

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

**In the Matter of:** )  
 )  
**Taotao USA, Inc.,** ) **Docket No. CAA-HQ-2015-8065**  
**Taotao Group Co., Ltd., and** )  
**Jinyun County Xiangyuan Industry Co., Ltd.** )  
 )  
**Respondents.** )

**RESPONSE TO RESPONDENTS’  
MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION**

**ATTACHMENT H**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 30 2015

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

The Honorable John C. Cruden  
Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044-7611

Attn: Joe Davis  
Chief, Case Management Unit  
ENRD/EES  
Room 6201

Re: Request, Pursuant to Section 205(c) of the Clean Air Act, 42 U.S.C. § 7524(c), for a Waiver of the Civil Penalty Limitation on EPA's Authority to Initiate an Administrative Case Against Taotao USA, Inc., Jinyun County Xiangyuan Industry Co., Ltd., and Taotao Group Co., Ltd.

Dear Mr. Cruden:

By this letter, the Air Enforcement Division of the U.S. Environmental Protection Agency's (EPA's) Office of Enforcement and Compliance Assurance requests that the U.S. Department of Justice (DOJ) waive the limitation on the EPA's authority to assess an administrative penalty for violations of sections 203(a) and 213(d) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable regulations: on-highway motorcycles, 40 C.F.R. Part 86; recreational vehicles and engines, 40 C.F.R. Part 1051; general compliance provisions, 40 C.F.R. Part 1068; and small spark ignition nonroad engines, 40 C.F.R. Part 90. The EPA's authority to assess an administrative penalty for violations of sections 203(a) and 213(d) of the CAA and the regulations is limited to matters in which the total penalty sought does not exceed \$320,000. See 42 U.S.C. § 7524(c) (setting the administrative penalty cap at \$200,000); 40 C.F.R. § 19.4 (increasing the cap to \$270,000 for penalties accruing between March 15, 2004, and January 12, 2009, to \$295,000 for penalties accruing between January 12, 2009, and December 6, 2013, and to \$320,000 for penalties accruing after December 6, 2013).

This limitation may be waived if "the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment." CAA section 205(c), 42 U.S.C. § 7524(c)(1).

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For the reasons set forth in the enclosed enforcement sensitive memorandum, the EPA believes that the assessment of an administrative penalty in excess of the statutory threshold would be an appropriate enforcement response in this case. We would very much appreciate your expeditious handling of this matter.

If you have any questions or need further information regarding this matter, please do not hesitate to contact me at (202) 564-0652.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip A. Brooks". The signature is fluid and cursive, with a large initial "P" and "B".

