

1.6 Inspection Manual

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1.6.1 Inspection Manual General

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1.6.1.1 Roadside Inspections

What is a roadside inspection?

A roadside inspection is an examination of a motor carrier's commercial motor vehicle(s) and/or its driver(s). It is performed at a fixed or roadside facility and consists of an examination of a driver's hours of service, commercial driver's license requirements, operating authority, financial responsibility, vehicle maintenance, hazardous materials, and other transportation records. A roadside inspection is intended to assess the compliance of a company's motor vehicles and/or its drivers with FMCSA safety, economic, and hazardous materials regulations. The inspection should be conducted in such a manner that assures violations are not missed, overlooked, or unrecorded.

What are the objectives of a roadside inspection?

There are several objectives for conducting a successful driver and vehicle examination. They include, but are not limited to, the following:

- Removing potentially unsafe drivers and imminently hazardous vehicles from our Nation's highways.
- Ensuring compliance with the provisions of the Federal Motor Carrier Safety Regulations (FMCSR), Federal Motor Vehicle Safety Standards (FMVSS), and the Hazardous Materials Regulations (HMRs), by requiring repairs of vehicle defects and appropriate remedial action for vehicle and/or driver violations.
- Documenting violations that can be used in subsequent enforcement actions.
- Obtaining information regarding carriers, drivers, vehicles, and cargo relative to safety and compliance with the FMCSR, FMVSS, and HMRs, and overall program direction and evaluation.

Who can initiate a Roadside Inspection?

Only Certified Safety Investigators, Safety Auditors, and Roadside Inspectors may initiate a roadside inspection.

Who can I initiate a roadside inspection against?

Roadside inspections can be initiated on any commercial motor vehicle (e.g., passenger carriers, HM carriers, carriers of property) operating in interstate or intrastate commerce. Generally, motor carriers with a high Inspection Selection System (ISS) value are selected first.

Inspectors have the discretion whether to conduct an inspection on a motor vehicle that has a current CVSA decal. Reasons for re-inspection include, but are not limited to, discovery of OOS violations, visible or audible mechanical defects, transportation of hazardous materials, load securement violations, special operations, etc.

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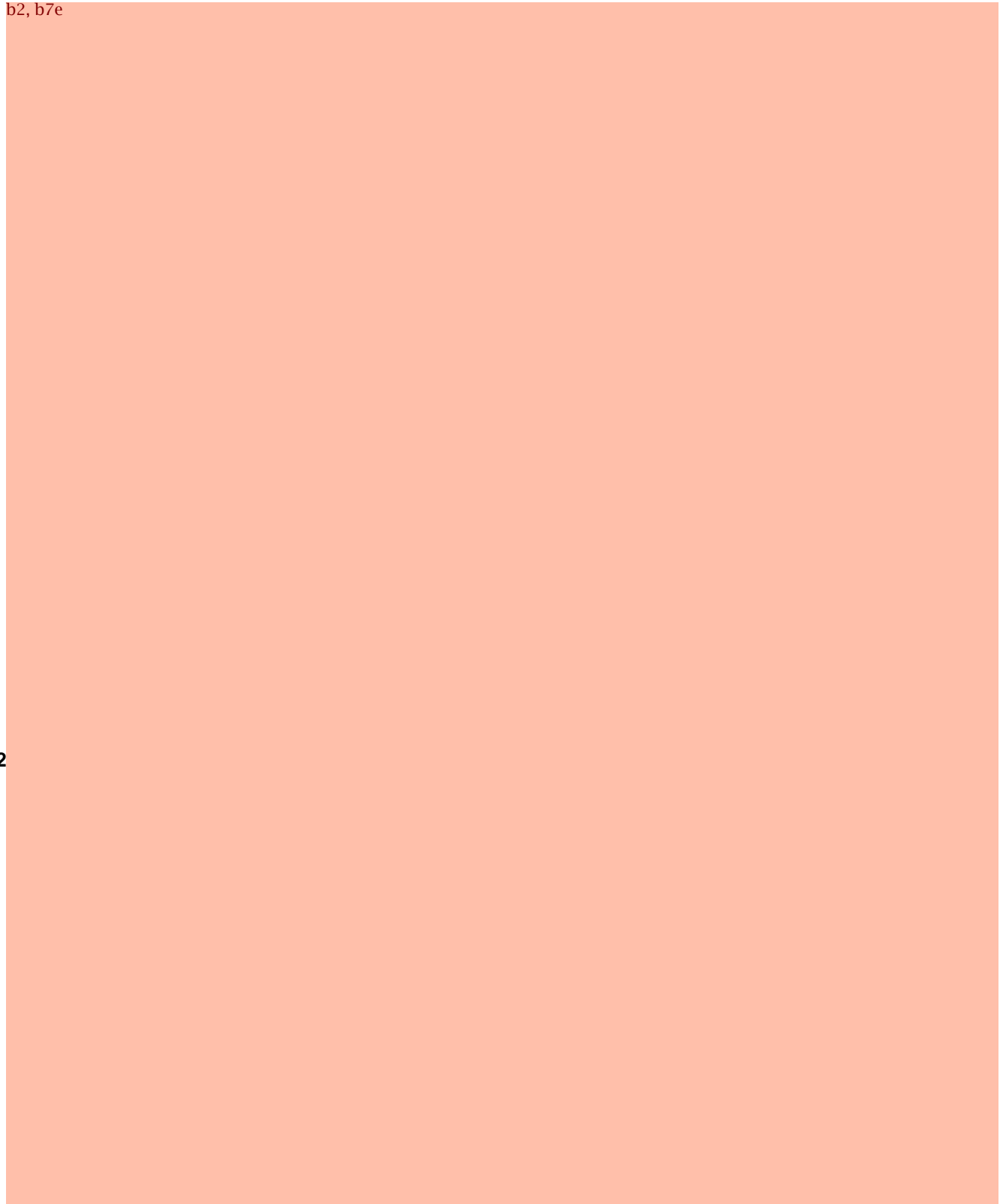


Can I initiate a roadside inspection of bus operations by for-hire, private, or school bus carriers?



For-hire, private, and school bus carriers are subject to the FMCSR. However, they are subject to specific regulations depending on their operations.

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1.6.2 Part 365 - Rules Governing Applications for Operating Authority

How do I verify a carrier's operating authority?

You should ask the carrier for its operating authority paperwork. The paperwork will indicate where the carrier is authorized to operate. Ensure the motor carrier has current operating authority and is operating within the scope of the authority. Carriers with the authority to operate beyond the border commercial zones ("long haul" carriers) are **not** required to have a copy of their authority on-board the vehicle as it operates.

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1.6.3 Part 368 - Applications for Certificates of Registration by Foreign Motor

What is the Certificate of Registration?

The Certificate of Registration is evidence of the carrier's authority to engage in transportation within the border commercial zones. The inspector shall ensure compliance with the scope of authority and commodities being transported as provided by the Certificate of Registration. A copy of the Certificate of Registration shall be carried on Mexico-domiciled vehicle at all times.

What should be done if I find a Mexico-domiciled carrier operating without a Certificate of Registration?

If a driver fails to produce a current Certificate of Registration, the inspector shall not allow the vehicle to proceed until the issue in question is resolved. Instruct the driver to:

- Remain at the inspection location until someone provides the Certificate of Registration (may be faxed or hand carried to inspector's office),
- Obtain the Certificate of Registration,
- Make arrangements for an appropriately licensed carrier to pick up the freight for transportation to the destination, or
- Return to Mexico if vehicle is not loaded.

What should be done if I find a Mexico-domiciled carrier operating without a Certificate of Registration and does not have authority or is operating beyond the scope of its authority?

If a Mexico-domiciled motor carrier is found to be operating beyond the scope of its certificate of registration (authority) or without having registered with FMCSA, the appropriate citations in the ASPEN roadside inspection software will be used and the vehicle will be placed out of service (OOS). The carrier can only correct the OOS violation by not conducting interstate transportation in the United States (if it is not registered), or outside of the border commercial zone (if it has a certificate of registration).

In addition to citing the carrier with the ASPEN software and placing the vehicle OOS, the following steps shall be taken at the roadside:

1. An OOS Order document for the specific vehicle will be prepared and, if possible, faxed to the motor carrier's principal place of business along with the inspection report.
2. A copy of the OOS Order and inspection report will be given to the driver.
3. The driver should be instructed to notify the motor carrier of the OOS condition and the corrective measures that are needed.

In order to correct the OOS violation, the carrier must off-load any cargo and be encouraged

to arrange for an authorized carrier to deliver the cargo to its final destination. The vehicle may leave once it is unloaded, as long as there are no OOS safety defects that have to be corrected. If the vehicle is empty and not under dispatch to pick up a load, then the carrier is not considered to be providing interstate transportation requiring for-hire authority. If the vehicle is empty, but under dispatch to pick up a load in the United States beyond the border commercial zone, the same procedure will be followed and the driver will be instructed to return to Mexico or the border commercial zone (if the carrier has a Certificate of Registration).

Section 219(d) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) prohibits a Mexico-based motor carrier from leasing a CMV to a motor carrier for transportation in the United States. The intent of Section 219(d) is to ensure that Mexican motor carriers and their equipment are restricted to the Southern border commercial zones consistent with the moratorium on granting authority to Mexican carriers to operate beyond the border commercial zones, codified at 49 USC 13902(c). The leasing prohibition ensures they cannot avoid the restriction by leasing their vehicles and drivers to a carrier authorized to operate in the United States.

A leasing arrangement between the Mexican motor carrier and the U.S. motor carrier does not constitute a certificate of registration for the Mexican motor carrier or the authority to operate in the United States. Because leasing Mexican vehicles outside of the border commercial zones is illegal, such leases are void as a matter of public policy. Consequently, FMCSA considers operating a Mexican vehicle in the U.S. under a void lease equivalent to operating the vehicle with no lease at all, which is a violation of Section 219(a) and subject to the penalties in Sections 219(b) and (c).

1.6.4 Part 383 - Commercial Driver's License Standards

[MX CDL Guidance](#)

Who should have a CDL?

Every driver of a commercial motor vehicle (as defined in Part 383) operating in the United States must have a valid CDL.

■ For Mexico-domiciled drivers, the Licencia Federal issued in the United States is equivalent. Mexico-domiciled drivers must not have any restrictions on the license to operate in the U.S.

How do I check the license history/status and driving record of drivers at the roadside?

Verify the driver's CDL history/status through CDLIS or other acceptable methods (e.g. NLETS, NCIC, or State Licensing System). You should ensure the driver operating the CMV has a valid commercial driver's license issued by one State or jurisdiction and all proper endorsements and restrictions applicable to the CDL are in compliance.

■ When checking a Mexico-domiciled driver through CDLIS remember you cannot run a history but you can run a status. The Mexican government utilizes a category (Categoría)

system, as opposed to our class system.



Inspectors should ensure that all passenger-carrying drivers have the proper class of CDL, the required endorsements, and note any restrictions displayed on the CDL.

What type of CDL is needed to drive a passenger vehicle that seats more than 16 passengers including the driver?

The driver of a passenger CMV should have, at the least, a class C CDL with a P endorsement.

A Mexico-domiciled driver of a passenger CMV should have the categoria “A” that is the equivalent of a class C CDL with a P endorsement.

What am I looking for during the CDL history/status check?

During your CDL history/status check you should be looking for any discrepancies with:

- Endorsements that are on the CDL and not on the CDLIS print out,
- Expiration dates,
- Restrictions for both American and Mexico-domiciled drivers,
- Types of violations the driver may have (American Drivers only), and
- Class of CDL.

When should a driver be placed out of service for violations of 383?

If the driver operates in the US:

- Without a CDL or **Licencia Federal** (not in possession or not having been issued one),
- Without a valid CDL, **Licencia Federal**,
- **Without a proper class (categoria) indicated on the license, or**
- Operating in violation of a restriction on the license.
- **Note:** If the status of the CDL returns as suspended, revoked, invalid, or if it cannot be verified, the driver should be placed out-of-service. The driver should advise the motor carrier it is their responsibility to relieve him/her from driving duties.

The driver must then be placed out-of-service in accordance with the North American Uniform Out-of-Service Criteria or standard departmental policy followed by enforcement officers.

MX CDL GUIDANCE

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DRIVER HOLDING A LICENCIA FEDERAL WITH A CATEGORIA	IS EQUIVALENT TO A DRIVER HOLDING A CDL CLASS ENDORSEMENT/ RESTRICTIONS
A	B with P (passenger) endorsement and a restriction to bus, with a capacity of 14 or more persons including the driver.
B	A with a T (doubles/triples) endorsement, and a restriction to combination vehicle or one with more than three axles.
C	B with a N (tank) endorsement and a restriction to straight truck with less than 4 axles, i.e. may not drive a bus without a Categoria A
D	C with P (passenger) endorsement and is restricted to small bus/van/jitney which does not exceed 3,500 kg (7,716 lbs.) Or have a capacity of more than 13 persons including the driver and is used for purposes of giving tours.
E	A with a T (doubles/triples) endorsement, an N (tank) endorsement, and an H (hazardous materials) endorsement. This is the only categoria that authorizes carrying hazardous materials. It may also be used for any size truck without materials.


1.6.5 Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers

Must the insurance of a Mexico-domiciled CMV operating in the United States be checked roadside?

Every vehicle, subject to the Financial Responsibility requirements as specified in Part 387, operating within the United States by a motor carrier domiciled in a contiguous foreign country shall have on board a legible-signed copy, in English, of the proof of financial responsibility used by the carrier. Request the carrier's form MCS-90 (endorsement), form MCS-82 (surety bond), or self-insurance authorization.

Note: U.S. carriers do not need the MCS-90 or MCS-82 on board at the time of the inspection.

If the motor carrier has an insurance policy available, verify the insurance is currently in effect. If possible, the motor carrier's current status and history regarding operating authority and insurance filing can be checked by accessing the FMCSA Licensing and Insurance website at <http://li-public.fmcsa.dot.gov>.

 Any motor vehicle, checked at a border crossing, not having the required minimum level of financial responsibility on file **or** not having other proof of the required financial responsibility, shall be denied entry into the U.S. The assistance of the U.S. Customs may be requested.

For Mexico-domiciled carriers only: Any motor vehicle, checked at any other location other than a border crossing, not having the required minimum level of financial responsibility on file **or** not having other proof of the required financial responsibility shall have enforcement brought against it.



What are the minimum levels of financial responsibility needed for a passenger carrier?

The minimum levels of financial responsibility found in Part 387 are only applicable to for-hire carriers transporting passengers in interstate commerce. For-hire motor carriers of passengers operating vehicles with a seating capacity of 16 passengers or more (including the driver) are required to have \$5 million of public liability coverage. For-hire motor carriers of passengers operating vehicles with a seating capacity of 15 passengers or less are required to have \$1.5 million of public liability coverage.



What registration documents, for Commercial/Border Zone Operations, can be checked during a driver/vehicle inspection?

Passenger carriers authorized to only operate within the border commercial zones must have their Certificate of Registration on board the vehicle and ready for inspection. The registration must show the carrier's authorized scope of operations.

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1.6.6 Part 390 - General Requirements

How do I determine what CMV should be inspected?

First, you must ensure the motor vehicle being selected for inspection meets the definition of a commercial motor vehicle (49 CFR Section 390.5):

- GVWR 10,001 to 26,000 pounds non-CDL (in interstate commerce);
- GVWR 26,001 pounds (intra- or interstate commerce);
- Transporting passengers 16 or more including the driver (intra- or interstate commerce);
- Or transporting any placarded amount of Hazardous Materials.

 **Mexico-domiciled carrier with a GVWR of under 10,000 pounds, needs insurance and registration only.**

What other Part 390 requirement should be checked during an inspection?

The review of the motor carrier's vehicles should include a determination of whether the vehicles are properly marked.

NOTE:

When citing a carrier for not possessing a USDOT number, cite 390.19.

When citing a carrier for not possessing MC authority, cite 392.9(a) (a)

1.6.7 Part 391 - Qualification of Drivers

How do I verify if a driver is qualified to operate a CMV?

To verify that the driver is qualified to drive a commercial motor vehicle. The driver must:

- Be at least 21 years of age; **(remember the intrastate exemption)**
- Be able to safely operate the type of commercial motor vehicle he or she drives;

- Be physically qualified to drive a commercial motor vehicle, and have a valid medical examiner's certificate; and
- Have a currently valid motor vehicle driver's license issued only by one State or jurisdiction.

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🇩🇪 How do I verify if a Mexico-domiciled driver is physically qualified?

A valid and proper medical certification must be stamped on the commercial driver's license of the driver (NOTE: Newly issued commercial driver's licenses, are not stamped with the medical certification until after the first two years of the CDL issuance). This verifies the driver is medically and physically qualified to operate a motor vehicle (Mexico-domiciled CDL drivers). If the license is not stamped by the SCT for the proper year the license is invalid.

What should I do if a driver is declared out of service for Part 391 violations?

You should ensure he or she does not operate a commercial motor vehicle until the driver may lawfully do so under the rules.

1.6.8 Part 392 2 Driving of Motor Vehicle

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PART 392.9A(A) – OPERATING AUTHORITY

Who is required to obtain an operating authority from FMCSA?

Any motor carrier required to register under 49 U.S.C. §13902 is required to obtain an operating authority from the FMCSA. For the purpose of this FOTM, the terms operating authority and motor carrier certificate of registration will be referred to as operating authority and are meant to represent the registration required under 49 U.S.C. §13902.

For U.S. and Canadian motor carriers, for-hire motor carriers who operate in interstate transportation of regulated property, household goods and passengers are required to obtain an operating authority. Mexico-domiciled motor carriers (both for-hire and private) who operate in interstate transportation of regulated property, household goods and passengers are required to obtain an operating authority.

What type of operating authorities can a motor carrier receive from FMCSA?

U.S. and Canadian motor carriers can obtain common carrier or contract carrier authority for the transportation of property, household goods and/or passengers. Additionally, U.S.-based enterprises owned or controlled by persons from Mexico providing transportation service of international cargo consisting of property or household goods may obtain an enterprise operating authority from FMCSA. For the purpose of this FOTM International Cargo is defined as cargo which originates or is destined to a point outside of the United States.

Mexico-domiciled motor carriers that transport property and household goods between Mexico and points within the border commercial zones are required to obtain an operating authority from FMCSA.

Mexico-domiciled motor carriers that wish to transport property, household goods and/or passengers may apply for common carrier or contract carrier operating authority from the FMCSA. Until the Land Transportation provisions of NAFTA are fully implemented, FMCSA will not complete the application for operating authority of any Mexico-domiciled motor carrier wishing to provide this type of transportation.

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What is the difference between operating without operating authority and operating beyond the scope of an operating authority?

A motor carrier is considered to be operating without an operating authority [§392.9a(a)(1)] when the carrier does not possess an active operating authority. A motor carrier is considered to be operating beyond the scope of its operating authority [§392.9a(a)(2)] when it has an active operating authority, but is transporting a commodity currently not listed in the L&I system or in/or through a state for which the carrier has no process agent on file.

1.6.9 Part 395 - Hours of Service

How do I check a driver's hours-of-service roadside?

Review of compliance with Part 395, at the roadside, covers the previous 6/7 days. Ensure the driver has a record of duty status (RODS) in possession and is current for the seven previous days. Drivers operating under an exemption as in Section 395.8(1) (100 air-mile radius driver) are not required to prepare a record of duty status.

- After you have requested the previous 6/7 days of RODS, verify the driver is not operating under an Out-of-Service Order.
- Review the driver's compliance with the 10/11/14/15-hour rule.
- Ensure that the driver is in compliance with the 60/70-hour rule.
- Check for the falsification of RODS.

 **Note: Mexico-domiciled motor carriers/drivers are not required to keep track of their hours of service until the driver reaches the United States.**

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When does the actual violation of the hours-of-service rules occur?

Violations of Part 395 occur **after** a driver has driven in excess of the maximum permitted hours. If a driver is placed out of service for a violation of Part 395, ensure the driver does not drive.

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What should I know about the new hours-of-service rules?

As of January 4th 2004 the hours of service will be changing to...

- 11 hours of driving
- 14 hours of working
- 10 hours of rest after driving 11 hours or working 14 hours
- 34 hours of continuous off duty time will restart the 60/70-hour clock.



Remember: Passenger-carrying motor carriers are not subject to the new HOS rule.

What if I inspect a driver after 01/01/04, and he/she has only taken 4 hours in the sleeper berth, but he/she has driven 9 hours since their last 10 hours off duty?

You must not place the driver OOS as the driver still has the opportunity to take 6 more hours off in the sleeper berth.

1.6.10 Parts 393/396 - Parts, Accessories, Inspection, Repair, & Maintenance

How should I conduct my inspection of 393/396?

The review of a vehicle's parts and accessories, and its inspection, repair, and maintenance should be consistent with the North American Uniform Driver-Vehicle Inspection Procedures. The purpose of reviewing these parts is to:

- Ensure vehicles are equipped with the necessary parts and accessories,
- Establish the effectiveness of the vehicle maintenance of the motor carrier or its agents,
- Determine general condition of the motor carrier's vehicles,
- Verify periodic inspection of commercial motor vehicles (power unit and trailer), and
- Identify all imminent safety violations under 49 CFR Part 393.

What if I find a commercial motor vehicle that is in an "out-of-service" condition?

If a commercial motor vehicle is discovered in a condition likely to cause an accident or breakdown, you should:

- Prohibit the operation of the commercial motor vehicle,

- Specify the defect(s) or violation(s) that must be corrected before the vehicle is placed in operations as described on form MCS-64,
- Place the vehicle(s) out-of-service using Form MCS-64 (“Out of Service Order”).



What should be inspected within the passenger compartment of a motorcoach?

Ensure the passenger carrier has the following:

- A standing line or bar and sign near the front, requiring passengers to stay behind the line when the bus is in operation,
- A fire extinguisher,
- Floors free of holes or openings,
- Seats securely fastened to the vehicle,
- No aisle seats unless they automatically fold out of the way leaving the aisle clear when not in use,
- All emergency window and door exits properly labeled,
- Operating red exit light over emergency doors,
- Emergency windows that are fully operative (the driver must demonstrate), and
- Baggage and freight stored and secured to allow unobstructed access to all exits and protect passengers from falling cargo.

It is important that Special Agents from the Department of Transportation conduct a thorough review of a passenger carrier to ensure its safe operation on the highways.

1.6.11 Roadside Inspection Procedures and Guidelines for the Hazardous Materials

What authority do I have as a Special Agent of the U.S. Department of Transportation to conduct Hazardous Materials inspections?

Inspectors have the authority to place vehicles and drivers out-of-service for those FMCSR violations discovered during a vehicle inspection that have been identified as likely to cause an accident or breakdown.

The inspection of HM Carriers is very critical to the FMCSA safety program.

Vehicles whose HM violations can be classified as unsafe operations under § 396.7 can be placed out-of-service pursuant to § 396.9(c). An example of this would be a leaking package of hazardous materials. This means the condition of the vehicle or its cargo is so inadequate that the continued operation in that condition is a violation of the FMCSR. This allows the FMCSA to place the vehicle out-of-service under its authority in 49 USC 521. You may use the [Unsafe Operations Under § 396.7](#) document for examples of other violations that may be considered unsafe

If during a roadside inspection, an inspector discovers a violation of the HMRs that meets the OOS criteria in the North American Standard, but does not constitute a violation of § 396.7, the inspector shall indicate to the driver and/or company official that there is a violation of the HMRs. Use the following HM form to communicate with the driver and/or company official that there are violations of the HMRs. [Hazardous Materials Violation Notice](#)

What should I establish when checking hazardous material paperwork?

Ensure shipping papers are properly prepared and maintained in accordance with Part 172. Check for proper shipping name, hazard class, identification number, packing group, total quantity, additional description requirements, if applicable, and a valid emergency response number.

All information must be entered on the shipping paper in order for it to be in compliance with the HM regulations.

Note: Verify that emergency response information is available during transportation as required by §172.600. You may call the telephone number to ensure the emergency response number is available 24 hours, by a knowledgeable representative, as required.

Where do placards have to be placed when a CMV is transporting hazardous materials?

Examine the vehicle and determine whether there are any placards visible. Placards representing the appropriate HM class must be displayed on each side and each end of the vehicle when:

- Transporting any quantity of material which is listed in Table 1 of Section 172.502; or
- Transporting 1,000 pounds or more (aggregate gross weight) of materials listed in Table 2 of Section 172.504.
- Placards must be securely attached and readily visible.
- Placards are not required for materials classified as ORM D, or when shipping papers identify the material as “limited quantity”.
- The display of identification numbers on a placard is permitted, when applicable.

What should I do if I determine a manufacturer hasn't manufactured cargo tanks to USDOT specifications?

It has come to our attention that there is at least one cargo tank manufacturer in Mexico that has manufactured cargo tanks to USDOT specifications that are not longer authorized for new manufacture. A cargo tank that does not have a valid appropriate MC or DOT specification is not authorized to operate in the United States. The [Border Inspector Alert](#) outlines the steps that need to be taken when you encounter this problem.

If I inspect a motor carrier/shipper who transports placardable Hazardous Materials, must they register with Pipeline and Hazardous Materials Safety Administration?

Yes, a motor carrier/shipper must be registered in accordance with Part 107.608. If the carrier/shipper cannot produce evidence of registration, but claims to be registered, provide the carrier 10 working days to produce evidence of registration or evidence of registration can be verified at <http://gotham.fmcsa.dot.gov/>.

What if the motor carrier/shipper fails to produce evidence of PHMSA registration within 30 working days of the roadside inspection?

Enforcement action should be initiated against a motor carrier/shipper that fails to produce

evidence of registration within 30 working days.

What if the verification shows that the carrier/shipper is not currently registered with PHMSA?

You should inform a high-level company official that they must register immediately for each registration year in which they engaged in activities covered by the registration program. If the motor carrier/shipper submits complete and accurate proof of registration within 10 working days after the closeout of the inspection, enforcement should not be initiated. However, if the carrier/shipper fails to register within 10 working days, enforcement should be initiated.

What other Hazardous Material Regulations must a motor carrier/shipper abide by during the transportation of placardable amounts of hazardous material?

Check the vehicle to determine the compliance of the shipment. The review should include:

- Inspecting the vehicles. Determine if the vehicle is required to be marked with the UN Number of the hazardous material(s) transported.
- Inspecting packages. Examine the labels and marking on the packages for consistency with the information indicated by the shipping papers. Ensure proper packaging, marking, and labeling.
- Verify packages and documents for presence of any PHMSA exemptions.

What are the requirements for how hazardous materials must be loaded?

- Determine whether the HM is properly loaded, blocked, and braced on vehicles.
- Determine whether the proper separation and segregation of HM is followed. Observe shipments of poisons to determine whether they are loaded with foodstuffs [be careful of the exception in § 177.841(e)].
- The cargo must not be incompatible and must be loaded in accordance with specified requirements (176.83 and 176.144).

Is there any safety equipment needed on board a CMV carrying hazardous materials?

Vehicles are required to be placarded, shall be equipped with a 10 B.C. rated fire extinguisher which must be properly filled, operative, and securely mounted on the vehicle.

What should I look for when inspecting a cargo tank carrying hazardous materials?

When inspecting a cargo tank, determine whether all required inspections and tests have been conducted. Visually inspect cargo tanks for the required test/inspection markings and specification violations.

What inspection items will I look for on a cargo tank transporting hazardous materials?

- Certification plate for DOT specification,
- Current test date markings, if applicable (external visual-V, leakage-K, internal visual-I, and hydrostatic/pressure-P),
- Emergency remote shut off valve/control,
- Self-closing shut-off valve,
- Self-closing automatic valves (via means of heat-actuated),
- Filling and discharge manual shut-off valves,
- Internal shut-off valves, piping and fittings, and their protection from damage,
- Rear bumper,

At top of tank, examine,

- Overturn protection,
- Manhole assemblies and fill openings,
- Presence of water,
- Hoses and tubing, and
- General condition of tank.

Check for dents, corroded areas, rips or tears, leaks, defects in welds, and other conditions that could indicate tank weaknesses.

What should I do if I ever come across leaking hazardous material?

Leaking of any product classified as hazardous material inside or outside of a vehicle is to be handled as follows:

- Contact appropriate local enforcement official and make arrangements to park vehicle in suitable location until disposition of the matter is resolved. The vehicle is to be placed out-of-service for violating 396.9(c).
- Contact the motor carrier and other appropriate agency, advise of the nature and extent of the leak and the location of the vehicle.

1.6.12 Conclusion of the Roadside Inspection

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1.6.15 Inspection Manual - Mexican Registration

1. Do I need an MX number if I'm just crossing the U.S. border occasionally?

Yes, every Mexican motor carrier that enters the U.S. must have a FMCSA assigned MX number, a valid FMCSA Certificate of Registration or Operating Authority and a USDOT number.

2. Do I need an MX number if I'm just going one or two miles into the U.S.?

Yes, every Mexican motor carrier that enters the U.S. must have a FMCSA assigned MX number, a valid FMCSA Certificate of Registration or Operating Authority and a USDOT number regardless of the distance traveled into the U.S.

3. I don't have my MX number yet, but I'm supposed to make a trip tomorrow. May I still make the trip?

No, a Mexican motor carrier cannot operate in the U.S. without first obtaining a FMCSA assigned MX number, a valid FMCSA Certificate of Registration or Operating Authority and a USDOT number.

4. How long does it take to get an MX number, Certificate of Registration and USDOT number?

The time it takes to obtain an MX number varies depending on the application submitted and how the application is submitted.

OP-2: if the application is complete it can be processed in 4-8 weeks.

OP-1(MX): If the application is complete, it can be processed in 4-8 weeks. However, once the application is processed, the carrier must submit to and pass a Safety Audit. Once the audit is successfully completed, the carrier will be notified of the results and of the requirement to submit evidence of insurance to FMCSA. At the same time, the carrier's information is published in the FMCSA Register to allow for a 10 day protest period. At the end of that protest period and upon receipt of evidence of insurance and the BOC-3, Designation of Process Agent form, the provisional authority will be issued. At this time, it is unclear how much additional time this will take.

However, if an application is submitted and it is not completed correctly, it will be sent back to the motor carrier for correction. When the corrections are returned, they are entered in the order they are received along with any new applications that are received.

5. I haul for a maquila company. Am I a private carrier?

Generally the answer is no. A maquila is a company that manufactures items. In the maquila industry, raw materials are sent to Mexico, they are made into a final product, and then returned to the U.S. for distribution. The agreement is that nothing made in a maquila has been imported into Mexico, therefore, it can't be sold in Mexico. It must be exported back to the foreign owner.

Follow up questions must be asked of the carrier:

- a. Do you own the merchandise? Normally, the maquila owns only the labor. The merchandise is owned by a U.S. entity.
- b. Is the maquila actually the trucking company or are you contracted by the maquila? This is normally the situation - contract carrier. It does not matter if the same person owns the maquila as owns the trucking company. They are usually separate and distinct entities. Foreigners who are not Mexican citizens usually own the maquilas and non-Mexican citizens cannot own transportation companies in Mexico.

6. I have authority to go beyond the commercial zone now, but I heard I need to reapply, what form do I need and how do I get it?

You will need to submit an OP-1(MX) The deadline to submit an OP-1(MX) to renew a current Operating Authority for operations beyond the commercial zone is November 4, 2003. The FMCSA may suspend or revoke the Operating Authority of any carrier that fails to meet this deadline.

Your current Operating Authority would remain valid until the FMCSA acts on your OP-1(MX) application.

