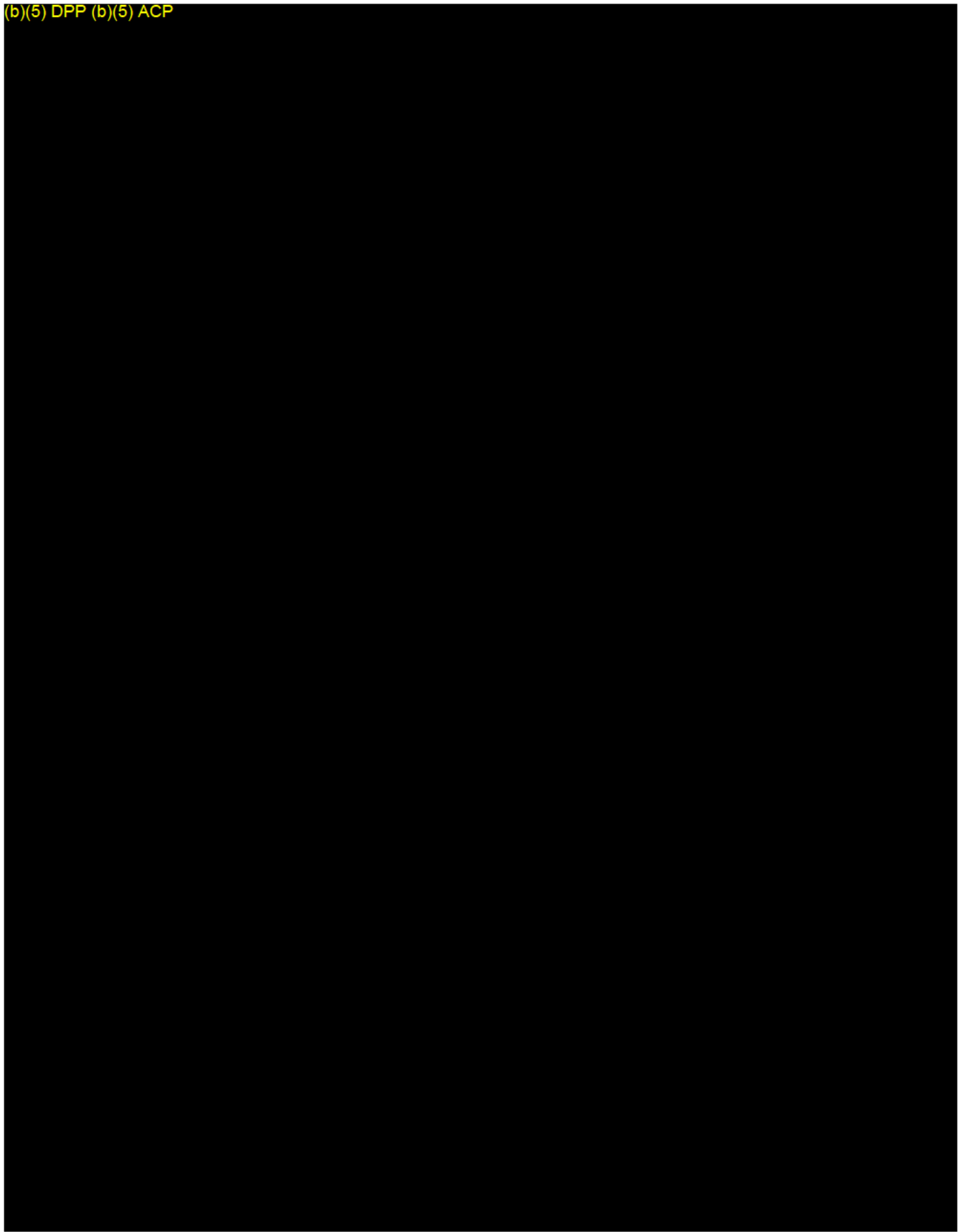
(b)(5) DPP (b)(5) ACP



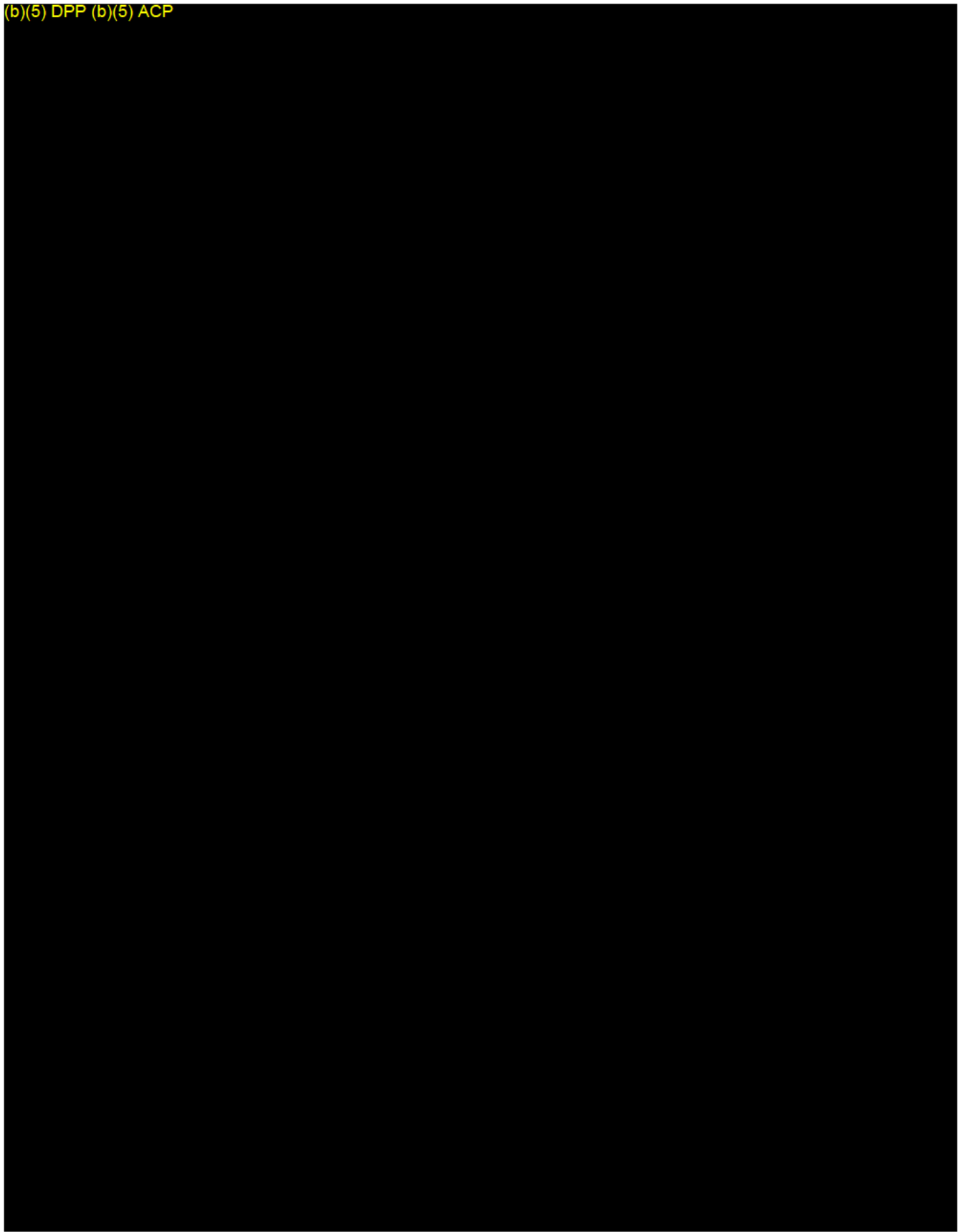
(b)(5) DPP (b)(5) ACP



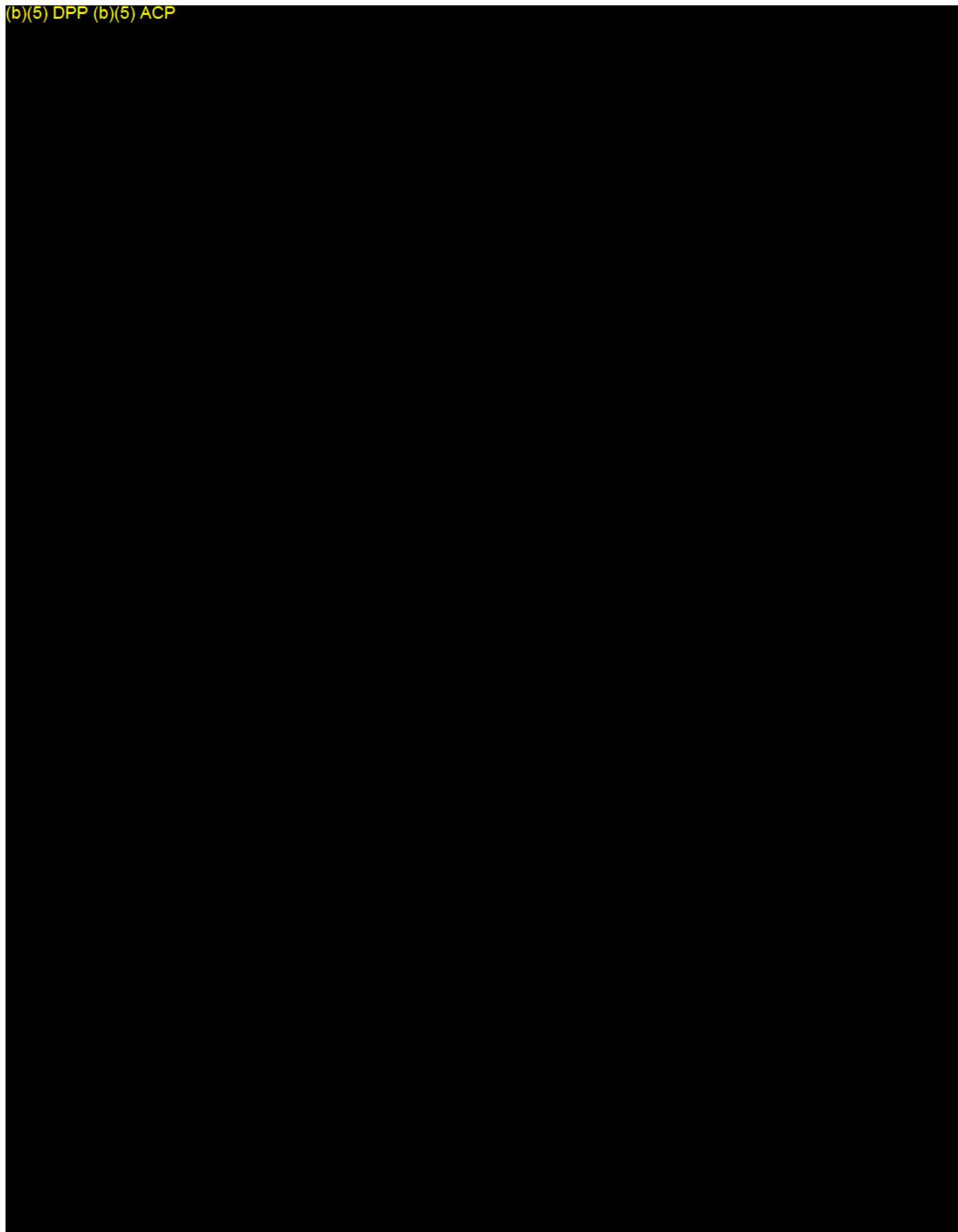
(b)(5) DPP (b)(5) ACP



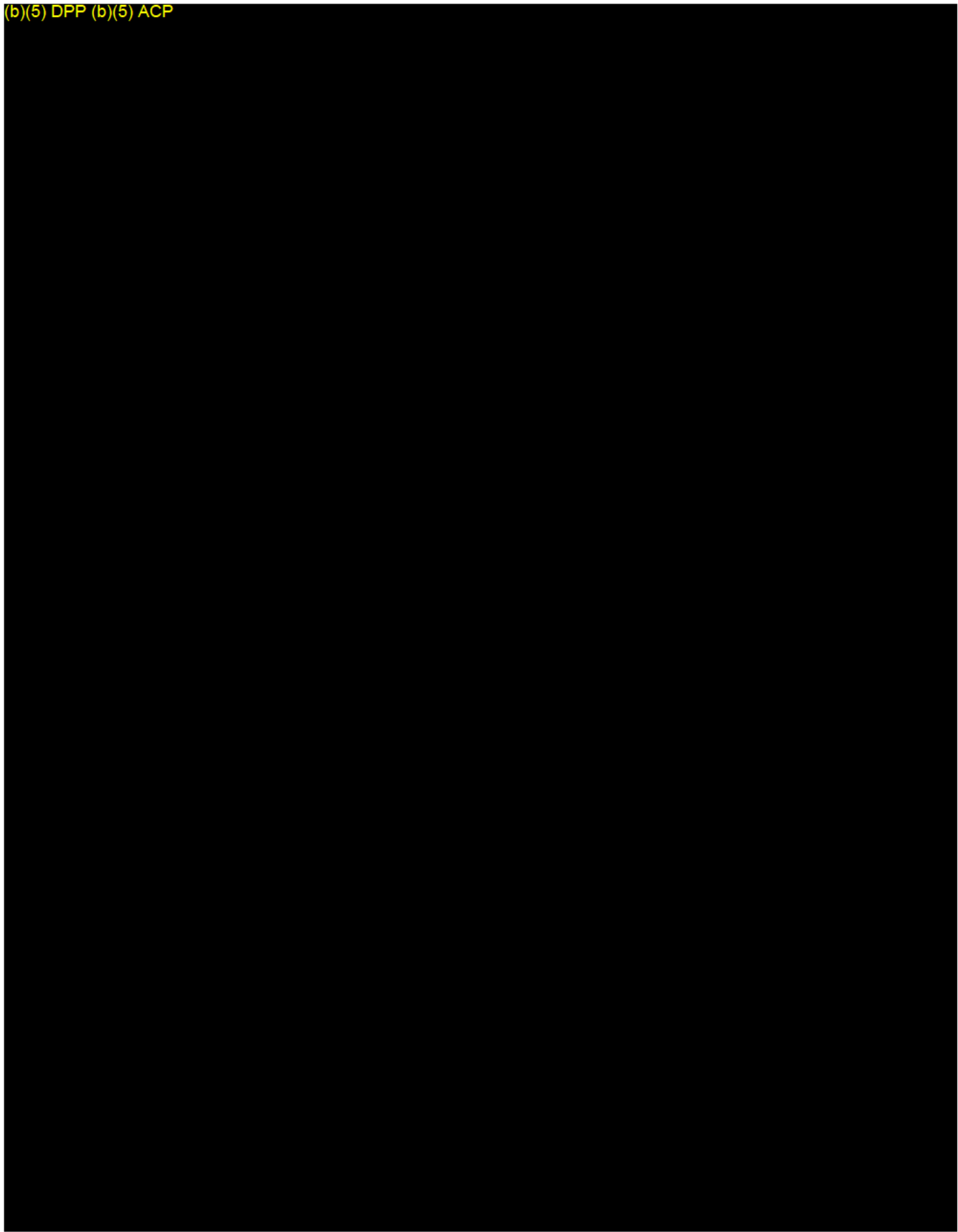
(b)(5) DPP (b)(5) ACP



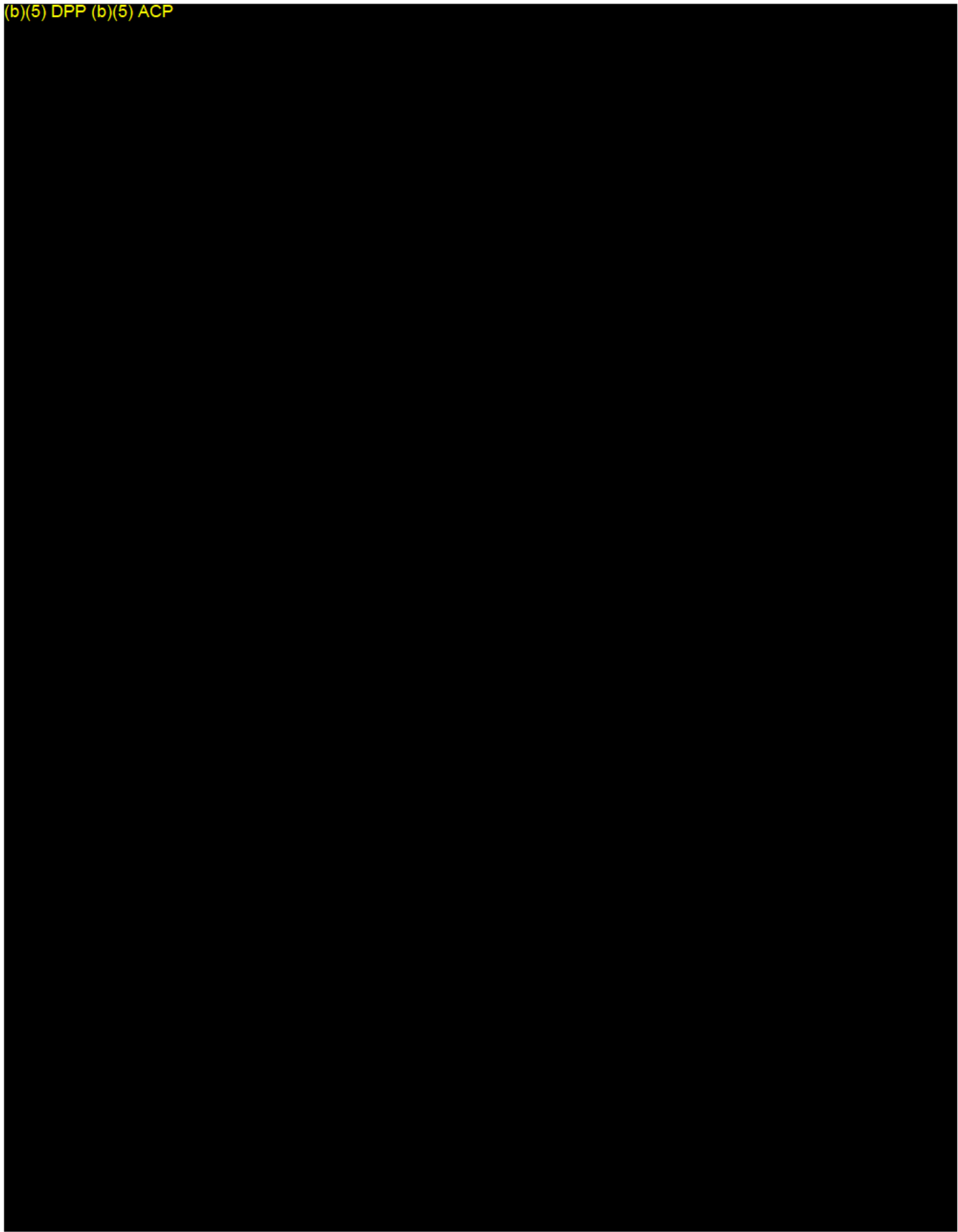
(b)(5) DPP (b)(5) ACP



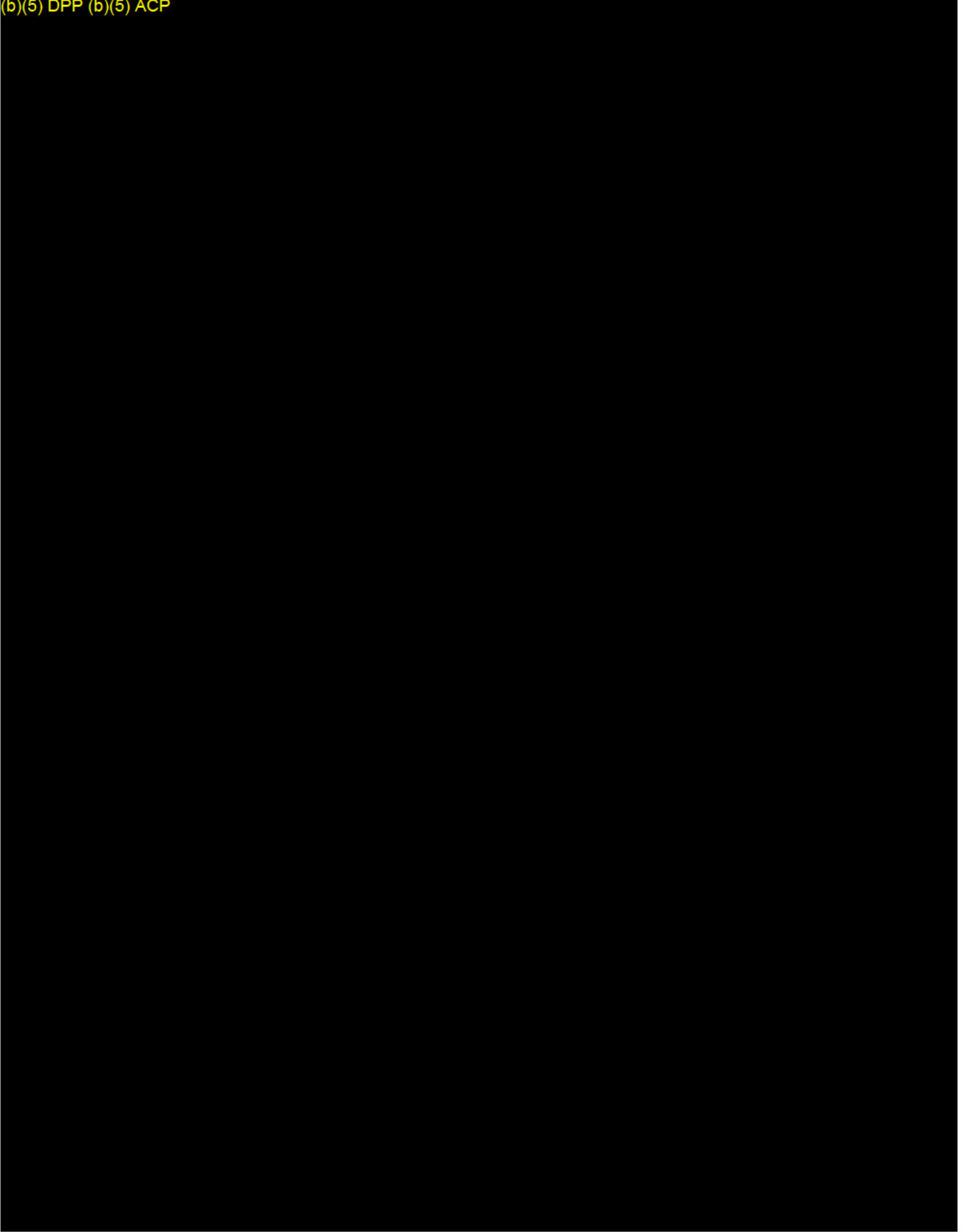
(b)(5) DPP (b)(5) ACP



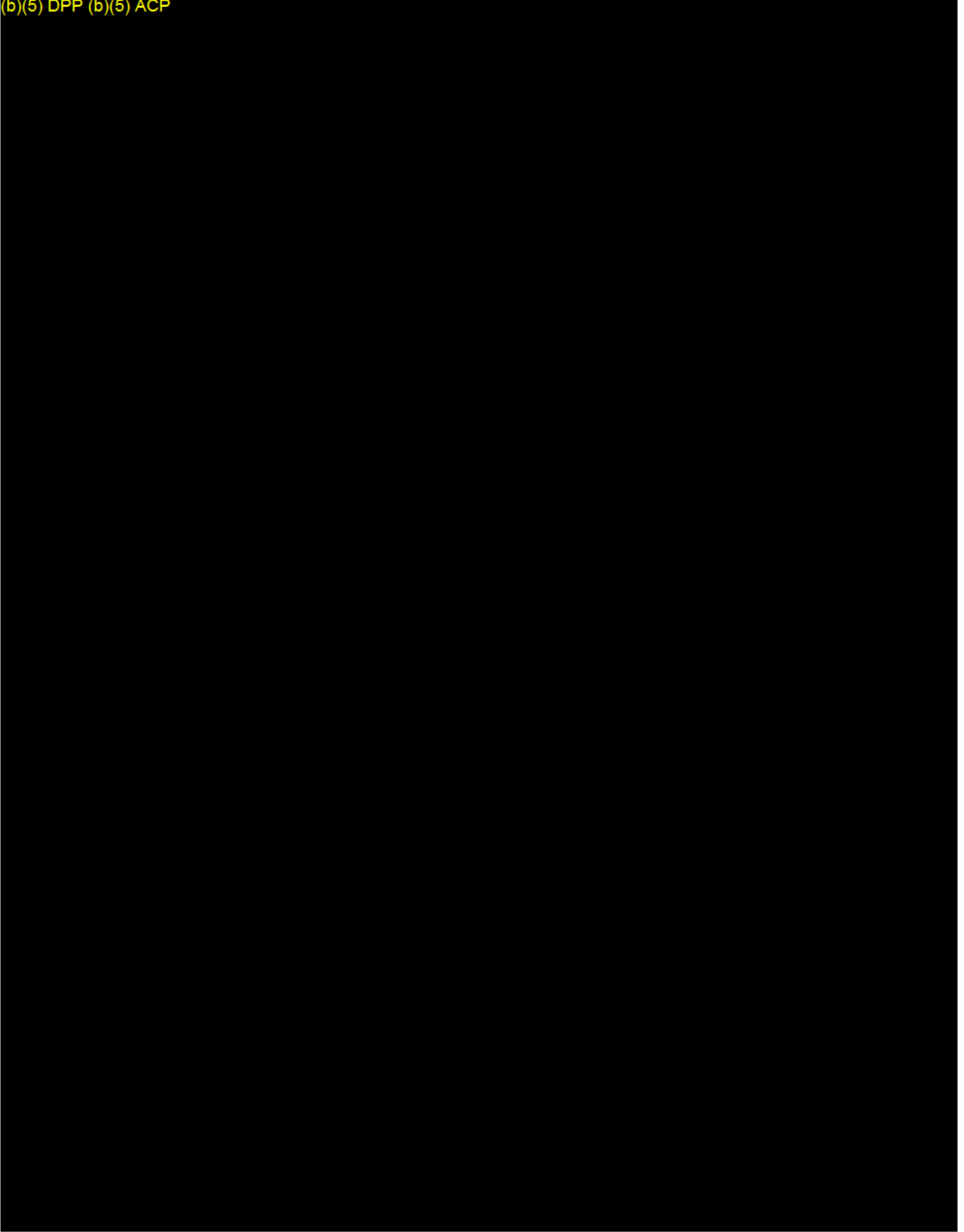
(b)(5) DPP (b)(5) ACP



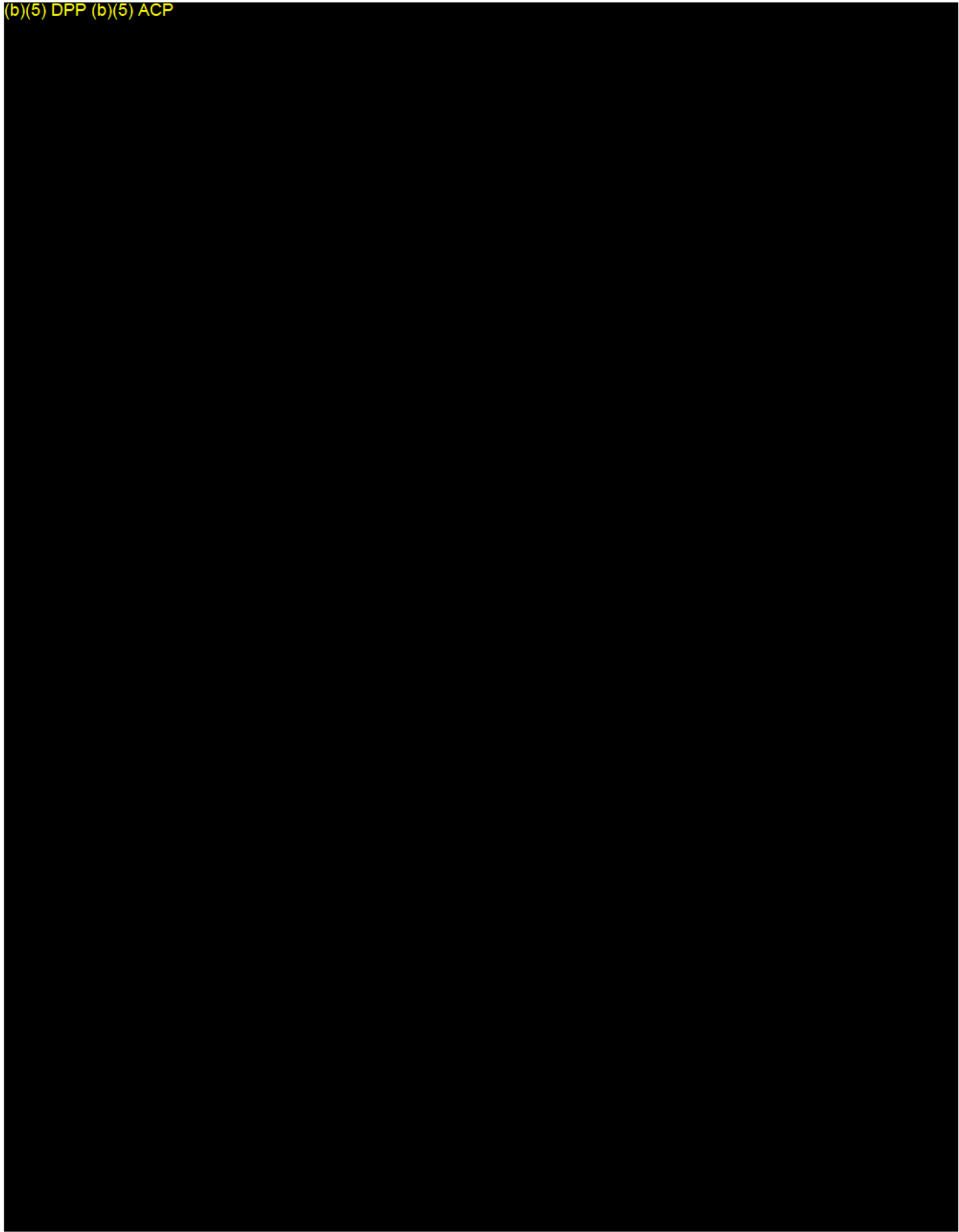
(b)(5) DPP (b)(5) ACP



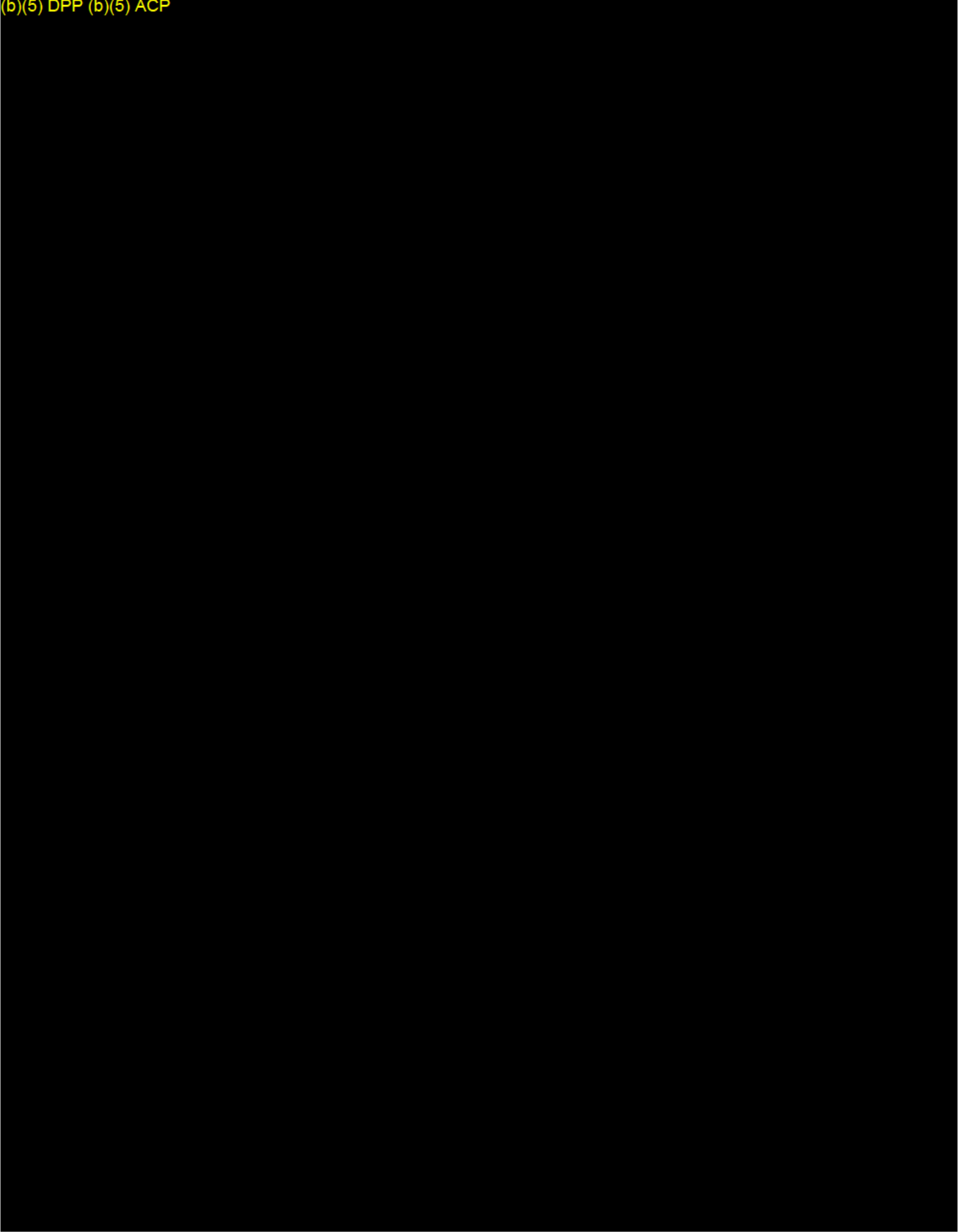
(b)(5) DPP (b)(5) ACP



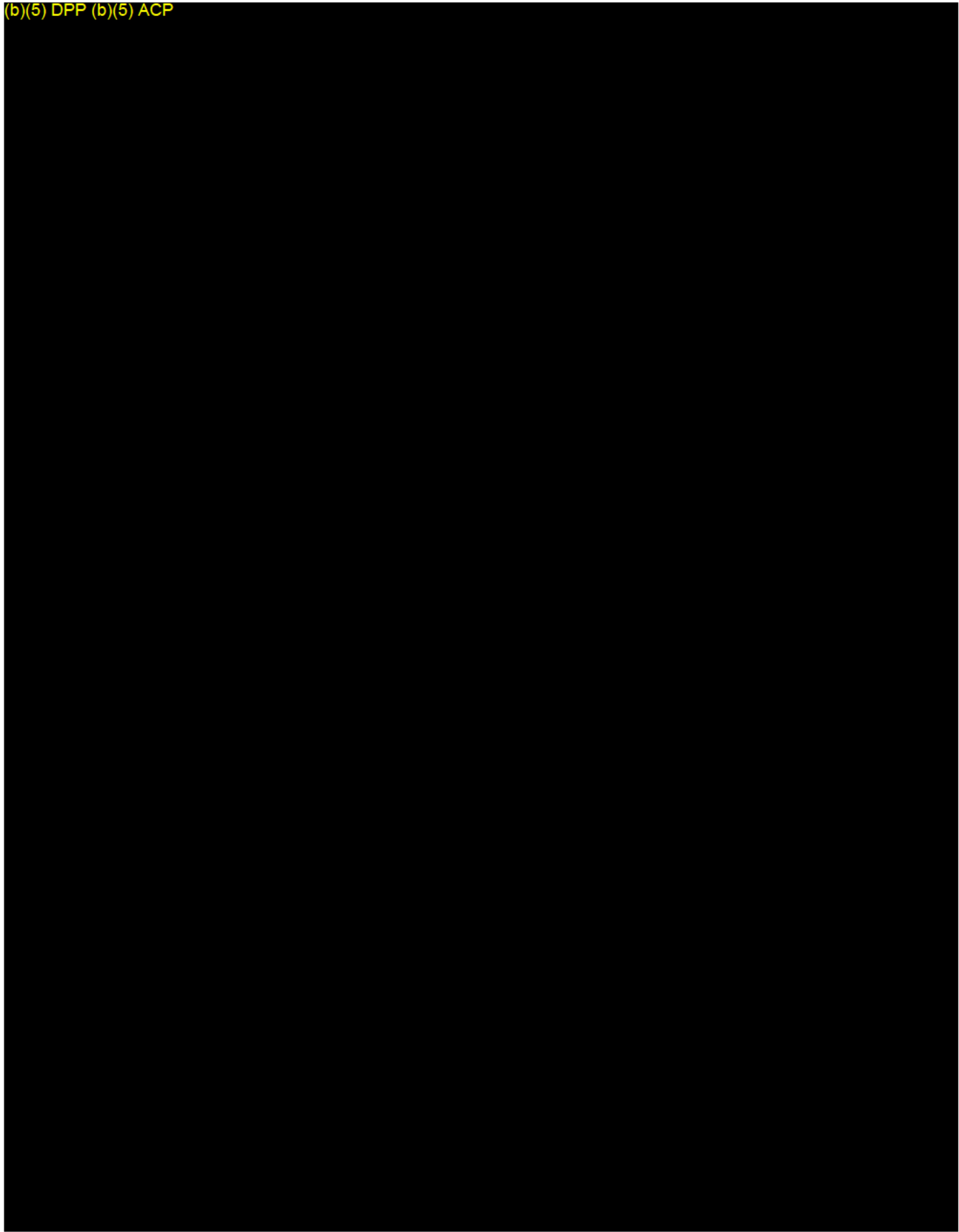
(b)(5) DPP (b)(5) ACP



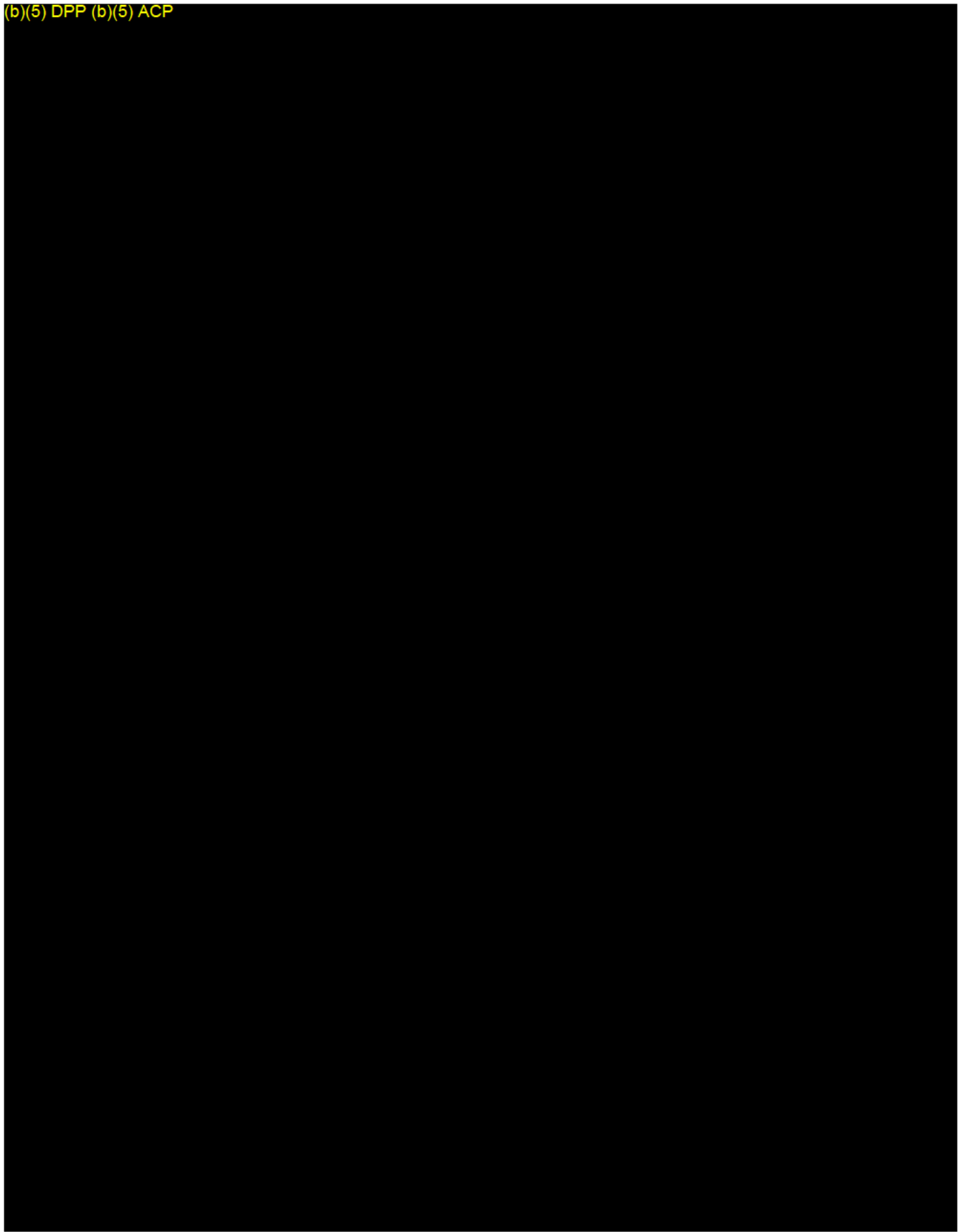
(b)(5) DPP (b)(5) ACP



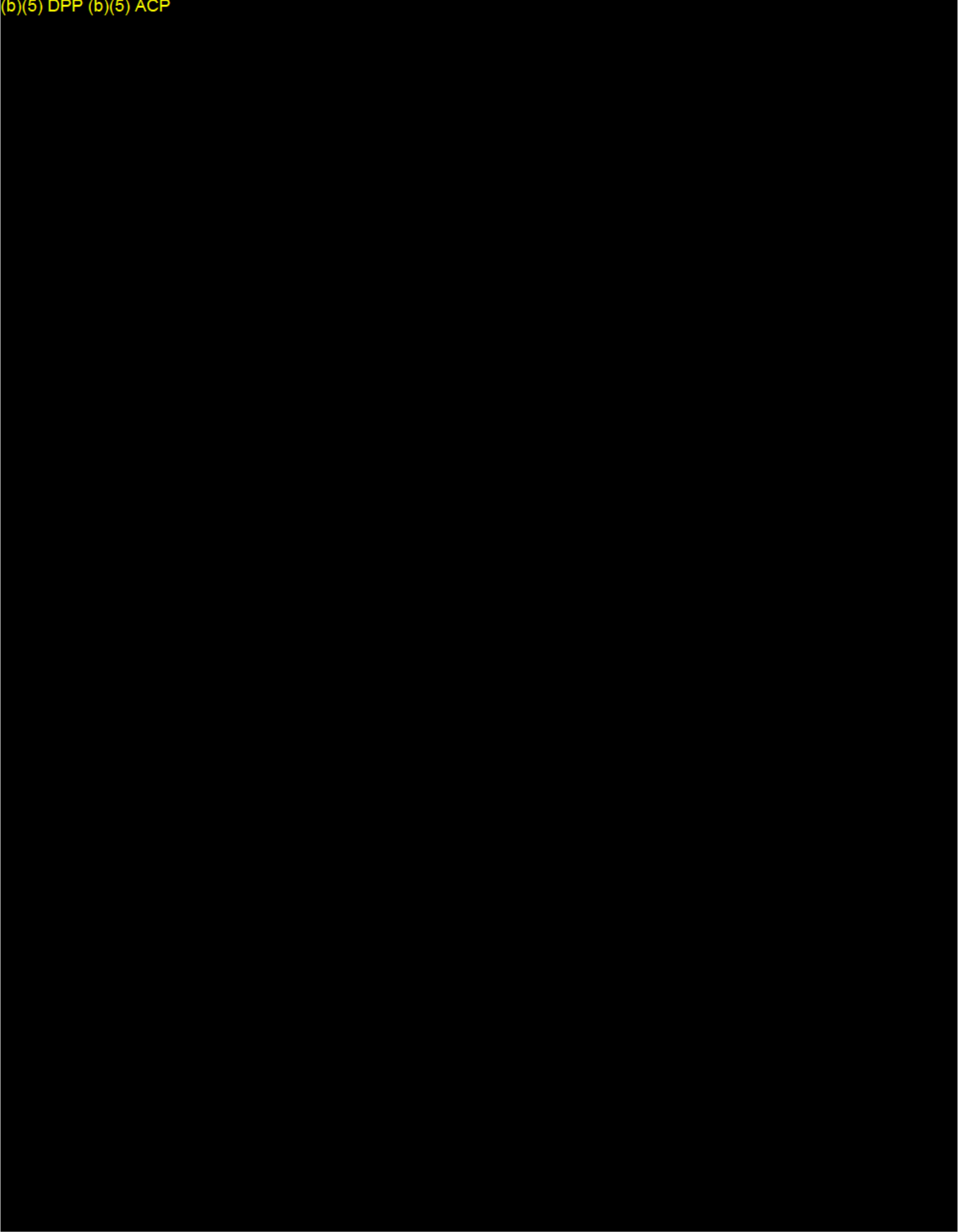
(b)(5) DPP (b)(5) ACP



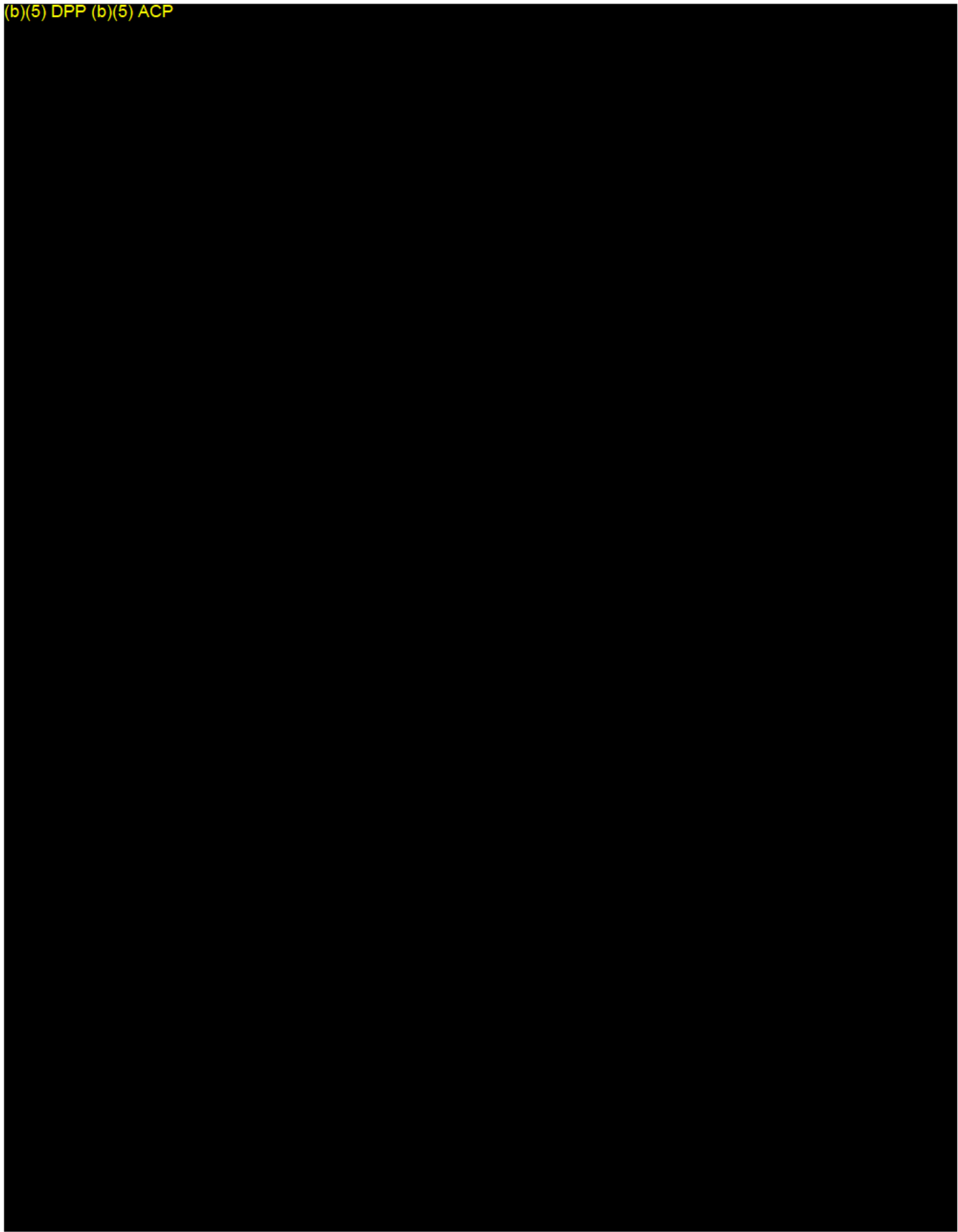
(b)(5) DPP (b)(5) ACP



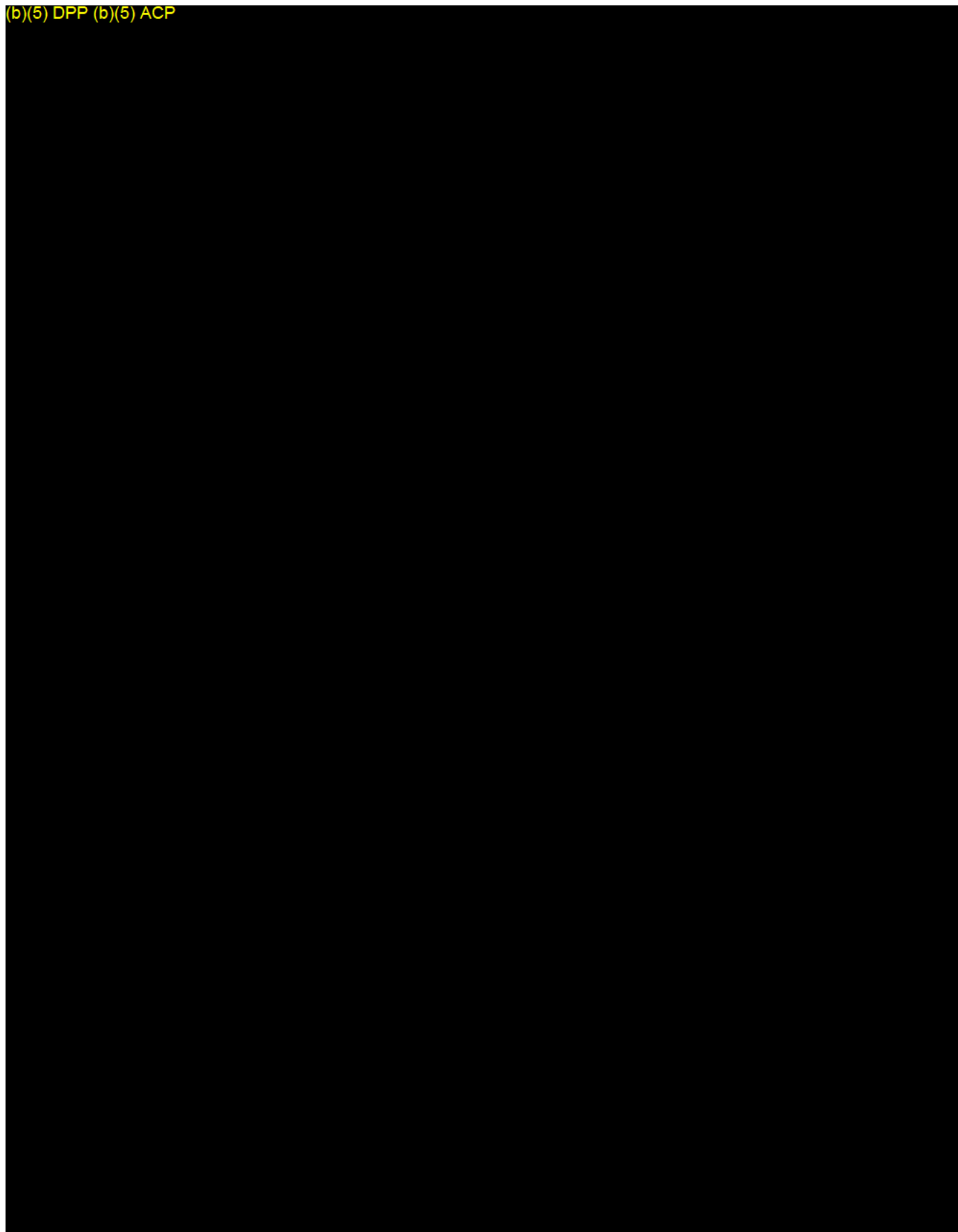
(b)(5) DPP (b)(5) ACP



(b)(5) DPP (b)(5) ACP



(b)(5) DPP (b)(5) ACP





Sources: Esri, USGS, NOAA



**Project
Location**

1:760,000



0 10 20 Miles

- | | | |
|--|--------------|----------------------------------|
| | Project Area | Surface Management Agency |
| | Counties | Bureau of Land Management |
| | | National Park Service |
| | | US Forest Service |
| | | Indian Reservation |
| | | State |
| | | USFS Wilderness |

DOI-2019-06 03011

DRAFT – Internal – Not for Distribution

ESTABLISHMENT OF THE BEARS EARS NATIONAL MONUMENT

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Rising from the center of the southeastern Utah landscape and visible from every direction are twin buttes so distinctive that in each of the native languages of the region their name is the same: Hoon’Naqvut, Shash Jáa, Kwiyaqatu Nukavachi, Ansh An Lashokdiwe, or “Bears Ears.” For hundreds of generations, native peoples lived in the surrounding deep sandstone canyons, desert mesas, and meadow mountaintops, which constitute one of the densest and most significant cultural landscapes in the United States. Abundant rock art, ancient cliff dwellings, ceremonial sites, and countless other artifacts provide an extraordinary archaeological and cultural record that is important to us all, but most notably the land is profoundly sacred to many Native American tribes, including the Ute Mountain Ute Tribe, Navajo Nation, Ute Indian Tribe of the Uintah Ouray, Hopi Nation, and Zuni Tribe.

The area’s human history is as vibrant and diverse as the ruggedly beautiful landscape. From the earliest occupation, native peoples left traces of their presence. Clovis people hunted among the cliffs and canyons of Cedar Mesa as early as 13,000 years ago, leaving behind tools and projectile points in places like the Lime Ridge Clovis Site, one of the oldest known archaeological sites in Utah. Archaeologists believe that these early people hunted mammoths, ground sloths, and other now-extinct megafauna, a narrative echoed by native creation stories. Hunters and gatherers continued to live in this region in the Archaic Period, with sites dating as far back as 8,500 years ago.

Ancestral Puebloans followed, beginning to occupy the area at least 2,500 years ago, leaving behind items from their daily life such as baskets, pottery, and weapons. These early farmers of Basketmaker II and III and builders of Pueblo I, II and III left their marks on the land. The remains of single family dwellings, granaries, kivas, towers, and large villages and roads linking them together reveal a complex cultural history. “Moki steps,” hand and toe holds carved into steep canyon walls by the Ancestral Puebloans, illustrate the early people’s ingenuity and perseverance and are still used today to access dwellings along cliff walls. Other, distinct cultures have thrived here as well—the Fremont People, Numic- and Athabaskan-speaking hunter-gatherers, and Utes and Navajos. Resources such as the Doll House Ruin in Dark Canyon Wilderness Area and the Moon House Ruin on Cedar Mesa allow visitors to marvel at artistry and architecture that have withstood thousands of seasons in this harsh climate.