Phillip A. Brooks, Director  
Air Enforcement Division

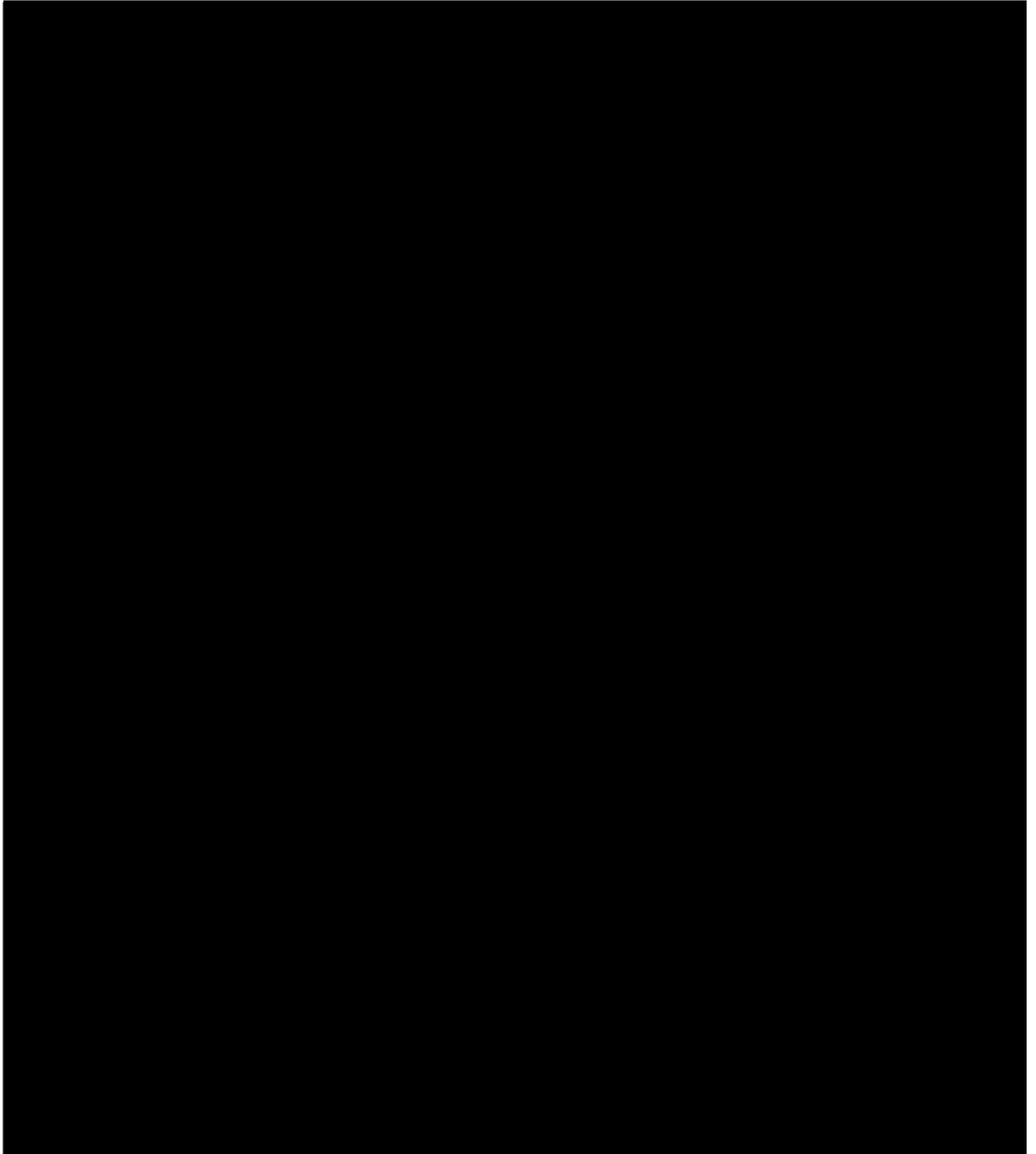
Enclosure

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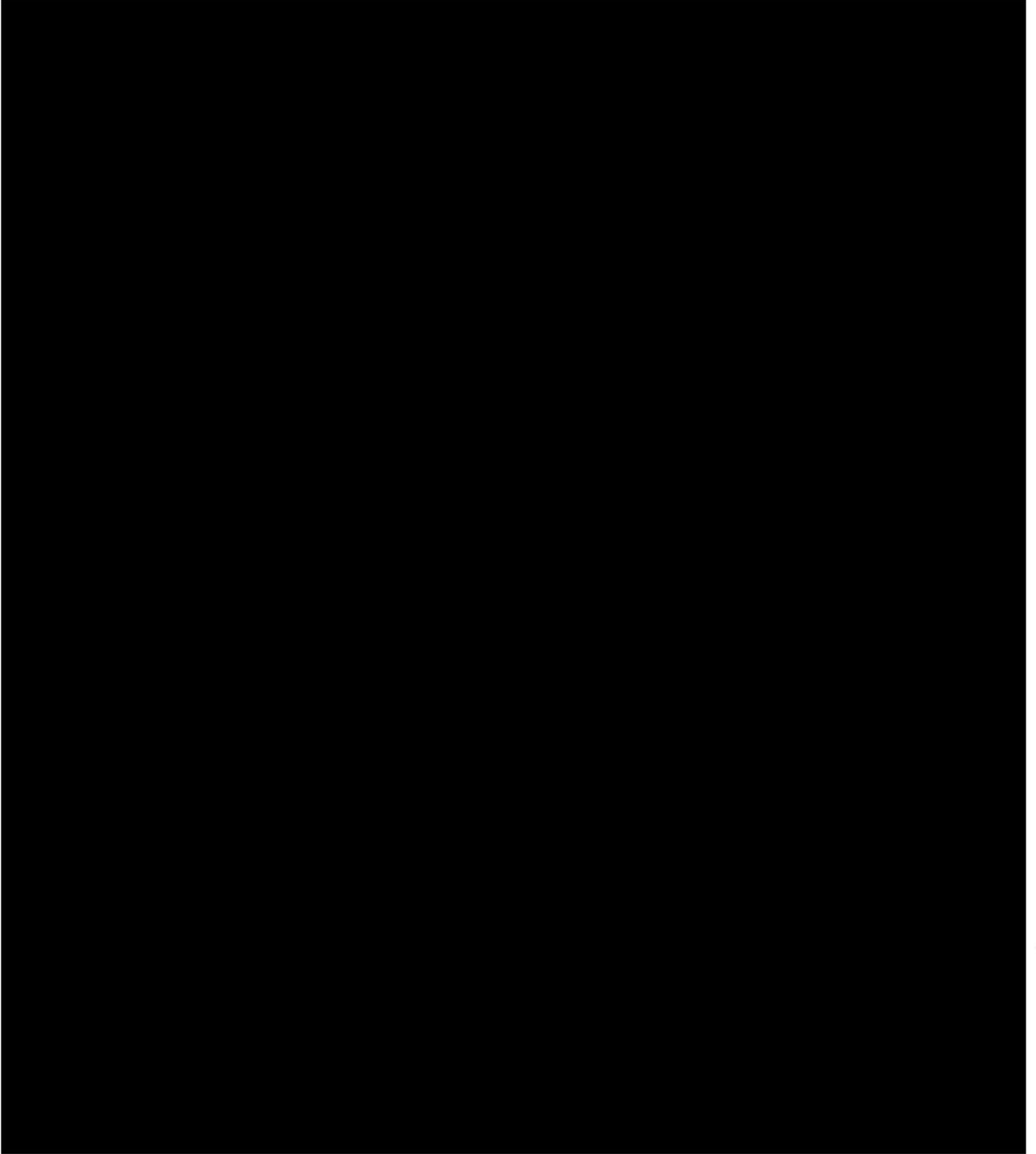
**Memorandum Supporting Request for Waiver under Section 205(c) of the Clean Air Act In the Matter of Taotao USA, Inc., Jinyun County Xiangyuan Industry Co., Ltd., and Taotao Group Co., Ltd.**