Mexico-domiciled carriers can obtain a copy of the application package: Through the mail by calling FMCSA's Information Line: (001-800-832-5660 from Mexico or 1-800-832-5660 from the U.S. or Canada) or any FMCSA Division office and requesting the OP-1(MX) application package or through the FMCSA, Web site on the Internet at:http://www.fmcsa.dot.gov/español/mmc_spanish.htm or call the Transborder Office at 619-710-8400.

7. I have authority to operate in the commercial zone now, but I heard I need to reapply, what form do I need and how do I get it?

If your company is based in Mexico and you wish to continue operating only in the commercial zones, an application should have been submitted before the deadline, to avoid

paying the fee. The deadline to submit an OP-2, to renew a current Certificate of Registration was October 20, 2003. However, if you wish to change from operating in the commercial zones to beyond the commercial zones you should file the OP 1 (MX) and pay the fee.

You should be aware however, that if you decide to file an OP-1(MX), and the land transportation provisions of the North American Free Trade Agreement (NAFTA) are not implemented, you may lose your ability to renew your current Certificate of Registration at no charge.

Mexico-domiciled carriers can obtain a copy of the application package: Through the mail by calling FMCSA's Information Line: (001-800-832-5660 from Mexico or 1-800-832-5660 from the U.S. or Canada) or any FMCSA Division office and requesting the OP-2 application package or through the FMCSA, web site on the Internet at: http://www.fmcsa.dot.gov/español/english/mmc_english.htm or at the Transborder Office at 619-710-8400.

8. I have two companies. One in the U.S. and one in Mexico. Which application do I need?

Both companies need their own authority. Although both companies may have the same owners and corporate officers, they are considered to be separate companies located in different countries. The Mexico domiciled carrier needs an OP-2 or OP-1(MX) application. The U.S. domiciled carrier or enterprise carrier must fill out the standard OP-1 application. The Motor Carrier must pay the fee indicated on the application.

9. I have been crossing the border for many years and have never needed an MX number, Certificate of Registration or USDOT number before. is this something new?

No. The MX number, Certificate of Registration and USDOT number has been in place since 1982.

10. I read in the paper that the border was opened. Does this mean I can go anywhere in the U.S. that I want?

Once the land transportation provisions of NAFTA are implemented, you will be able to apply for an OP-1(MX) and receive authority to perform transportation services throughout the United States.

11. What happens if I operate without authority?

A number of things could happen if you operate without authority. Under 49 CFR 392.9a (b) requires that carriers operating without authority or beyond the scope of their authority can be put Out of Service. A company operating without authority is also subject to fines.

12. Is the commercial zone 20 miles?

No, commercial zones are defined in 49 CFR 372, Subpart B. Some zones are identified by name. The population of the municipality determines those that are not identified in 49 CFR 372, Subpart B. The OP-2 application has a list of the border crossings and associated commercial zones.

13. My certificate of registration says I can carry exempt commodities. What are exempt commodities?

In general, exempt commodities are things that have not been processed in any way such as fresh produce. There is a partial list of non-exempt commodities in 49 CFR 372.115.

There is an additional list of exempt and non-exempt commodities in Administrative Rule 119, which can be found on our Web site. <http://www.fmcsa.dot.gov/pdfs/adminrule.pdf>

14. May a Mexican carrier lease its equipment to a U.S. company?

A Mexico-domiciled motor carrier may lease its equipment to a U.S. motor carrier only for operations within the commercial zones, provided the carrier complies with the leasing requirements found in 49 CFR Part 376. A copy of the lease must be carried on the vehicle. A Mexico-domiciled motor carrier may not lease its equipment to a U.S. motor carrier for operations beyond the commercial zones. Any Mexico-domiciled motor carrier who enters into such a lease for operations beyond the commercial zones is subject to penalties, including out of service orders.

15. Can a U.S. company lease its equipment to a Mexican company?

Yes, there is no prohibition against a U.S. company leasing their equipment to a Mexican company for operations in the United States. They would need to comply with the leasing regulations in 49 CFR 376, Subpart B. However, if this vehicle is going to be operated in Mexico, both companies need to verify the vehicle leasing regulations in Mexico with the Secretaría de Comunicaciones y Transportes (SCT).

16. Can a Mexican company lease its equipment to another Mexican company?

Yes, one Mexican company can lease its equipment to another Mexican company for operations in the United States. They would need to comply with the leasing regulations in 49 CFR 376, Subpart B.

17. Once I submit my application, can I begin operating in the U.S.?

No, you must wait until you receive the Certificate of Registration for commercial zone operations or an Operating Authority for operations beyond the commercial zone. Until such documentation is issued, you may not operate. All commercial zone carriers must carry a copy of the Certificate of Registration in each and every vehicle when crossing into the U.S.

18. May a Mexican carrier operate in the U.S. with a copy of the completed OP-2 application in the vehicle?

A Mexican carrier may choose to carry a copy of his completed application on board the vehicle, but this does not comply with the regulatory requirement. The requirement is for the carrier to have on board the vehicle, a copy of the Certificate of Registration (commercial zone carriers).

19. Does a copy of the front page of the MX certificate of registration satisfy the regulation 387.303(b)(4) or must a carrier have all of the pages of the certificate on board the vehicle?

No, the front page does not satisfy the requirement of having the Certificate of Registration on board the vehicle. The regulation says that the carrier must have the Certificate of Registration. The newest Certificates of Registration are one page documents.

20. May I go into other states and make deliveries?

If you are still operating on a certificate issued prior to April 18, 2002, then your Certificate of Registration will indicate in which states you may operate. If your certificate was issued after April 18, 2002, then you may operate in those states where you have an agent of process. If you are unsure where you have an agent of process, the information can be found at <http://li-public.fmcsa.dot.gov>.

In no case is a Mexican motor carrier allowed to perform domestic interstate transportation between points in the U.S.

21. I use a pick-up truck (small van, car, tow truck, etc) to bring my merchandise from Mexico to the U.S. Do I need an MX number?

Yes, for Authority issues, the size of the vehicle is irrelevant.

22. I have a company in Mexico and a company in the United States. My trucks have both Mexico and U.S. license plates. Can I put my MX number and my MC number on the same truck?

No. A single company cannot claim multiple places of domicile and therefore would not be entitled to have both numbers. The vehicle must be marked in accordance with 49 CFR 390.21. that requires the placement of a USDOT number. Please see: <http://www.fmcsa.dot.gov/rulesregs/fmcsr/regs/390.21.htm>

23. I have a bus company in Mexico and I want to provide service to all areas in California and to Las Vegas, NV. Do I need an MX Authority and how long will it take to get my Authority?

Yes, you must file an OP-1(MX) for motor passenger carrier authority beyond the commercial zone. How long it will take to get your authority will vary depending upon whether the application is completed correctly or not. An application that is completed correctly can be processed significantly faster.

However, if an application is submitted and it is not completed correctly, it will be sent back to the motor carrier for correction. When the corrections are returned, they are entered in the order they are received along with any new applications that are received.

Additionally, no authority will be issued for operations beyond the zone until the land transportation provisions of NAFTA have been implemented.

24. How do I change the type of authority I have?

You may file for any additional authorities if you want. You must submit a new OP-2 and pay the fee that is indicated on the application.

1.6.16 Inspection Manual - Mexican Safety FAQ

1. Must the files that I maintain in order to comply with the FMCSRs be in English?

No, there is no regulatory requirement that files be kept in English. However, any time a specific form is identified by name/number (i.e. MCS-90) the only approved form is in English.

2. A driver with residence in Mexico drives for a U.S. company. Does that driver need a state issued commercial drivers license?

Yes, the driver needs a license from his place of residence. Licensing is not dependent on place of employment.

3. Must a driver from Mexico have a record of duty status available for inspection when operating in the United States?

A driver from Mexico is subject to the same record of duty status requirements as any other driver operating in the United States. If they are operating within a 100-air mile radius of their home terminal, they may take advantage of the 100-air mile radius exemption in 49 CFR 395.1(e). However, if they are operating beyond a 100-air mile radius or do not meet the requirements of the previously mentioned exemption, then they must have a record of duty status current on the day of inspection.

4. My truck was inspected and there were some violations discovered. How long do I have to fix the violations?

A violation that resulted in the truck being placed out of service must be corrected before the vehicle can operate again. Other violations discovered must be corrected before the next dispatch. The report needs to be sent within 15 days.

5. I do not work for a local company and I have not given them the inspection report yet. Do I still need to make the repairs?

Yes, the repairs need to be made. Further, the regulations say that if the driver is not going to return to the motor carrier's terminal or facility, the driver must mail the inspection report to the carrier. Also, the carrier must certify, on the inspection form, that the repairs have been made and return the form to the FMCSA.

6. I want to take my truck into Mexico, what do I need?

We do not regulate what happens in Mexico. The Secretaria de Comunicaciones y Transportes (SCT) regulates truck traffic in Mexico. You would need to contact them for the requirements in Mexico. You might check the SCT Web site for telephone numbers and information <http://www.sct.gob.mx>

<Please insert Memo Enforcement.Mexico.Domiciled.FMVSS.3.16.05>

OP-2 CARRIERS 1990-APRIL 18, 2002 (All Mexico owned or Mexico based carriers)

Majority MX owned MX or US based	Territory Granted	Majority U.S. owned (55% or more) MX based	Territory granted
Private	Zones	Private	Between points
For hire exempt	Zones	For hire exempt	Between points
For hire property (regulated)	Zones	For hire property (regulated)	Zones

OP-2 CARRIERS APRIL 18, 2002 TO PRESENT

Based	Type of Authority granted	Territory granted
All carriers must now be Mexico based	For hire of property (exempt & regulated)	Zones
	For hire of household goods	Zones
	Motor Private carrier of Property	Zones

No passenger carriers are granted authority under OP-2 commercial zones	(Commercial zone passengers only need USDOT number)	
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ENTERPRISE CARRIERS (June 2001 to present) OP-1 PROPERTY

Based	Owned	Types of Authority	Operating Authority Reads
All carriers must be U.S. based	All carriers must be owned by Mexican national	Enterprise - Property Enterprise - Household goods	Providing truck services for the transportation of international cargo by motor vehicle in interstate or foreign commerce.

OP-1(P) PASSENGERS

Based	Owned	Types of Authority	Operating Authority Reads
All carriers must be U.S. based	All carriers must be owned by Mexican national	Passengers –OP-1(P) Passenger For hire only: Common Contract Regular routes	Of passengers as provided by United States based enterprises owned or controlled by persons of Mexico by motor vehicle in interstate, intrastate and foreign commerce.

OP-1MX – May 2002 to present (Not being granted at this time)

Based	Owned	Authority	Territory
All carriers must be based in Mexico	Does not matter whether majority US or Mex	1. Common carrier of passengers 2. Contract carrier of passengers 3. Common carrier of property (exc HHG) 4. Contract Carrier of property (exc HHG) 5. Common carrier of household goods 6. Contract carrier of household goods 7. Motor private carrier of property	All will be granted beyond commercial zones

1.6.17 Illustration 51 - Unsafe Operations Under § 396.7

UNSAFE OPERATIONS UNDER § 396.7

Some violations of the Hazardous Materials Regulations meet the definition of unsafe operations under § 396.7. Under § 396.7, a motor vehicle shall not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle.

Further, the condition of the vehicle or its cargo is so inadequate that the continued operation in that condition is a violation of the Federal Motor Carrier Safety Regulations. This allows the FMCSA to place the vehicle out-of-service under its summary authority now codified in 49 USC 521(b)(5)(A).

The following outlines the violations that may be designated under § 396.7 as unsafe operations.

VIOLATION	VIOLATION DESCRIPTION
173.24(b)(1)	Transporting hazardous materials in a cargo tank which has an identifiable release of hazardous materials to the environment. Transporting hazardous materials in a portable tank which has an identifiable release of hazardous materials to the environment. Transporting hazardous materials in a non-bulk packaging which has an identifiable release of hazardous materials to the environment.
173.24(c)	Using a package not authorized for the material being transported.
173.24b(d)(2)	Offering for transportation a hazardous material in a bulk packaging which exceeds the maximum weight of lading marked on the specification plate.
173.33(a)	Transporting hazardous materials in an unauthorized cargo tank. Offering or accepting for transportation a hazardous material in an unauthorized cargo tank motor vehicle.
173.441(a)	Offering or transporting a package of radioactive material that exceeds allowable external radiation levels (non-exclusive use).
177.801	Accepting for transportation (or transporting) an explosive material not properly packaged.
177.834(g)	Failing to brace containers of specified hazardous materials to prevent relative motion between containers.
177.834(j)	Transporting a hazardous material in a cargo tank while failing to have the manhole closures closed and secured (if HM is in the vehicle). Transporting a hazardous material in a cargo tank while failing to have all valves and other closures in the liquid discharge system closed and free of leaks.
177.841(e)	Transporting a package bearing a poison label in the same transport vehicle with material marked or known to be foodstuff, feed, or any edible material intended for consumption by humans or animals unless an exception in 177.841(e)(i) or (ii) is met.
178.337-13	Operating a cargo tank that is not securely attached to prevent relative motion between the cargo tank and the vehicle chassis when the vehicle is in operation.
178.338-13	Operating a cargo tank that is not securely attached to prevent relative motion between the cargo tank and the vehicle chassis when the vehicle is in operation.

178.345-6	Operating a cargo tank that is not securely attached to prevent relative motion between the cargo tank and the vehicle chassis when the vehicle is in operation.
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1.6.18 Illustration 52 - Hazardous Materials Violation Notification



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

HAZARDOUS MATERIALS VIOLATION NOTIFICATION

“This serves as a notice that you are transporting a hazardous material in violation with Title 49 CFR Parts 100-199, (Hazardous Materials Regulations), which prohibits operation of a commercial motor vehicle until the violation is removed. Therefore, continued transportation in violation of the Hazardous Materials Regulations will subject you to the maximum penalties of \$500,000 and/or five years in jail.”

Driver _____

Inspector _____

1.6.19 Illustration 53 - Border Inspector Alert



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

Border Inspector Alert

It has come to our attention that there is at least one cargo tank manufacturer in Mexico that has manufactured cargo tanks to USDOT specifications that are not longer authorized for new manufacture. A cargo tank that does not have a valid appropriate MC or DOT specification is not authorized to operate in the United States.

What is a valid MC or DOT specification marking?

The most common MC and DOT specification cargo tank markings are MC 306, MC 307, MC 312, MC 300, MC 331, DOT 406, DOT 407, and DOT 412. However, a MC 306, MC

307, and MC 312 tank may not be used if it has an original test date on the specification plate after August 31, 1995. Other valid cargo tank specifications and valid manufacture dates are listed in the table shown in 49 CFR 180.405 (c)(i) & (ii).

May a SCT cargo tank be used to transport HM in the U.S.?

The answer is NO. Cargo tanks manufactured to the Mexican regulations display markings that appear similar to U.S. cargo tanks. The Mexican specifications usually will show a marking like SCT 307 for an example. If you discover a tank with the SCT markings, and no other marking indicating that it is a MC or DOT tank, it is not authorized to operate in the U. S. transporting hazardous materials requiring a DOT specification cargo tank.

How do I determine if the cargo tank is authorized for the material it is transporting?

Column (8C) of the hazardous materials table [§ 172.101] lists the section in Part 173 where authorized bulk packages can be found. That section, usually §§ 173.240-173.244, will list the authorized specification cargo tanks. Please note that for materials with bulk packages authorized in §§ 173.240 or 173.241, non-DOT specification cargo tanks, include Mexican SCT specification tanks, are authorized.

ACTION

When cargo tanks are discovered in the U.S. transporting hazardous materials in tanks that are not authorized for the type hazardous materials being transported, the vehicle should be placed out-of-service for violation of 396.7 – Unsafe Operations Forbidden. If the cargo tank is marked MC 306, MC 307, or MC 312 with an original test date after August 31, 1995, please forward a copy of the inspection and the information from the vehicle inspection place (a photograph if possible) through the appropriate channels to the Hazardous Materials Division (MC-ECH).

1.7 Appendix

[Appendix A - Acronyms](#)

[Appendix B](#)

[Appendix C - UFA Software Instructions](#)

[Appendix D - CaseRite Software Instructions](#)

[Appendix E - Plain Language Discussion](#)


[Appendix F - Hazardous Material Checklists/Worksheets](#)

1.7.1 Appendix A - Acronyms


Acronyms Used in the Field Operations Training Manual

ALJ - Administrative Law Judge
ASME - American Society of Mechanical Engineers
CAPRI - Compliance Analysis & Performance Review Information system
CDL - Commercial Driver's License
CDLIS - Commercial Driver's License Information System
CMV - Commercial Motor Vehicle
CR - Compliance Review
CVSA - Commercial Vehicle Safety Alliance
DA - Division Administrator
ETA - Education and Technical Assistance
FMCSA - Federal Motor Carrier Safety Administration
FMCSR - Federal Motor Carrier Safety Regulations
FMVSS - Federal Motor Vehicle Safety Standards
FRE - Federal Rules of Evidence
GCWR - Gross Combination Weight Rating
GVWR - Gross Vehicle Weight Rating
HHG - Household Goods
HM - Hazardous Materials
HMPIP - Hazardous Materials Package Inspection Program
HMRs - Hazardous Materials Regulations
IFTA - International Fuel Tax Agreement
ISS - Inspection Selection System
L&I - Licensing and Insurance Registration Database
MCMIS - Motor Carrier Management Information System
MCSAP - Motor Carrier Safety Assistance Program
MRO - Medical Review Officer
NCIC - National Crime Information Center
NLETS - National Law Enforcement Telecommunications System
NOC - Notice of Claim
OIG(USDOT) - Office of the Inspector General
OS&D - Over, Short & Damage
PHMSA - Pipeline and Hazardous Materials Safety Administration
PMCP - Private Motor Carrier of Passengers
PRISM - Performance and Registration Information Systems Management
RODS - Record of Duty Status
SA - Safety Audit
SAP - Substance Abuse Professional
SCT - Secretaria De Comunicaciones y Transportes (Mexican equivalent of USDOT)
SD - State Director
SEA - Safety Evaluation Area
SI - Safety Investigator
UFA - Uniform Fine Assessment
USDOT - United State Department of Transportation
VIN - Vehicle Identification Number

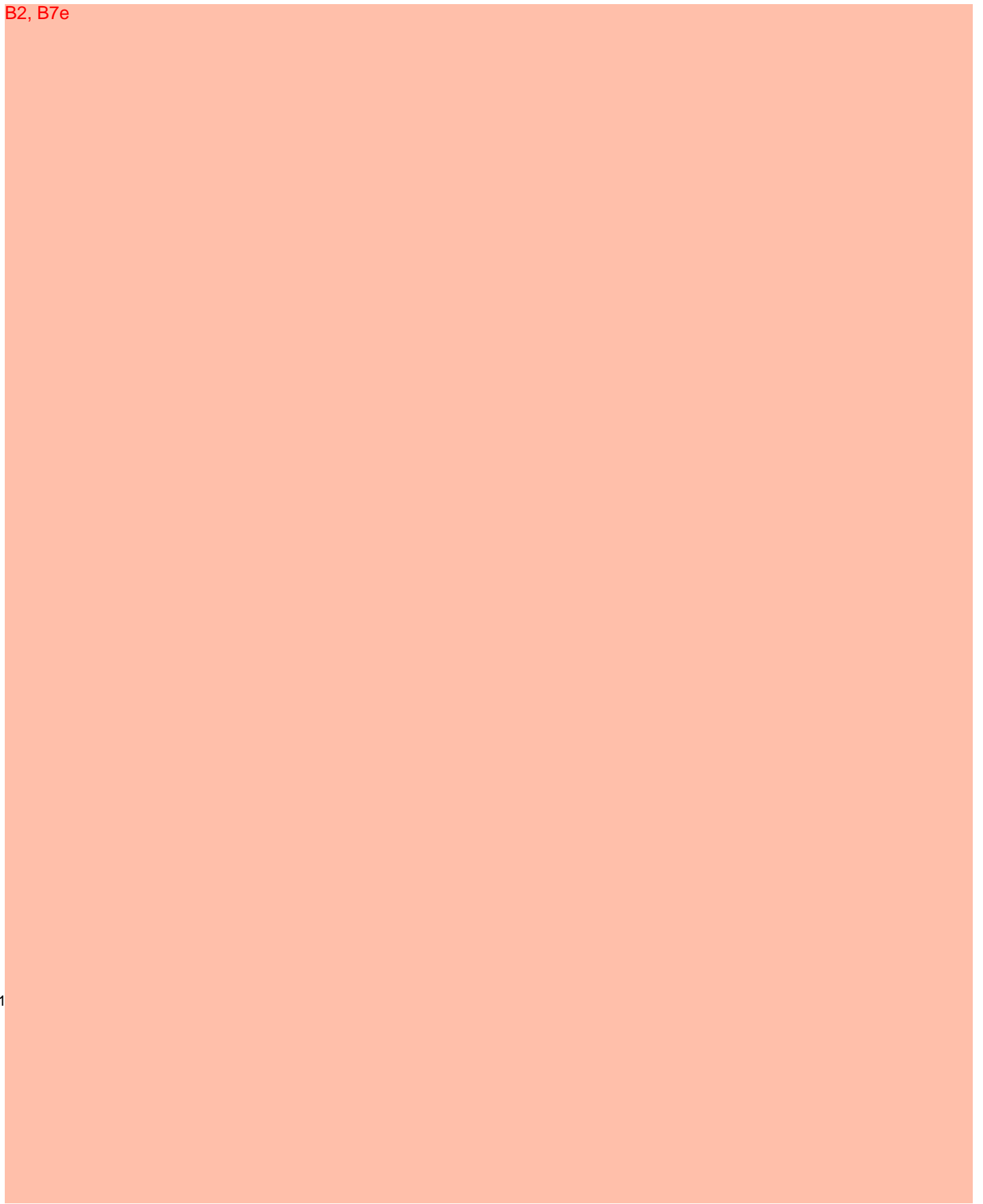
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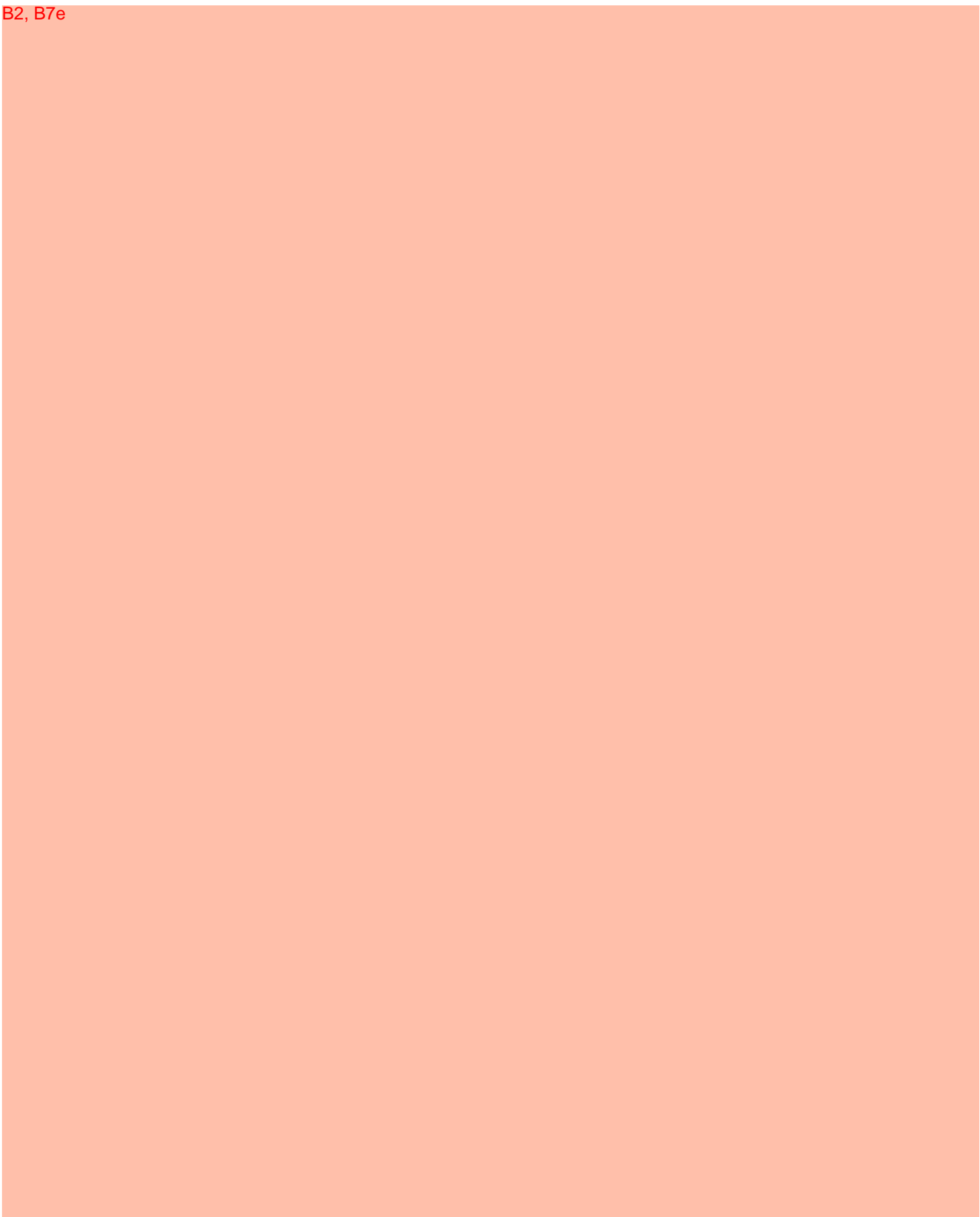


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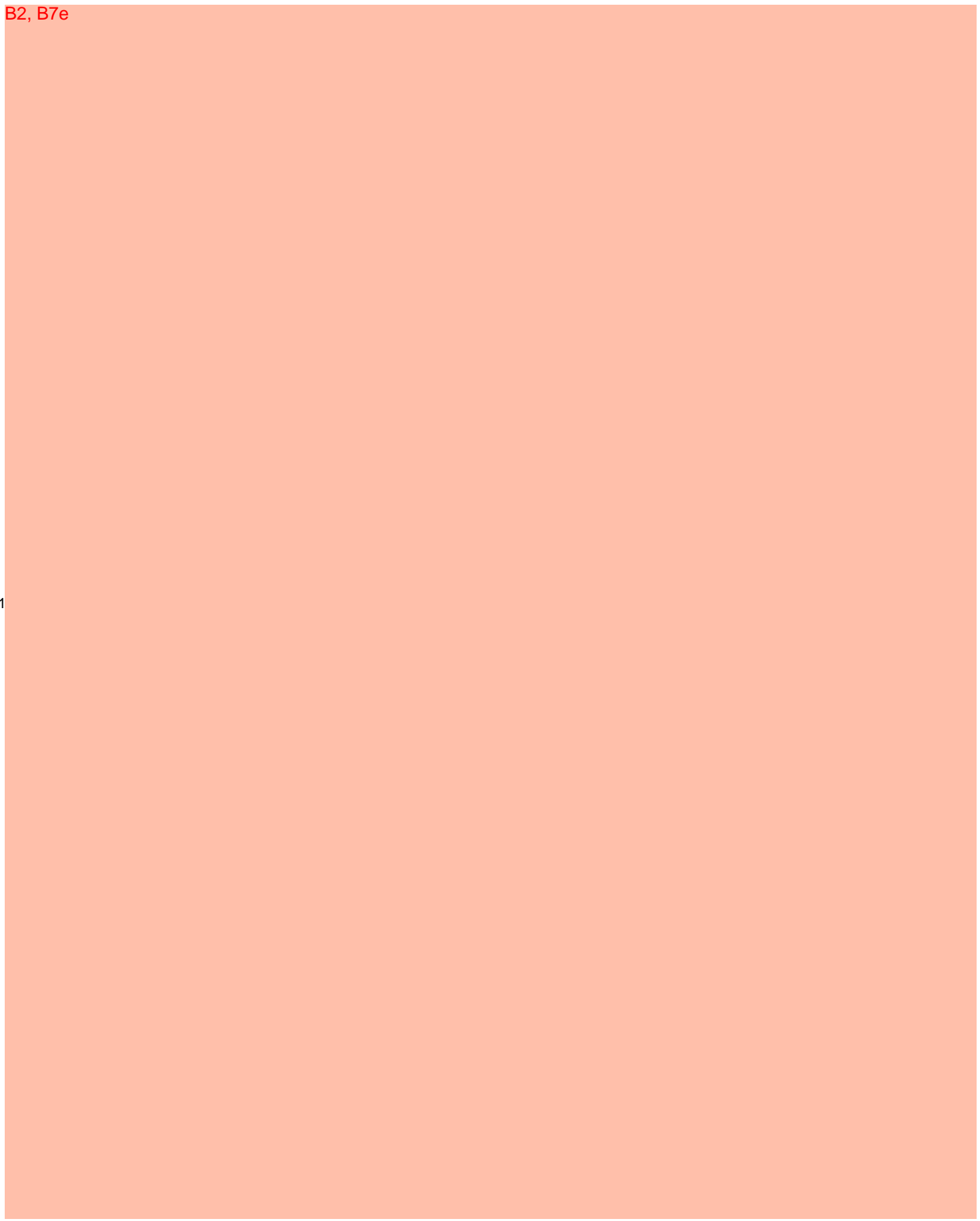
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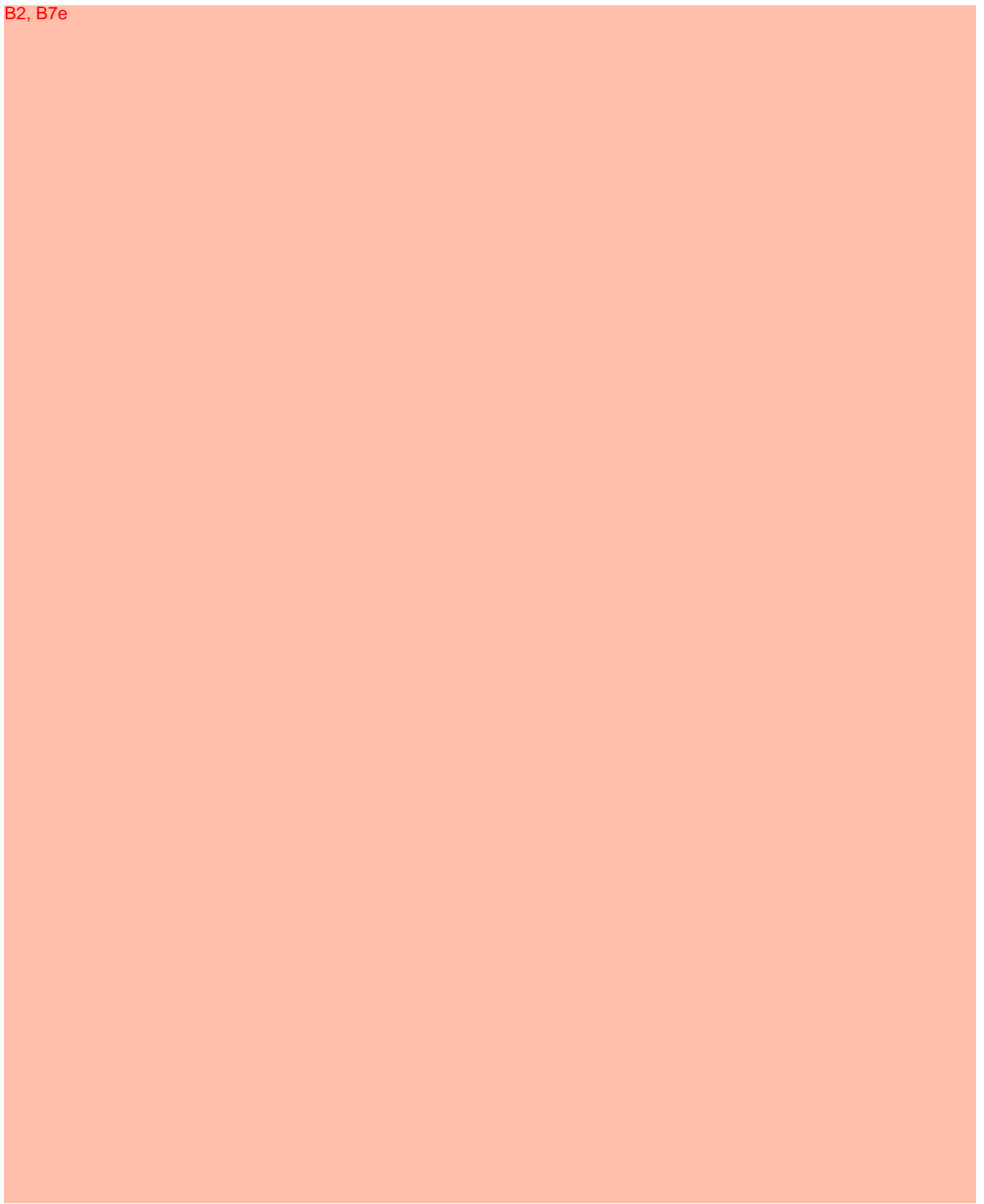