The landscape is a milieu of the accessible and observable together with the inaccessible and hidden. The area’s petroglyphs and pictographs capture the imagination with images dating back at least 5,000 years and spanning a range of styles and traditions. From life-size ghostlike figures that defy categorization, to the more literal depictions of bighorn sheep, birds, and lizards, these drawings enable us to feel the humanity of these ancient artists. The Indian Creek area contains spectacular rock art, including hundreds of petroglyphs at Newspaper Rock.

DRAFT – Internal – Not for Distribution

Visitors to Bears Ears can also discover more recent rock art left by the Ute, Navajo, and Paiute peoples. It is also the less visible sites, however—those that supported the food gathering, subsistence and ceremony of daily life—that tell the story of the people who lived here. Historic remnants of Native American sheep-herding and farming are scattered throughout the area, and pottery and Navajo hogans record the lifeways of native peoples in the 19th and 20th centuries.

For thousands of years, humans have occupied and stewarded this land. With respect to most of these people, their contribution to the historical record is unknown, but some have played a more public role. Famed Navajo headman K'aayélie was born around 1800 near the twin Bears Ears buttes. His band used the area's remote canyons to elude capture by the U.S. Army and avoid the fate that befell many other Navajo bands: surrender, the Long Walk, and forced relocation to Bosque Redondo. Another renowned 19th century Navajo leader, "Hastiin Ch'ihaajin" Manuelito, was also born near the Bears Ears.

The area's cultural importance to Native American tribes continues to this day. As they have for generations, these tribes and their members come here for ceremonies and to visit sacred sites. Throughout the region, many landscape features, such as Comb Ridge, the San Juan River, and Cedar Mesa, are closely tied to native stories of creation, danger, protection, and healing. The towering spires in the Valley of the Gods are sacred to the Navajo, representing ancient Navajo warriors frozen in stone. Traditions of hunting, fishing, gathering, and wood cutting are still practiced by tribal members, as is collection of medicinal and ceremonial plants, edible herbs, and materials for crafting items like baskets and footwear. The traditional ecological knowledge amassed by the Native Americans whose ancestors inhabited this region, passed down from generation to generation, offers critical insight into the historic and scientific significance of the area. Such knowledge is, itself, a resource to be protected and used in understanding and managing this landscape sustainably for generations to come.

Euro-Americans first explored the Bears Ears area during the 18th century, and Mormon settlers followed in the late 19th century. The San Juan Mission expedition traversed this rugged country in 1880 on their journey to establish a new settlement in what is now Bluff, Utah. To ease the passage of wagons over the slick rock slopes and through the canyonlands, the settlers smoothed sections of the rock surface and constructed dugways and other features still visible along their route, known as the Hole-in-the-Rock Trail. Cabins, corrals, trails, and carved inscriptions in the rock reveal the lives of ranchers, prospectors, and early archaeologists. Cattle rustlers and other outlaws created a convoluted trail network known as the Outlaw Trail, said to be used by Butch Cassidy and the Sundance Kid. These outlaws took advantage of the area's network of canyons, including the aptly-named Hideout Canyon, to avoid detection.