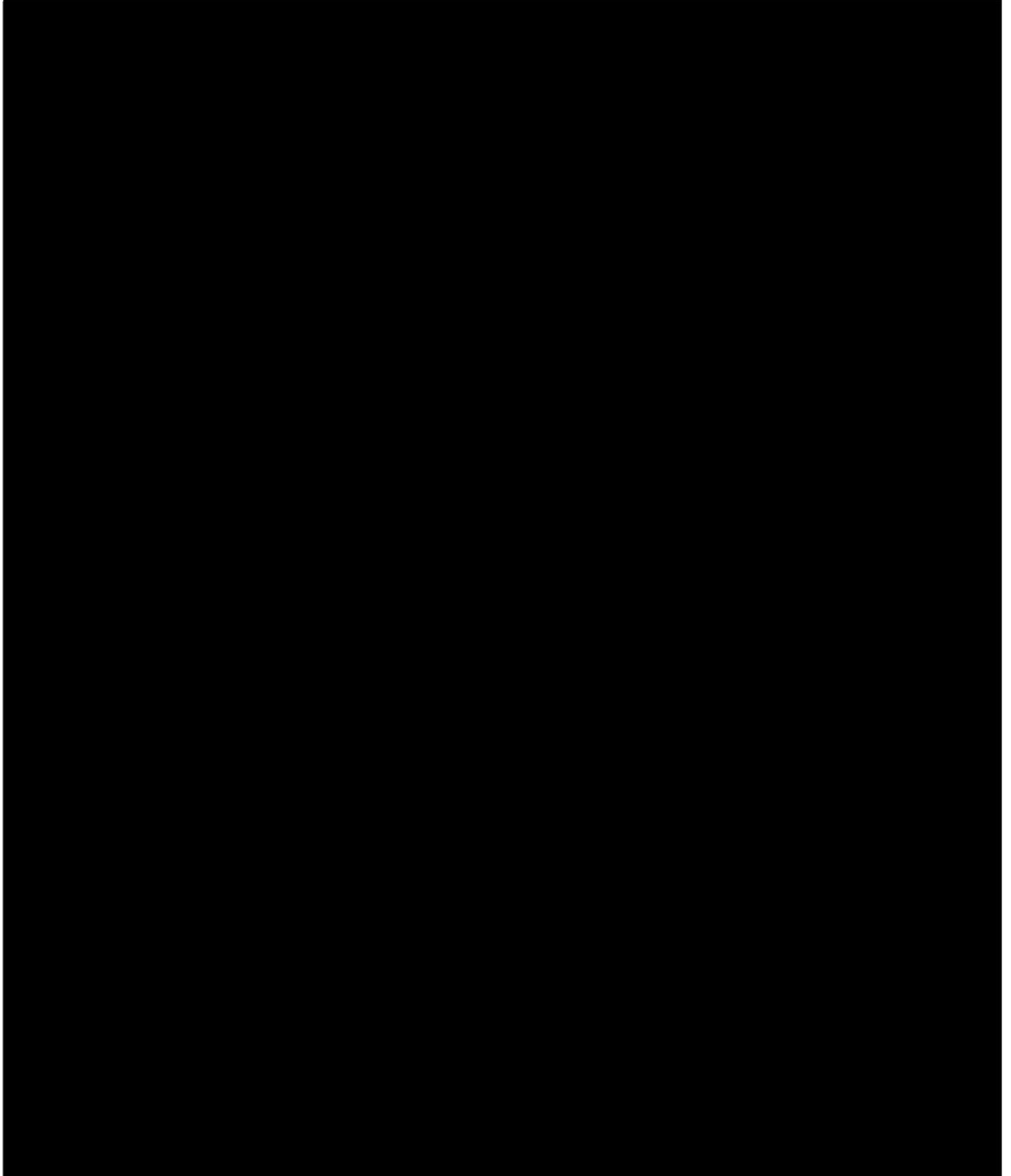
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