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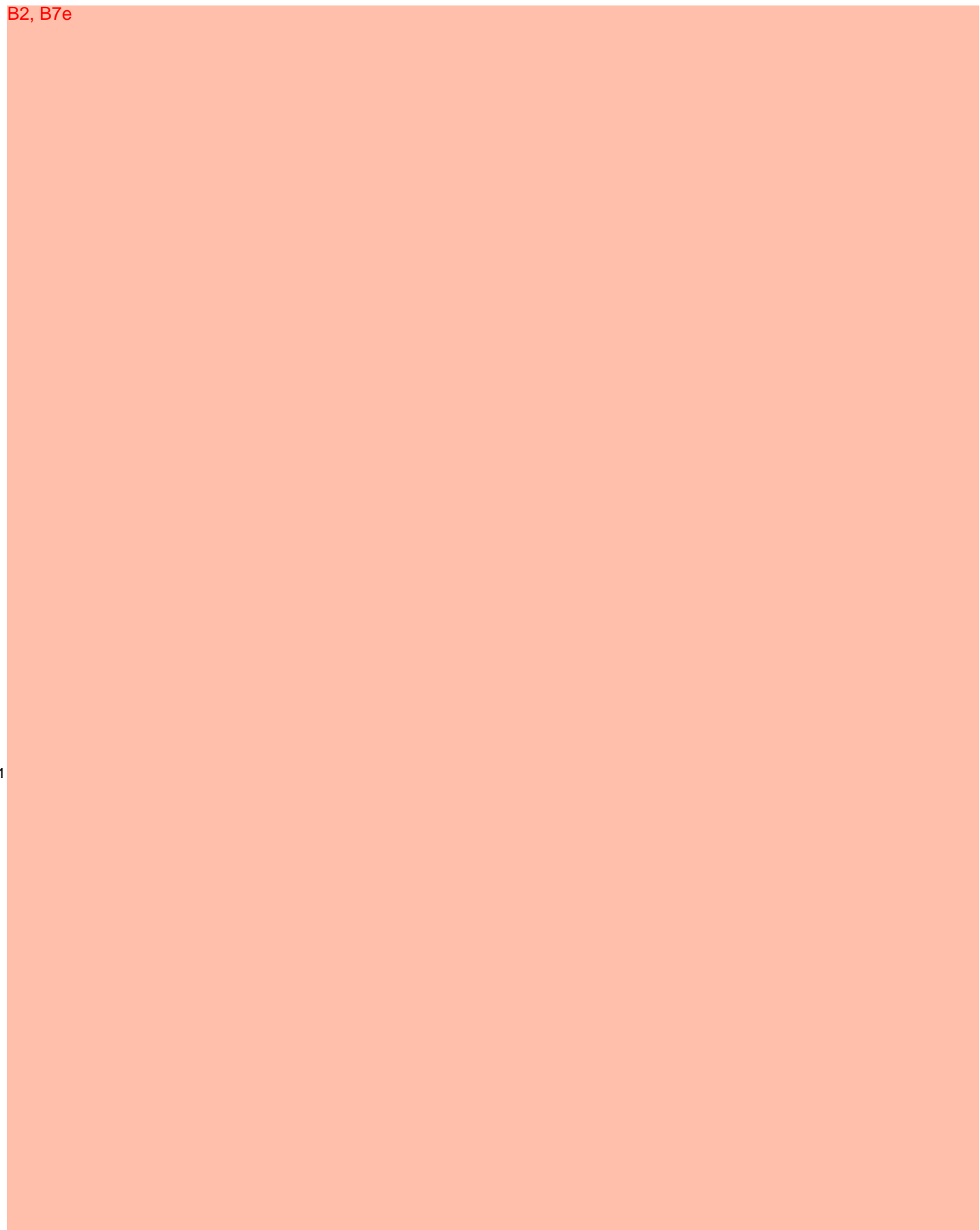
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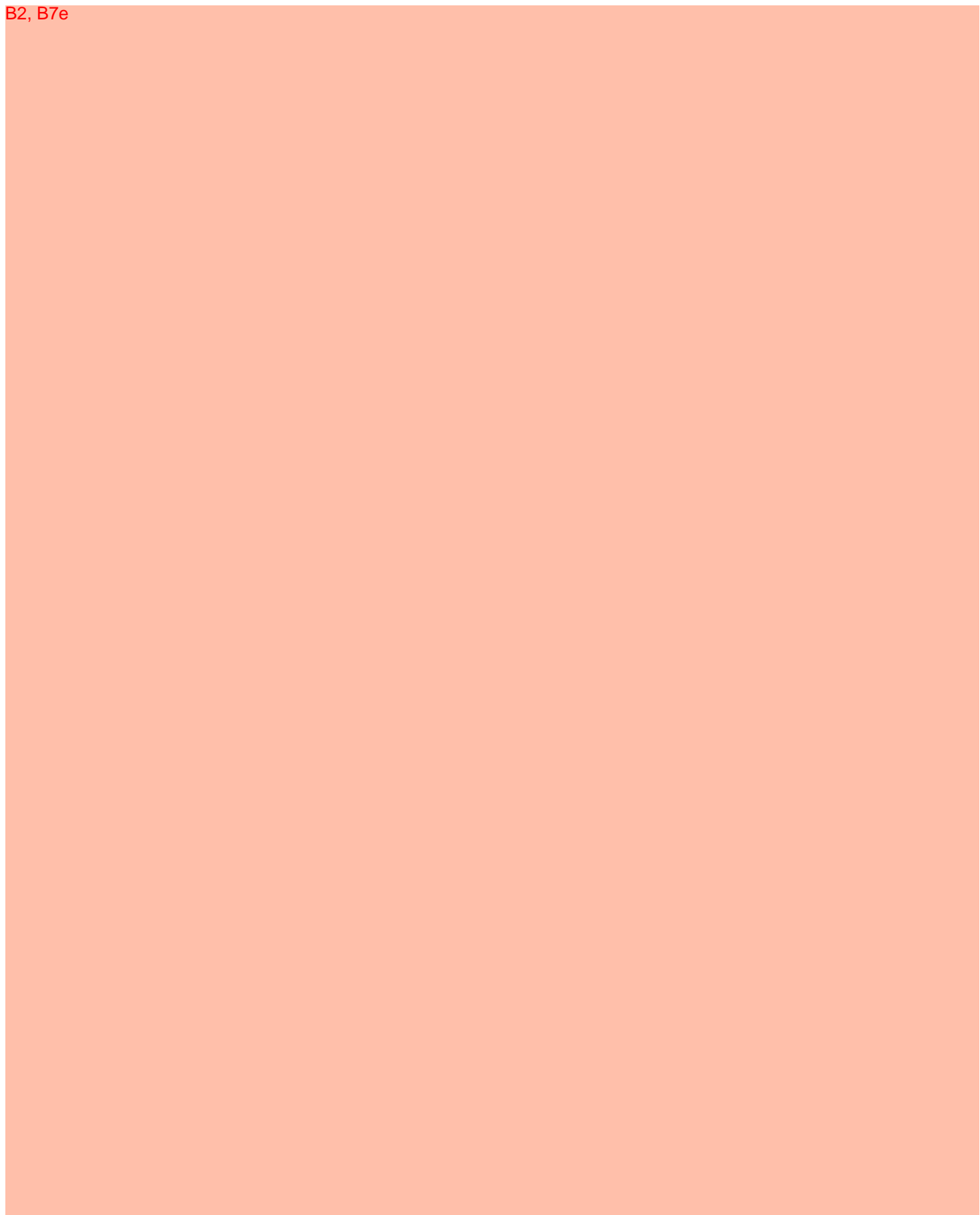


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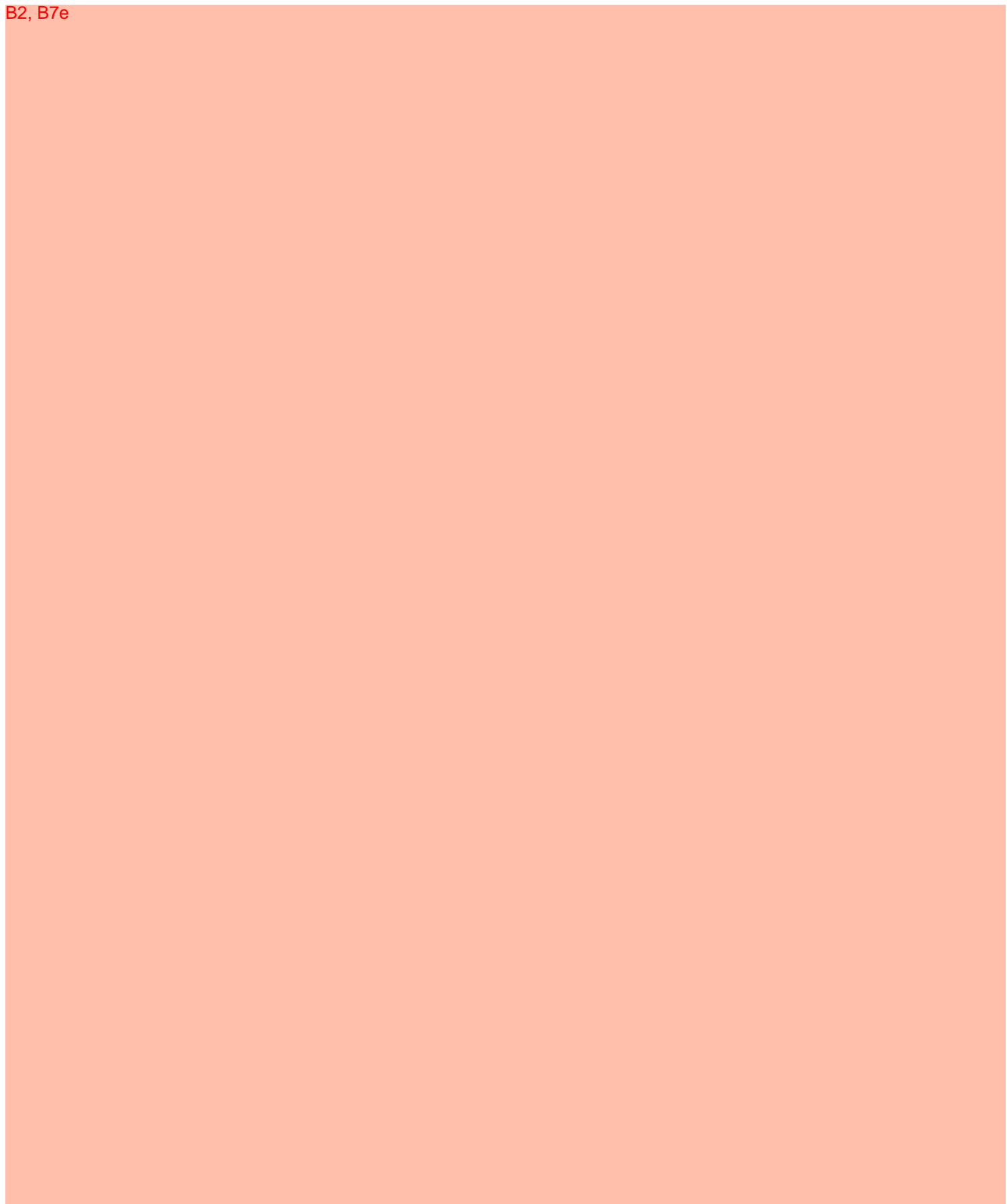


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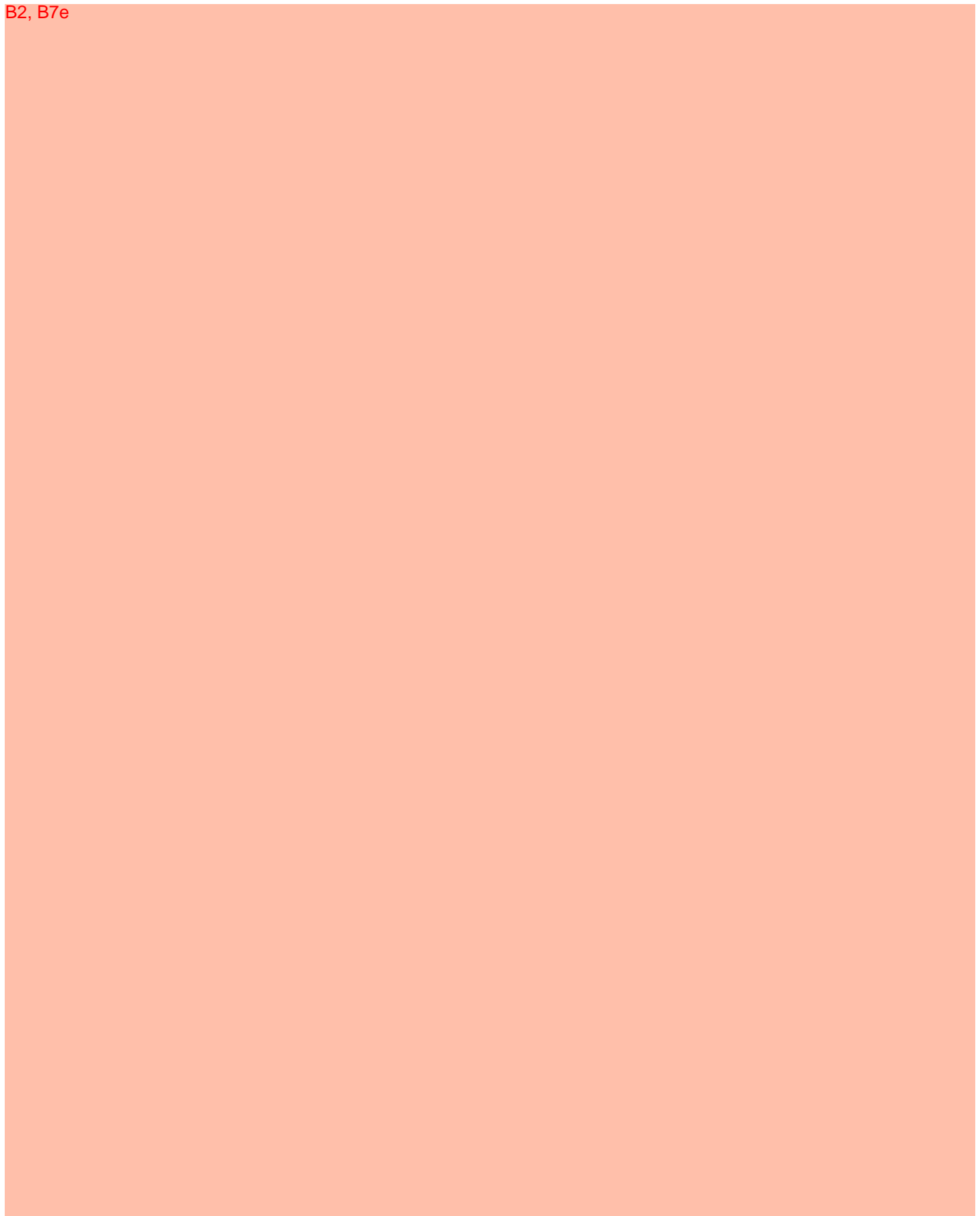
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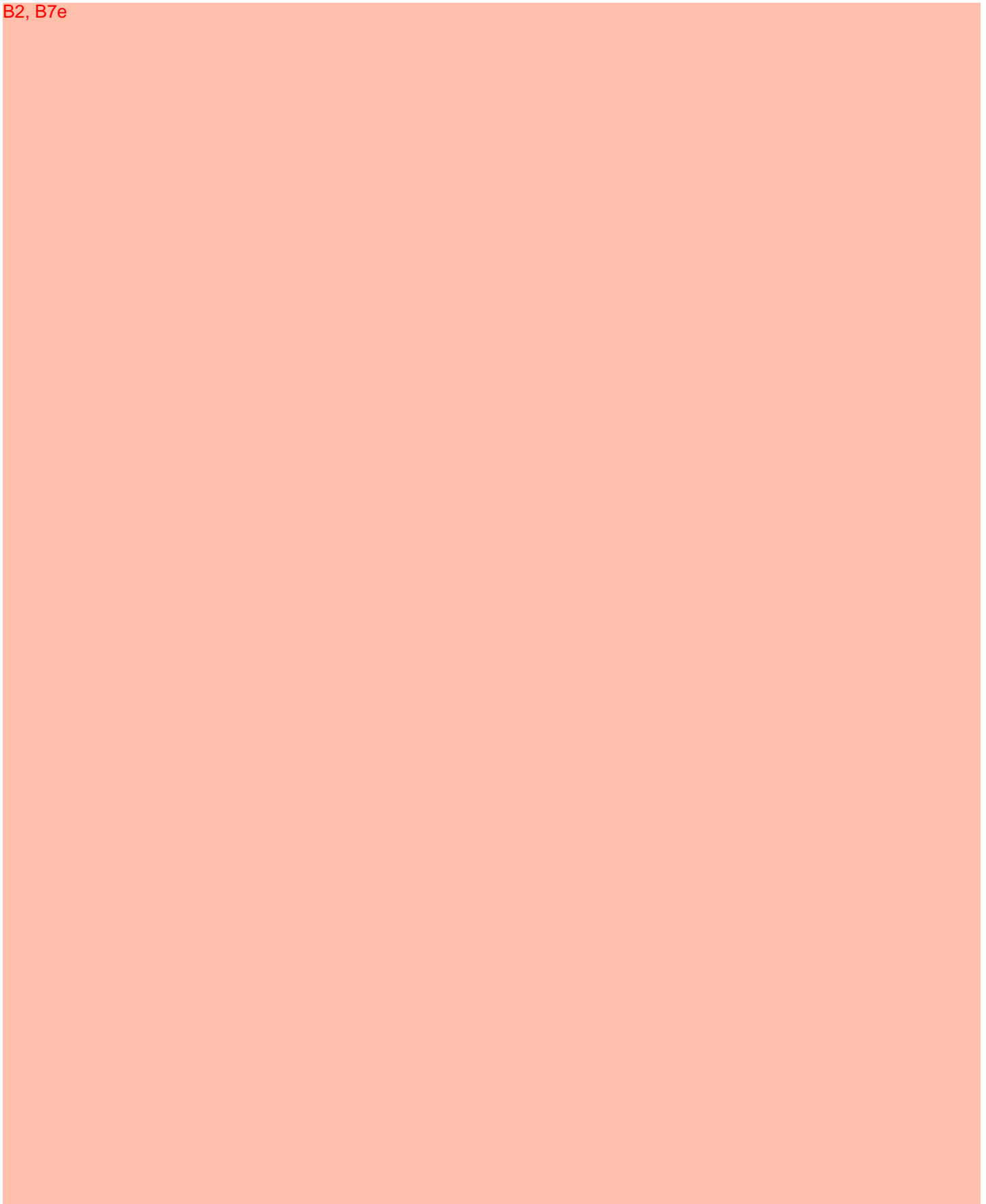
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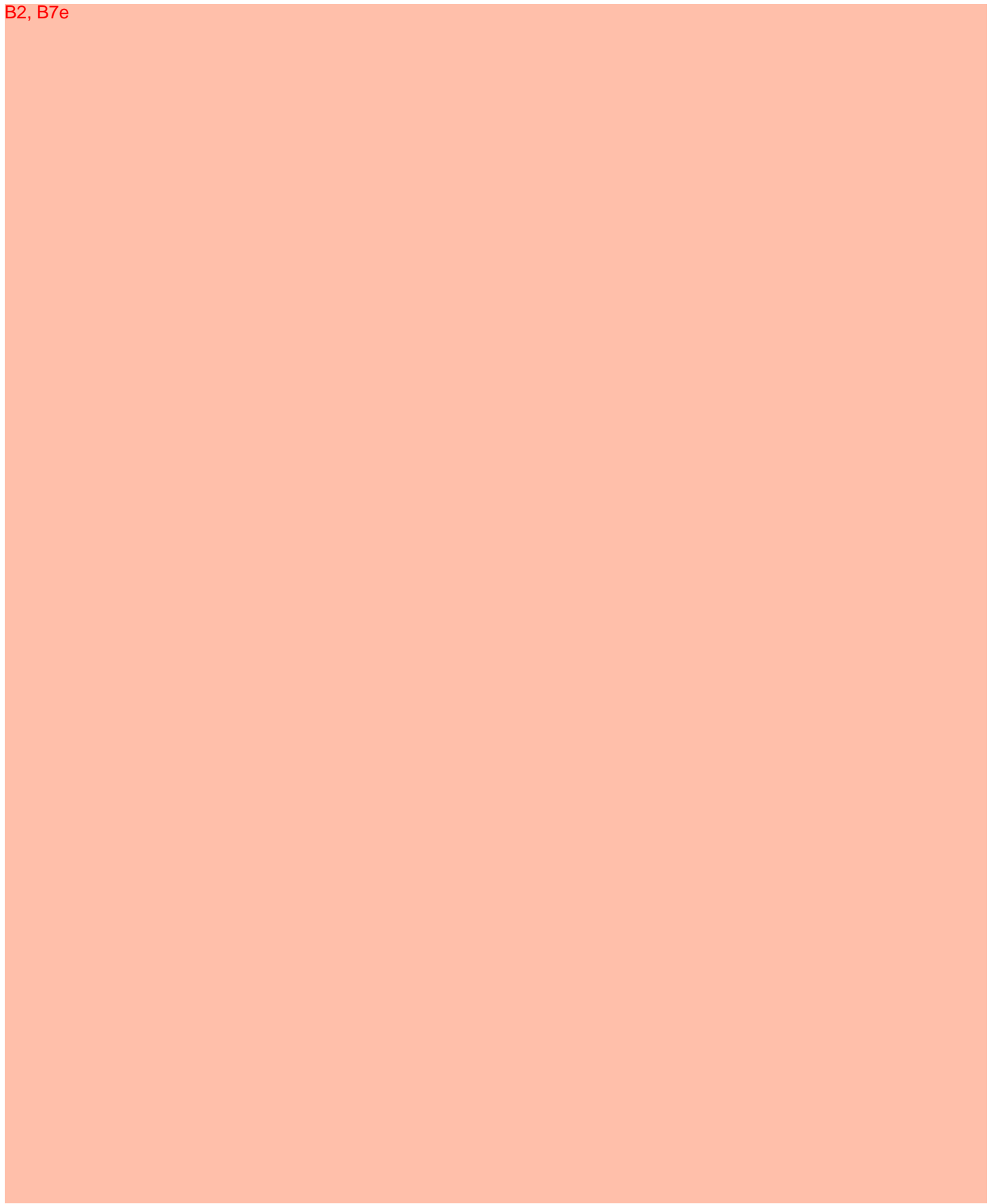
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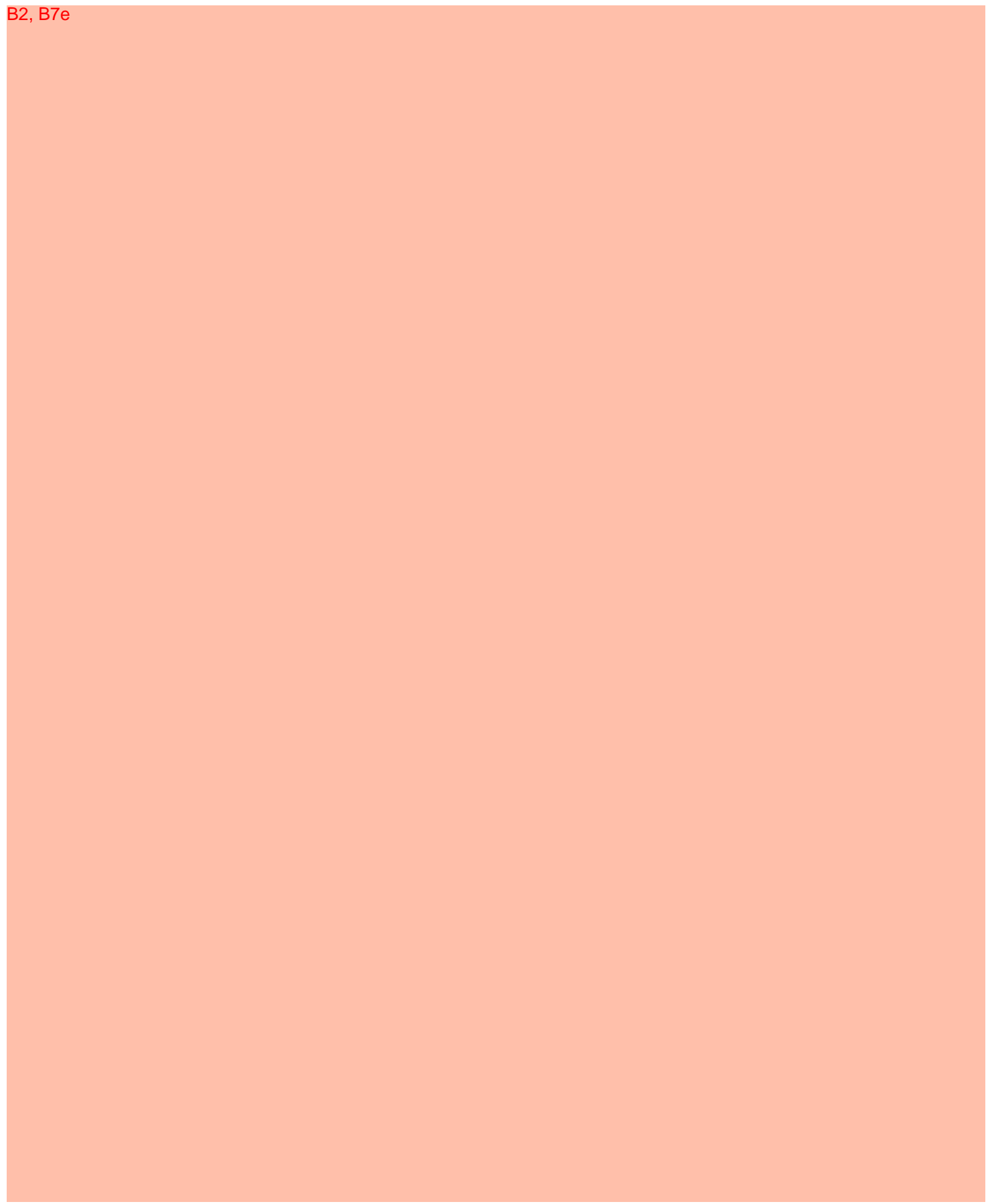
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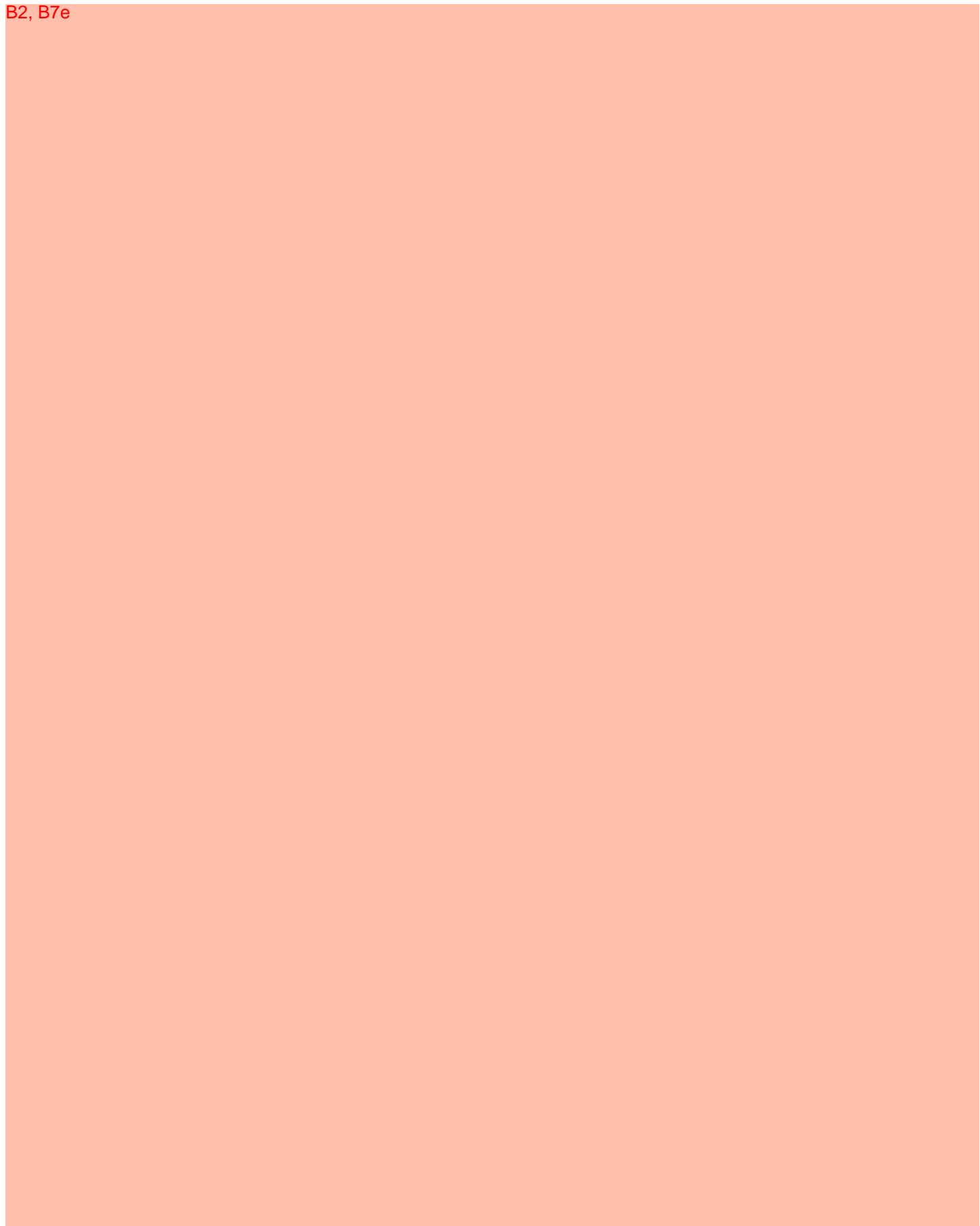
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Memorandum



**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: **ACTION:** Enforcement Policy; Auxiliary Lights
Permitted under 49 CFR 393.11(d)

Date: June 27, 2006

From: Dan Hartman
Associate Administrator for Enforcement
and Program Delivery

Refer To:
MC-PSV

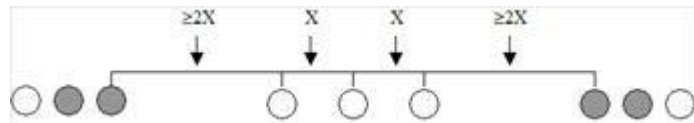
To: Assistant Administrator and Chief Safety Officer
Associate Administrator for Field Operations
MC-E Office Directors/Division Chiefs
Office of Chief Counsel, Enforcement and Litigation
Service Center Field Administrators
Division Administrators/State Director
National Enforcement Team
National Training Center

ENFORCEMENT POLICY

In consideration of an upcoming technical amendment to rescind 49 CFR 393.11(d), auxiliary lamps which supplement identification lamps are permitted under the conditions specified below. This policy will remain in effect until the Agency has adopted the technical amendment.