The area's stunning geology, from sharp pinnacles to broad mesas, labyrinthine canyons to solitary hoodoos, and verdant hanging gardens to bare stone arches and natural bridges, provides vital insights to geologists. In the east, the Abajo Mountains tower, reaching elevations of more than 11,000 feet. A long geologic history is documented in the colorful rock layers visible in the area's canyons.

For long periods over 300 million years ago, these lands were inundated by tropical seas and hosted thriving coral reefs. These seas infused the area's black rock shale with salts as they

DRAFT – Internal – Not for Distribution

receded. Later, the lands were bucked upwards multiple times by the Monument Upwarp, and near-volcanoes punched up through the rock, leaving their marks on the landscape without reaching the surface. In the sandstone of Cedar Mesa, fossil evidence has revealed large, mammal-like reptiles that burrowed into the sand to survive the blistering heat of the end of the Permian Period, when the region was dominated by a seaside desert. Later, in the Late Triassic Period more than 200 million years ago, seasonal monsoons flooded an ancient river system that fed a vast desert here.

The paleontological resources in the Bears Ears area are among the richest and most significant in the United States, and protection of this area will provide important opportunities for further archaeological and paleontological study. Many sites, such as Arch Canyon, are teeming with fossils, and research conducted in the Bears Ears area is revealing new insights into the transition of vertebrate life from reptiles to mammals and from sea to land. Numerous ray-finned fish fossils from the Permian Period have been discovered, along with other late Paleozoic Era fossils including giant amphibians, synapsid reptiles, and important plant fossils. Fossilized traces of marine and aquatic creatures such as clams, crayfish, fish, and aquatic reptiles have been found in Indian Creek's Chinle Formation, dating to the Triassic Period, and phytosaur and dinosaur fossils from the same period have been found along Comb Ridge. Paleontologists have identified new species of plant-eating crocodile-like reptiles and mass graves of lumbering sauropods, along with metoposaurus, crocodiles, and other dinosaur fossils. Fossilized trackways of early tetrapods can be seen in the Valley of the Gods and in Indian Creek, where paleontologists have also discovered exceptional examples of fossilized ferns, horsetails, and cycads. The Chinle Formation and the Wingate, Kayenta, and Navajo Formations above it provide one of the best continuous rock records of the Triassic-Jurassic transition in the world, crucial to understanding how dinosaurs dominated terrestrial ecosystems and how our mammalian ancestors evolved. In Pleistocene Epoch sediments, scientists have found traces of mammoths, short-faced bears, ground sloths, primates, and camels.

From earth to sky, the region is unsurpassed in wonders. The star-filled nights and natural quiet of the Bears Ears area transport visitors to an earlier eon. Against an absolutely black night sky, our galaxy and others more distant leap into view. As one of the most intact and least roaded areas in the contiguous United States, Bears Ears has that rare and arresting quality of deafening silence.

Communities have depended on the resources of the region for hundreds of generations. Understanding the important role of the green highlands in providing habitat for subsistence plants and animals as well as capturing and filtering water from passing storms, the Navajo refer to such places as “Nahodishgish,” or places to be left alone. Local communities seeking to protect the mountains for their watershed values have long recognized the importance of the Bears Ears' headwaters. Wildfires, both natural and human-set, have shaped and maintained forests and grasslands of this area for millennia. Ranchers have relied on the forests and grasslands of the region for ages, and hunters come from across the globe for a chance at a bull

DRAFT – Internal – Not for Distribution

elk or other big game. Today, ecological restoration through the careful use of wildfire and management of grazing and timber is working to restore and maintain the health of these vital watersheds and grasslands.

The diversity of the soils and microenvironments in the Bears Ears area provide habitat for a wide variety of vegetation. The highest elevations, in the Elk Ridge area of the Manti-La Sal National Forest, contain pockets of ancient Engelmann spruce, ponderosa pine, aspen, and subalpine fir. Mesa tops include pinyon-juniper woodlands along with big sagebrush, low sage, blackbrush, rabbitbrush, bitterbrush, four-wing saltbush, shadscale, winterfat, Utah serviceberry, western chokecherry, hackberry, barberry, cliff rose, and greasewood. Canyons contain diverse vegetation ranging from yucca and cacti such as prickly pear, claret cup, and Whipple's fishhook to mountain mahogany, ponderosa pine, alder, sagebrush, birch, dogwood, and Gambel's oak, along with occasional stands of aspen. Grasses and herbaceous species such as bluegrass, bluestem, giant ryegrass, ricegrass, needle and thread, yarrow, common mallow, balsamroot, low larkspur, horsetail, and peppergrass also grow here, as well as pinnate spring parsley, Navajo penstemon, Canyonlands lomatium, and the Abajo daisy.

Tucked into winding canyons are vibrant riparian communities characterized by Fremont cottonwood, western sandbar willow, yellow willow, and box elder. Numerous seeps provide year-round water and support delicate hanging gardens, moisture-loving plants, and relict species such as Douglas fir. A few populations of the rare Kachina daisy, endemic to the Colorado Plateau, hide in shaded seeps and alcoves of the area's canyons. A genetically distinct population of Kachina daisy was also found on Elk Ridge. The alcove columbine and cave primrose, also regionally endemic, grow in seeps and hanging gardens in the Bears Ears landscape. Wildflowers such as beardtongue, evening primrose, aster, Indian paintbrush, yellow and purple beeﬂower, straight bladderpod, Durango tumble mustard, scarlet gilia, globe mallow, sand verbena, sego lily, cliffrose, sacred datura, monkey flower, sunflower, prince's plume, hedgehog cactus, and columbine, bring bursts of color to the landscape.

The diverse vegetation and topography of the Bears Ears area, in turn, support a variety of wildlife species. Mule deer and elk range on the mesas and near canyon heads, which provide crucial habitat for both species. The Cedar Mesa landscape is home to bighorn sheep which were once abundant but still live in Indian Creek, and in the canyons north of the San Juan River. Small mammals such as desert cottontail, black-tailed jackrabbit, prairie dog, Botta's pocket gopher, white-tailed antelope squirrel, Colorado chipmunk, canyon mouse, deer mouse, pinyon mouse, and desert woodrat, as well as Utah's only population of Abert's tassel-eared squirrels, find shelter and sustenance in the landscape's canyons and uplands. Rare shrews including a variant of Merriam's shrew and the dwarf shrew can be found in this area.

DRAFT – Internal – Not for Distribution

Carnivores, including badger, coyote, striped skunk, ringtail, gray fox, bobcat, and the occasional mountain lion, all hunt here, while porcupines use their sharp quills and climbing abilities to escape these predators. Oral histories from the Ute describe the historic presence of bison, antelope, and abundant bighorn sheep, which are also depicted in ancient rock art. Black bear pass through the area but are rarely seen, though they are common in the oral histories and legends of this region, including those of the Navajo.

Consistent sources of water in a dry landscape draw diverse wildlife species to the area's riparian habitats, including an array of amphibian species such as tiger salamander, red-spotted toad, Woodhouse's toad, canyon tree frog, Great Basin spadefoot, and northern leopard frog. Even the most sharp-eyed visitors probably will not catch a glimpse of the secretive Utah night lizard. Other reptiles in the area include the sagebrush lizard, eastern fence lizard, tree lizard, side-blotched lizard, plateau striped whiptail, western rattlesnake, night snake, striped whipsnake, and gopher snake.

Raptors such as the golden eagle, peregrine falcon, bald eagle, northern harrier, northern goshawk, red-tailed hawk, ferruginous hawk, American kestrel, flammulated owl, and great horned owl hunt their prey on the mesa tops with deadly speed and accuracy. The largest contiguous critical habitat for the threatened Mexican spotted owl is on the Manti-La Sal National Forest. Other bird species found in the area include Merriam's turkey, Williamson's sapsucker, common nighthawk, white-throated swift, ash-throated flycatcher, violet-green swallow, cliff swallow, mourning dove, pinyon jay, sagebrush sparrow, canyon towhee, rock wren, sage thrasher, and the endangered southwestern willow flycatcher.

As the skies darken in the evenings, visitors may catch a glimpse of some the area's at least 15 species of bats, including the big free-tailed bat, pallid bat, Townsend's big-eared bat, spotted bat, and silver-haired bat. Tinajas, rock depressions filled with rainwater, provide habitat for many specialized aquatic species, including pothole beetles and freshwater shrimp. *Eucosma navajoensis*, an endemic moth that has only been described near Valley of the Gods, is unique to this area.

Protection of the Bears Ears area will preserve its cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that the prehistoric, historic, and scientific values of this area remain for the benefit of all Americans. The Bears Ears area has been proposed for protection by members of Congress, Secretaries of the Interior, state and tribal leaders, and local conservationists for at least 80 years. The area contains numerous objects of historic and of scientific interest, and it provides world class outdoor recreation opportunities, including rock climbing, hunting, hiking, backpacking, canyoneering, whitewater rafting, mountain biking, and horseback riding. Because visitors travel from near and

DRAFT – Internal – Not for Distribution

far, these lands support a growing travel and tourism sector that is a source of economic opportunity for the region.

WHEREAS, section 320301 of title 54, United States Code (known as the “Antiquities Act”), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS, it is in the public interest to preserve the objects of scientific and historic interest on the Bears Ears lands;

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim the objects identified above that are situated upon lands and interests in lands owned or controlled by the Federal Government to be the Bears Ears National Monument (monument) and, for the purpose of protecting those objects, reserve as part thereof all lands and interests in lands owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. These reserved Federal lands and interests in lands encompass approximately 1.35 million acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries of the monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws or laws applicable to the U.S. Forest Service, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument.

The establishment of the monument is subject to valid existing rights, including valid existing water rights. If the Federal Government acquires ownership or control of any lands or interests in lands that it did not previously own or control within the boundaries described on the accompanying map, such lands and interests in lands shall be reserved as a part of the monument, and objects identified above that are situated upon those lands and interests in lands shall be part of the monument, upon acquisition of ownership or control by the Federal Government.

DRAFT – Internal – Not for Distribution

The Secretary of Agriculture and the Secretary of the Interior (Secretaries) shall manage the monument through the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM), pursuant to their respective applicable legal authorities, to implement the purposes of this proclamation. The USFS shall manage that portion of the monument within the boundaries of the National Forest System (NFS), and the BLM shall manage the remainder of the monument. The lands administered by the USFS shall be managed as part of the Manti-La Sal National Forest. The lands administered by the BLM shall be managed as a unit of the National Landscape Conservation System, pursuant to applicable legal authorities.

For purposes of protecting and restoring the objects identified above, the Secretaries shall jointly prepare a management plan for the monument and shall promulgate such regulations for its management as they deem appropriate. The Secretaries, through the USFS and the BLM, shall consult with other federal land management agencies in the local area, including the National Park Service, in developing the management plan. In promulgating any management rules and regulations governing the NFS lands within the monument and developing the management plan, the Secretary of Agriculture, through the USFS, shall consult with the Secretary of the Interior through the BLM. The Secretaries shall provide for maximum public involvement in the development of that plan including, but not limited to, consultation with federally recognized tribes and state and local governments. In the development and implementation of the management plan, the Secretaries shall maximize opportunities, pursuant to applicable legal authorities, for shared resources, operational efficiency, and cooperation.

The Secretaries, through the BLM and USFS, shall establish an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.) to provide information and advice regarding the development of the management plan and, as appropriate, management of the monument. This advisory committee shall consist of a fair and balanced representation of interested stakeholders, including state and local governments, tribes, recreational users, local business owners, and private landowners.

In recognition of the importance of tribal participation to the care and management of the objects identified above, and to ensure that management decisions affecting the monument reflect tribal expertise and traditional and historical knowledge, a Bears Ears Commission (Commission) is hereby established to provide guidance and recommendations on the development and implementation of management plans and on management of the monument. The Commission shall consist of one elected officer each from the Hopi Nation, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah Ouray, and Zuni Tribe, designated by the officers' respective tribes. The Commission may adopt such procedures as it deems necessary to govern its activities, so that it may effectively partner with the Federal agencies by making continuing contributions to inform decisions regarding the management of the monument.

DRAFT – Internal – Not for Distribution

The Secretaries shall meaningfully engage the Commission or, should the Commission no longer exist, the tribal governments through some other entity composed of elected tribal government officers (comparable entity), in the development of the management plan and to inform subsequent management of the monument. To that end, in developing or revising the management plan, the Secretaries shall carefully and fully consider integrating the traditional and historical knowledge and special expertise of the Commission or comparable entity. If the Secretaries decide not to incorporate specific recommendations submitted to them in writing by the Commission or comparable entity, they will provide the Commission or comparable entity with a written explanation of their reasoning. The management plan shall also set forth parameters for continued meaningful engagement with the Commission or comparable entity in implementation of the management plan.

To further the protective purposes of the monument, the Secretary of the Interior shall explore entering into a memorandum of understanding with the State that would set forth terms, pursuant to applicable laws and regulations, for an exchange of land currently owned by the State of Utah and administered by the Utah School and Institutional Trust Lands Administration within the boundary of the monument for land of approximately equal value managed by the BLM outside the boundary of the monument. The Secretary of the Interior shall report to me within 30 days regarding the potential for such an exchange.

Nothing in this proclamation shall be construed to interfere with the operation or maintenance, or the replacement or modification within the current authorization boundary, of existing utility, pipeline, or telecommunications facilities located within the monument in a manner consistent with the care and management of the objects identified above.

Nothing in this proclamation shall be deemed to enlarge or diminish the rights or jurisdiction of any Indian tribe. The Secretaries shall, to the maximum extent permitted by law and in consultation with Indian tribes, ensure the protection of Indian sacred sites and traditional cultural properties in the monument and provide access by members of Indian tribes for traditional cultural and customary uses, consistent with the American Indian Religious Freedom Act (42 U.S.C. 1996) and Executive Order 13007 of May 24, 1996 (Indian Sacred Sites), including collection of medicines, berries and other vegetation, forest products, and firewood for personal noncommercial use in a manner consistent with the care and management of the objects identified above.

For purposes of protecting and restoring the objects identified above, the Secretaries shall prepare a transportation plan that designates the roads and trails where motorized and non-motorized mechanized vehicle use will be allowed. Except for emergency or authorized administrative purposes, motorized and non-motorized mechanized vehicle use shall be allowed only on roads and trails designated for such use, consistent with the care and management of

DRAFT – Internal – Not for Distribution

such objects. Any additional roads or trails designated for motorized vehicle use must be for the purposes of public safety or protection of such objects.

Laws, regulations, and policies followed by USFS or BLM in issuing and administering grazing permits or leases on lands under their jurisdiction shall continue to apply with regard to the lands in the monument to ensure the ongoing consistency with the care and management of the objects identified above.

Nothing in this proclamation shall be deemed to enlarge or diminish the jurisdiction of the State of Utah, including its jurisdiction and authority with respect to fish and wildlife management.

Nothing in this proclamation shall preclude low-level overflights of military aircraft, the designation of new units of special use airspace, or the use or establishment of military flight training routes over the lands reserved by this proclamation consistent with the care and management of the objects identified above.

Nothing in this proclamation shall be construed to alter the authority or responsibility of any party with respect to emergency response activities within the monument, including wildland fire response.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of the monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of ____, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

BARACK OBAMA

114



THE SECRETARY OF THE INTERIOR
WASHINGTON

August 15, 1996

Memorandum for the President

INTRODUCTION AND SUMMARY

In response to your request, attached as **Exhibit A** is a draft proclamation, with an accompanying map,¹ to establish the Grand Staircase-Escalante National Monument in southern Utah. This memorandum describes (a) the basis for my recommendation that you establish the Grand Staircase-Escalante National Monument, (b) the proclamation, and (c) the resources, ownership patterns and management issues present in the area. After careful review of the record, I am convinced that the objects satisfy the criteria for establishment of a national monument pursuant to the Antiquities Act, and that the boundaries of the land reserved represent the smallest area compatible with the proper care and management of those objects.

THE ANTIQUITIES ACT

Section 2 of the Antiquities Act, 16 U.S.C. § 431, authorizes the President to establish as national monuments "objects of historic or scientific interest that are situated upon the lands owned or controlled by the government of the United States." It further authorizes the President to reserve, as part of the monument, land that is "the smallest area compatible with the proper care and management of the objects to be protected."

A. Objects of Historic or Scientific Interest

The proposed Grand Staircase-Escalante National Monument is located on the Colorado Plateau in south-central Utah, within the drainage of the Colorado River. Elevation ranges from 4,100 to 8,200 feet

¹ The boundaries of the proposed monument are drawn on the map entitled "Grand Staircase-Escalante National Monument," which would be attached to, and made a part of, your proclamation. A reduced version of this map suitable for publication would be promptly prepared should you decide to proceed. Because of the acreages involved, it is not practicable, as of this date, to describe the boundaries of the land reserved as a part of the monument either by metes and bounds or by reference to designated subdivisions on official surveys shown on publicly recorded plats or maps. The BLM will produce a description conforming to the BLM Specifications for Descriptions of Tracts of Land for Use in Land Orders and Proclamations as soon as practicable should you decide to proceed.

above sea level. The map appended to the proclamation attached as Exhibit A sets out the boundaries of the land reserved for the monument. The area covers about 1.7 million acres. The proclamation attached to this memo as Exhibit A vividly describes objects in the area that warrant protection as a monument, and Exhibit B lists historic and scientific objects in this area. Attached as Exhibit C is a bibliography of the principal sources of information relied upon in making this recommendation.

The area recommended to be included in the monument has remained isolated and relatively undisturbed and for the most part unroaded. Most of the land within the outer boundaries of the proposed monument is federally owned. The nonfederal land is owned mostly by the State of Utah in scattered 640 acre sections, the result of Utah's statehood land grant. Currently, the federal lands in the area are used primarily for scientific study, primitive recreation, and livestock grazing.

In the last few decades the area in question has been evaluated for the possibility of providing greater recognition of and legal protection for its resources. In the late 1970s, the area was evaluated for its "wilderness characteristics" under FLPMA, and several wilderness study areas, totaling about 900,000 acres, were established in the area covered by the proclamation. The documentation of these areas assembled in the wilderness inventory and study process has identified many of the objects of scientific and historic interest within the monument area.

Nearby federal lands have been recognized by Congress to contain scientific and historic features worthy of protection. For example, in 1972 Congress created the Glen Canyon National Recreation Area (GCNRA) in order to, among other things, "preserve [its] . . . scientific, and historic features contributing to public enjoyment of the area." 16 U.S.C. § 460dd. The GCNRA forms the eastern and part of the southern boundary of the area covered in the attached proclamation. Similarly, Congress established Canyonlands National Park to the northeast in 1964 in recognition of, among other things, its "scientific" and "archaeologic" features, 16 U.S.C. § 271.

More than one hundred national monuments have been established by Presidents over the past ninety years. Attached as Exhibit D is a complete list. Exhibit E lists the monuments by President. Exhibit F is a list of the monuments found wholly or partially on the Colorado Plateau, in the general vicinity of this monument. Most of the proclamations establishing these monuments cited geologic, paleontologic, archaeologic and other features similar to those in the attached proclamation. Many of them included substantial land areas, and/or were enlarged by subsequent proclamations or acts of Congress. A number of them ultimately were designated as National Parks by Congress.

For example, what is now Zion National Park to the west of the monument was originally established by President Taft as Mukuntuweap National Monument in 1909 in order to protect its "many natural features of unusual archaeologic, geologic, and geographic interest" (Proclamation No. 877, 36 Stat. 2498). President Wilson enlarged it in 1918 (Proclamation No. 1435, 40 Stat. 1760), and Congress made it into a national park in 1919 (16 U.S.C. § 344, 41 Stat. 356). President Franklin Roosevelt established Zion National Monument in an adjacent area in 1937 (Proclamation No. 2221, 50 Stat. 1809), and Congress merged it into Zion National Park in 1956 (70 Stat. 527).

President Hoover established Arches National Monument to the northeast in 1929, citing its "unique wind-worn sandstone formations, the preservation of which is desirable because of their educational and scenic value" (Proclamation No. 1875, 46 Stat. 2988). Arches was later expanded by Presidents Franklin Roosevelt and Johnson (Proclamation Nos. 2312 and 3887), and Congress made it a National Park in 1971 (16 U.S.C. § 272, 85 Stat. 422). President Roosevelt established Capitol Reef National Monument to the immediate east in 1938 to protect its "narrow canyons displaying evidence of ancient sand dune deposits of unusual scientific value, and . . . various other objects of geological and scientific interest" (Proclamation No. 2246, 50 Stat. 1856). Presidents Eisenhower and Johnson expanded it (Proclamation Nos. 3249 and 3888), and Congress made it a National Park in 1971 (85 Stat. 739). President Harding set aside Bryce Canyon National Monument to the immediate north and northwest in 1923, citing its "unusual scenic beauty, scientific interest and importance" (Proclamation No. 1664, 43 Stat. 1914), and President Hoover expanded it twice, Proclamation Nos. 1930, 1952, 46 Stat. 3042, 47 Stat. 2455. Congress made it Utah National Park in 1924 (43 Stat. 593) and four years later changed its name to Bryce Canyon National Park (45 Stat. 147).

Farther west on the Colorado Plateau, Cedar Breaks National Monument was established by Franklin Roosevelt in 1933 to protect its "spectacular cliffs, canyons, and features of scenic, scientific, and educational interest" (Proclamation No. 2054, 48 Stat. 1705), and its boundary was subsequently revised by Congress in 1942 (56 Stat. 141) and 1961 (75 Stat. 198). President Theodore Roosevelt established Natural Bridges National Monument in 1908 to preserve "extraordinary examples of stream erosion" and "prehistoric ruins" (Proclamation No. 804, 35 Stat. 2183), and Presidents Taft, Wilson and Kennedy enlarged it (Proclamation Nos. 881, 1323, 3486). Rainbow Bridge National Monument was established by President Taft in 1910, who described it as "of great scientific interest as an example of eccentric stream erosion" (Proclamation No. 1043, 36 Stat. 2703).

The courts (including the U.S. Supreme Court) have occasionally been asked to review exercises of Presidential authority under the

Antiquities Act. They have uniformly upheld establishment of national monuments, e.g.:

Grand Canyon National Monument, on the basis of its unique geology, scientific interest and general public appeal, Cameron v. United States, 252 U.S. 450 (1920);

Devil's Hole National Monument, on the basis of its unique resident pupfish species and the hydrology of the water pool, Cappaert v. United States, 426 U.S. 128 (1976);

Jackson Hole National Monument, on the basis of the interrelationship of living systems, the geologic features and the history of the area, State of Wyoming v. Franke, 58 F. Supp. 890 (D. Wyo. 1945); and

Channel Islands National Monument, expanded on the basis of its varied marine life, fossils, and geology, United States v. California, 436 U.S. 32, 36 (1978).

B. Land Area Reserved for the Proper Care and Management of the Objects to be Preserved

The Antiquities Act authorizes the President, as part of his declaration of a national monument, to reserve land, "the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected." 16 U.S.C. § 431 (emphasis added). The area proposed for reservation has been carefully delineated, based on review of available information, to meet the goals of effectively caring for and managing the objects in perpetuity.

The area includes the archaeologic, biologic, paleontologic, geologic, and historic objects identified in the Proclamation and Exhibits B and C accompanying this letter. Some of these objects are present throughout the entire monument area, others are scattered within it, and several lie along the borders of the area. Many objects also overlap. Thus, the entire area is necessary for protection of the objects. Even if it were possible to reserve a smaller area by isolating certain objects, such a fragmentation of the proposed monument would endanger many of the objects, undermine the purposes of the monument itself, and create substantial impediments to effective management of the monument.