BACKGROUND

There is a conflict between the requirement of section 393.11(d), which prohibits all auxiliary lights that are in a horizontal line with the required identification lamps (3-lamp cluster), and a July 2005 interpretation from the National Highway Traffic Safety Administration (NHTSA) to the Truck Manufacturer's Association. The interpretation permits these auxiliary lights provided they are positioned at a distance that is at least twice the distance that separates each lamp in the 3-lamp cluster as illustrated in the diagram provided below. NHTSA has determined that this separation ensures that effectiveness of the 3-lamp cluster is not impaired.



COMMUNICATION OF FMCSA POLICY WITH STATE AGENCIES

Division Administrators and State Directors are to contact the lead Motor Carrier Safety Assistance Program agency in their States and advise them of the Agency's enforcement policy concerning commercial motor vehicles equipped with auxiliary lamps that supplement identification lamps. Please request that the States refrain from penalizing motor carriers that use auxiliary lamps which conform to the spacing requirements noted above.

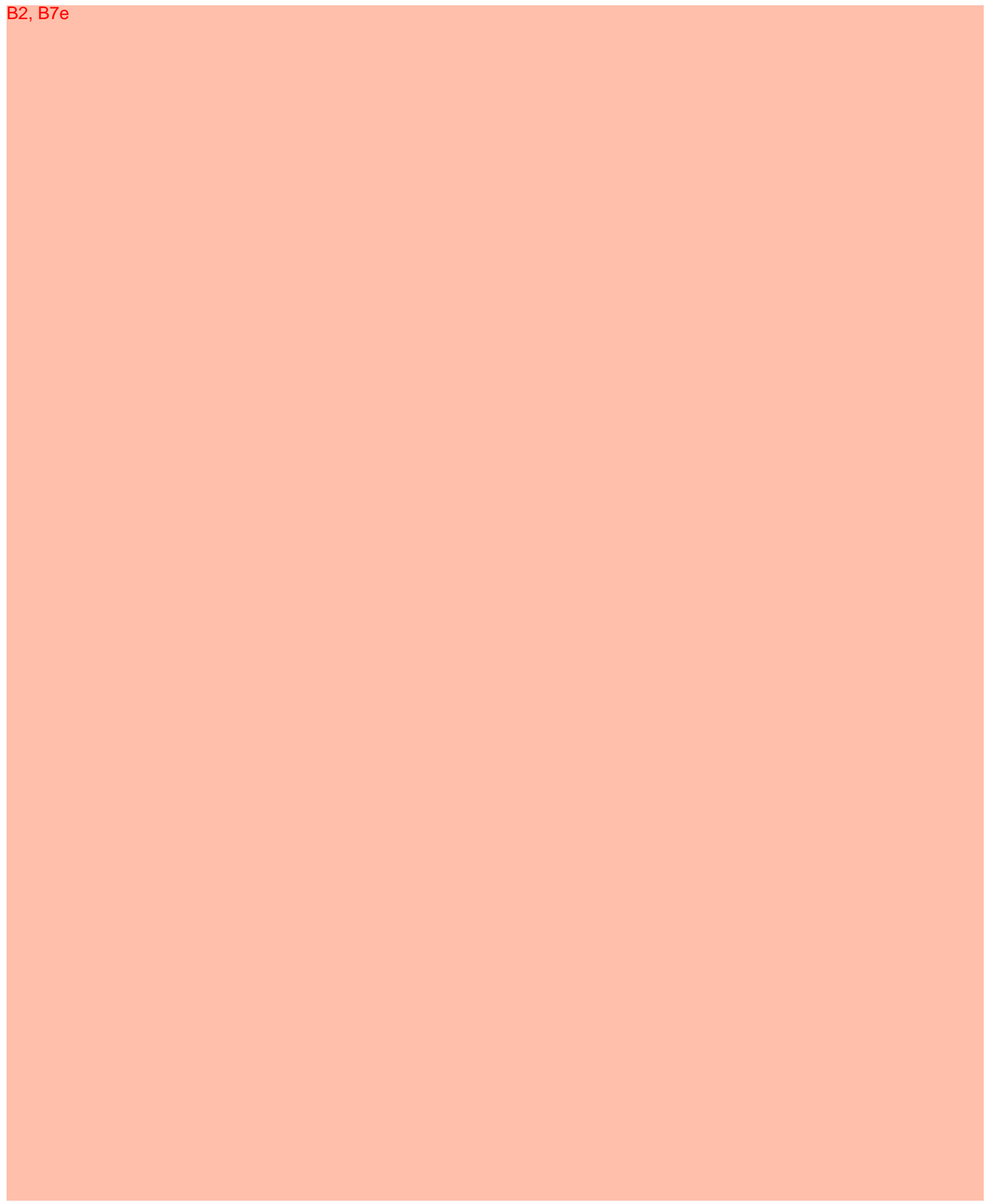
If you have any questions concerning this issue, please contact the Vehicle and Roadside Operations Division, at (202) 366-5370.

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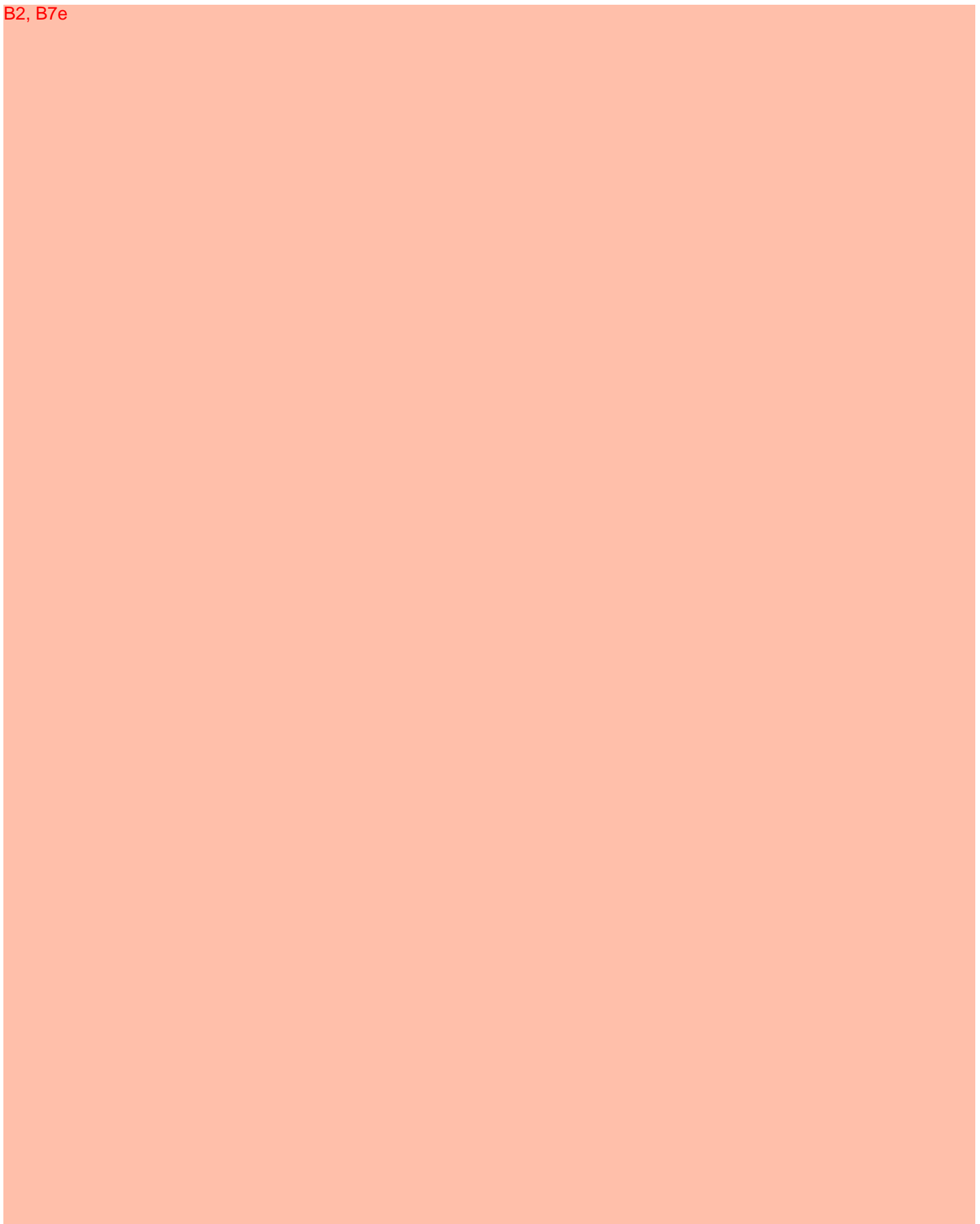
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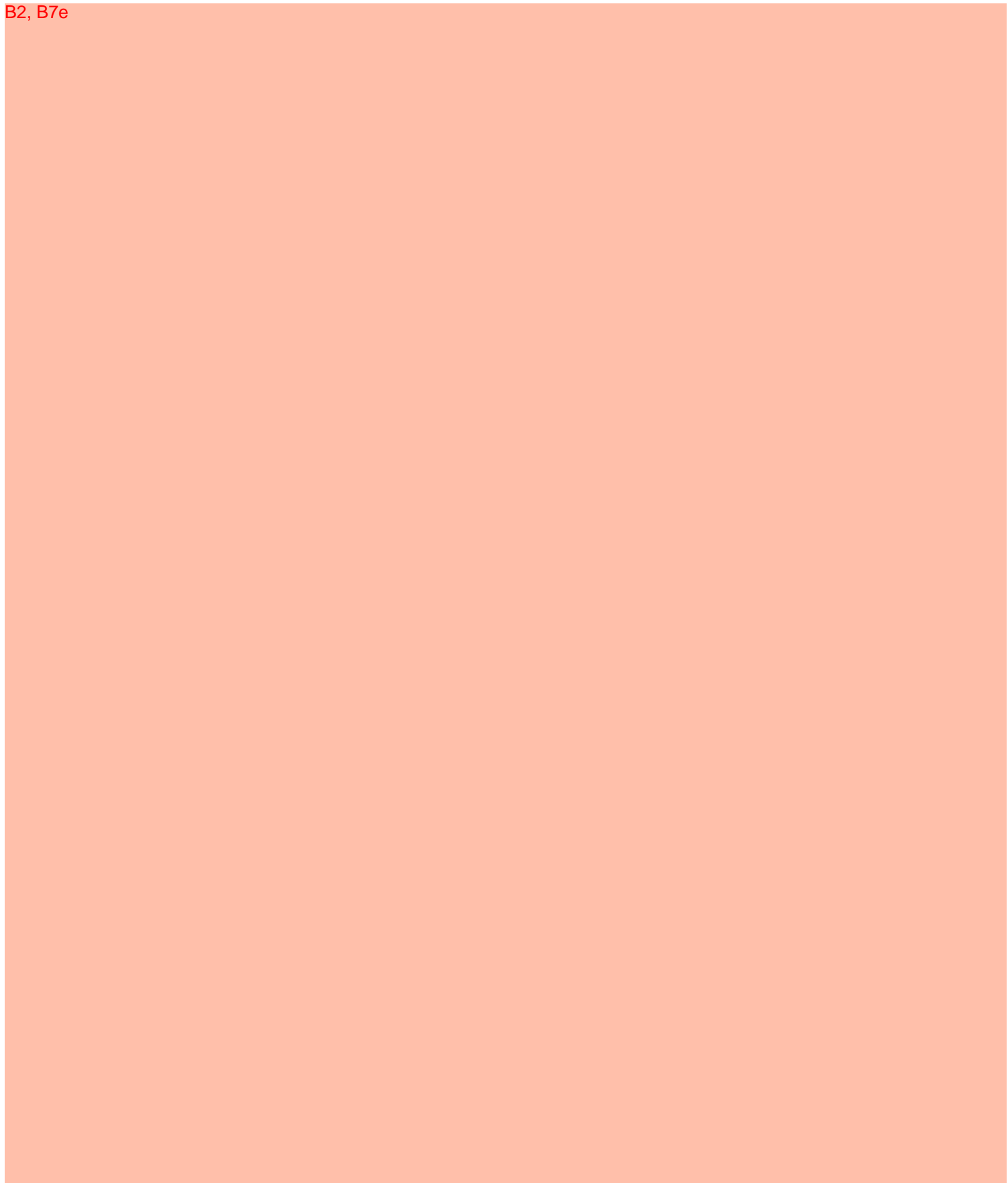
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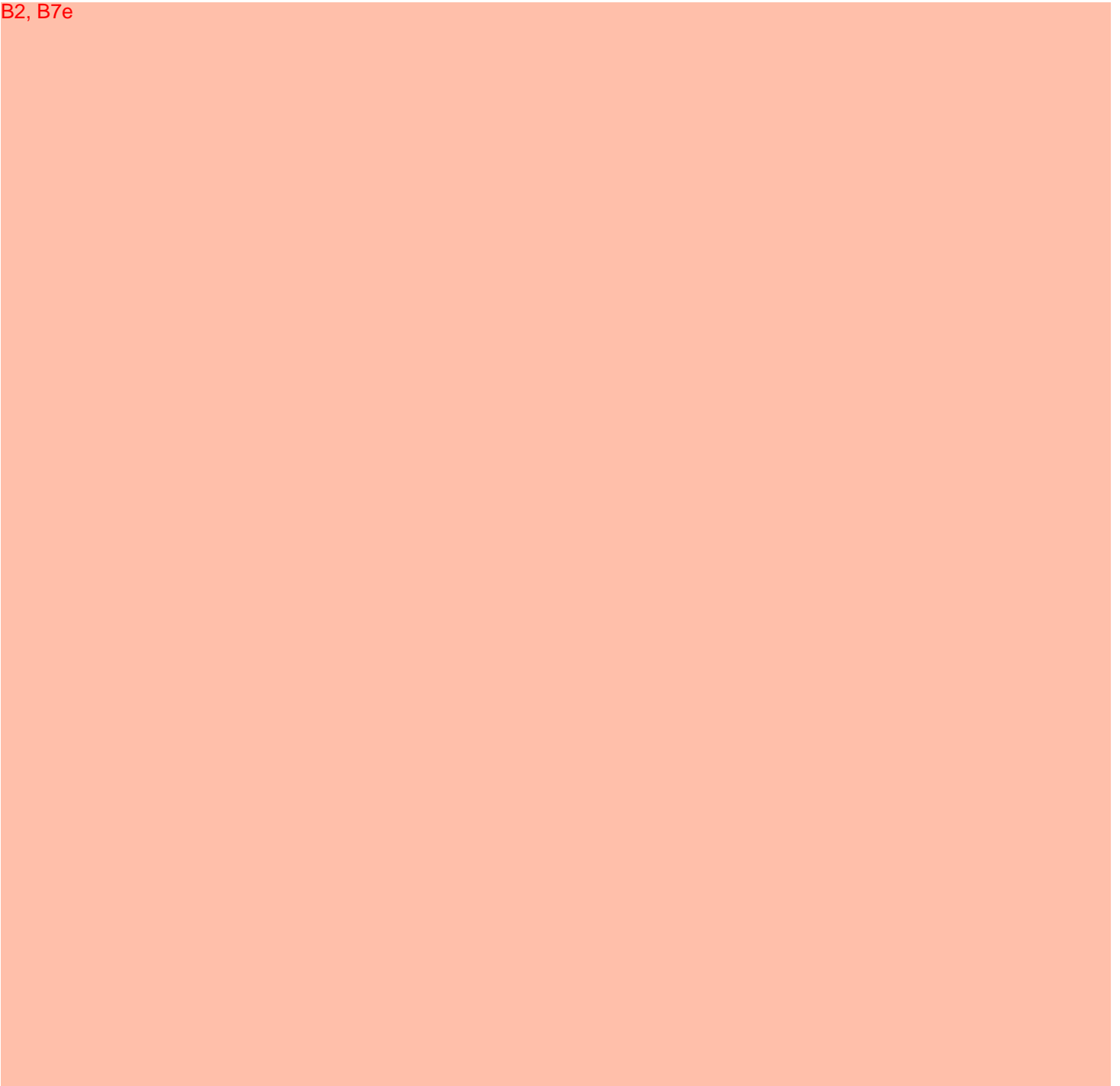
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Memorandum



U.S. Department

Of Transportation

Federal Motor Carrier Safety Administration

Subject: HOS Exemptions in Reauthorization Act
From: William R. Paden
Associate Administrator for Enforcement
and Program Delivery
Date: 09/06/05
In Reply Refer To: MC-E

To: Field Administrators
Division Administrators
Enforcement Team

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law on August 10, 2005.

SAFETEA-LU includes several specific exemptions to FMCSA's hours-of-service (HOS) rules. These exemptions became effective upon the date of enactment of SAFETEA-LU (August 10, 2005). They are not included in the new HOS rule published on August 25 because that document was finalized before SAFETEA-LU became law. FMCSA will develop regulations incorporating these HOS exemptions into the Federal Motor Carrier Safety Regulations (FMCSRs). It is important to note, however, these exemptions are already in effect with respect to drivers and commercial motor vehicles (CMVs) operating in interstate commerce, despite the absence of implementing regulations.

Although the States are not legally required to incorporate these exemptions in their State programs (item 3 below is an exception), we ask that you encourage your State partners to acknowledge these exemptions as they continue enforcing the safety rules. We believe the national interest is best served by maintaining uniformity as far as possible. Once FMCSA has incorporated the new SAFETEA-LU exemptions into its regulations, the States will have three years to adopt them.

The following is a list of the exemptions enacted by the Motor Carrier Safety Reauthorization Act of 2005.

1. (Sec. 4130) Operators of Vehicles Transporting Agricultural Commodities and Farm Supplies.

Sec. 4130 expands the agricultural exemption created by Sec. 345 of the National Highway System (NHS) Designation Act of 1995 and codified at 49 CFR 395.1(k), but does not change its basic structure.

Drivers of CMVs transporting agricultural commodities or farm supplies for agricultural purposes within a 100 air-mile radius of the source of the commodities or the distribution point for the farm supplies remain exempt from Part 395 during the planting and harvesting periods, as determined by each State.

Because SAFETEA-LU added definitions of "agricultural commodity" and "farm supplies for agricultural purposes," the agricultural exemption now covers more

than products grown on and harvested from the land. It includes any agricultural commodity, non-processed food, feed, fiber, or livestock. In addition, transportation of livestock feed is exempt at any time of year, not just during the planting and harvesting seasons.

2. (Sec. 4131) Operators of Ground Water Well Drilling Rigs.

The NHS Designation Act allowed operators of these drilling rigs to restart their 60- or 70-hour clock by taking 24 consecutive hours off duty. The provision is codified in 49 CFR 395.1(L).

Sec. 4131 adds that “[e]xcept as required in [§ 395.3], as in effect on the date of enactment of this sentence, no additional off-duty time shall be required in order to operate such [ground water well drilling] vehicle.” On August 10, 2005, the date of enactment, § 395.3 required 10 consecutive hours off duty before driving. Because that provision remains applicable to drilling rig drivers, Sec. 4131 does not appear to authorize any additional exemption.

Drivers of water well drilling rigs are still eligible for a 24-hour restart, but are otherwise required to comply with the HOS regulations.

3. (Sec. 4132) Hours of Service for Operators of Utility Service Vehicles.

The NHS Designation Act gave operators of utility service vehicles (USVs) a 24-hour restart option, like that available to drivers of ground water well drilling rigs. The provision was codified at 49 CFR 395.1(n). The utilities have demanded a complete HOS exemption for the last decade. They achieved that goal in SAFETEA-LU.

Sec. 4132 exempts drivers of USVs from Part 395 and prohibits States or their political subdivisions from enacting or enforcing an HOS law or regulation “similar to” Part 395 against drivers operating in interstate commerce. The definition of a “utility service vehicle” from the NHS Designation Act was codified at 49 CFR 395.2 and remains applicable to Sec. 4132.

As of August 10, 2005, USV drivers are not required to comply with Federal HOS regulations; FMCSA personnel may not attempt to enforce our HOS rules against these drivers. Congress also stripped State personnel of their authority to enforce “similar” HOS rules (i.e., the State versions of Part 395 adopted to qualify for Motor Carrier Safety Assistance Program (MCSAP) funding). States may enforce their HOS regulations against USV drivers in intrastate commerce, but not against those operating in interstate commerce. It is important to make this point clear to our State partners.

4. Drivers Providing Transportation to Movie Production Sites.

Drivers transporting people or equipment involved in making a movie to or from a production site are required to comply with the HOS rules in effect before the 2003 rule was adopted. However, if they operate beyond a 100 air-mile radius of the place where they reported for work in the morning, the 2005 HOS rules apply.

This means drivers of movie production vehicles are subject to a 15-hour driving window, which they can – and will – extend by taking off-duty time during the day while the film crew shoots scenes. They are not prohibited from driving after the end of the 14th hour after coming on duty.

5. Exemption for Grape Haulers During Harvest Periods.

Sec. 4146 exempts from Part 395 drivers west of I-81 in the State of New York who are transporting grapes during a harvesting period, as determined by the State, within a 150 air-mile radius from the point where the grapes are picked or distributed. This HOS exemption, unlike the others described in this memo, expires with SAFETEA-LU, i.e, at the end of FY 2009.

6. Emergency Condition Requiring Immediate Response.

Sec. 4147 creates an exemption from the regulations in 49 CFR Parts 390-396, Subpart A of Part 397, and Part 399 for two types of drivers if compliance with those regulations would prevent the drivers from responding to an “emergency condition requiring immediate response.” The two types are drivers of CMVs used (1) primarily to transport propane winter heating fuel or (2) to respond to a pipeline emergency.

An “emergency condition requiring immediate response” is defined as “any condition that, if left unattended, is reasonably likely to result in immediate serious bodily harm, death, or substantial damage to property.” Although examples of an emergency condition are given (and refilling empty gas tanks is specifically excluded), the exemption is not clear-cut. Without further investigation, an enforcement officer will rarely be able to tell whether an exemption claimed by a driver meets the terms of this statute.

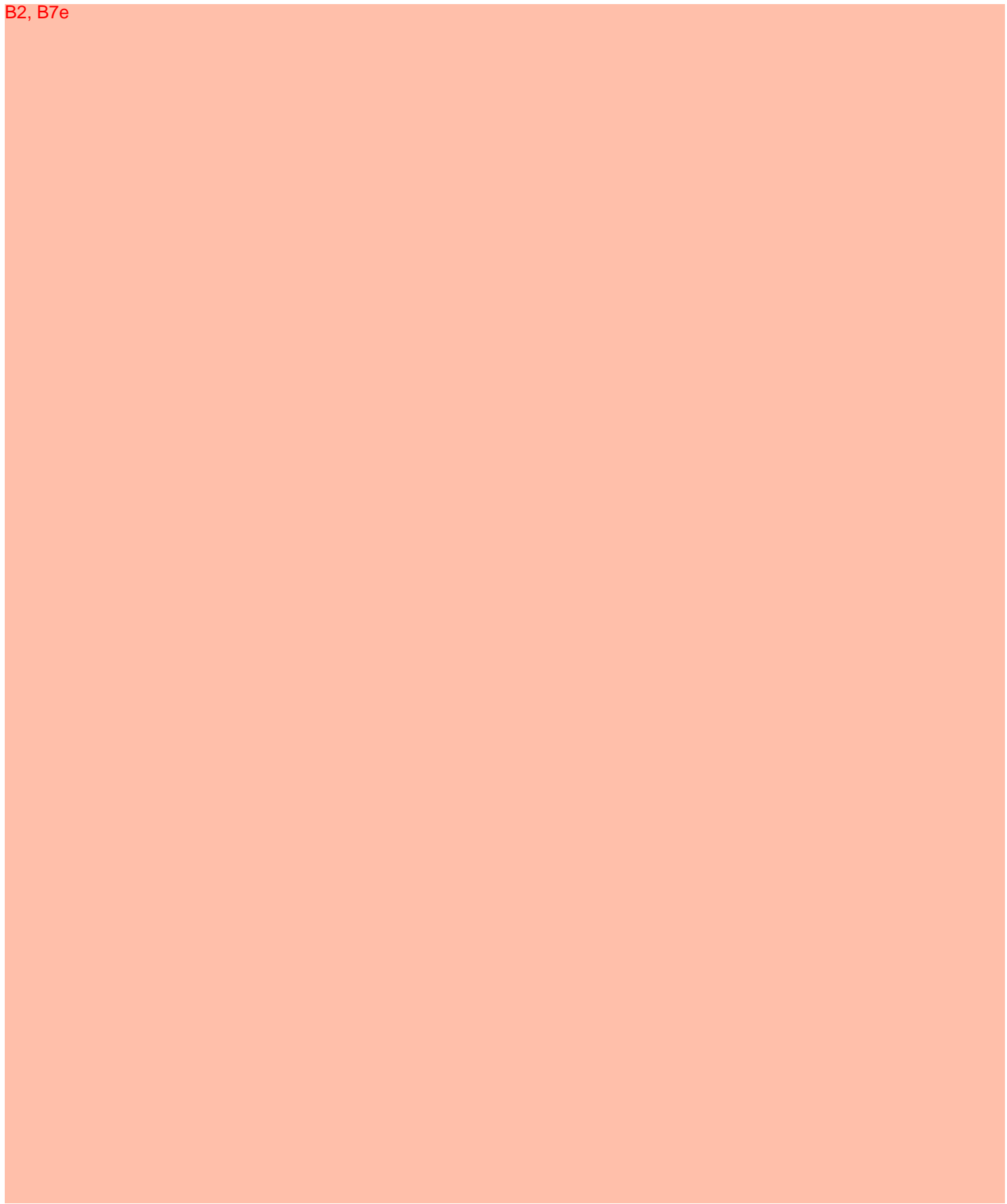
Gas leaks or pipeline breaks are serious matters that require immediate attention. Consult legal staff at one of the Service Centers before undertaking enforcement action against a driver who claims an exemption under this provision.

Please distribute this memorandum to your staff as well as your State MCSAP partners immediately. If you have any questions, please contact Chuck Horan at 202-366-2362. Thank you for your cooperation in this matter.