The area of the proposed monument is based on the conservation needs of the objects to be protected. Some of the objects identified are present throughout the area, and others cover immense, interconnected areas of land or depend for their scientific value on their location at various sites or elevations. Some of the scientific and historic value of certain objects comes from their scarcity and fragility or the fact that they have remained relatively undisturbed and unchanged. Preservation of

such objects (the biologic and archaeologic resources are examples) requires, among other things, protection of land surrounding them in order to maintain the relatively remote conditions that have made their continued existence possible.

Furthermore, the scientific value of many of the objects within the monument requires preservation of areas large enough to maintain the objects and their interactions. For example, species that exist because of the area's extraordinary geologic and environmental stability are distributed according to the geologic features to which they have adapted. Much of the biologic and other scientific interest in the area results from the variety of geologic substrates across elevational gradients. Many species must range within and through the area and neighboring protected areas to maintain viable populations and their role in the ecosystem. Thus, protection of the aggregate area is necessary for proper care of the objects. In addition, a number of the objects are distributed through multiple parts of the area; significant fossils, for example, are distributed throughout the Dakota, Tropic Shale, Straight Cliffs, Wahweap and Iron Springs Formations. Management of a patchwork of reserved lands would be impractical, as it would make it more difficult to care for the objects, reduce options for natural resource management and lead to inconsistent resource management standards for overlapping resources. In short, our analysis indicates that reservation of a smaller area would undermine proper care and management of the monument.

There is ample precedent for declaring analogous geologic, biologic and historic objects to be protected under the Antiquities Act, and reserving correspondingly large areas of land as part of their monument designations. President Theodore Roosevelt was the first President to exercise such presidential discretion in his reservation of over 800,000 acres as the Grand Canyon National Monument. More recent examples include the Wrangell-St. Elias National Monument, which encompassed 10,950,000 acres to protect an assemblage of mountain peaks, including Mount St. Elias and the Mount Wrangell volcano, and the flora and fauna of the Bremner and Chitina River Valleys. The Yukon Flats National Monument, consisting of approximately 10,600,000 acres, encompassed the largest and most complete example of an interior Alaskan solar basin with its associated ecosystem. In closer proximity, 1.6 million acres were initially reserved for the Death Valley National Monument, which Presidents subsequently expanded and Congress expanded again and protected as Death Valley National Park. At 1.7 million acres, the area that I recommend for reservation is comparable in size to some of the earlier Monuments that protected natural resources for scientific and historic purposes.

Many relatively large Monuments were later expanded because they were found to be too small for the care and management of their objects or associated objects. The history of Zion National Monument and Park, described above, provides one example. The area

of land that I recommend you reserve is based on our current understanding of the extent of, and interrelationships between, the objects to be protected.

Finally, although some of the objects to be protected in the proposed monument also exist in surrounding areas, I recommend that you reserve only the identified acreage for the monument. Many of these other areas are already protected under the jurisdiction of various federal or state agencies, with whom the Bureau of Land Management (the BLM) will work to assist in the conservation of shared resources. For example, objects in the eastern and southern end of the Escalante region not included in the proposed monument are subject to protective management in Glen Canyon Recreation Area and Capitol Reef National Park. While additional areas of the Grand Staircase also could have been included in the monument, by limiting the monument and its reserved land to that proposed, a portion of each aspect of the Grand Staircase will be federally protected in some manner, whether within this monument or within Zion or Bryce Canyon National Parks. Finally, the boundaries have been drawn to exclude many non-federal lands, and, for effective management, often lie along the border of BLM lands. In sum, based on available information, I recommend that you reserve only the area delineated on the map accompanying Exhibit A.

LEGAL EFFECTS OF THE PROCLAMATION

I direct your attention to several significant aspects of the proclamation attached as Exhibit A. First, it would reserve only the federal lands in the area, because the Antiquities Act applies only to "objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States." 16 U.S.C. § 431.

Second, the proclamation would be subject to valid existing rights. Thus, to the extent a person or entity already owns a valid property right in the federal lands or resources within the area, the exercise of such rights may be regulated in order to protect the purposes of the monument, but the regulation must respect such rights.

Third, the proclamation withdraws the federal lands in the area from "entry, location, selection, sale, leasing, or other disposition under the public land laws, other than by exchange that furthers the protective purposes of the monument." This withdrawal prevents the location of new mining claims in the area under the Mining Law, and prevents the Secretary of the Interior from exercising discretion under the mineral leasing acts and related laws to lease or sell federal minerals in the area.

Fourth, the proclamation would not reserve the water resources of the area under federal law pursuant to the so-called Winters

doctrine. Some of the objects to be protected under the proclamation (e.g., paleontology, archeology) do not require water. The proclamation would direct the Secretary to address, in the management plan described in the next paragraph, the extent to which water is necessary for the proper care and management of the objects of the monument, and the extent to which further action may be necessary pursuant to federal or state law to assure the availability of water.

Fifth, the proclamation would direct the Secretary to prepare a management plan for the area within three years. The plan, which would be prepared using the resource planning processes of FLPMA, would provide specific, on-the-ground guidance for protecting the objects within the monument, while permitting other uses to proceed where consistent with the purposes of the monument. While it is not possible, in advance of completion of the management plan, to set forth all the details of how existing or proposed future activities in the area would be affected in order to protect the purposes of the monument, the effects are described in general terms further below.

ADMINISTRATION OF THE MONUMENT

A. Management by the Bureau of Land Management

The federal lands in the area described in the attached proclamation are currently under the jurisdiction of the Bureau of Land Management (BLM) in the Department of the Interior. BLM manages the land pursuant to its basic organic authorities, the primary one being the Federal Land Policy and Management Act of 1976 (FLPMA).

I believe the area is best left under BLM management, and the attached proclamation would have the Secretary of the Interior manage the monument through the BLM. The result would be that management of the federal land would continue under the BLM's existing authorities, but subject to the overriding purpose of protecting the objects described in the proclamation. The establishment of the monument thus constitutes an overlay on the management regime otherwise applicable to lands managed by the BLM. It limits the management discretion that the BLM would otherwise have, by mandating protection of the historic and scientific objects within the national monument.

Congress has had before it over the past several years various bills that would designate parts of the area within the monument as wilderness. As noted earlier, about 900,000 acres in the monument have been classified as wilderness study areas pursuant to FLPMA, and managed by law to preserve their suitability for preservation as wilderness pursuant to the Wilderness Act of 1964, 16 U.S.C. §§ 1131-35, until Congress directs otherwise. See 43 U.S.C. § 1782.

The Wilderness Act of 1964 serves some values (e.g., outstanding opportunities for solitude and primitive and unconfined recreation) that are not addressed in the Antiquities Act of 1906 which, as noted earlier, serves to protect "objects of historic or scientific interest." Section 2(c) of the Wilderness Act does expressly acknowledge that a wilderness area "may . . . contain ecological, geological, or other features of scientific, educational . . . or historic value," and section 4(b) directs that wilderness areas "shall be devoted to the public purposes" of, among others, "scientific, educational, conservation, and historical use."

The extent of any overlap between wilderness management and protecting the objects within this monument would be addressed in the process of preparing a management plan for this monument. Nothing in the proclamation establishing this monument would prevent the Executive from recommending, or Congress from designating, areas within the monument as wilderness. Congress has, in fact, many times in the past designated wilderness within existing national monuments, including the following monuments: Badlands, Bandelier, Black Canyon of the Gunnison, Chiricahua, Craters of the Moon, Joshua Tree, Lava Beds, Misty Fjords, Organ Pipe Cactus, Pinnacles, and Saguaro.

B. Impact of monument designation on existing or planned activities in the area

1. Currently permitted livestock grazing (including existing pipelines, water impoundments and similar range improvements), hunting, fishing, off-road vehicle use, and similar activities

These activities would generally not be affected at current levels or in current areas of use. The only exceptions are (1) where the management plan to be prepared identifies specific places where such uses ought to be restricted or prohibited as necessary to protect the objects protected by the monument proclamation; or (2) where, in advance of completion of the management plan, the BLM land manager finds a clear threat from such a use to an object protected by the designation and the circumstances demand swift protective action. Except in emergency situations, any restrictions on the current levels or areas of use of such activities will be adopted only after a public process and only where necessary to protect the purposes of the monument.

Such uses would, of course, remain subject to existing laws and regulations other than the Antiquities Act, and therefore remain subject to regulation under such provisions for reasons other than establishment of the monument.

2. Use of existing rights-of-way (such as those established under R.S. 2477 or Title V of FLPMA)

As noted earlier, the area covered by the proclamation has very few roads. Use of existing rights-of-way would generally be subject to the same standards as described in the preceding section addressing currently permitted uses. In some cases existing rights-of-way may include valid existing rights. The exercise of such rights may be regulated in order to protect the purposes of the monument, but any regulation must respect such rights.

3. Activities on state or private land

The area within the boundaries of the proclamation contains approximately 180,000 acres of state land (mostly checkerboarded, four sections to each township, pursuant to the terms of the Utah statehood act). It also contains approximately 15,000 acres of private land. The monument designation would not apply to those lands. The legal principles applicable to the use of these lands prior to establishment of the monument would continue to apply.

4. Mining claims

New mining claims would be prohibited as the proclamation withdraws the area from the Mining Law. Existing mining claims that contain a valid discovery of a valuable mineral deposit as of the date of the designation would contain valid existing rights. The exercise of such rights may be regulated in order to protect the purposes of the monument, but any regulation must respect such rights. Activities on existing mining claims that lack a discovery may be regulated to protect the purposes of the monument.

5. Coal Mining Proposals

The proposed monument contains coal resources, particularly in the Kaiparowits coal field. Limited mining for local use dates back decades, but has cumulatively totaled only a few thousand tons. Test mining of a few thousand additional tons took place in the 1970s, but there has never been a major mine, nor any other major development, in the area proposed for the monument. There have, however, been a number of proposals over the years to open coal mines and build power plants in the region.

In the mid-1960s the Department issued numerous coal leases to private entities in the Kaiparowits coal field. A number of these leases have expired or will expire in the near future. The principal remaining lessees are Pacificorp (successor to Utah Power & Light Co.) (about 18,000 acres) and Andalex Resources, Inc. (about 34,000 acres).

In the 1970s several mines and a large mine-mouth power plant were proposed in the area, but after extensive study and considerable public controversy, the proposals were withdrawn. The environmental impact statements prepared for the 1970s mines and power plant proposal were the first detailed cataloging of much of

the scientific and historic resources of the area in the proposed monument.

Andalex Resources is the only major holder of federal coal leases in this area that has put forward a concrete proposal to develop its leases. The Department, along with the State of Utah, is in the process of preparing a draft environmental impact statement (EIS) under the National Environmental Policy Act (NEPA), on Andalex's proposal to open a mine in the Smoky Hollow area on the south side of the Kaiparowits Plateau. The mine would involve about 25,000 acres of land in the area covered by the proclamation, as well as require construction of a transmission line and a microwave communication system, and improvement of an existing road or construction of a new road to the mine site.

Andalex's current plan is for the coal to be trucked off the mine site via an existing dirt road (to be paved) south through the GCNRA, or through construction of a new road west and south of the mine site through BLM land. Either route would connect to the existing paved highway at Big Water, Utah, south of the area. From there the coal would continue by truck to a rail line near Cedar City, Utah, or Moapa, Nevada, and from there by rail to customers in the southwest and to the Port of Long Beach to be transported by ship to consumers in the Far East. The proposed mine would operate for more than a half century. Haul trucks would operate 24 hours a day, 365 days a year, with loaded trucks dispatched from the mine at 8 to 10 minute intervals.

The company has applied for a number of permits, rights-of-way, and other authorizations required by federal and state law. The draft EIS on the proposal is expected to be published for public comment in the next few months. Following publication of the draft and a public comment period, a final EIS must be prepared before a final decision on the proposal can be made. The company must receive a favorable decision before any mining can begin.

Establishment of the national monument introduces an important new consideration into the decisionmaking process regarding the proposed mine. Significant questions remaining include (a) whether the proposed project is inconsistent with the purposes of the monument; and (b) whether and to what extent the company has valid existing rights that would have to be addressed. On this second point, the federal coal leases held by Andalex do not convey absolute rights to develop coal. Among other things, the leases are subject to other applicable legal requirements, and do not convey rights of way across federal land located off the leasehold. These rights of way remain subject to an independent federal permit requirement.

One of the other major holders of federal coal leases in the area, Pacificorp, has indicated its interest in relinquishing its leases. My staff has been actively discussing with the company ways to

accomplish this, including an exchange for bidding rights on other federal mineral leases. Andalex has in the past rebuffed Departmental inquiries regarding possible relinquishment of their leases, but I would seek to explore this possibility again if you establish this monument. In order to allow time to assess the company's willingness to pursue alternatives to the proposed project, I would, unless you direct otherwise, suspend the EIS preparation process upon creation of the monument to allow Andalex to assess the situation. Should Andalex not wish to move toward relinquishing the Kaiparowits leases, I would restart the EIS process and move it to completion and an ultimate decision on whether the proposed mine, including associated rights-of-way, can go forward consistent with existing law, including the monument proclamation.

CONCLUSION

Establishing the Grand Staircase-Escalante National Monument would be an exemplary exercise of Presidential authority under the Antiquities Act, well in keeping with past practice through which many notable objects of historic and scientific interest have been preserved, to the Nation's great and lasting benefit. I strongly recommend you sign the proclamation.