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Added to eFOTM 12-28-2005


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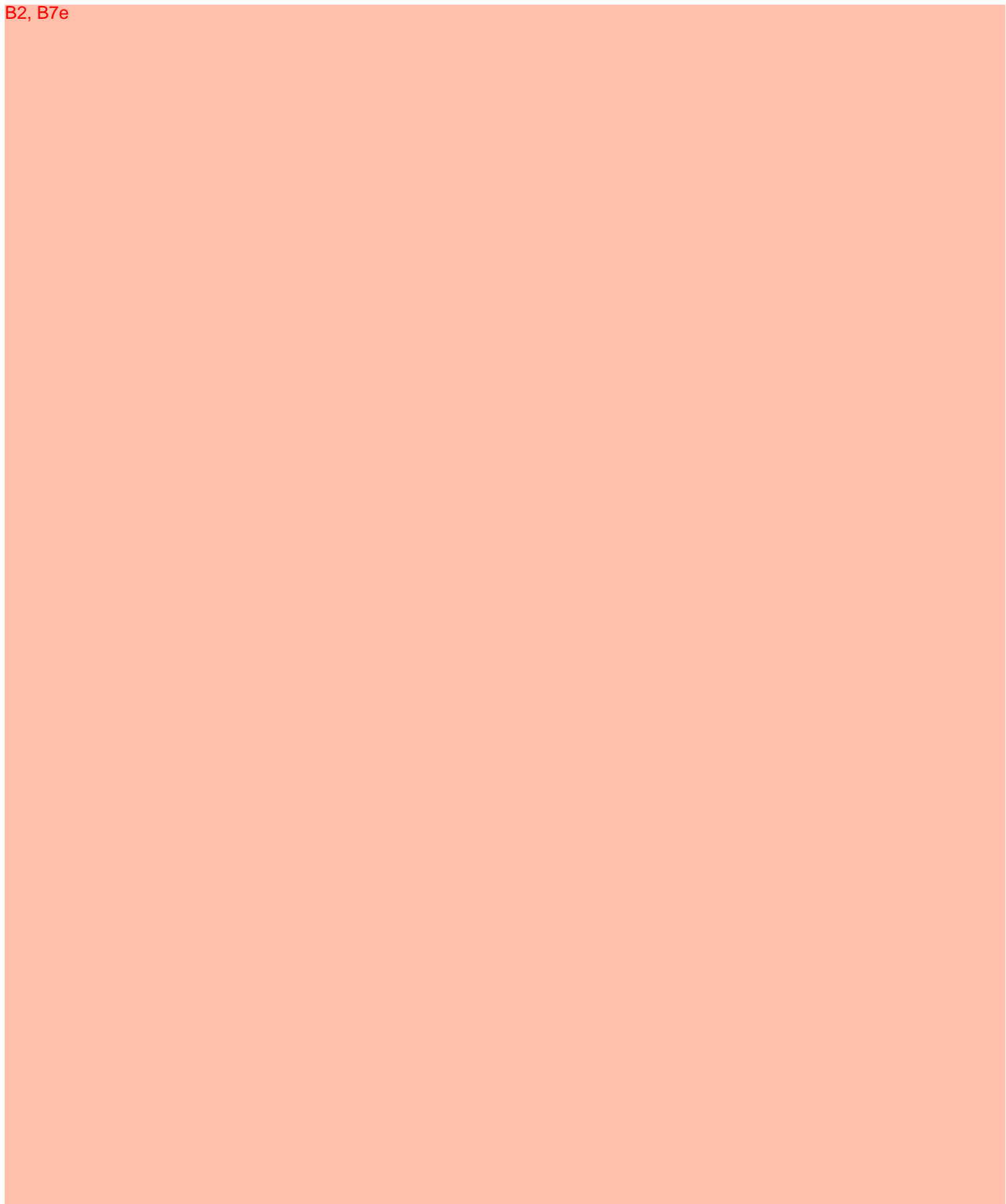
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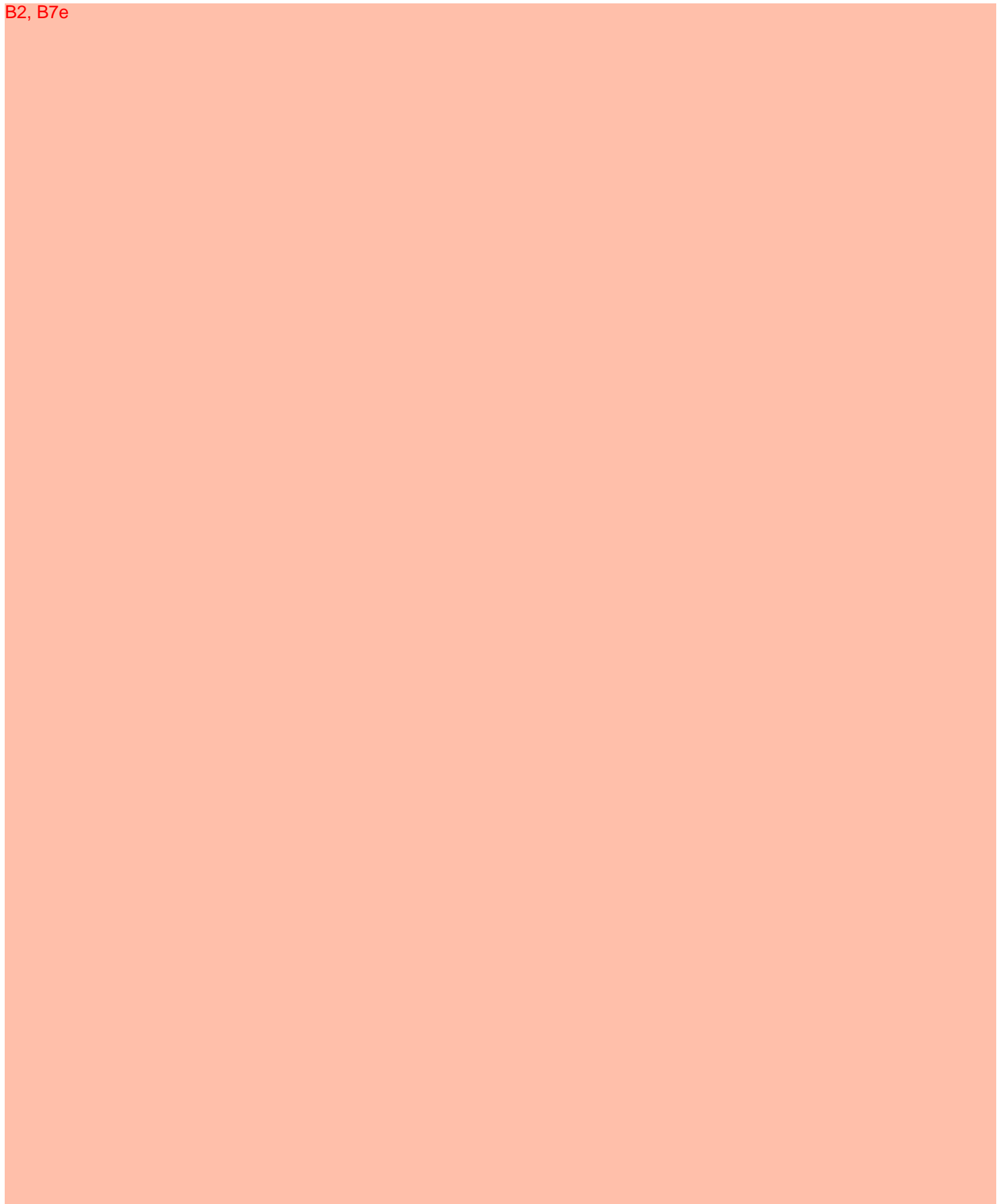
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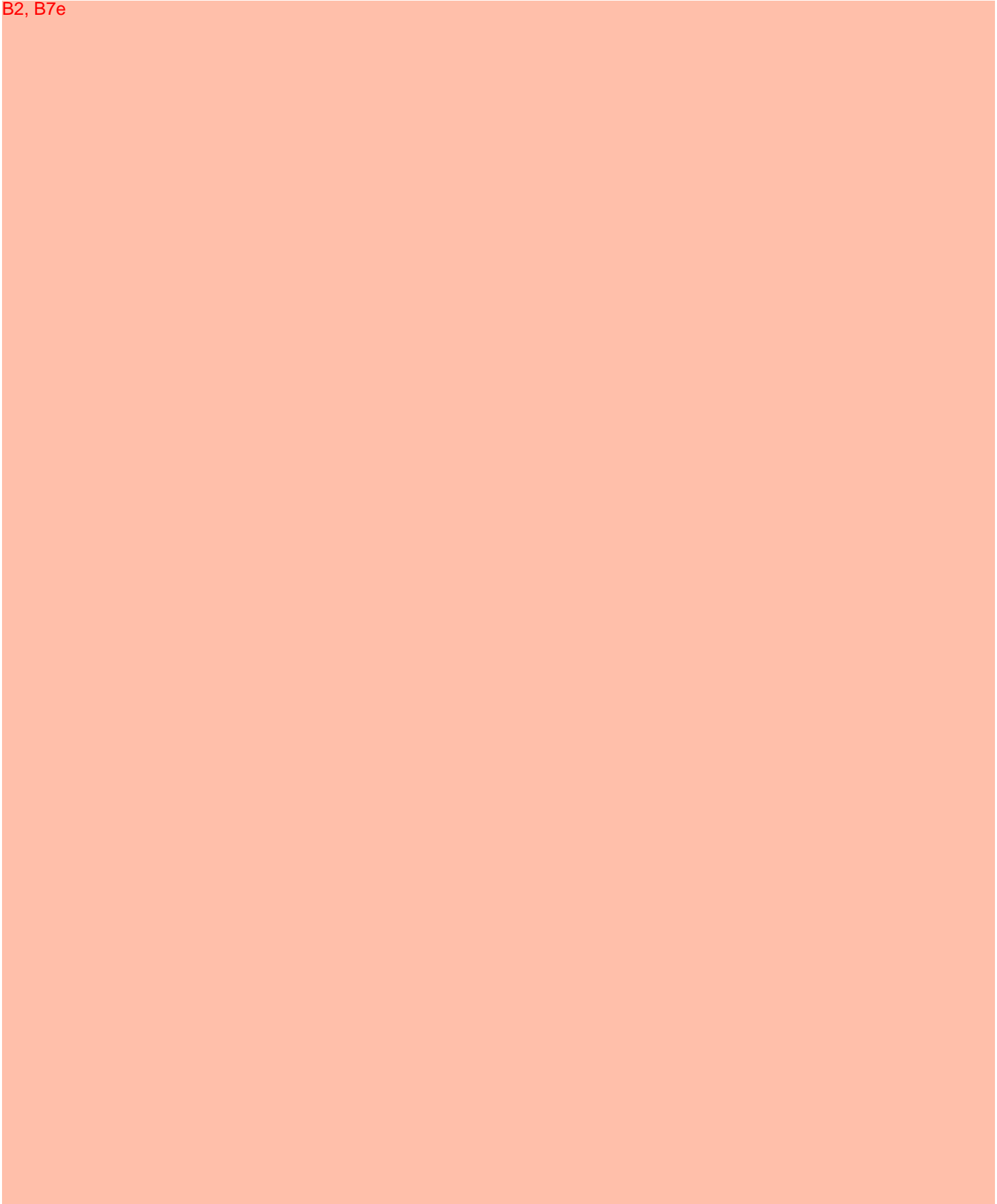
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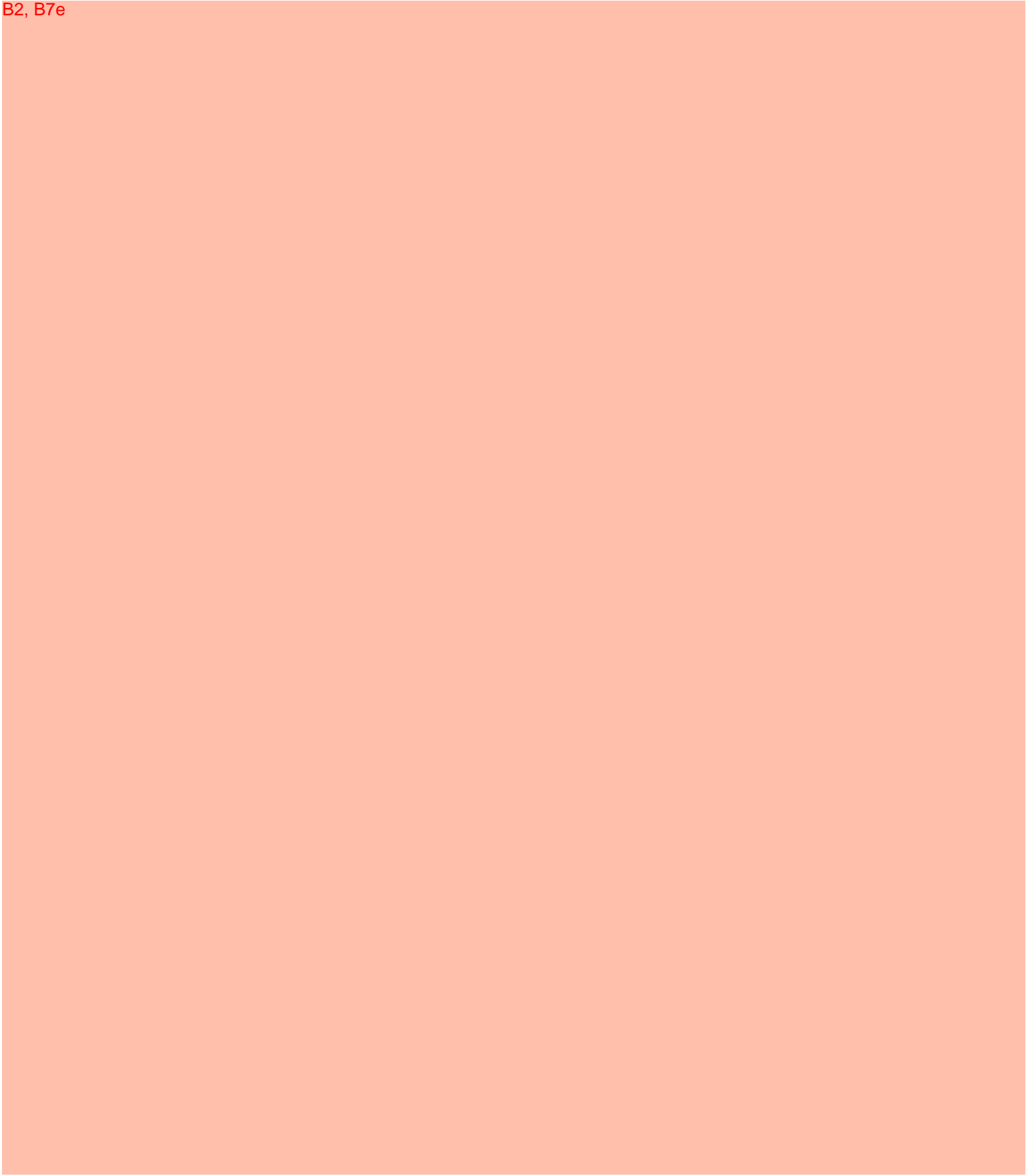
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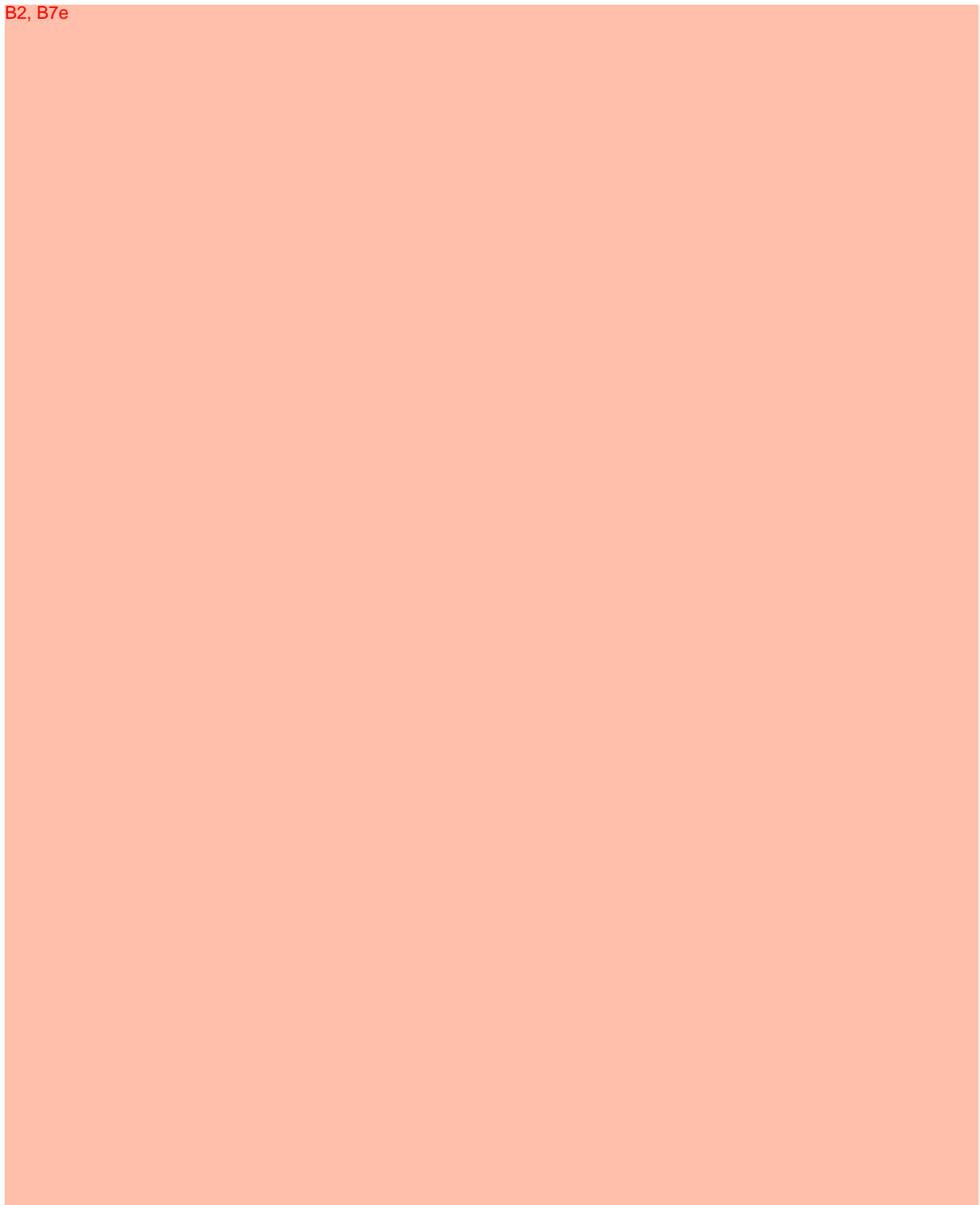
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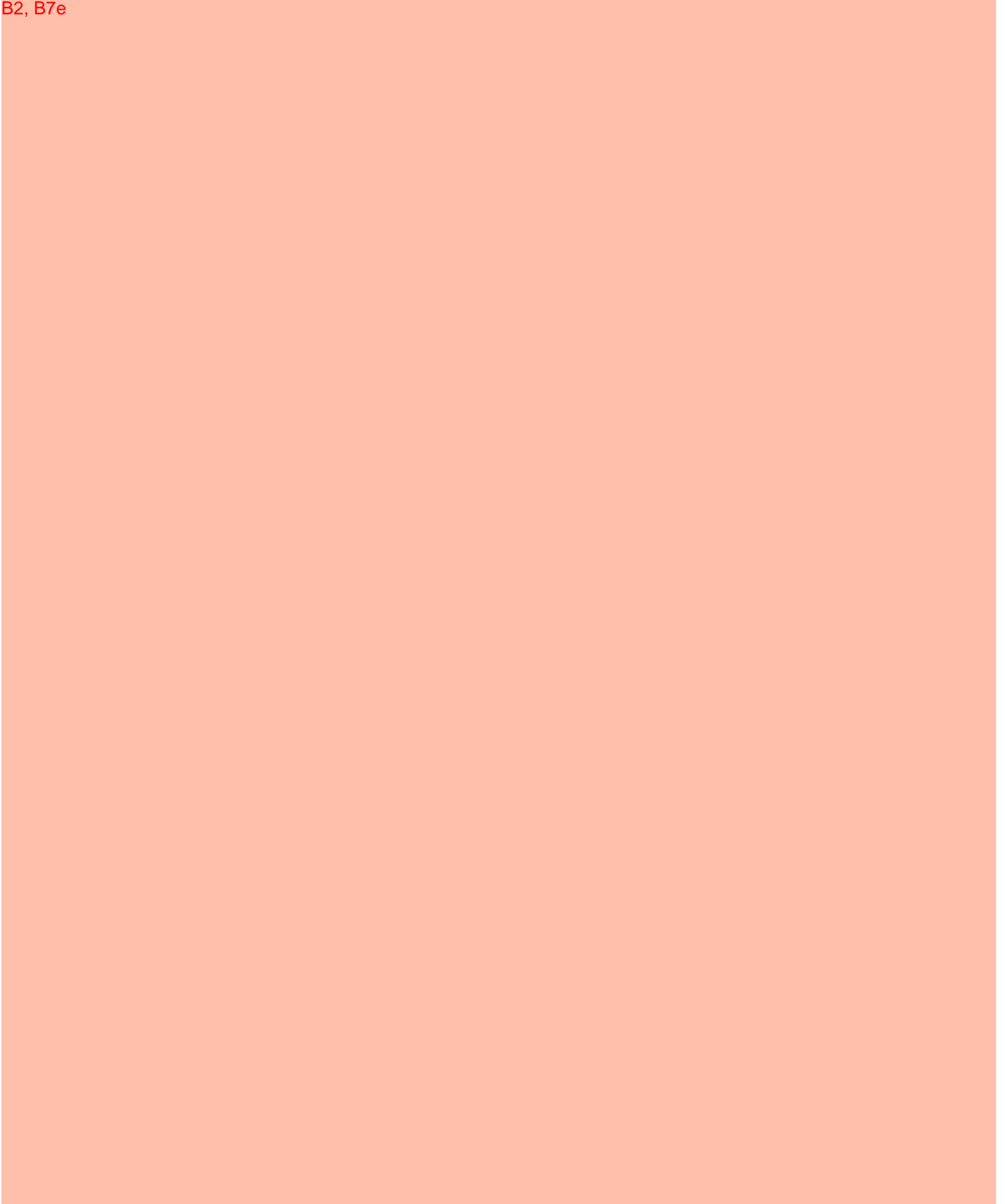
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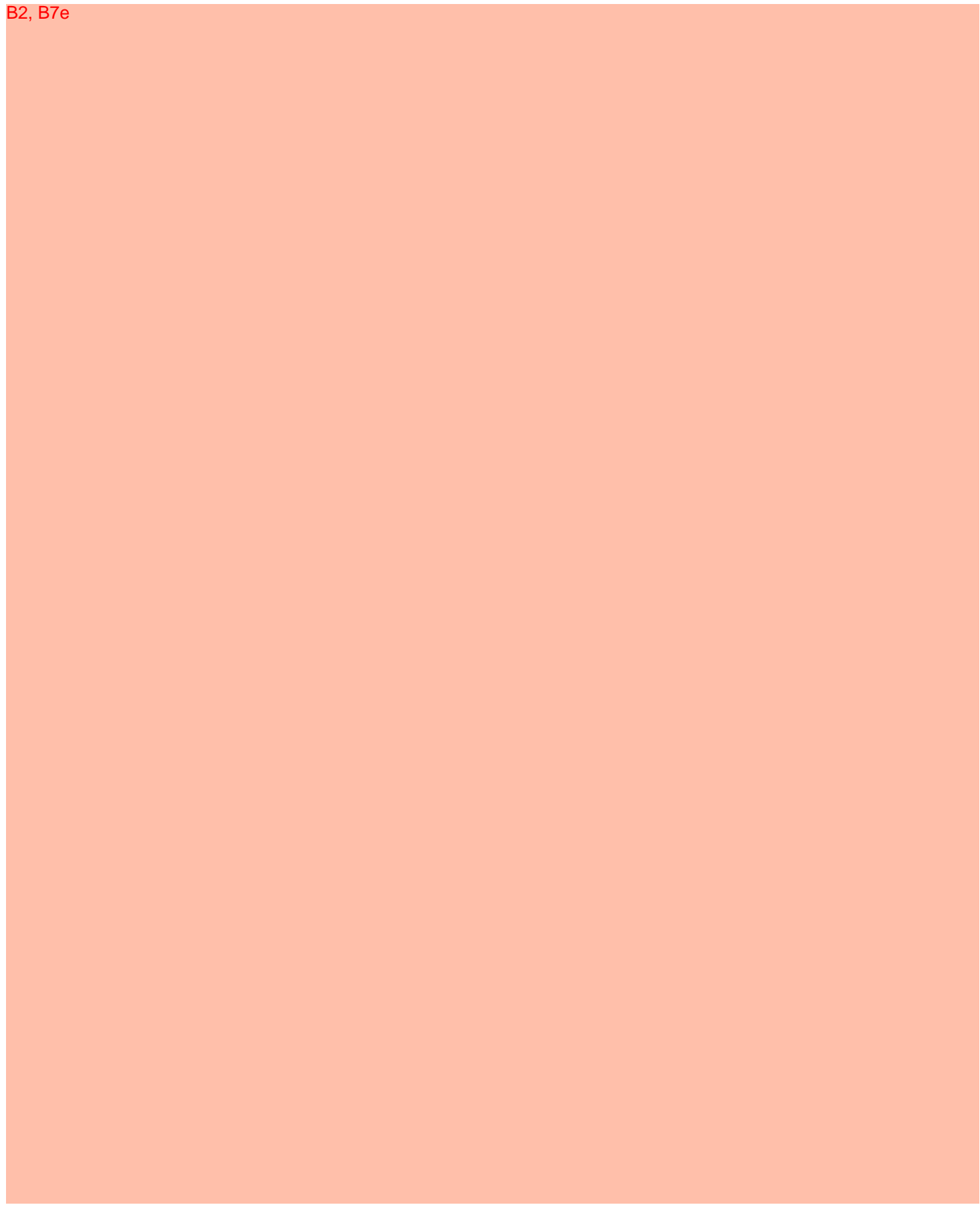
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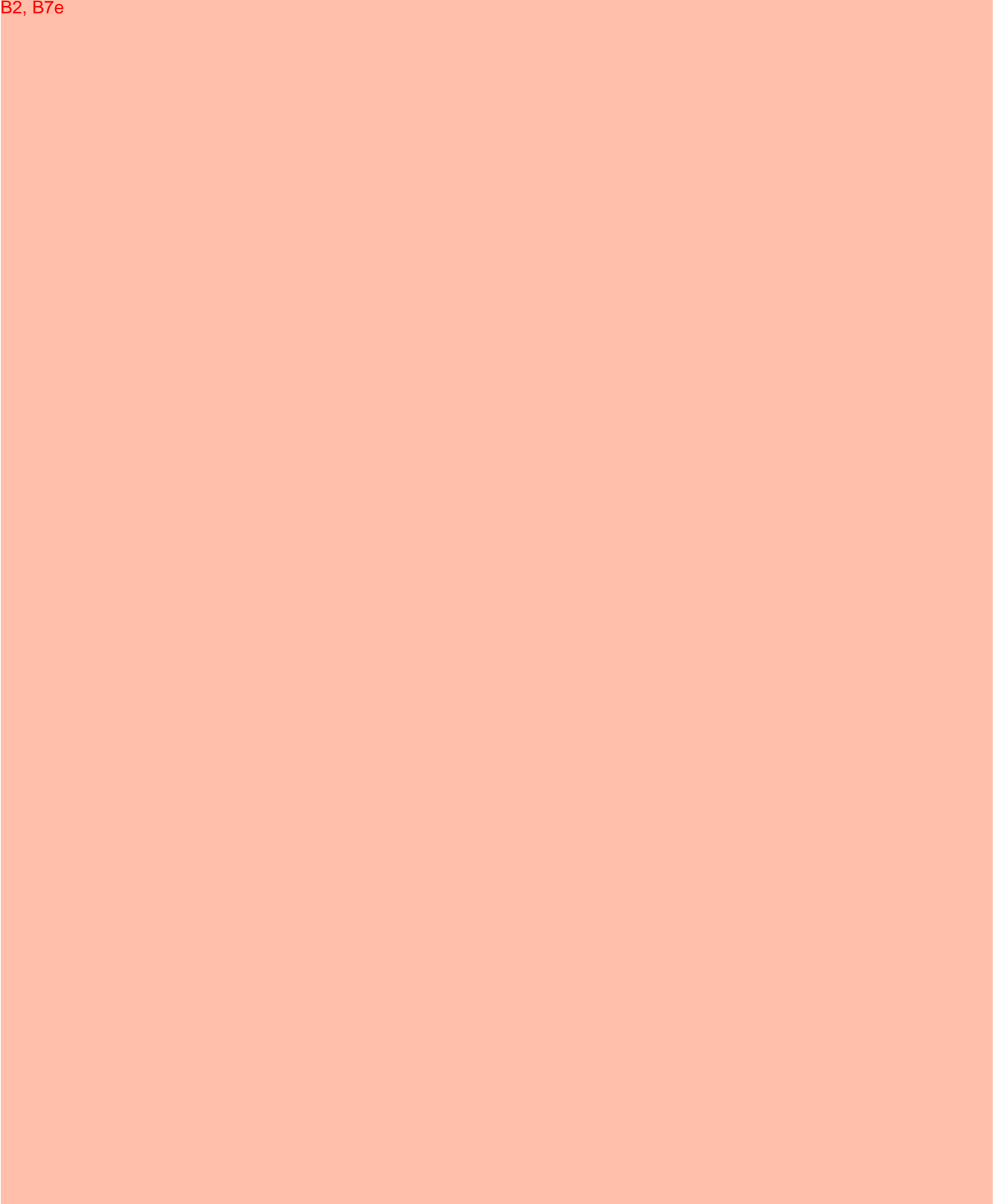
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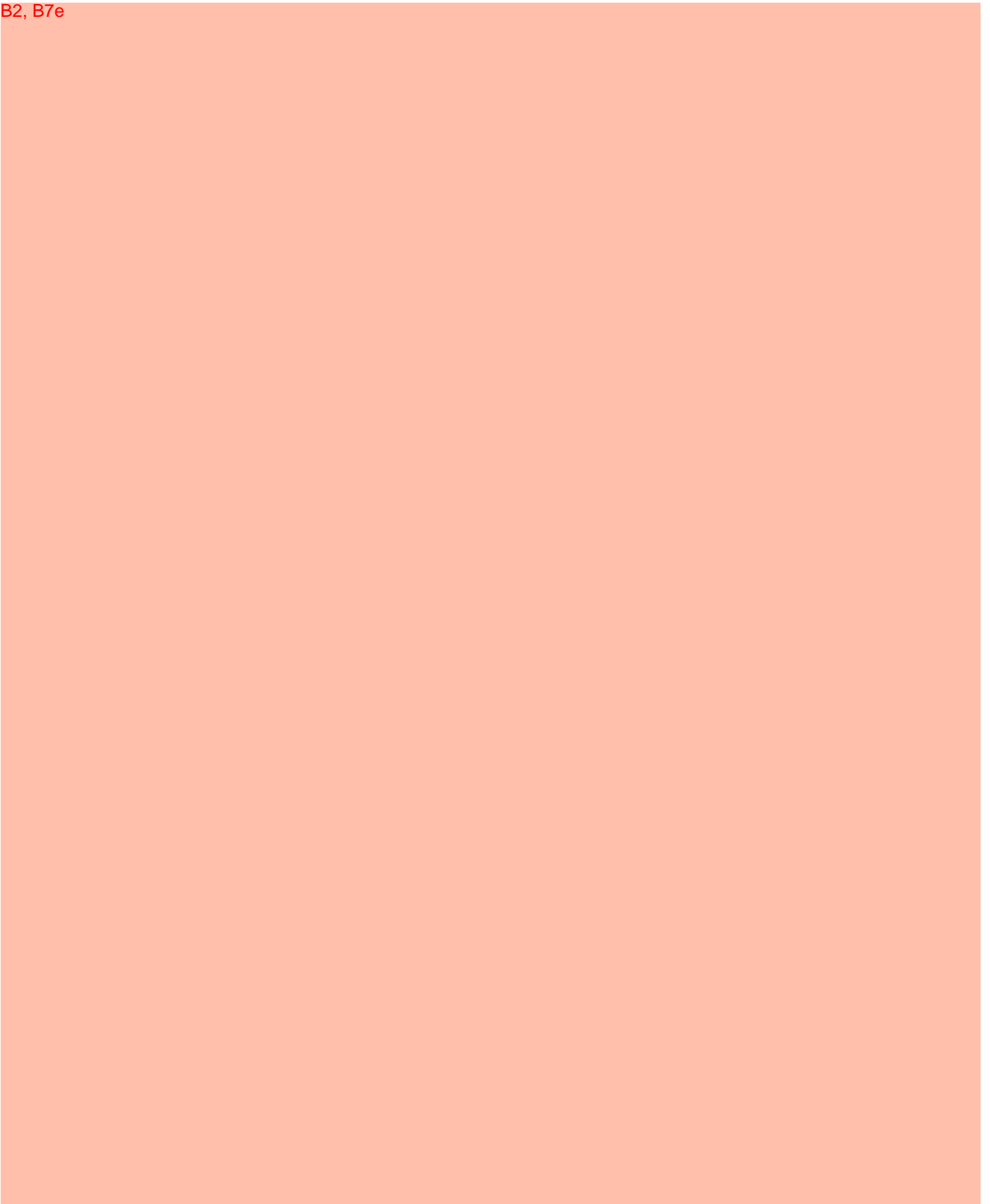
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Memorandum



**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: **ACTION:** ASPEN Modifications for Implementation of the U.S.-Mexico Cross-Border Demonstration Program **Date:** September 7, 2007

From: William A. Quade
Associate Administrator for Enforcement and Program Delivery **Reply to Attn. of:** MC-ESB

To: Assistant Administrator and Chief Safety Officer
Associate Administrator for Field Operations
MC-E Office Directors/Division Chiefs
Office of Chief Counsel, Enforcement and Litigation
Field Administrators/Service Center Directors
Division Administrators/State Director
National Enforcement Team
National Training Center

PURPOSE

This memorandum provides guidance to the Federal Motor Carrier Safety Administration (FMCSA) and State enforcement personnel regarding the modifications in the ASPEN inspection software to implement the U.S. –Mexico Cross-Border Demonstration Program. Additionally, this guidance provides instructions for manual entries to be made in ASPEN by the inspector during inspections until the ASPEN inspection software modifications are

released.

APPLICABILITY

These modifications will be applicable to all inspections performed on Mexico-domiciled motor carriers granted provisional operating authority for transportation beyond the United States municipalities and commercial zones on the United States-Mexico border.

BACKGROUND

Each Mexico-domiciled long-haul motor carrier must successfully complete a Pre-Authorization Safety Audit (PASA) to be issued provisional operating authority. During the PASA, the motor carrier is informed that all its vehicles operated in the United States must meet Federal Motor Vehicle Safety Standards (FMVSS), and display a current Commercial Vehicle Safety Alliance (CVSA) Inspection decal. The provisional operating authority document issued to a Mexico-domiciled motor carrier prohibits point-to-point (cabotage) transportation in the United States under 49 CFR 365.501(b).

Federal and State enforcement personnel were issued guidance in a policy memorandum on the inspection and enforcement procedures when inspecting every commercial motor vehicle (CMV) operated by a Mexico-domiciled long-haul motor carriers issued provisional operating authority under the cross-border demonstration program.

In 2006, the ASPEN inspection software was modified to perform an electronic validation of the values in the 17 character Vehicle Identification Number (VIN). This validation compares the VIN values to the FMVSS criteria including year and country of manufacture. A warning is displayed if the vehicle appears not to be in compliance with the FMVSS. Guidance is provided below for those vehicle inspections where the vehicle does not meet the FMVSS.

Additional modifications to the ASPEN inspection software were required as a result of the Cross-Border Demonstration program and are outlined in the attachment to this memorandum.

POLICY

For vehicle inspections where a warning indicates the vehicle is not in compliance with the FMVSS, send a scanned copy of the inspection report via email to Carla Vagnini at the North American Borders Division (Carla.vagnini@dot.gov) with a note indicating the FMVSS issue. Further enforcement action will be determined as appropriate.

Federal and State enforcement personnel using the ASPEN inspection software shall follow the guidance provided in the enforcement policy memorandum titled: "Requirements for Inspection of Mexico-domiciled Carriers Operating under the Cross-Border Demonstration Program". Additionally, the inspector will be required to:

- Ensure the VIN is entered in ASPEN for each CMV inspected.
- Record the current CVSA inspection decal number in the **Special Study Field #3** (if applicable). To access Special Study Field #3, select the Finish Tab in the ASPEN software. Click on the Special Study Fields button and Special Study Fields pop-up window will appear. Type the CVSA decal number in Special Study #3.

When a violation of failing to display a current CVSA decal is discovered;

The inspector will cite section 390.3(e)(1) – Failing to comply with all applicable regulations contained in 49 CFR Parts 350-399/Failing to display a current CVSA decal, as required by section 385.103(c).

Until this violation is programmed in ASPEN, the inspector will be required to cite section 385.103(c), and **manually amend** the violation description as follows:

- Select the base violation 385.103(c);
- Amend the violation description to read as: “Failing to comply with all applicable regulations contained in 49 CFR Parts 350-399 as required by section 390.3(e)(1)/Failing to display a current CVSA decal”; and
- Activate the Out of Service (OOS) designation.

When cabotage activities are discovered;

The inspector will cite section 392.9a(a)(2) – Operating beyond the scope of its operating authority. Until this violation is programmed in ASPEN, the inspector will be required to **manually amend** the violation description as follows:

- Select the base violation of section 392.9a(a)(2);
- Amend the violation description to read as: “Operating beyond the scope of Operating Authority Granted - Providing prohibited point-to-point transportation services (Cabotage)”; and,
- Activate the OOS designation

IMPLEMENTATION DATE

This memorandum is effective immediately.

If you have any questions or need additional information, please contact the North American Borders Division at (202) 366-0318.

ATTACHMENT

Modifications made to the ASPEN inspection software are outlined below:

- For Mexico-domiciled carriers, the title of the current Bodily Injury-Property Damage “BIPD” Insurance Verification Check pop-up box will be changed to reflect “Compliance Verification Checks”. The inspector should check the box for “This trip is beyond the Commercial Zone” (if applicable).
- For Mexico-domiciled carriers, the title of the current “BIPD Insurance For This Motor Carrier Must Be Verified” pop-up box will be changed to reflect “Compliance Verification Checks For This Motor Carrier Must Be Verified”.
- A notification to the inspector of “required inspection data fields” when an inspection is performed on a Mexico “long-haul” motor carrier, driver and vehicle.
- A warning: “Full Vehicle Identification Number for ALL CMV units inspected” must be entered.

- A warning: “A Valid CVSA Inspection Decal is required for ALL CMV units inspected”.
- The Help file and hints were added to the ASPEN roadside inspection software to reflect the changes to the system.
- The following OOS violations will be added to the ASPEN roadside inspection software:
 - Section 390.3(e)(1) – Failing to comply with all applicable regulations contained in 49 CFR Parts 350-399/Failing to display a current CVSA decal, as required by section 385.103(c).
 - Section 392.9a(a)(2) – Operating beyond the scope of Operating Authority Granted - Providing prohibited point-to-point transportation services (Cabotage).

Added to eFOTM: September 21, 2007


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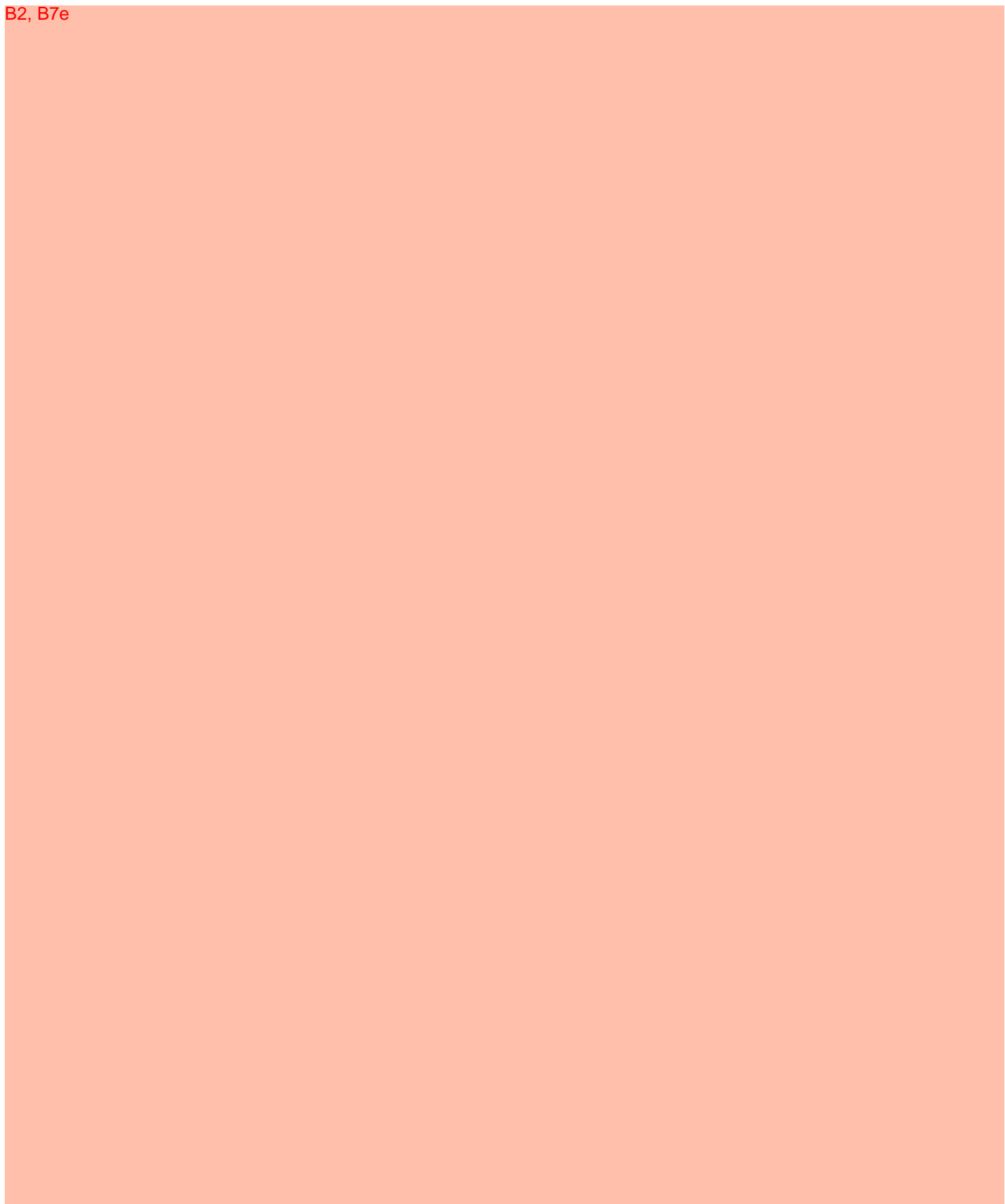
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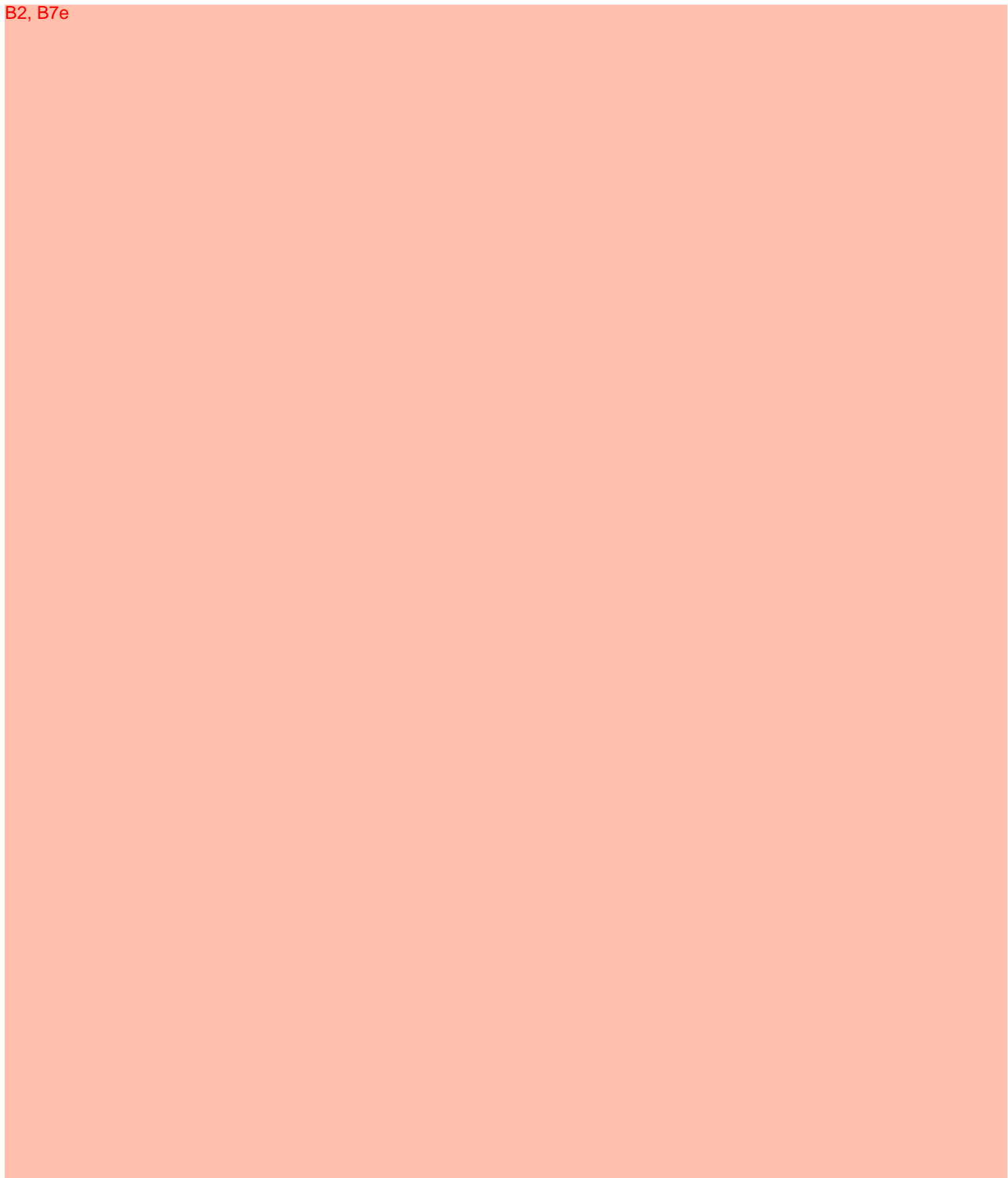
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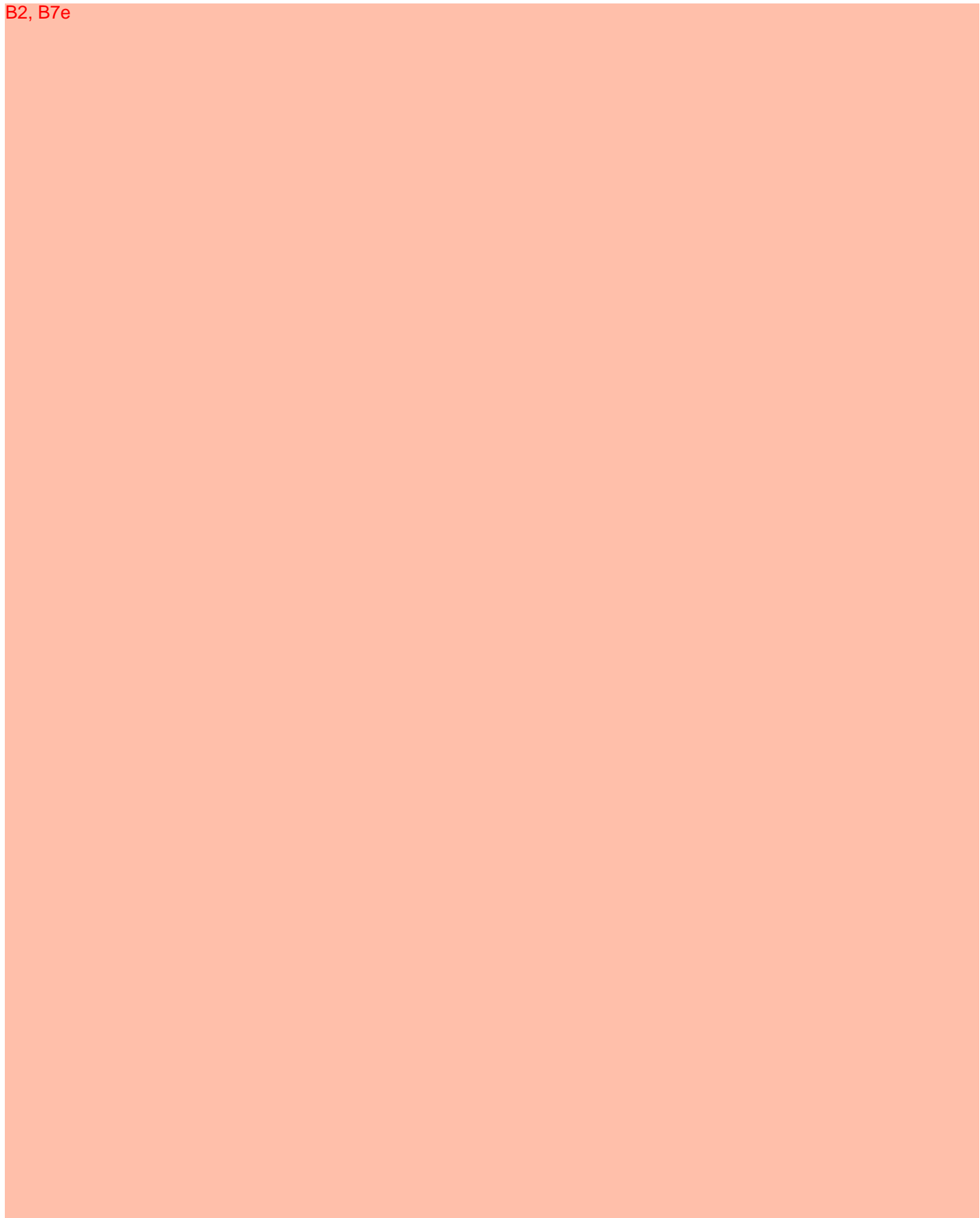
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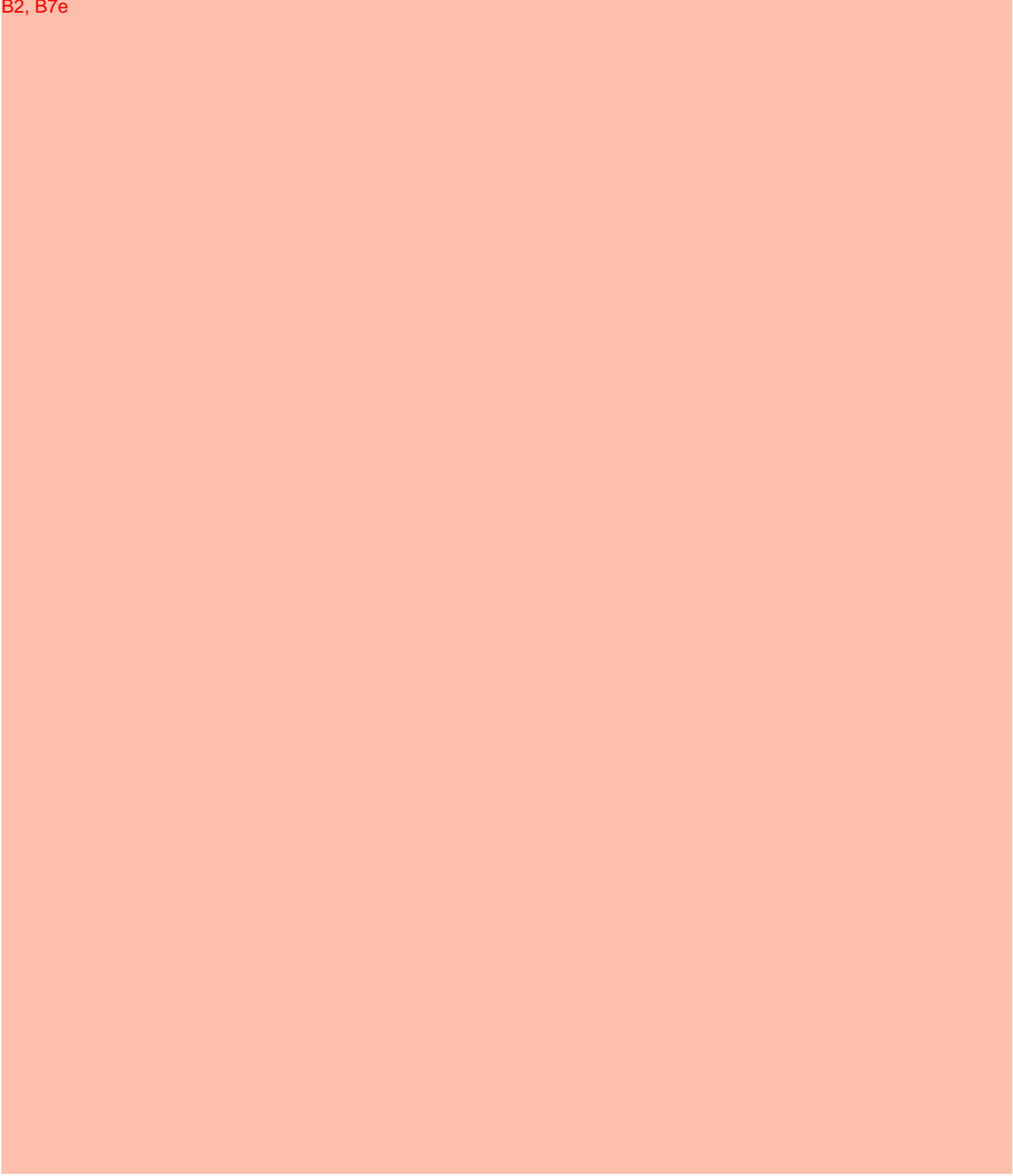
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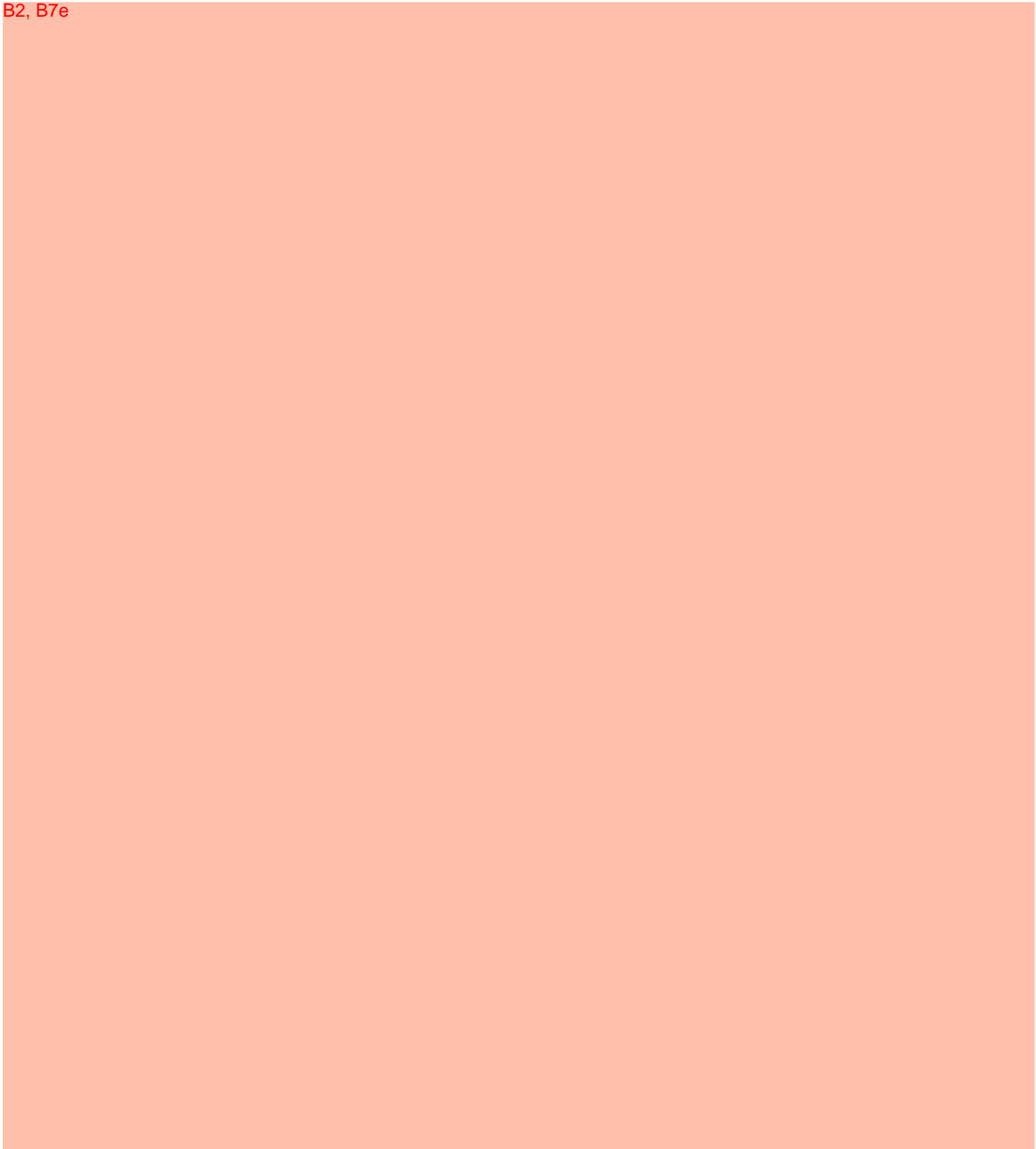
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Memorandum



**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: **GUIDANCE: Informal Hearing Procedures Pursuant to Part 386 (06-EC-0002)** Date: February 16, 2006

From: Charles A. Horan III In Reply Refer To: MC-ECE
, Office of Enforcement and Compliance

CC: William R. Paden, Acting Associate Administrator
for Enforcement and Program Delivery

To: Field Administrators
Division Administrators/State Directors
Service Center Directors/Enforcement Program
Managers
National Training Center

Purpose

The purpose of this memorandum is to implement the Federal Motor Carrier Safety Administration's (FMCSA) Informal Hearing Procedures pursuant to Part 386 of Title 49 of the Code of Federal Regulations (49 CFR Part 386).

Background

The Federal Motor Carrier Safety Administration's (FMCSA) final rule revising 49 CFR Part 386, "Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings" (Rules of Practice) published on May 18, 2005, became effective on November 14, 2005. As revised, the Rules of Practice permit a respondent in a civil penalty proceeding to request an informal hearing as an alternative to either a request for a formal hearing or a request to submit written evidence without a hearing. The Rules of Practice, however, do not prescribe specific procedures for conducting informal hearings. The attached "Informal Hearing Process" was developed to provide specific procedures for processing and conducting the informal hearings. These procedures were approved by the Administrator on February 2, 2006.

Implementation

The informal hearing process is a new alternative for motor carriers to request an administrative review of the violations alleged in the agency's Notice of Claim (NOC). As the process is new, FMCSA has determined that this alternative adjudication process will be implemented in two phases. This two-phased approach will allow FMCSA to carefully

evaluate and refine, as necessary, how the informal hearing process is conducted.

First Phase - The first phase will begin on the publication date of a notice the agency plans to publish in the Federal Register and will end six months thereafter. During this first phase, only requests from respondents with a principal place of business within the FMCSA Midwestern Service Center's geographical area will be considered for an informal hearing. The Midwestern Service Center's geographical area encompasses the States of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin.

Second Phase - The second phase or nationwide implementation will begin within one year of the effective date of the Rules of Practice. As the rules were effective November 14, 2005, FMCSA nationwide implementation of the informal hearing process will commence on or about November 15, 2006. FMCSA will publish another notice in the Federal Register advising the public of its nationwide implementation.

Any request for an informal hearing received by FMCSA before the Federal Register notice is published shall be considered and processed by the Midwestern Service Center, regardless of the location of respondent's principal place of business. However, requests for an informal hearing received by FMCSA after the publication of the Federal Register notice from respondents with a principal place of business outside the FMCSA Midwestern Service Center will be forwarded by the appropriate Field Administrator (FA) to the Assistant Administrator (AA) for a decision on the request. The FA may also serve an objection to the informal hearing requests. (Additionally, the FA may be able to serve an objection to the request if the reply does not satisfy the requirements of the regulations). The AA shall decide if the informal hearing request is granted or denied. If the request is denied, the AA may refer the case for formal hearing or allow the respondent to select a different adjudicative option.

If you have any questions or concerns regarding this policy, please contact Joelle Serot at (202) 366-8577 or e-mail her at joelle.serot@fmcsa.dot.gov.

Attachment
[Informal Hearing Process](#)

FMCSA: MC-ECE: Jserot: js: (202) 366-8577: 12/22/05 rewrite:2/14/06
Control No.: 05-EC-0044
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1.7.2.2.6 11-28-05 Issuing a Notice of Violation