The Secretary of the Interior



DEC 14 2016



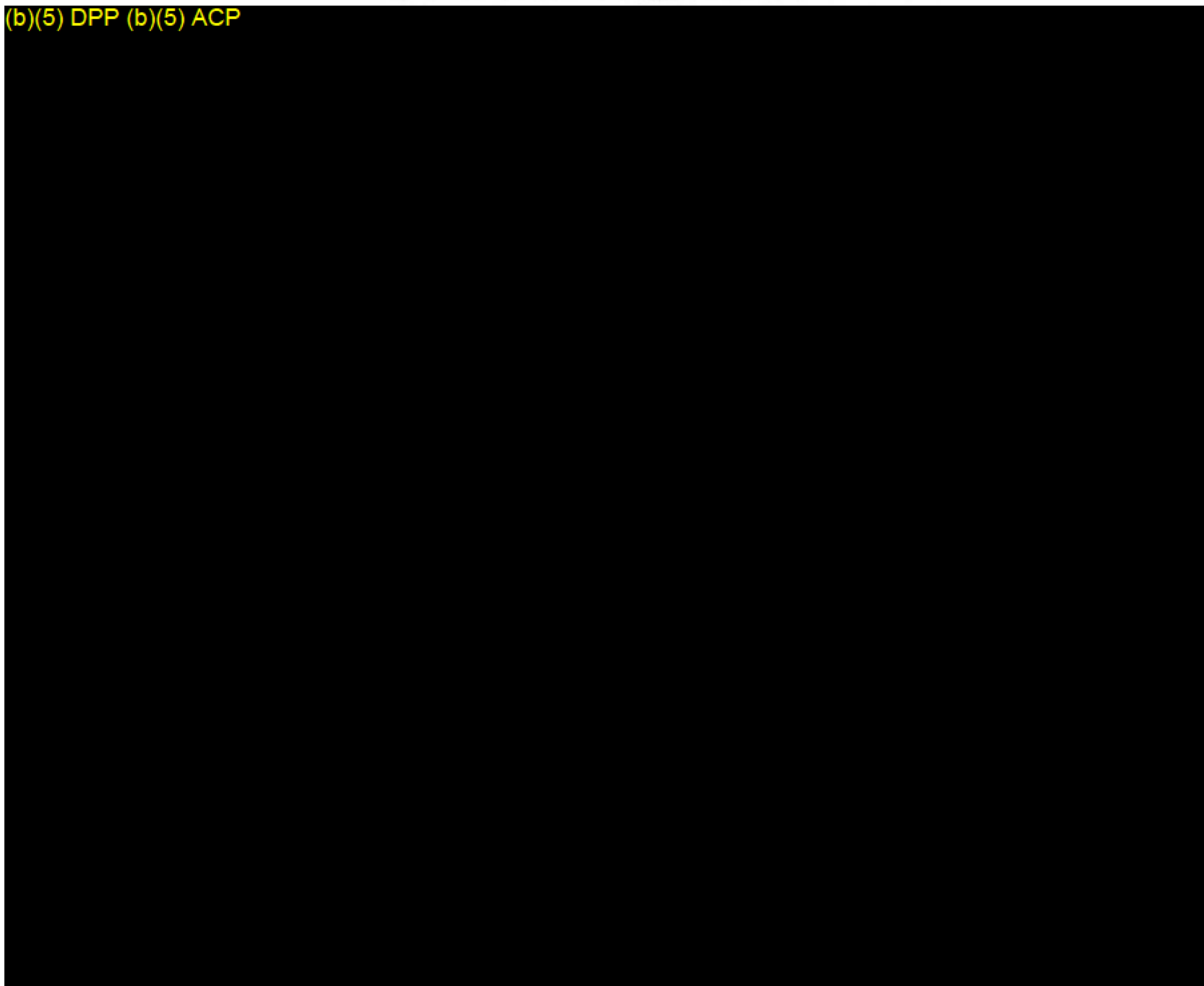
MEMORANDUM FOR THE PRESIDENT

FROM: SALLY JEWELL

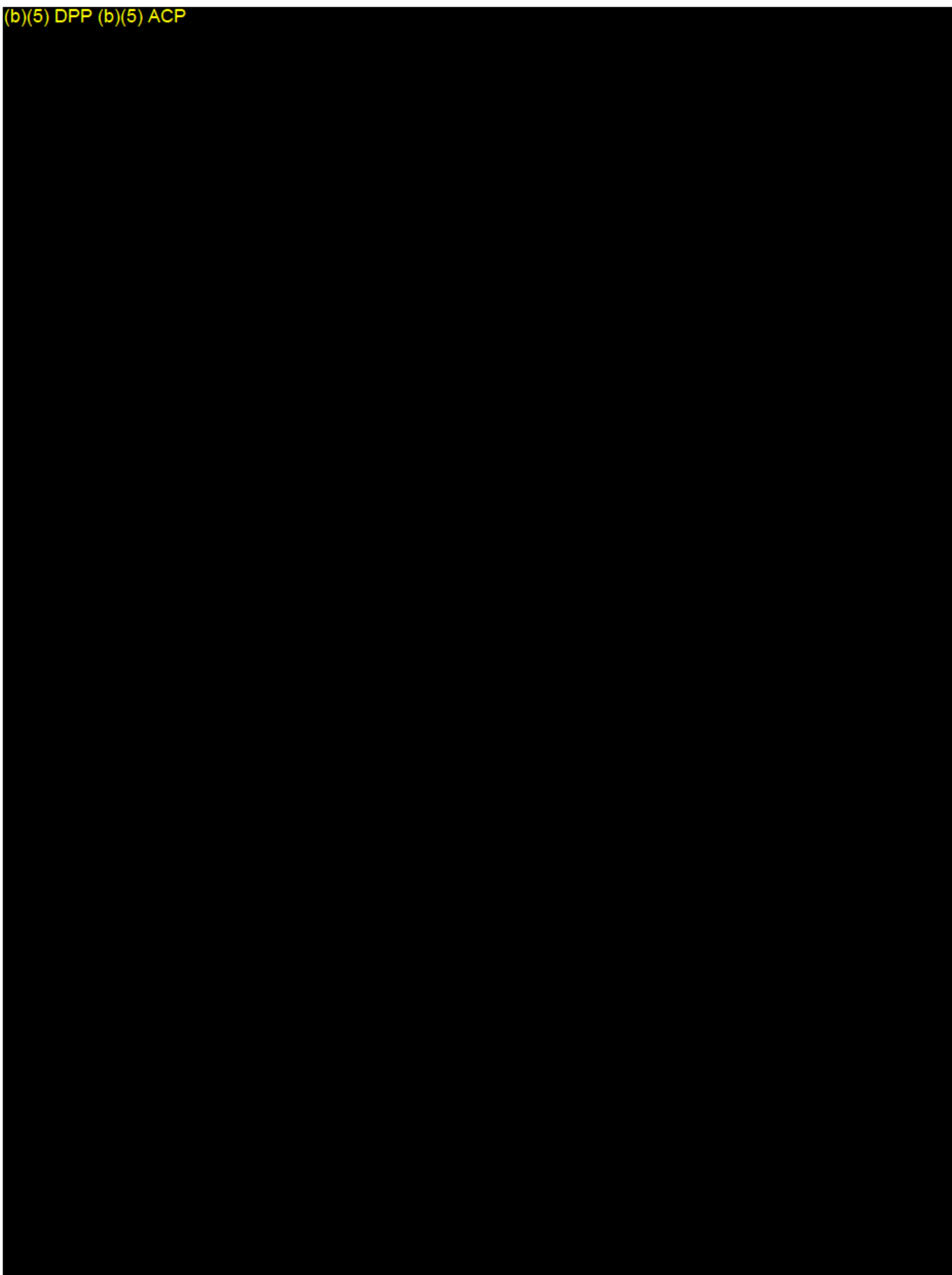
THOMAS J. VILSACK

SUBJECT: Recommendation for the Proposed Bears Ears National Monument

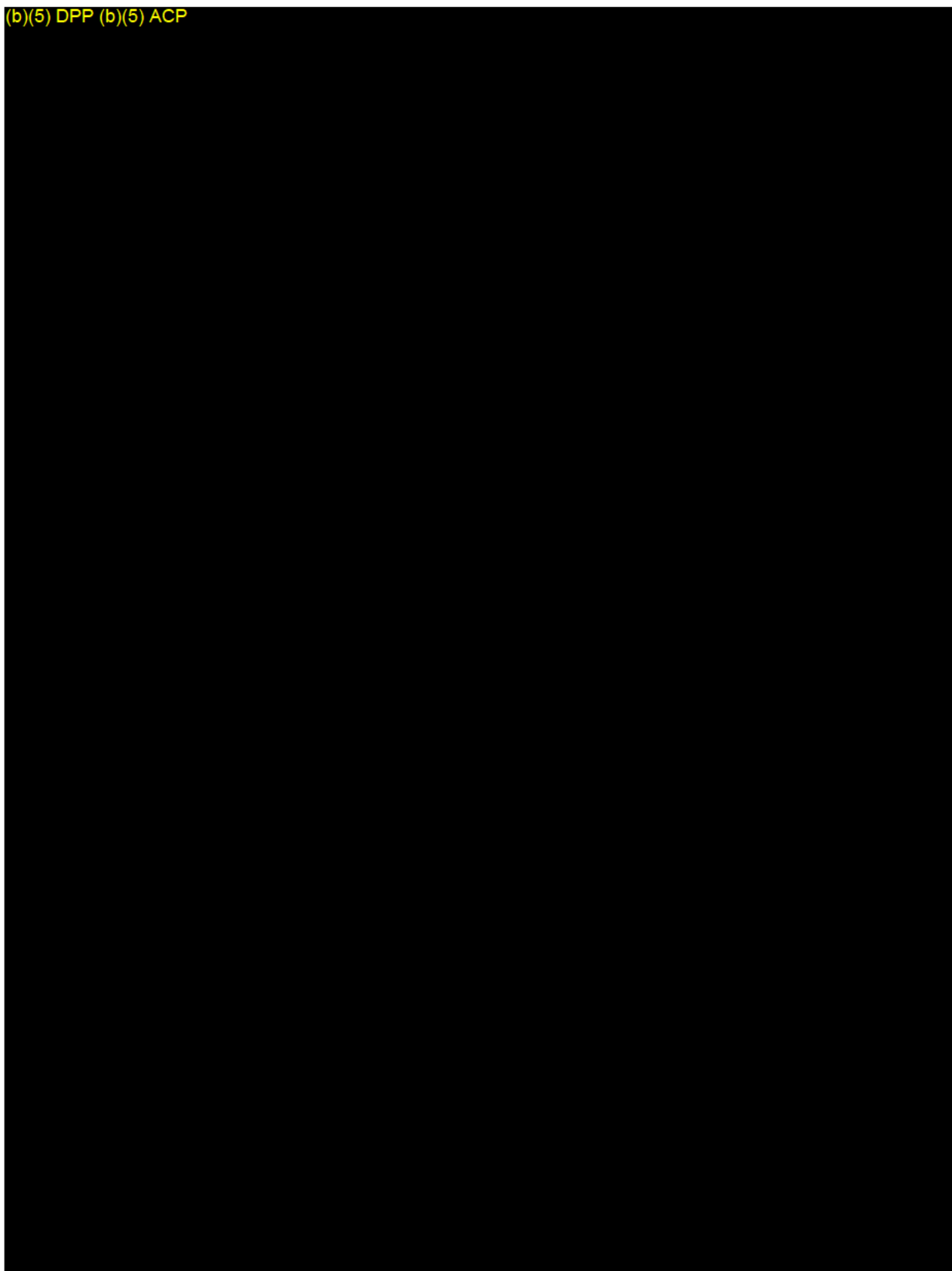
(b)(5) DPP (b)(5) ACP



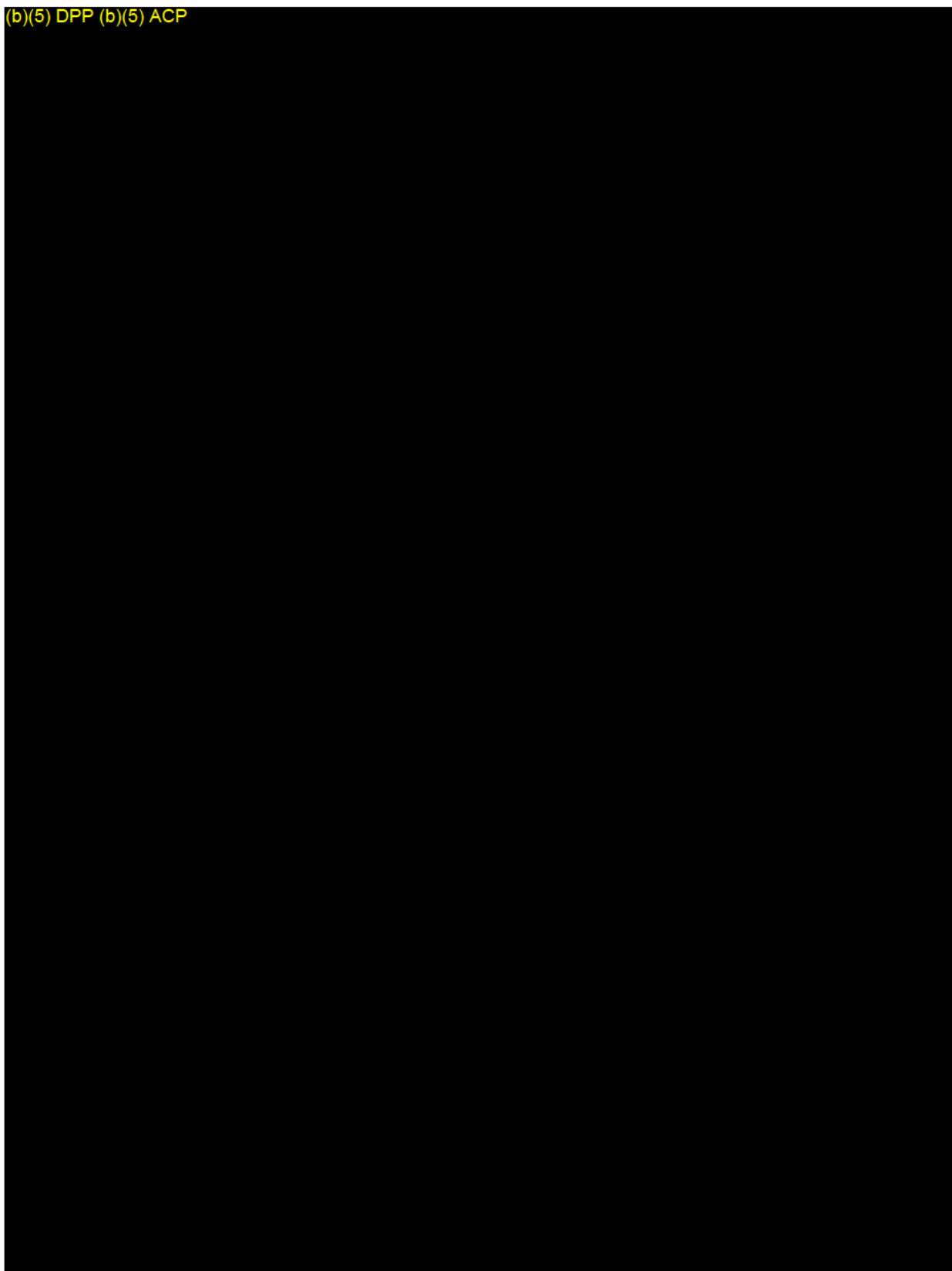
(b)(5) DPP (b)(5) ACP



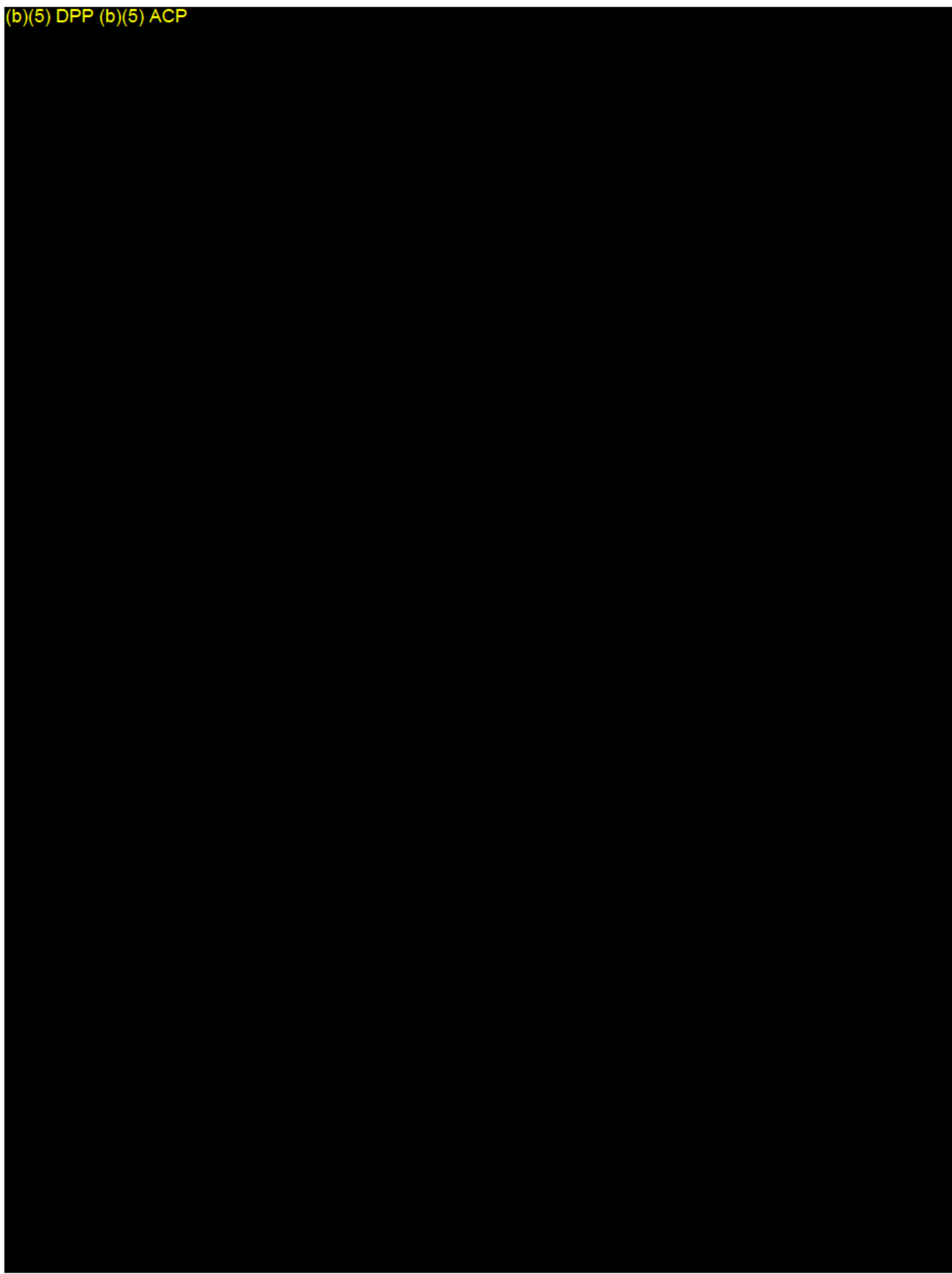
(b)(5) DPP (b)(5) ACP



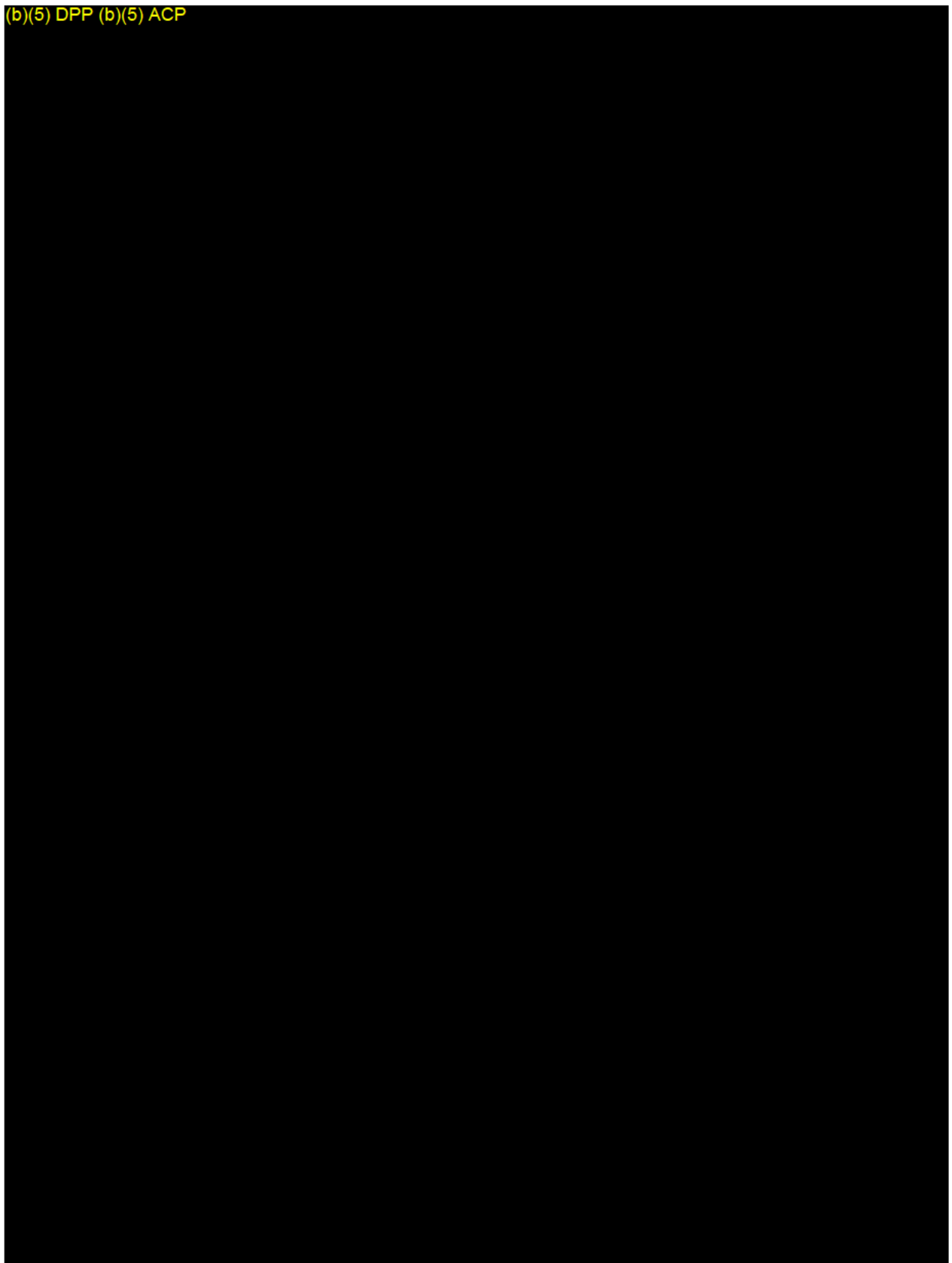
(b)(5) DPP (b)(5) ACP



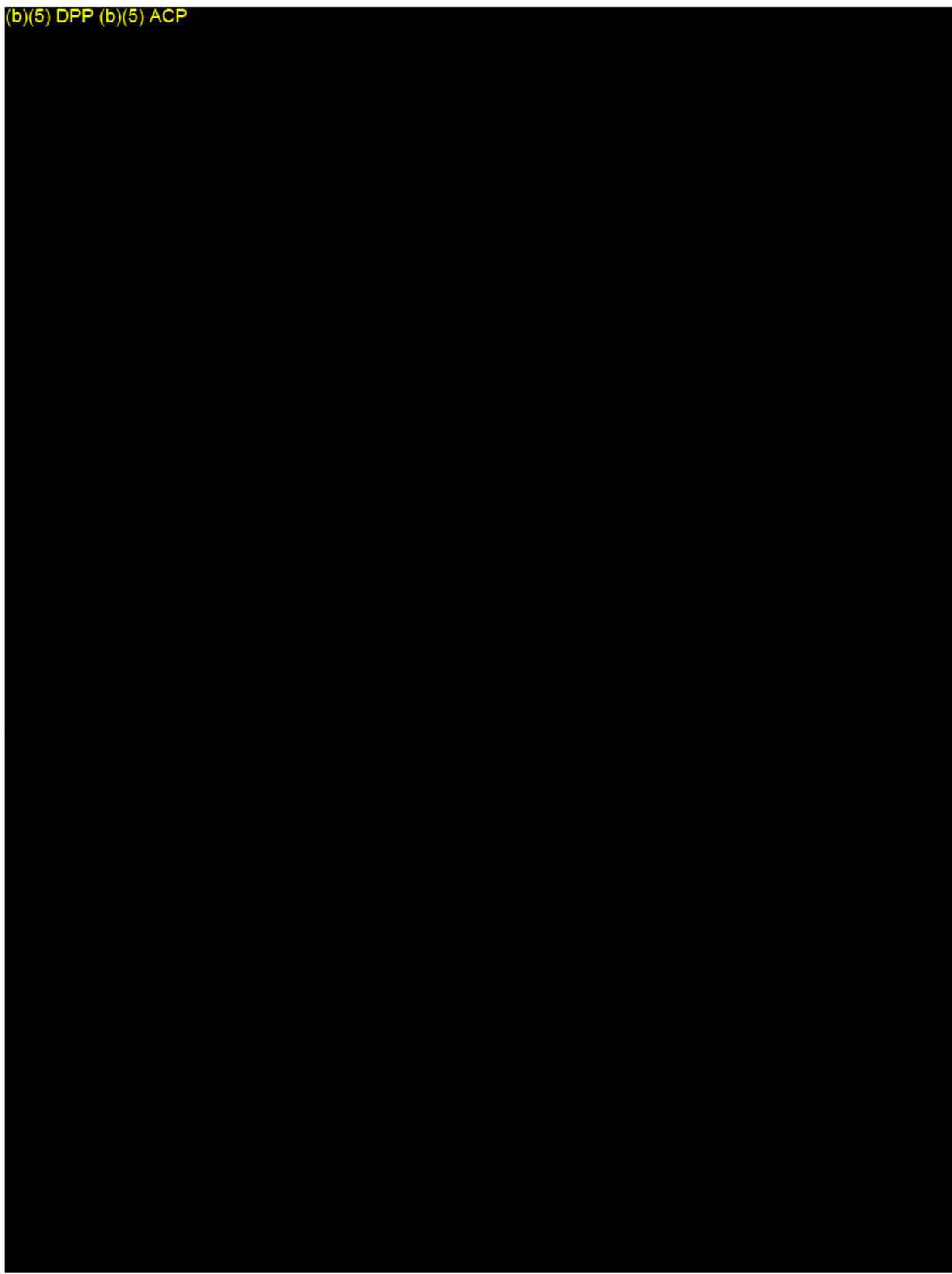
(b)(5) DPP (b)(5) ACP



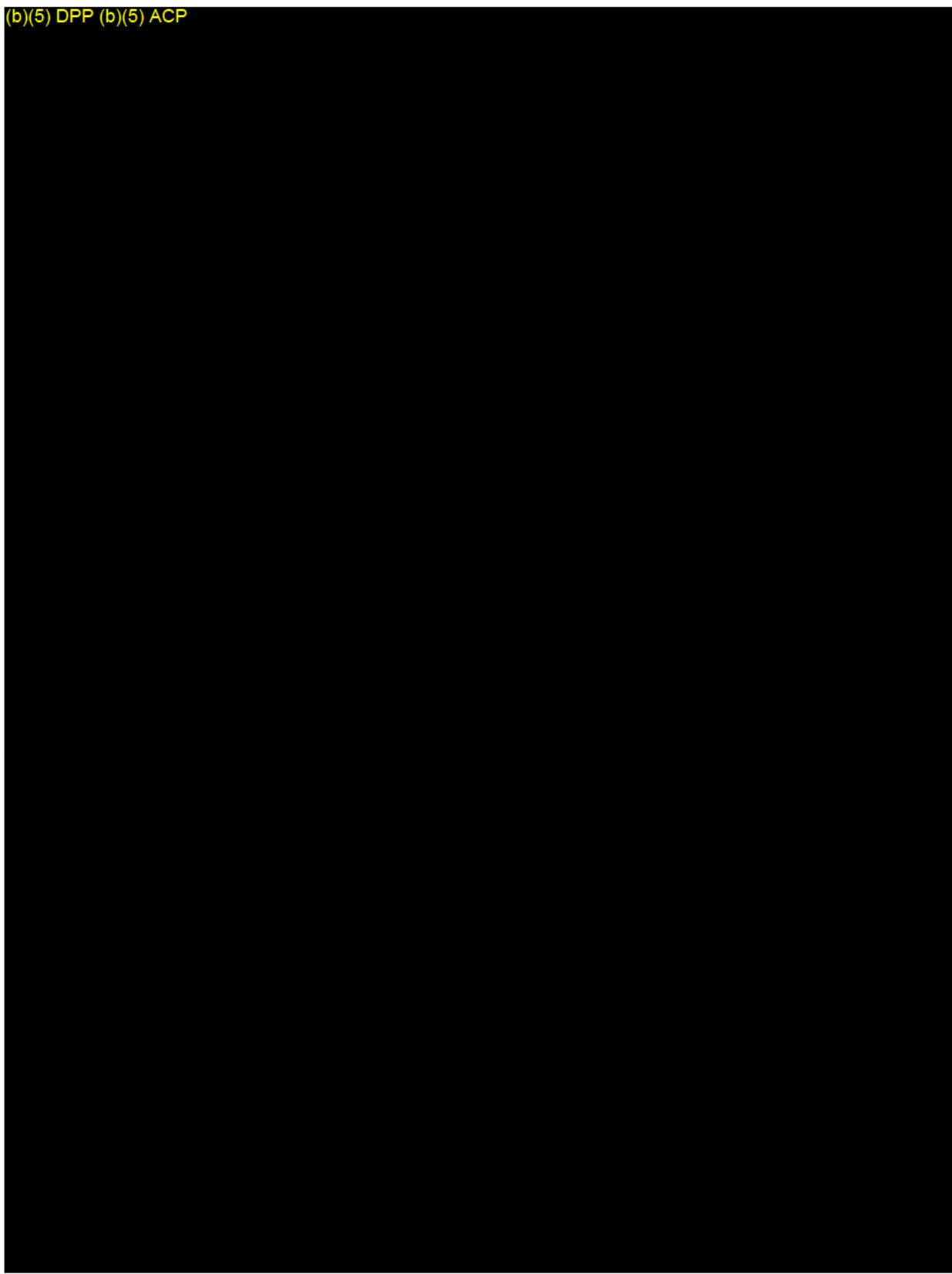
(b)(5) DPP (b)(5) ACP



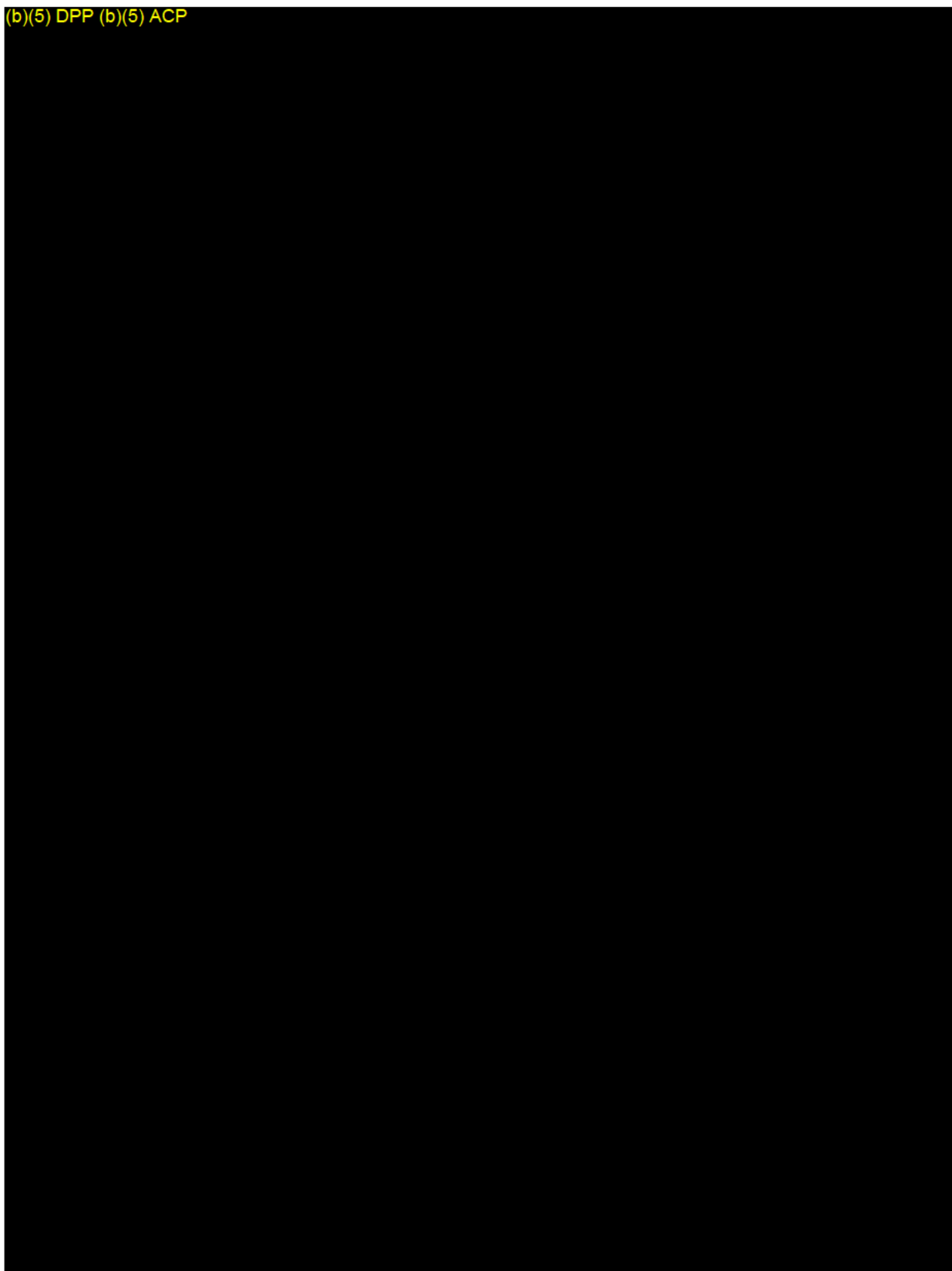
(b)(5) DPP (b)(5) ACP



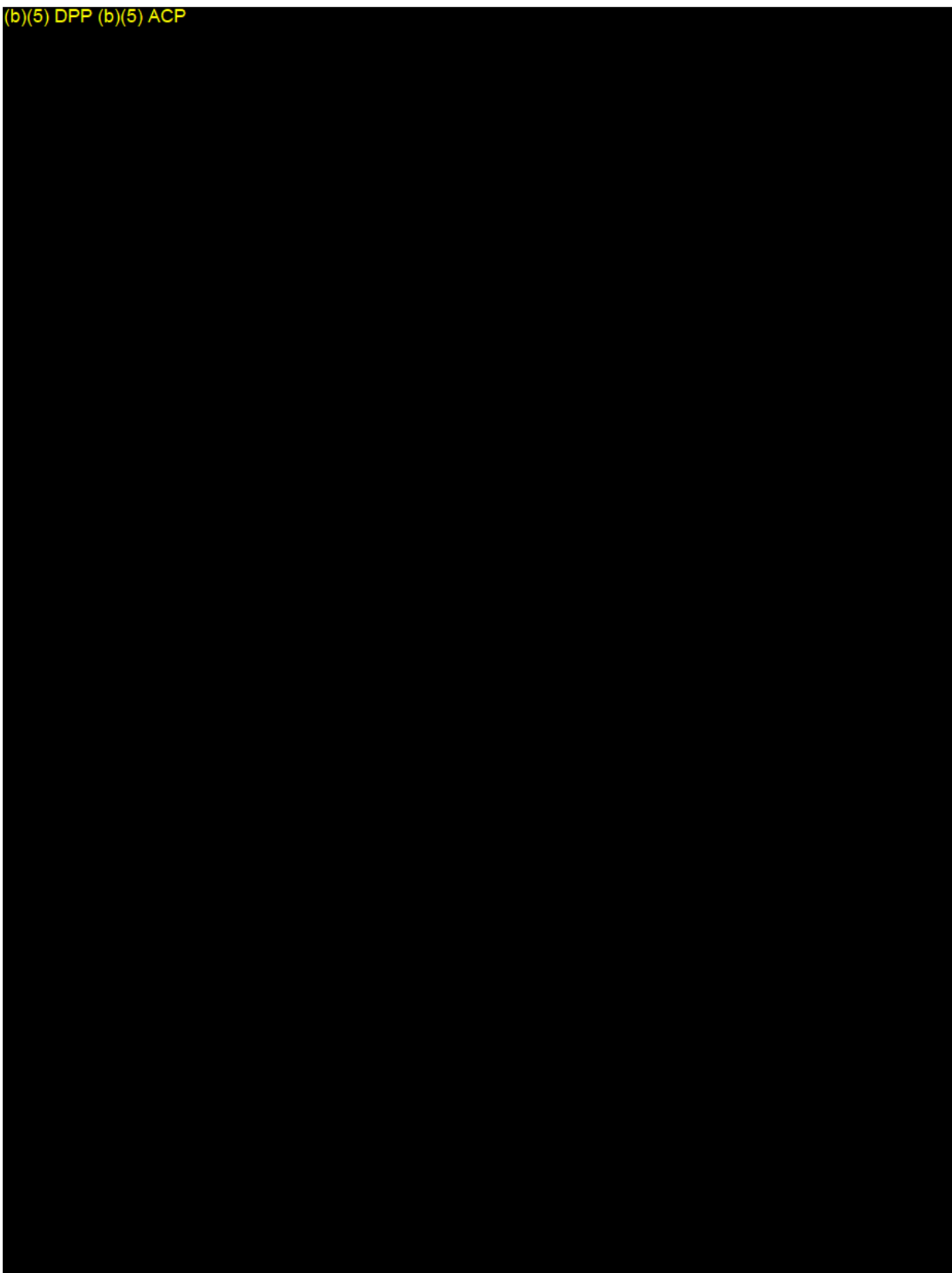
(b)(5) DPP (b)(5) ACP



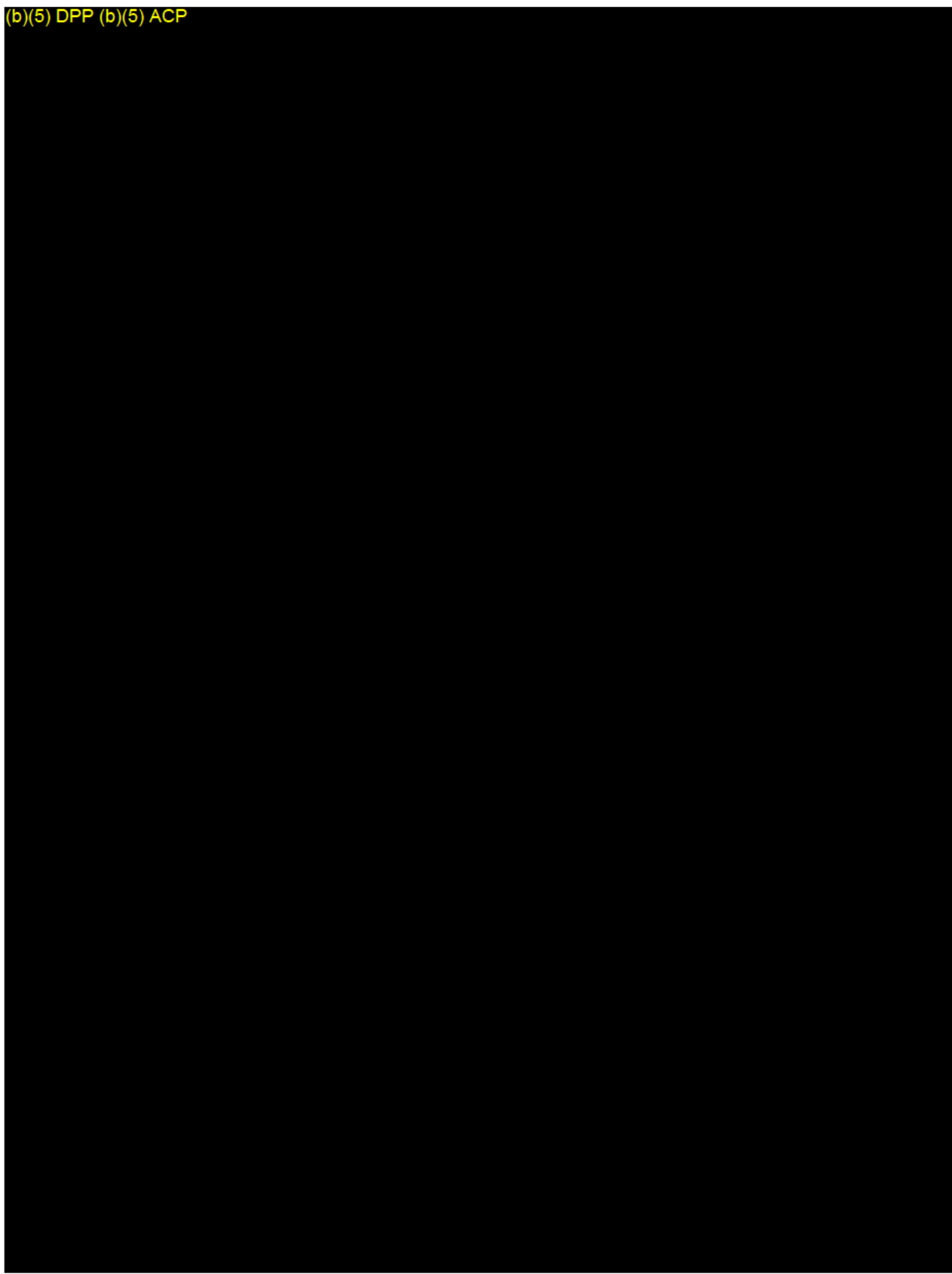
(b)(5) DPP (b)(5) ACP



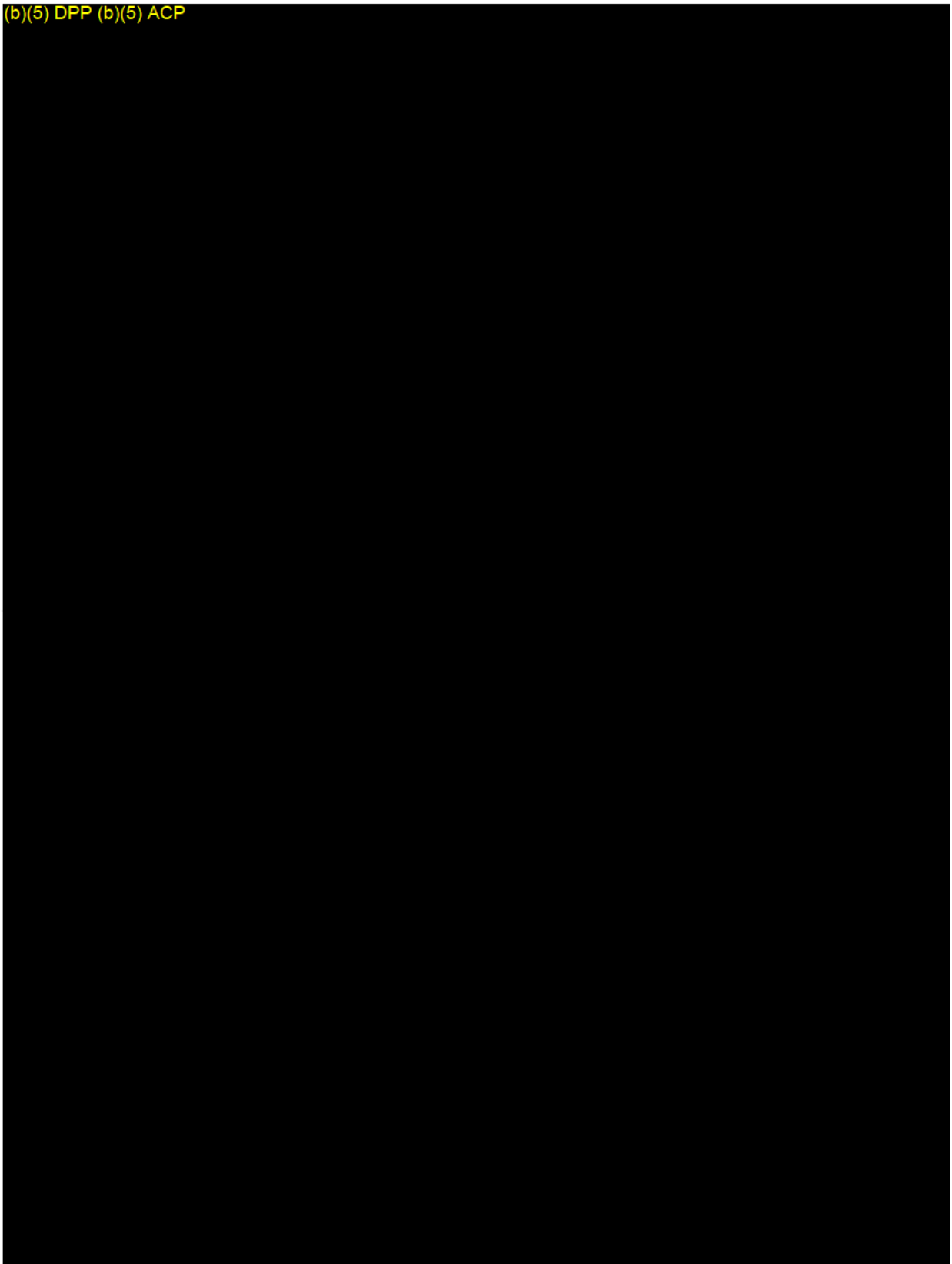
(b)(5) DPP (b)(5) ACP