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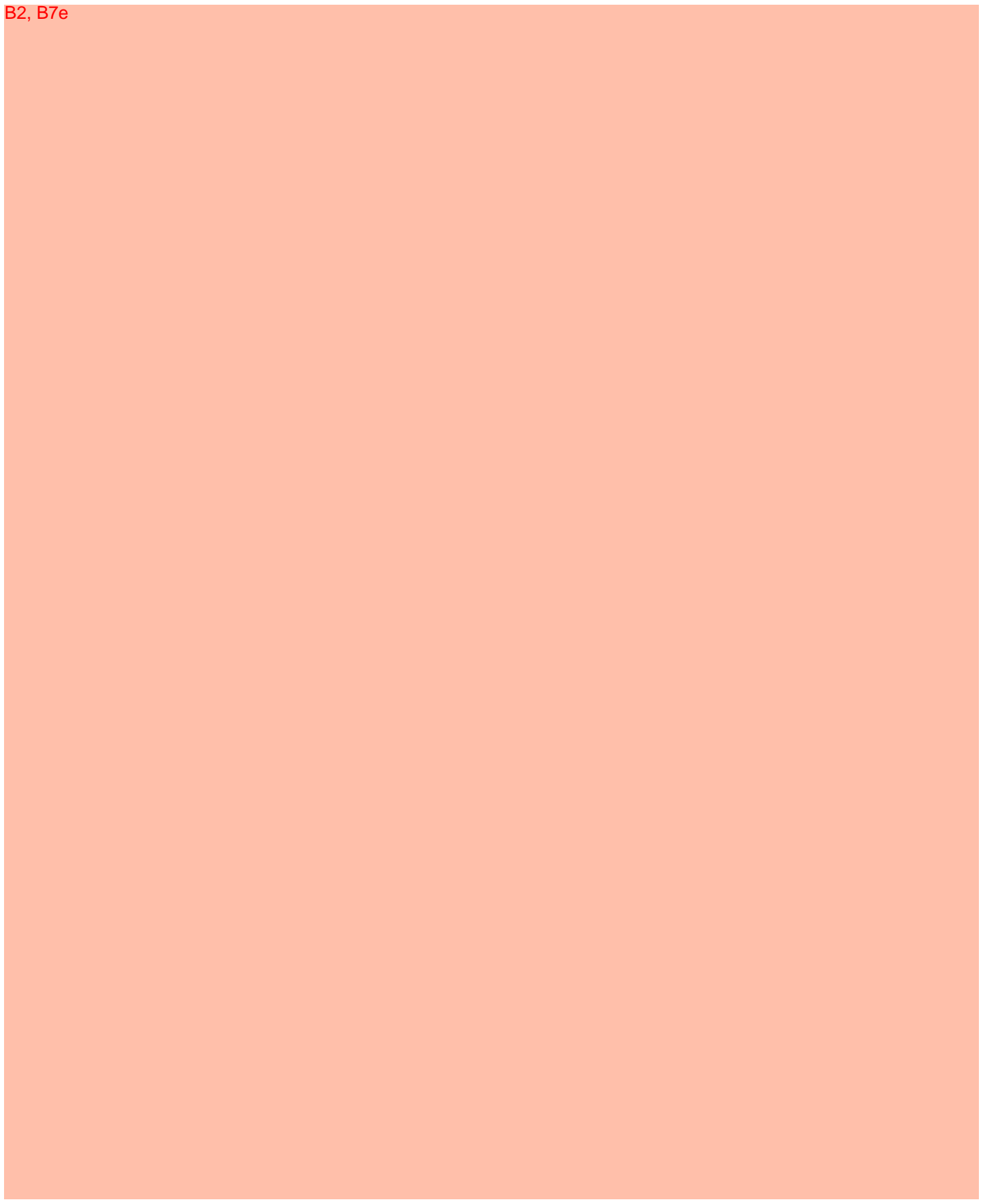
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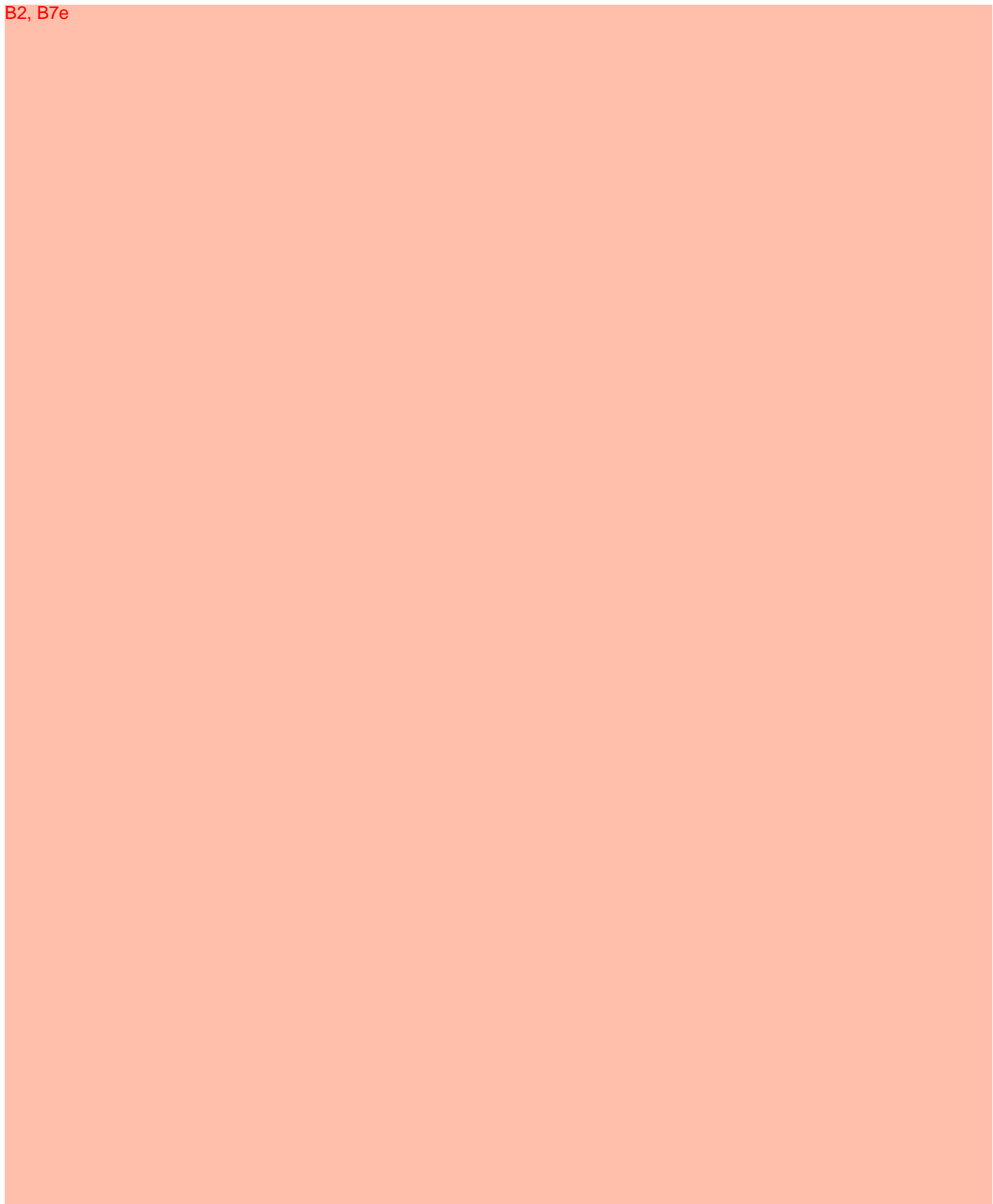
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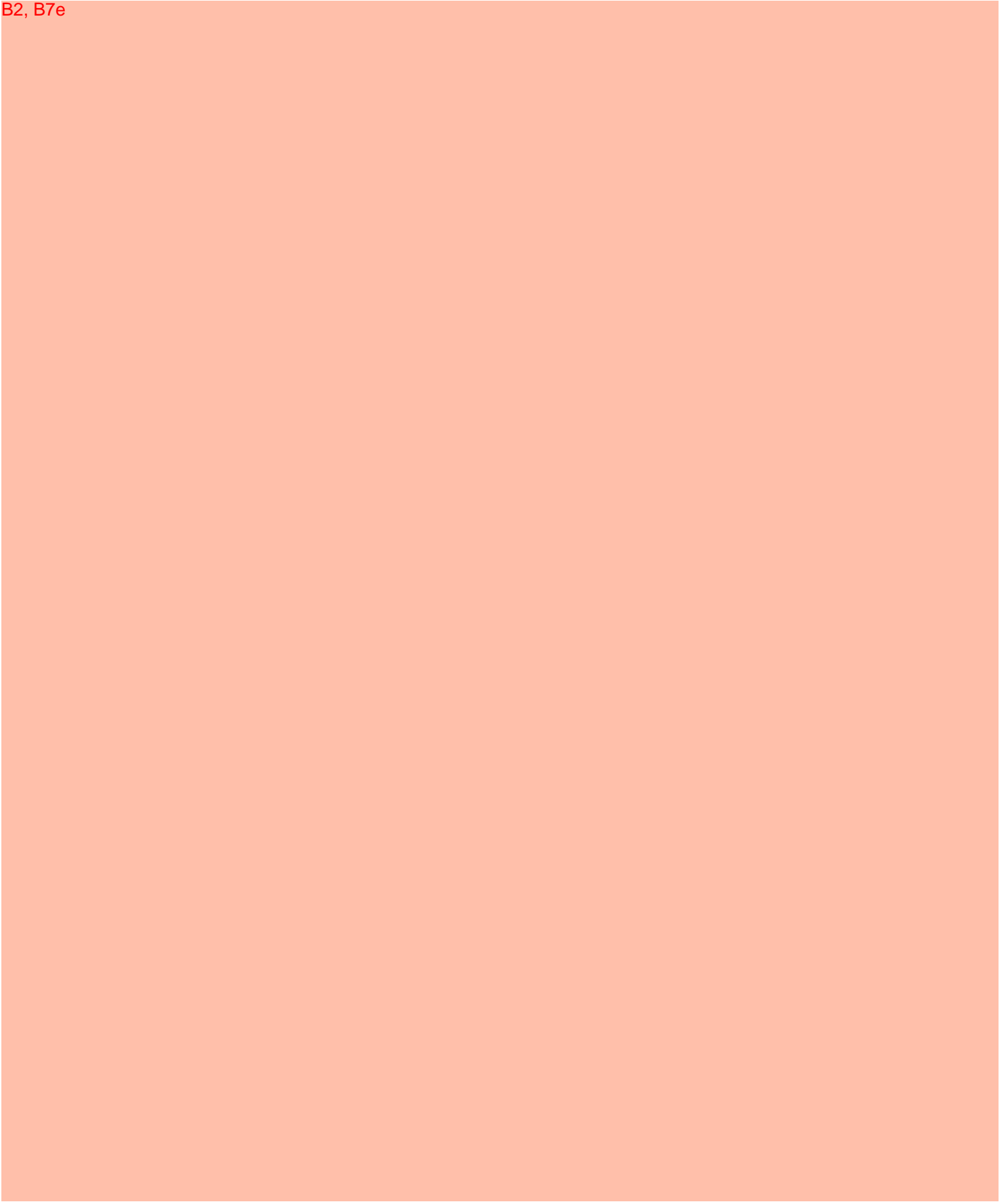
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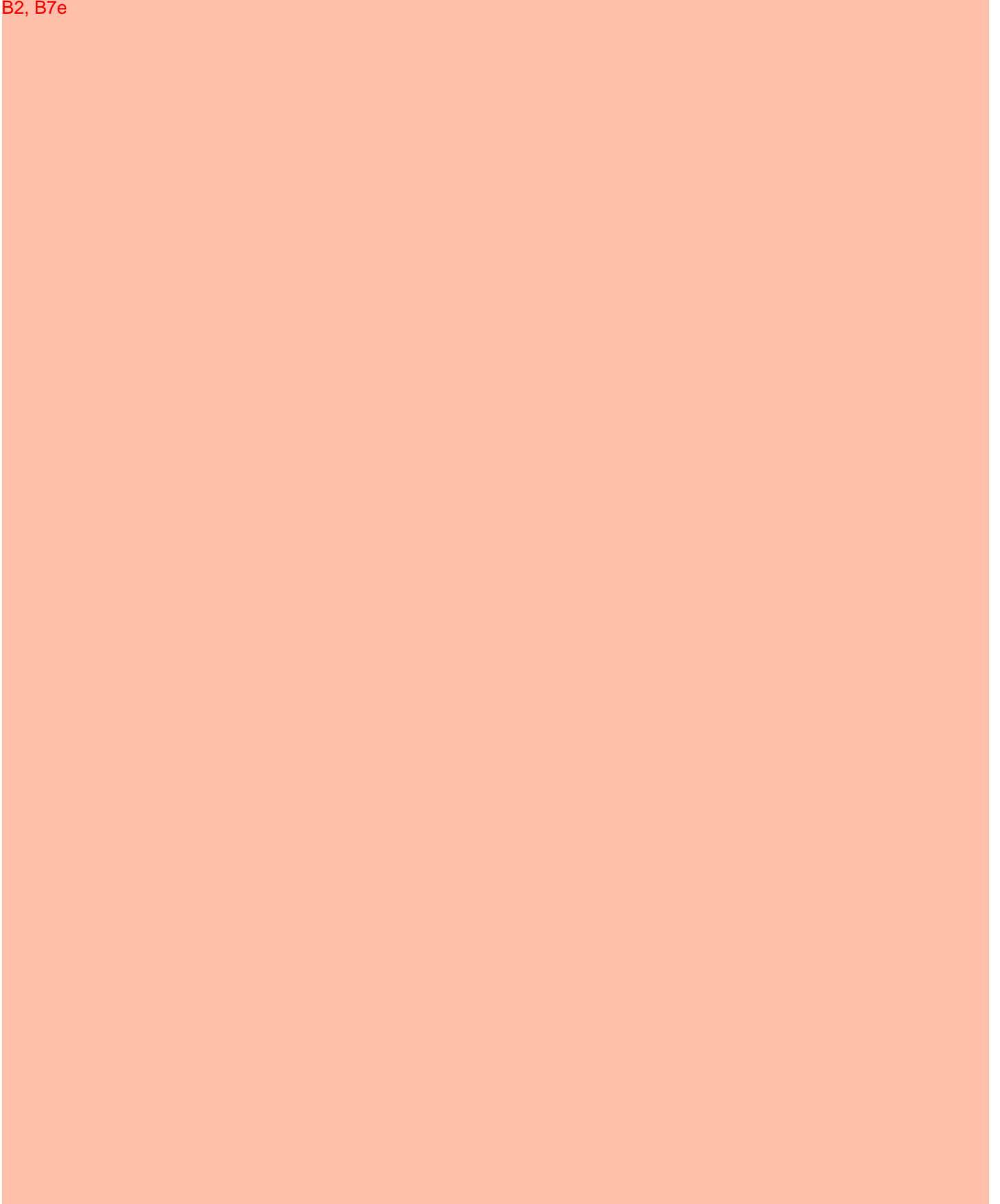
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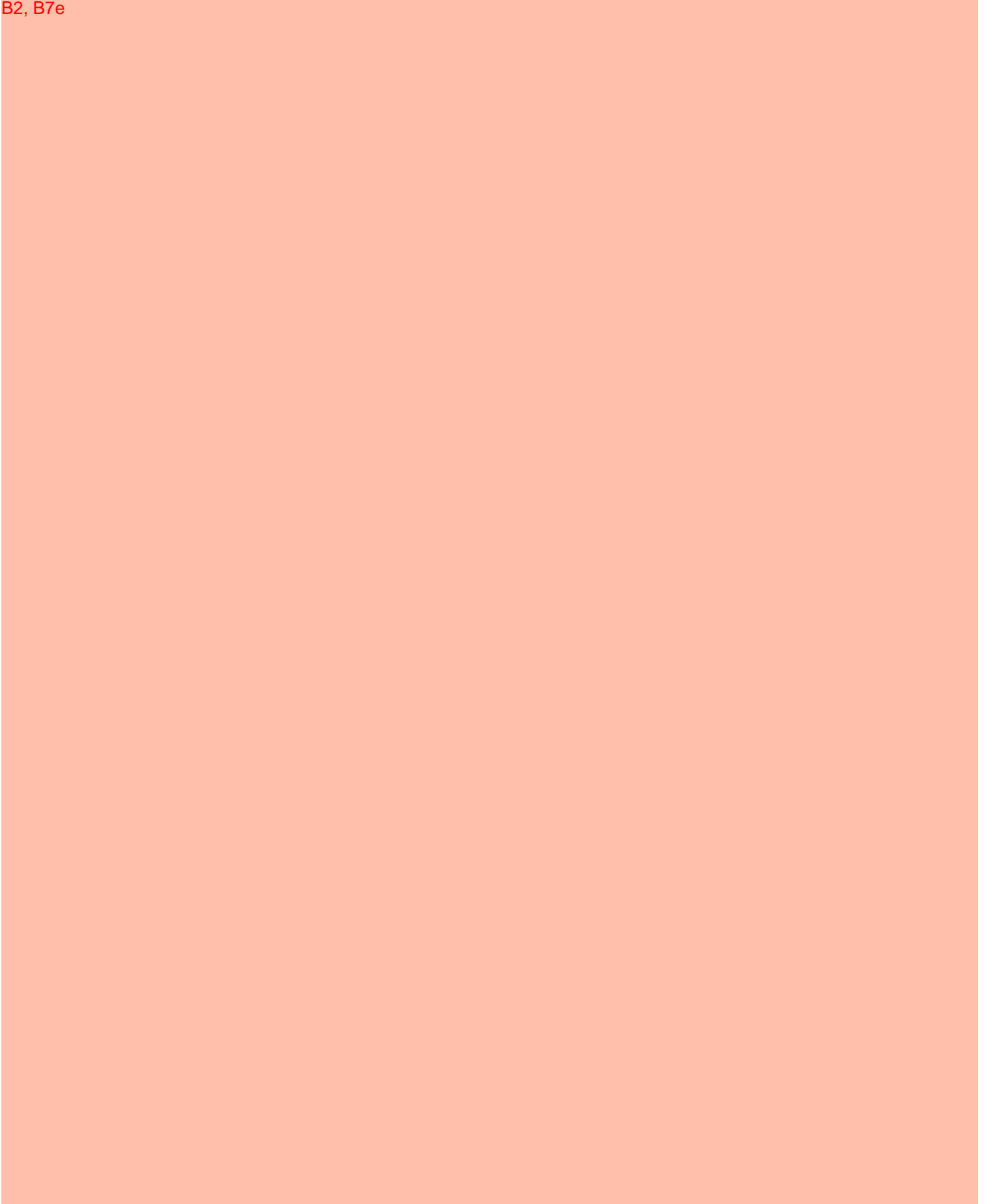
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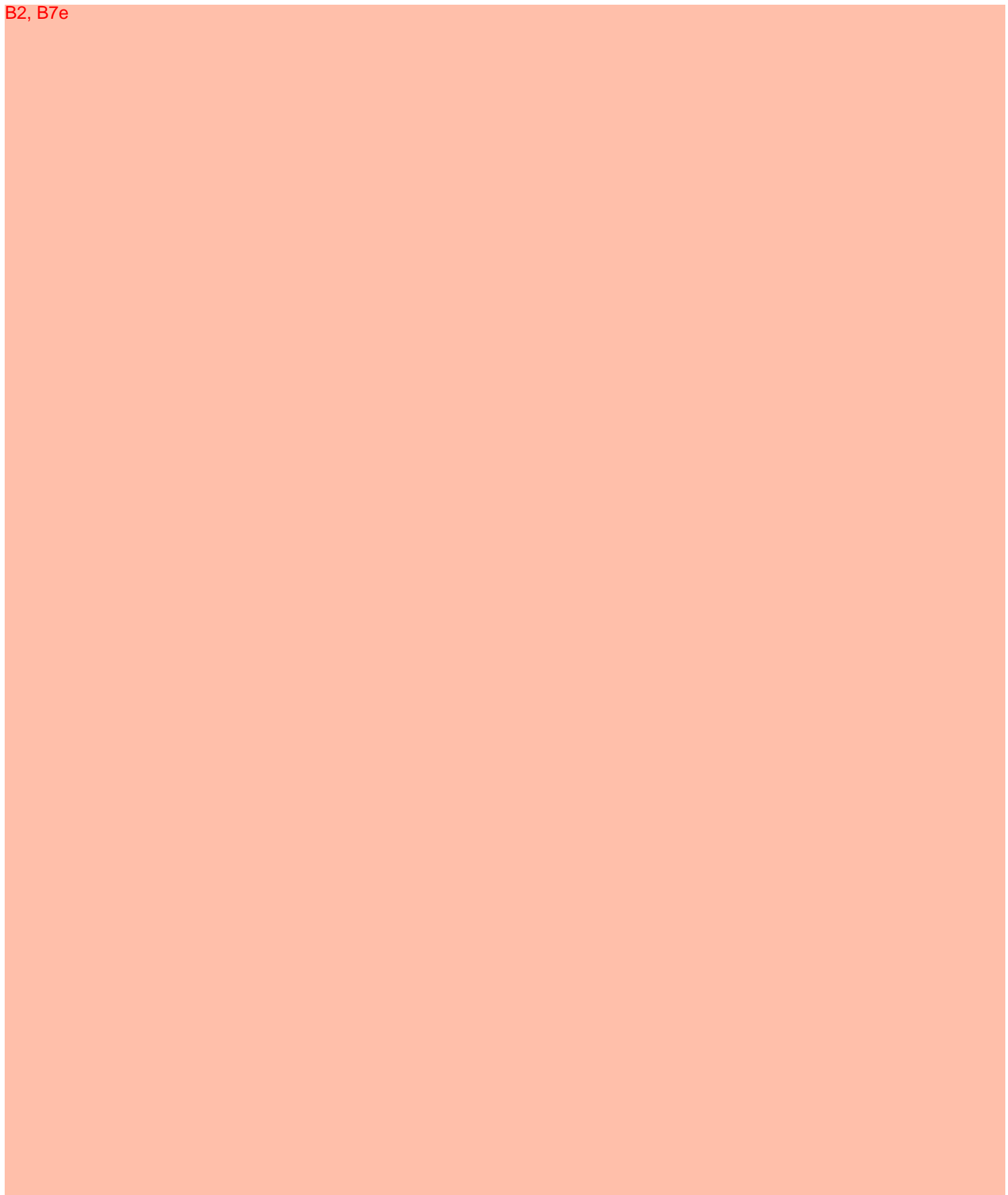
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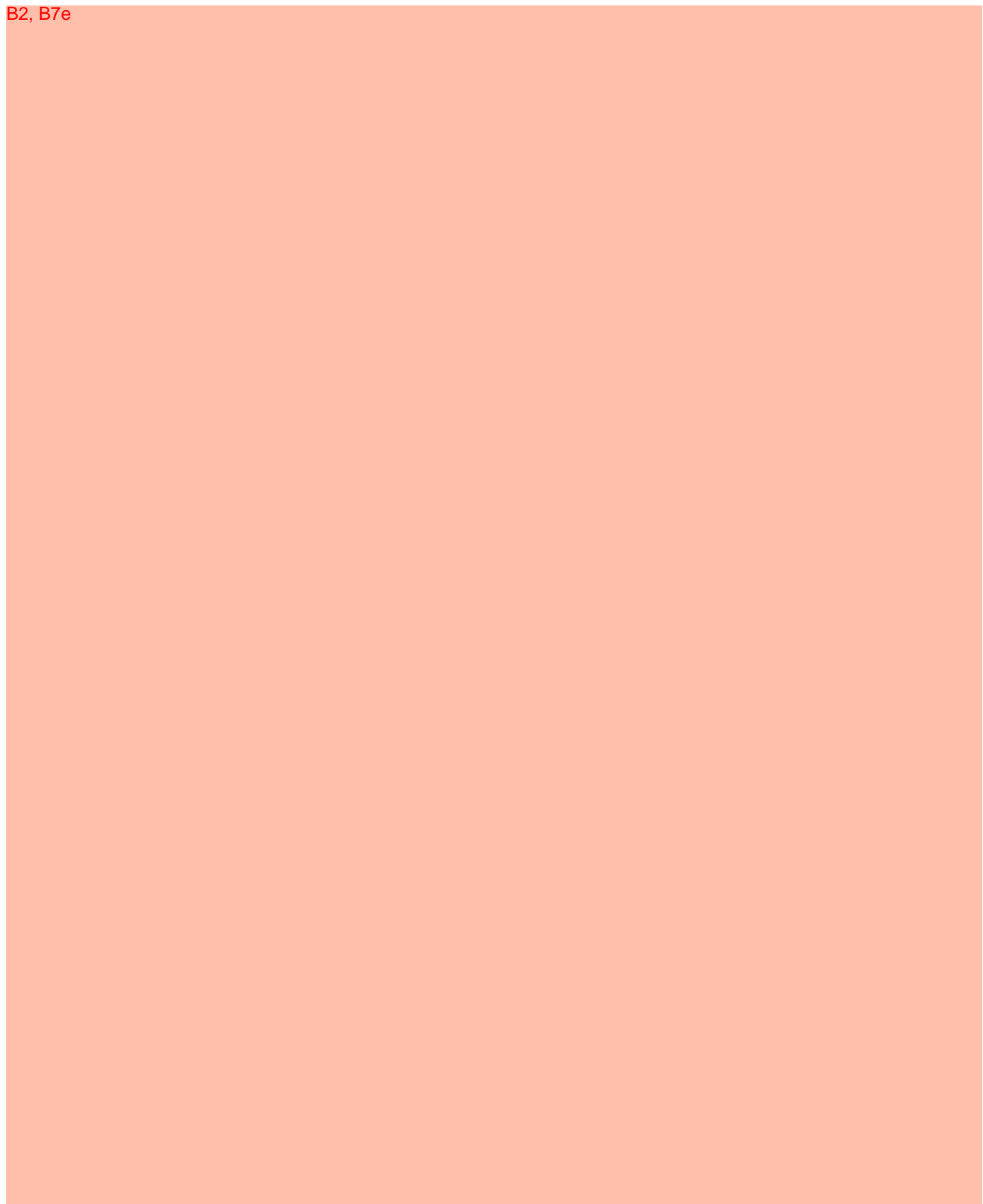
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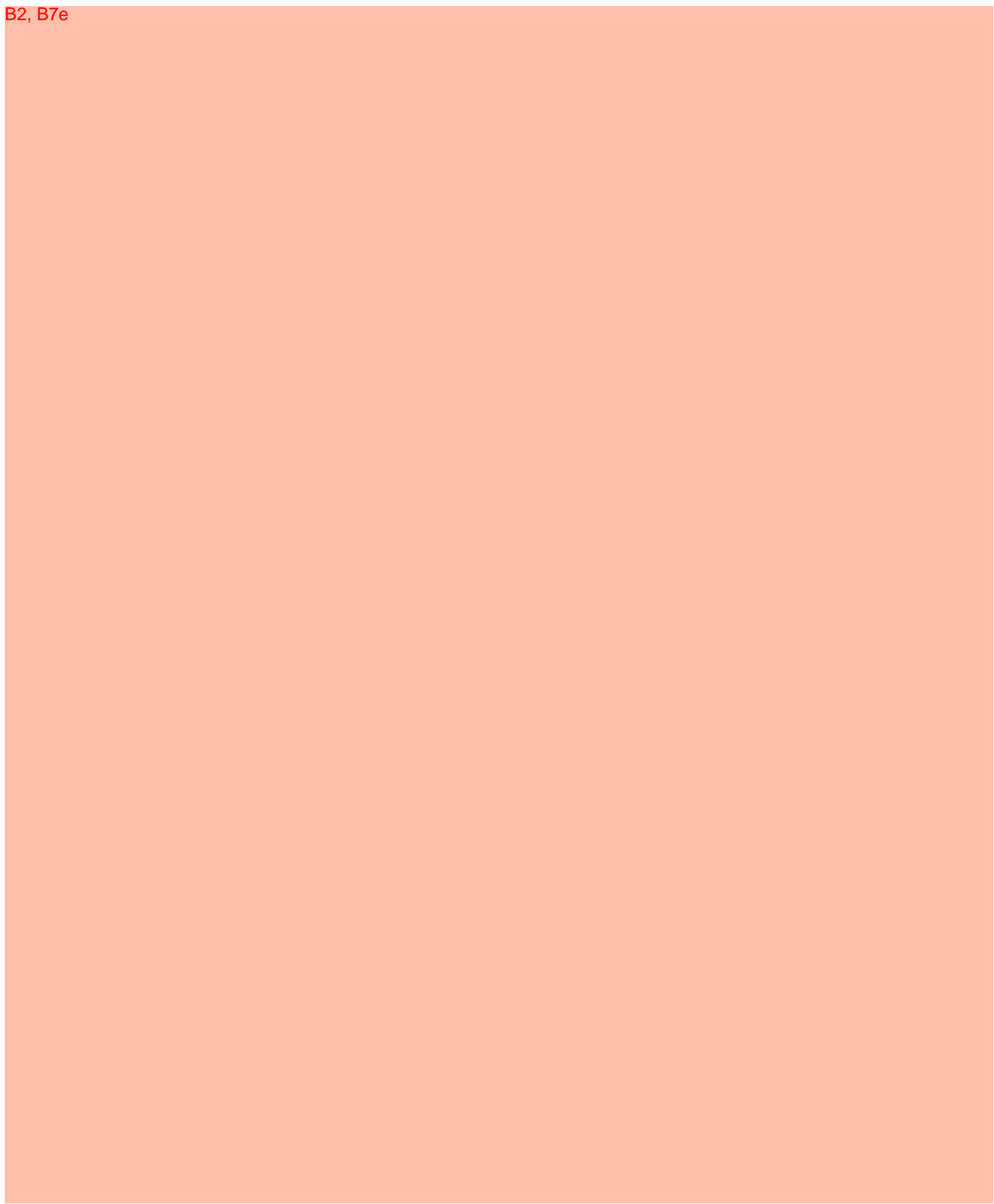
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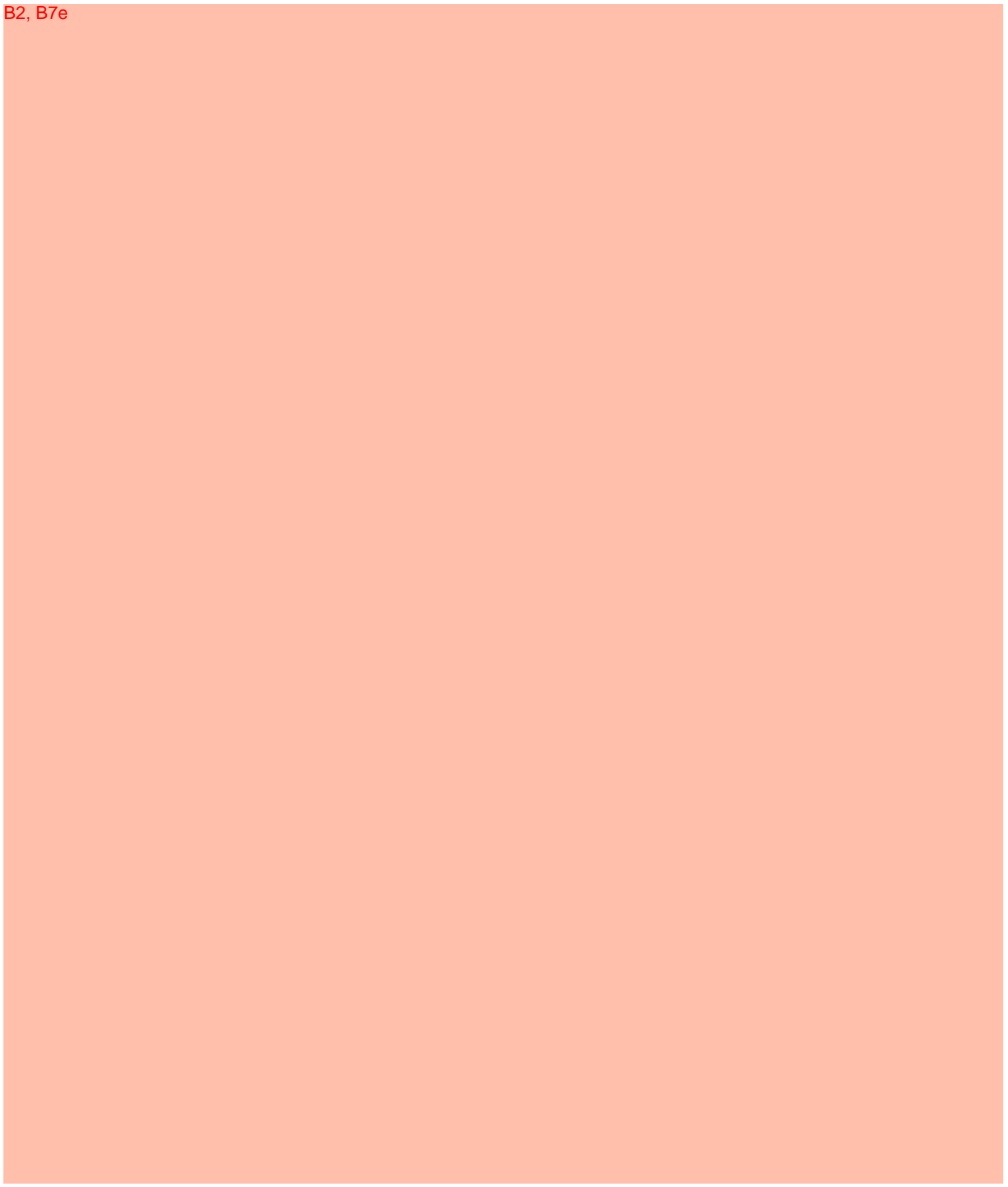
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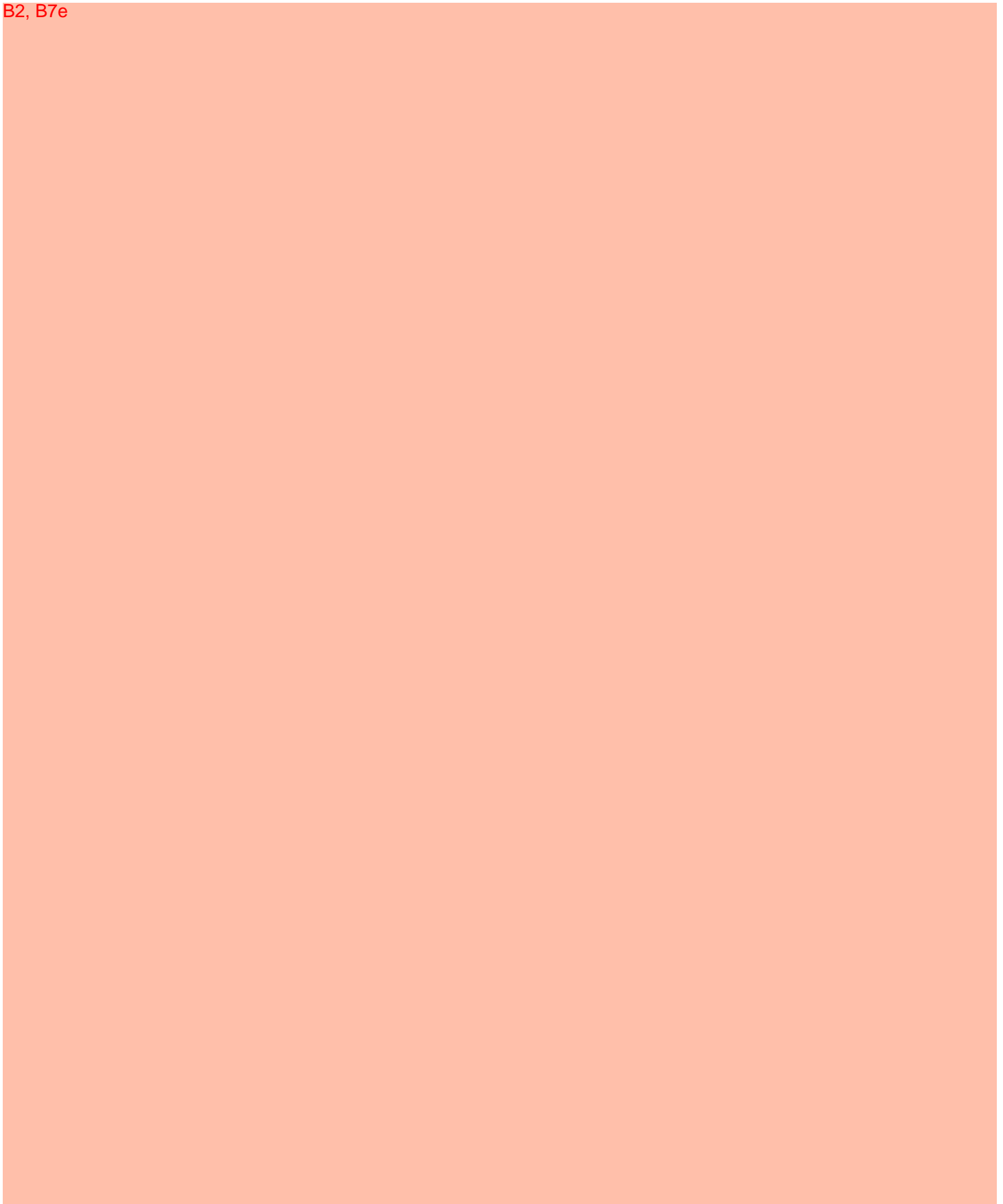
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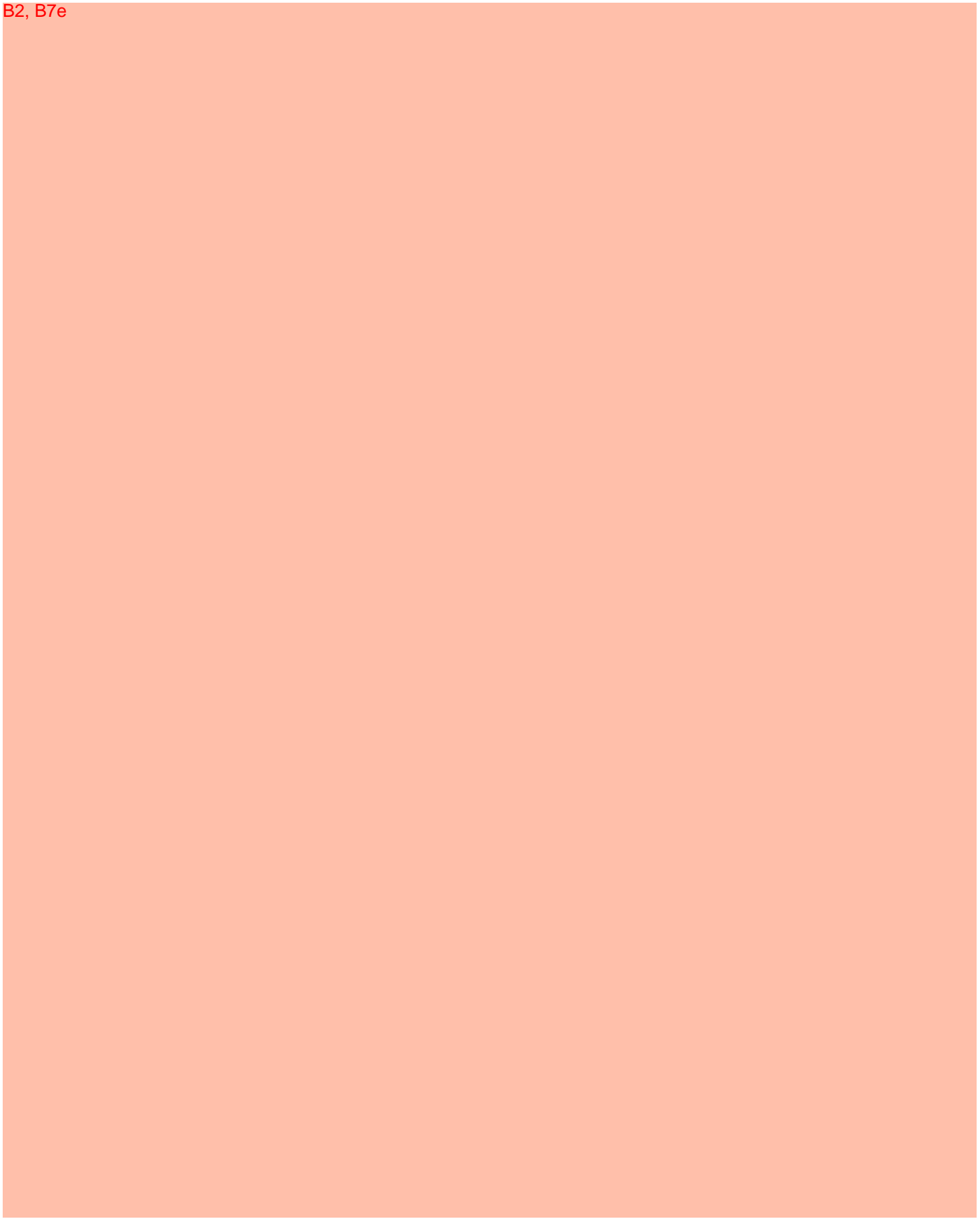
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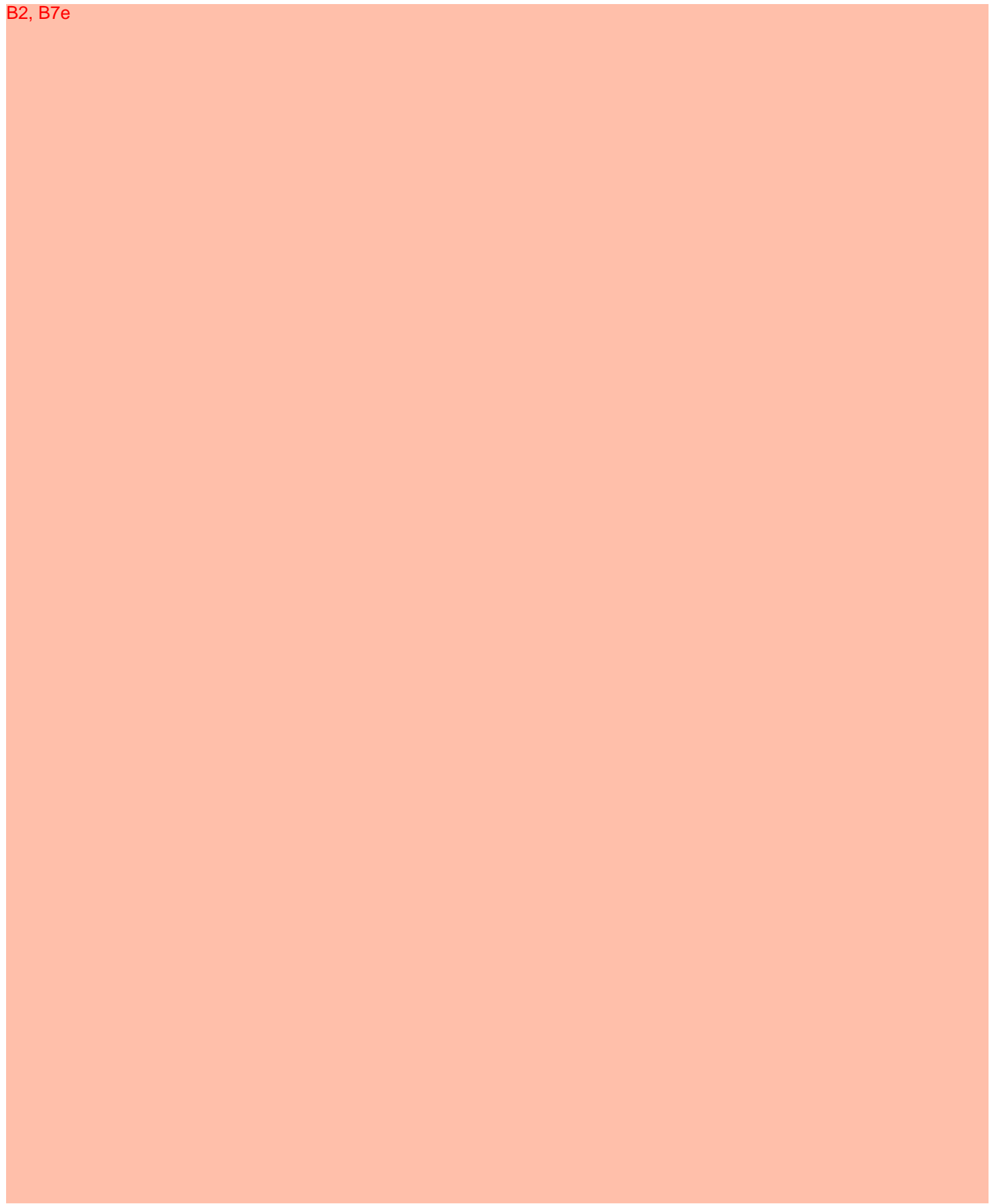
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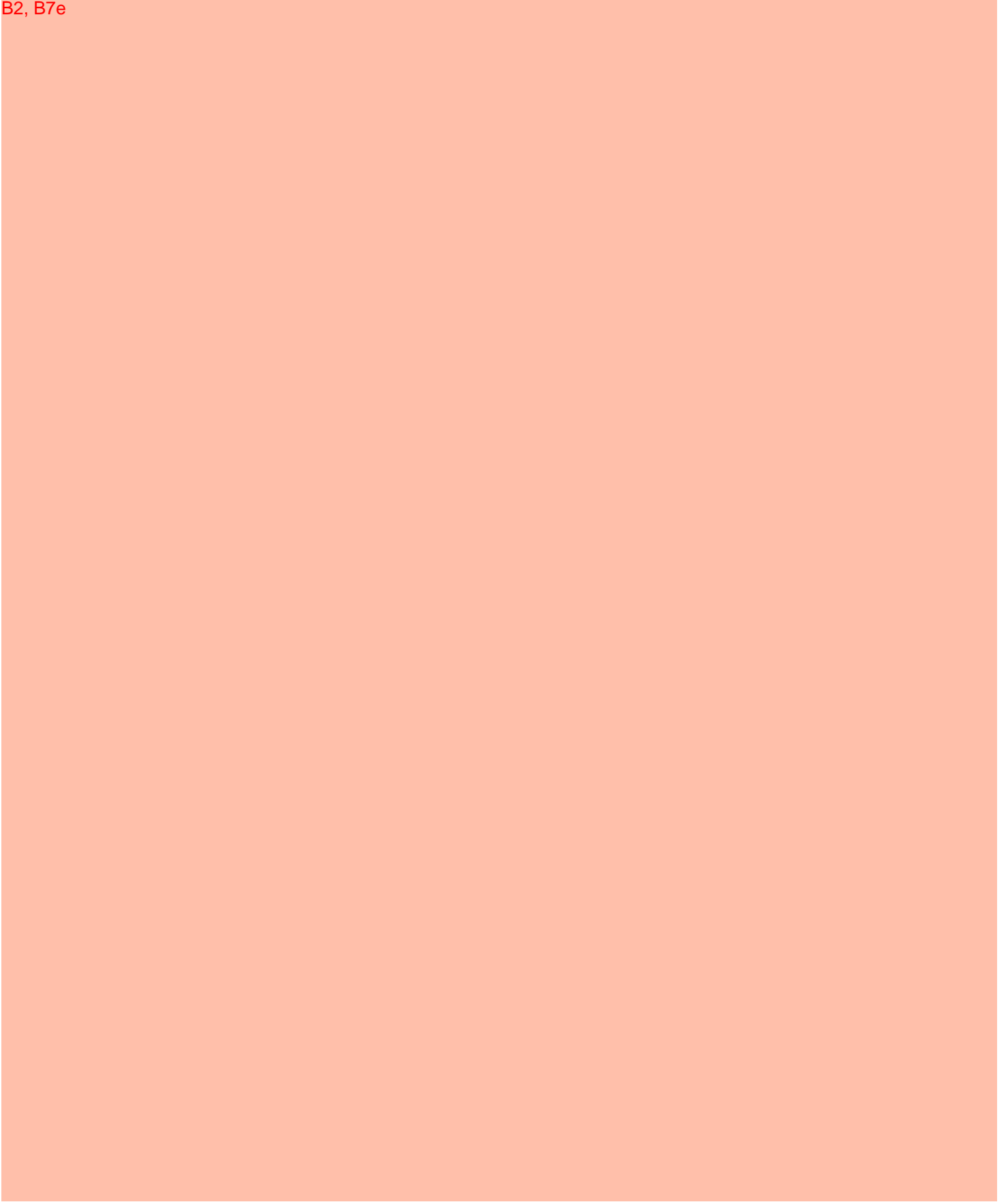
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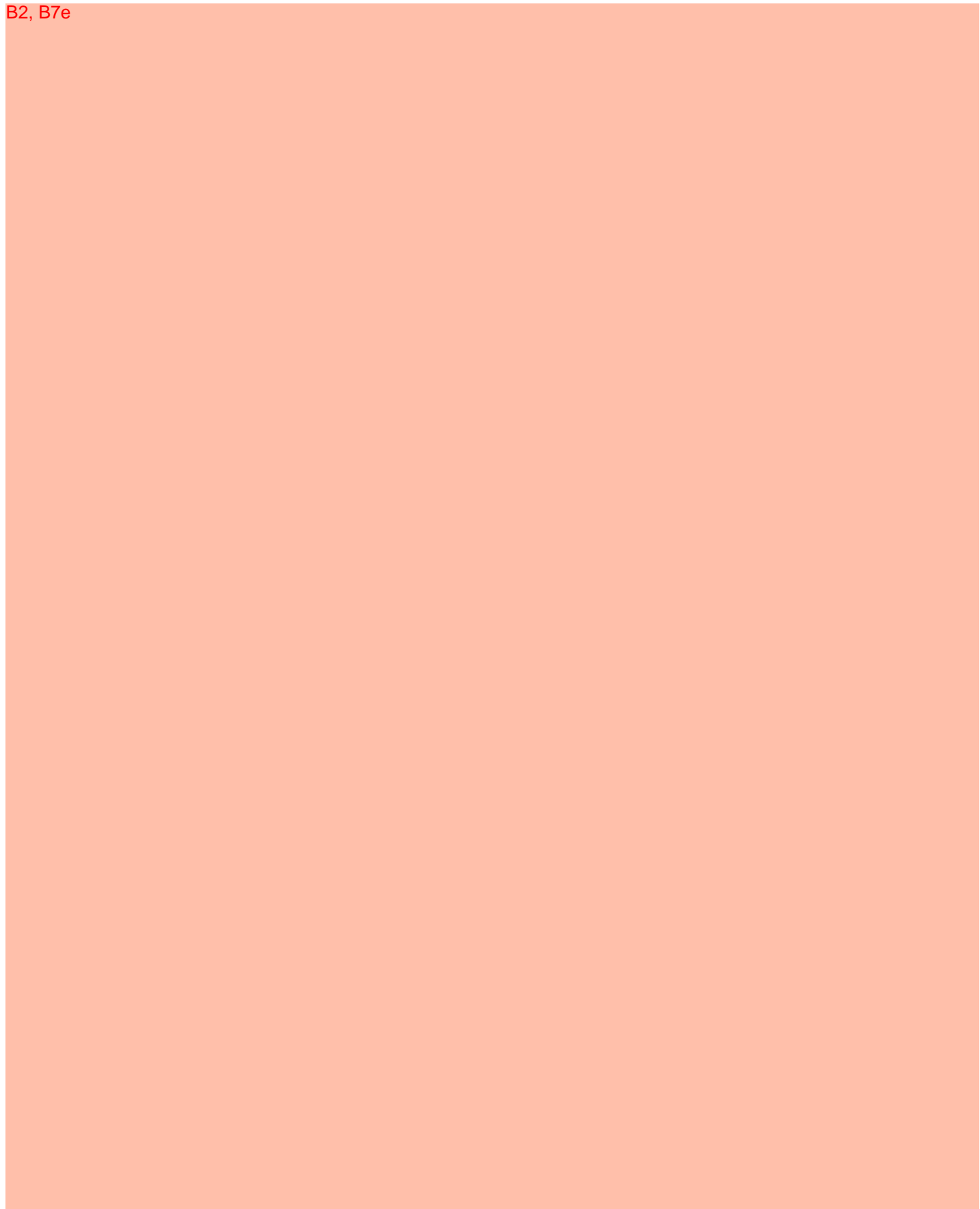
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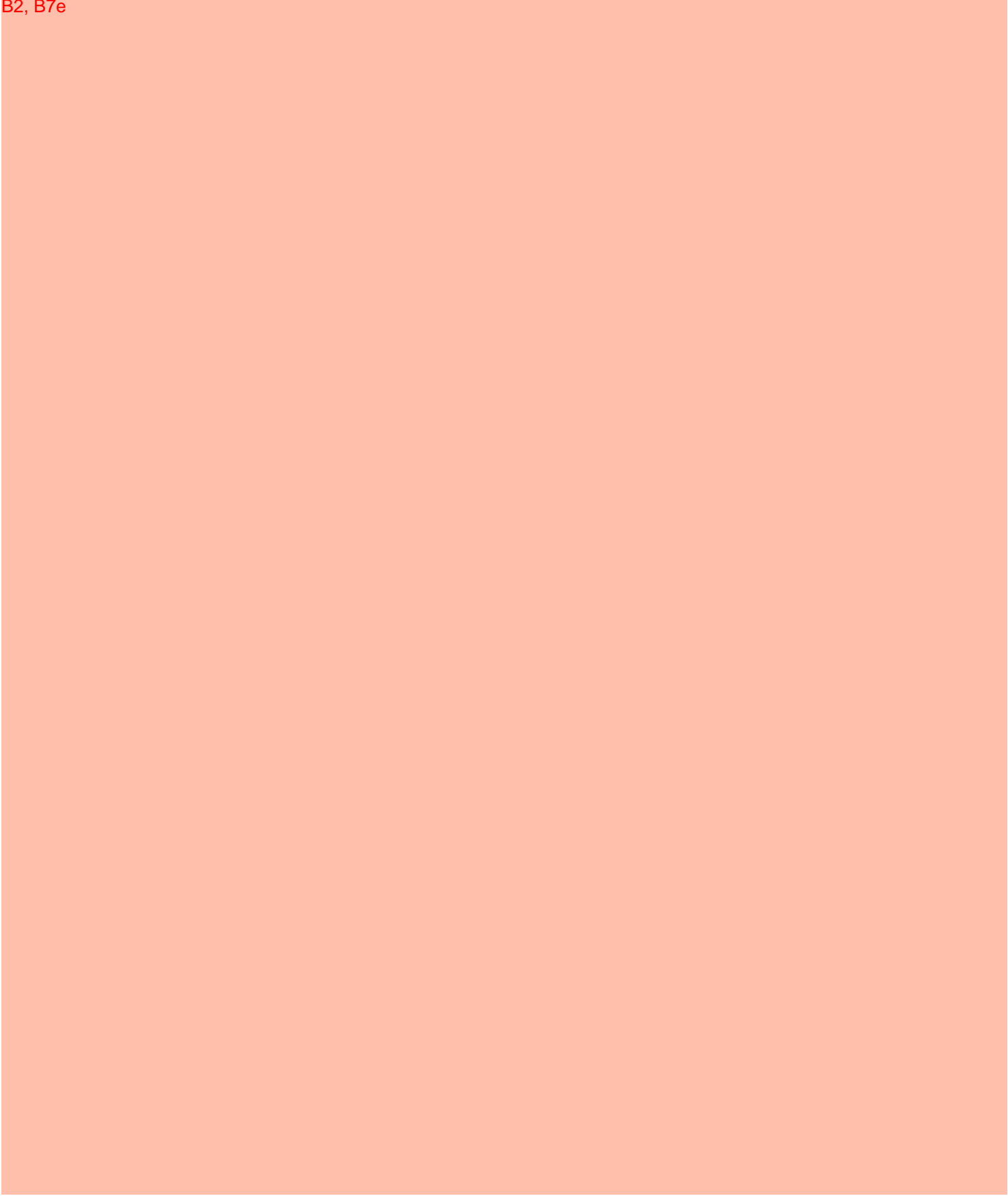
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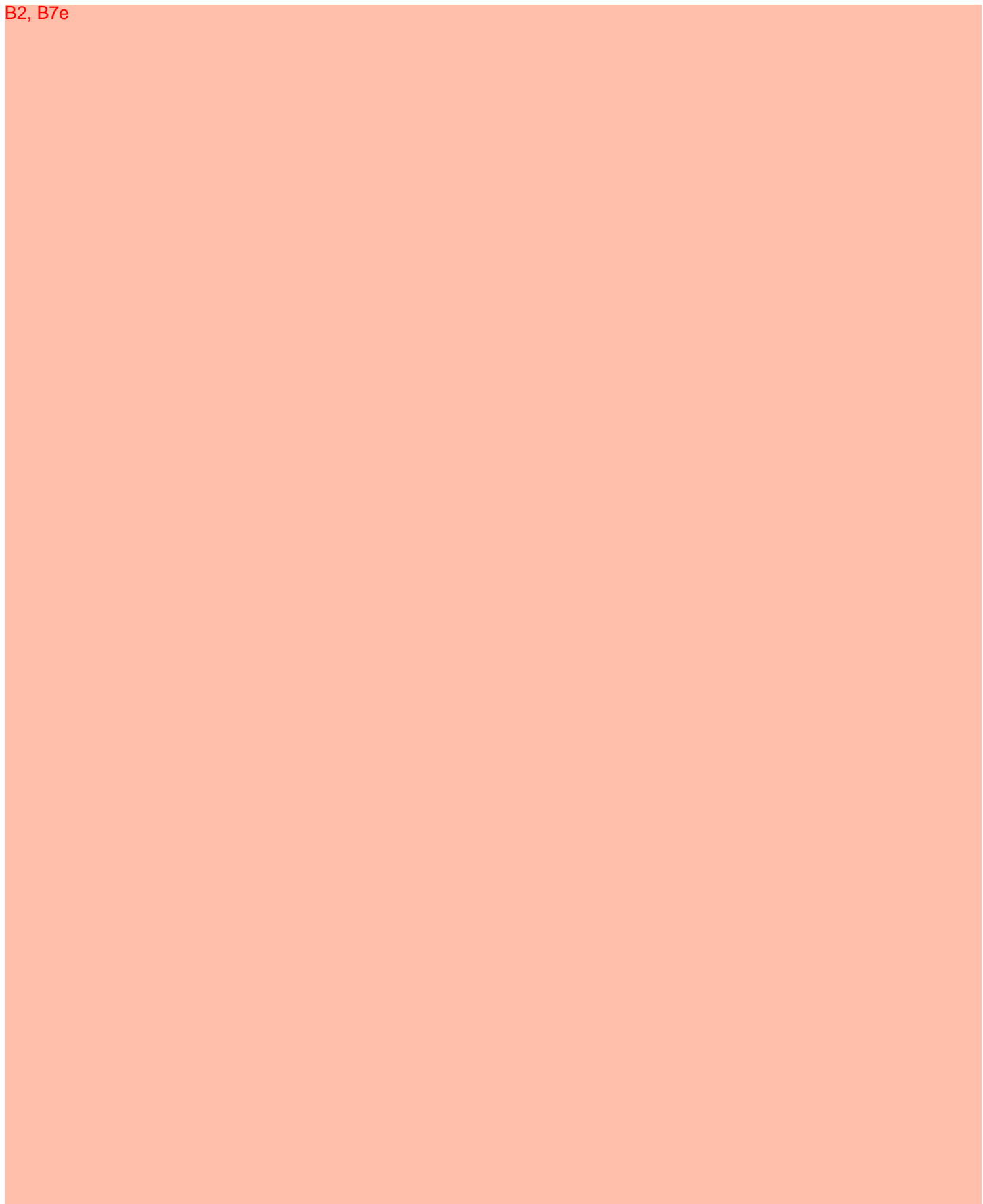
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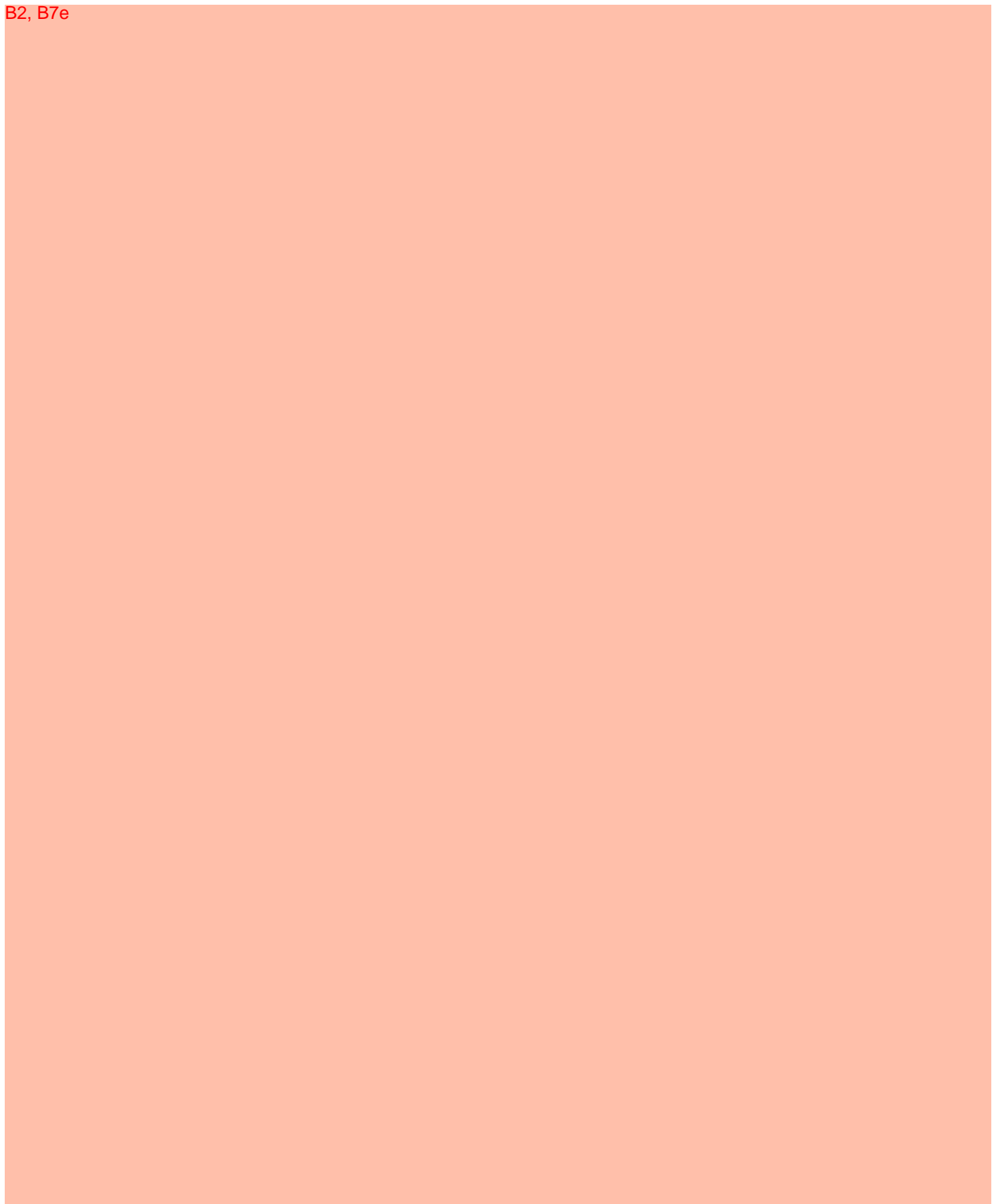
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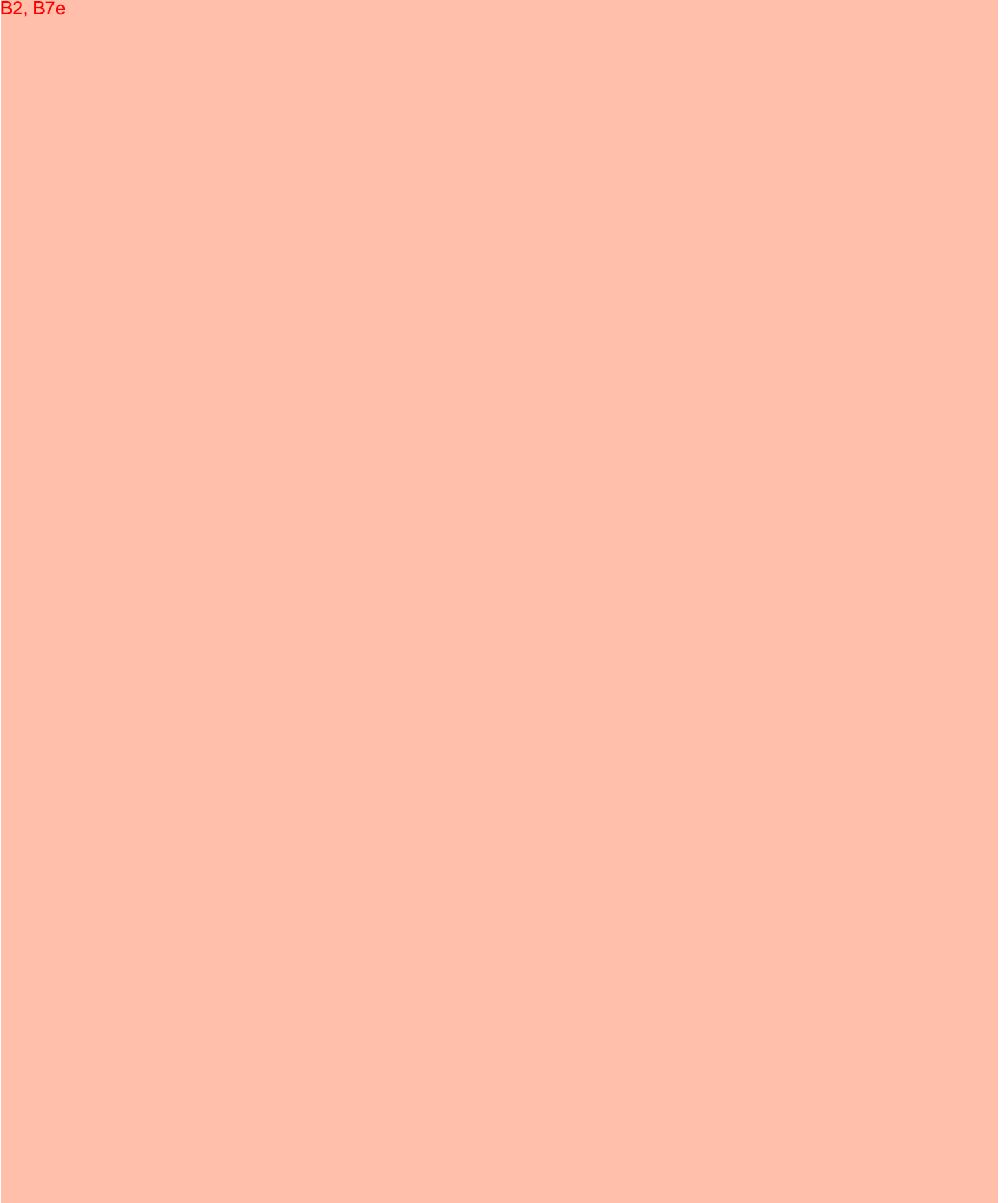
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Most Commonly Cited Violations w/Enforcement