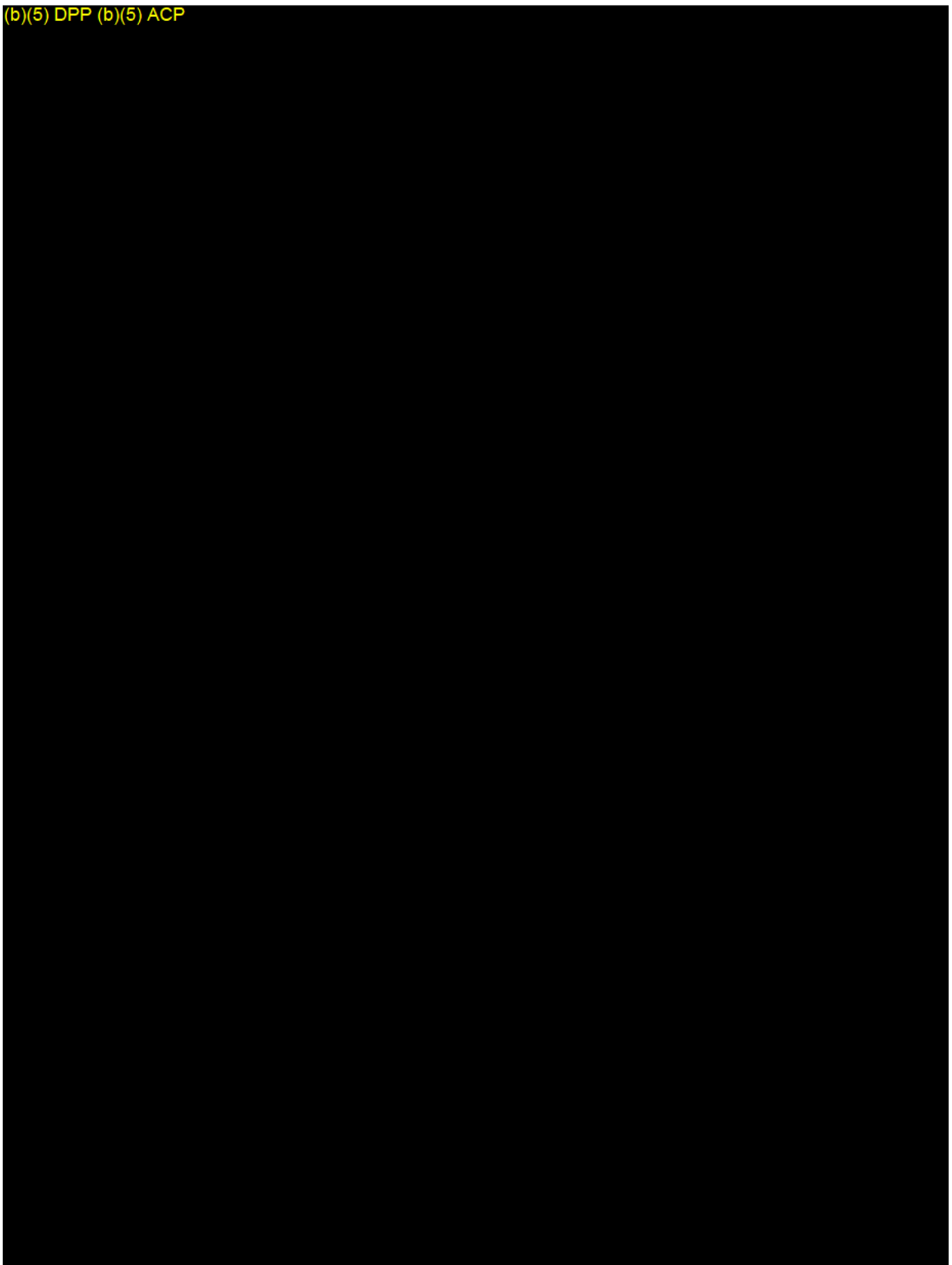
(b)(5) DPP (b)(5) ACP



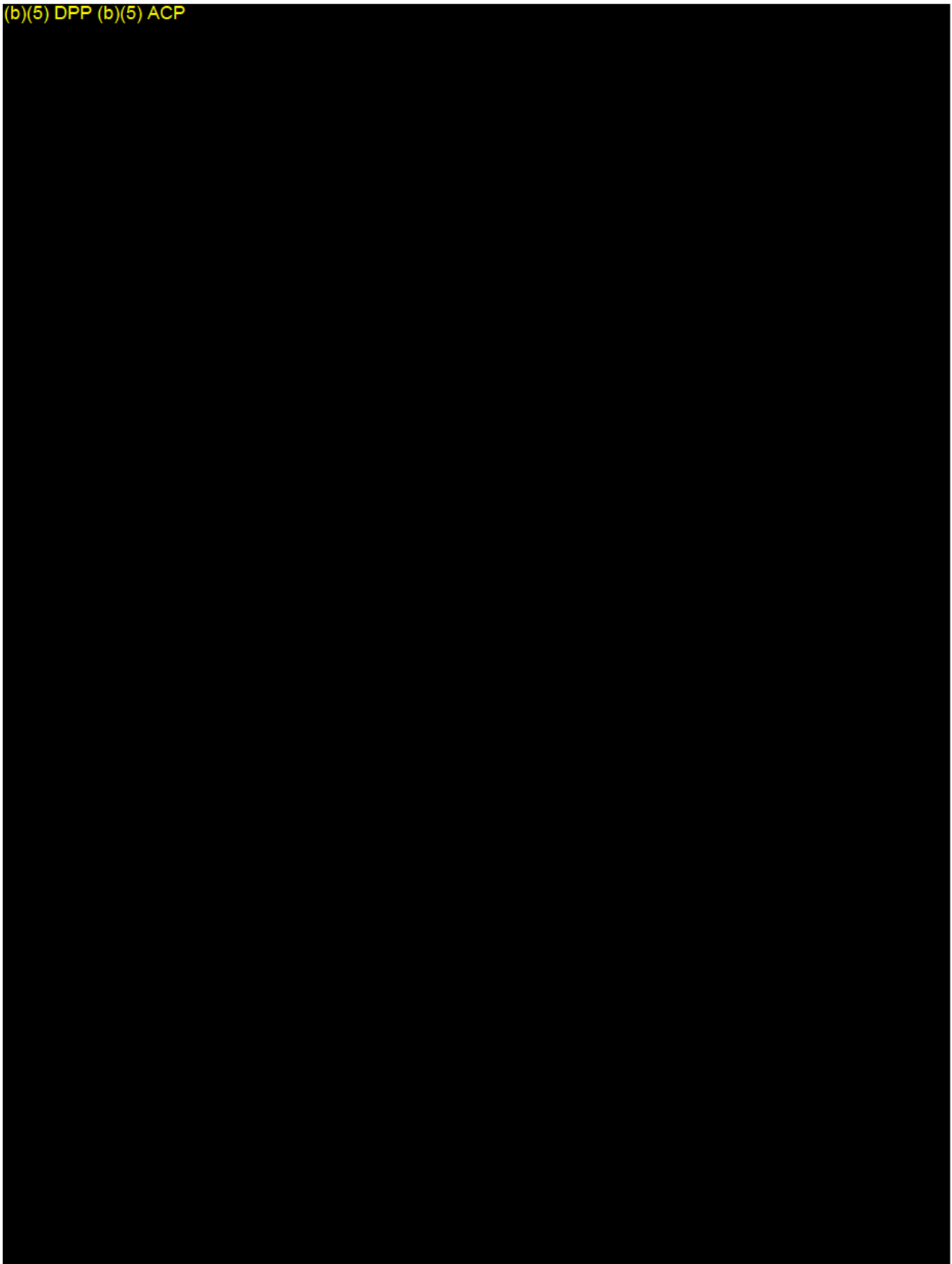
(b)(5) DPP (b)(5) ACP



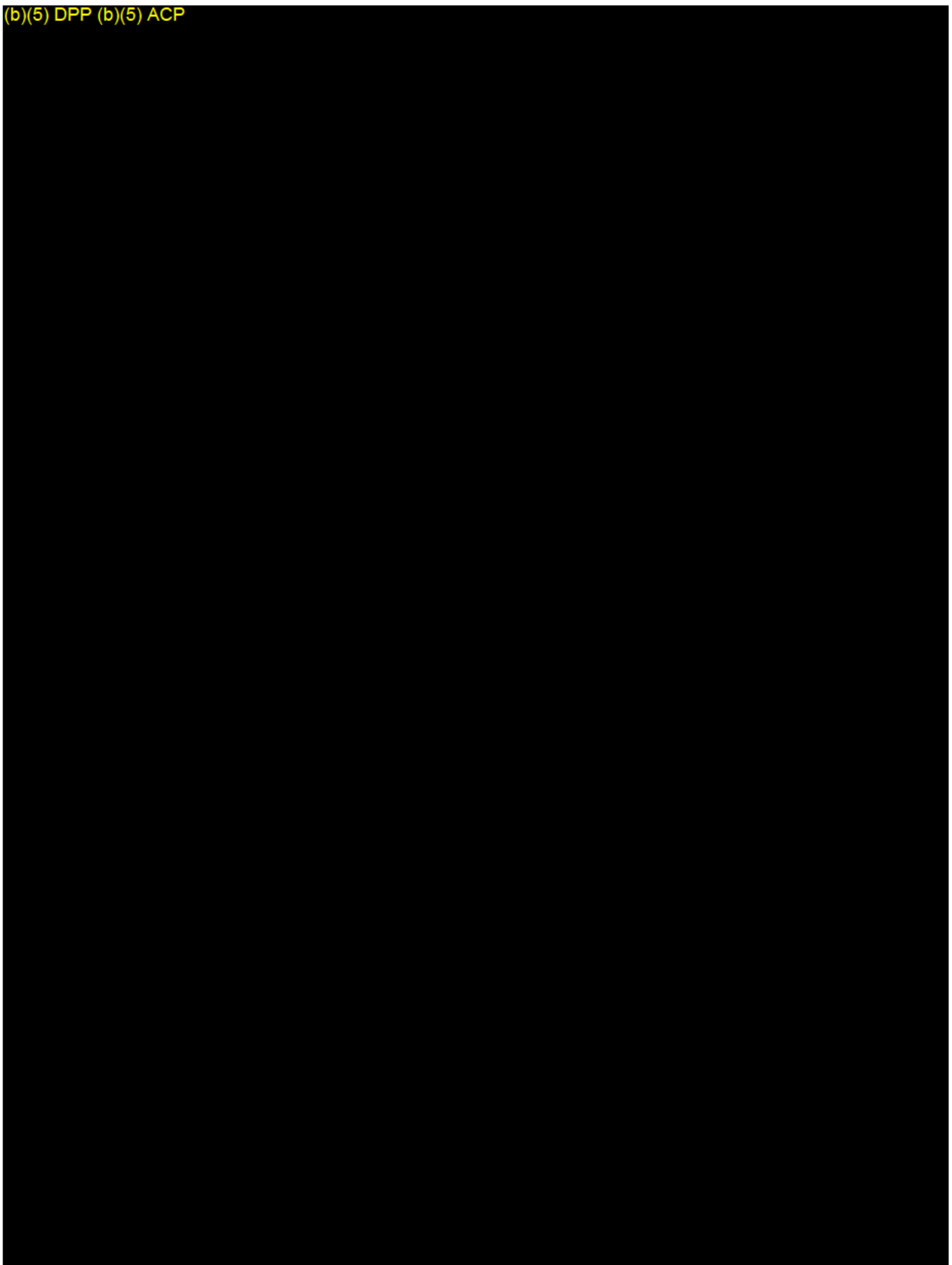
(b)(5) DPP (b)(5) ACP



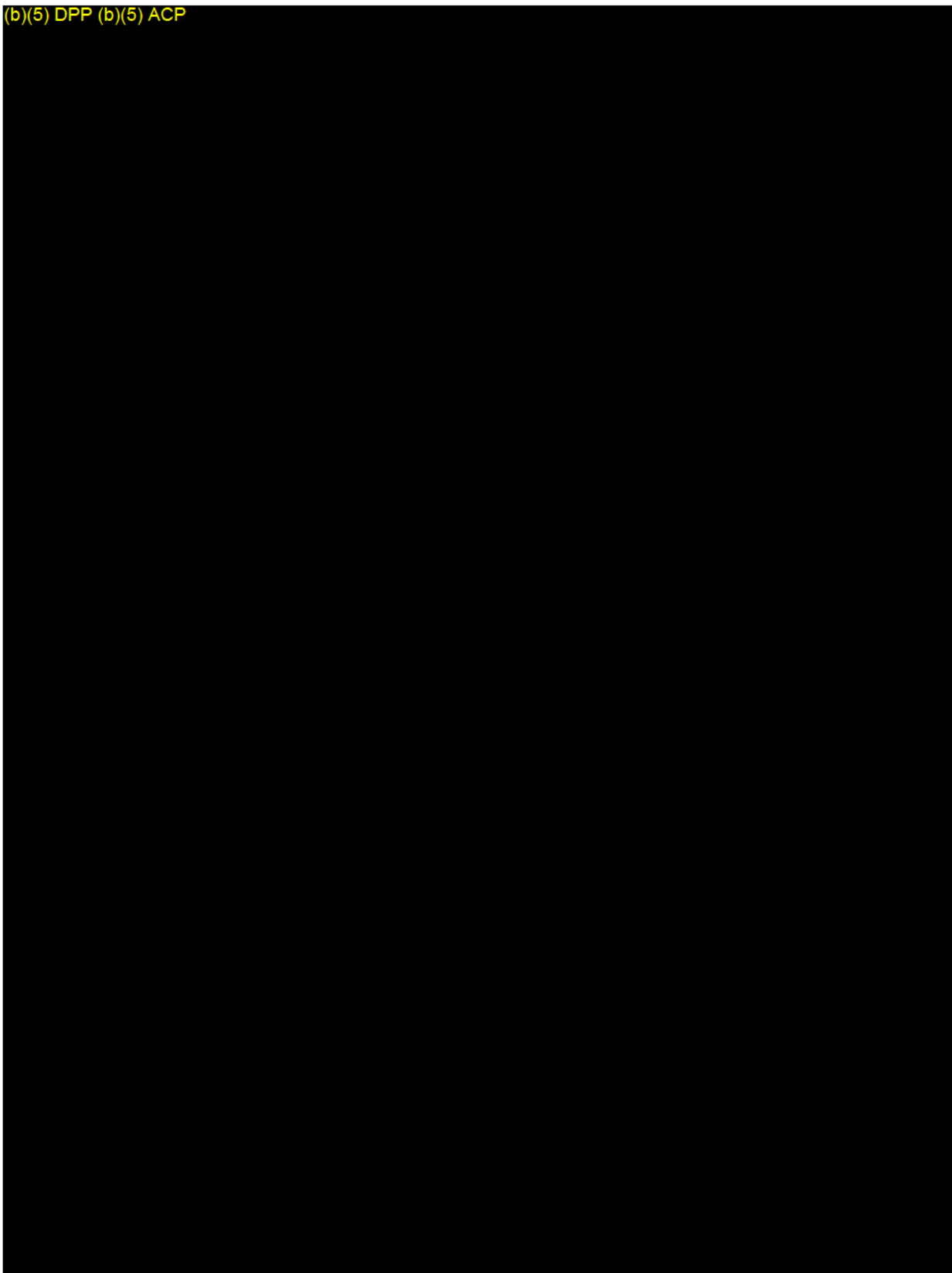
(b)(5) DPP (b)(5) ACP



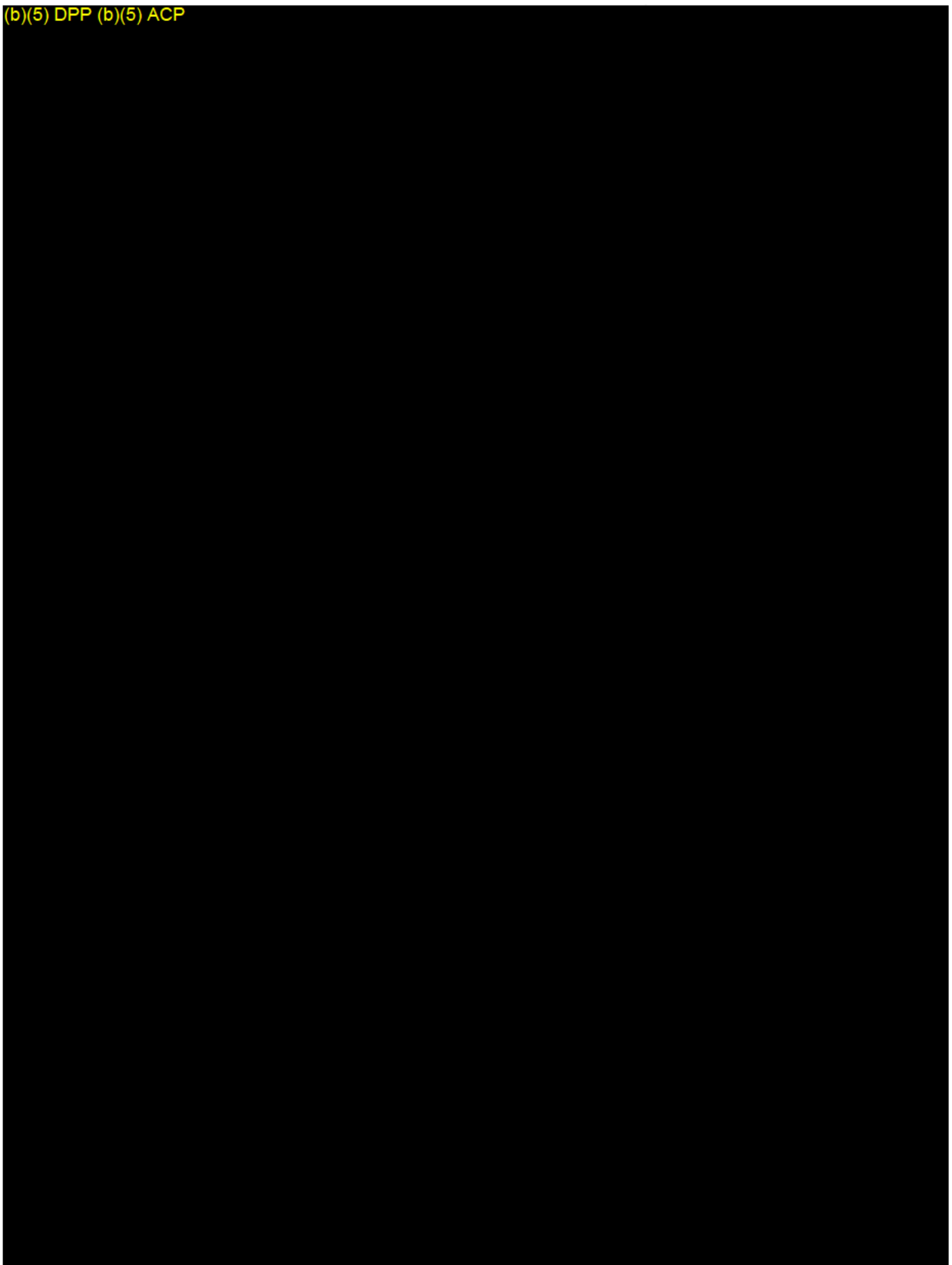
(b)(5) DPP (b)(5) ACP



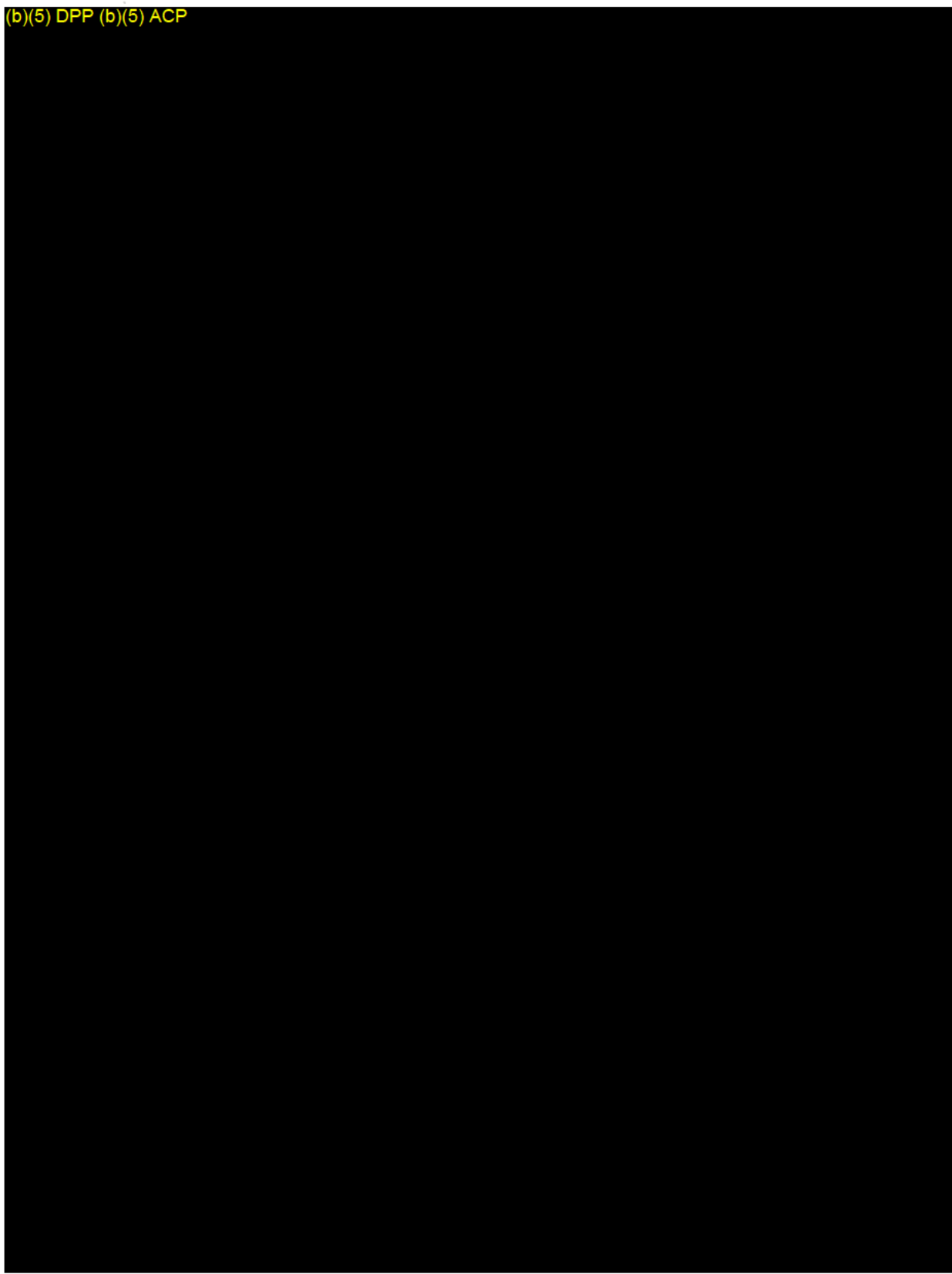
(b)(5) DPP (b)(5) ACP



(b)(5) DPP (b)(5) ACP



(b)(5) DPP (b)(5) ACP



(b)(5) DPP (b)(5) ACP