	Recommended Gravity for Enforcement Violations
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Violation	
Part 382	
382.115	Violation is unlikely to cause or contribute to an accident
382.215	Violation which could reasonably cause/contribute to accident
382.301	Violation is unlikely to cause or contribute to an accident
382.303	Violation is unlikely to cause or contribute to an accident
382.305	Violation is unlikely to cause or contribute to an accident
382.305i	Violation is unlikely to cause or contribute to an accident
Part 383*	
383.23a	Violation which could reasonably cause/contribute to accident
383.37a	Violation which could reasonably cause/contribute to accident
383.51a	Violation which could reasonably cause/contribute to accident
	<p>*For Violations of Part 383, we should ask the questions:</p> <ul style="list-style-type: none"> • Why is the drivers CDL invalid, suspended? • Why is the driver disqualified? <p>If the reason is non-safety related, the Recommended UFA Gravity will be, "Violation is unlikely to cause or contribute to an accident."</p>
Part 387	
387.7a	Violation is unlikely to cause or contribute to an accident
387.7d	Violation is unlikely to cause or contribute to an accident
Part 391	
391.11a	Violation which could reasonably cause/contribute to accident
391.11b1	Violation which could reasonably cause/contribute to accident
391.11b4	Violation which could reasonably cause/contribute to accident
391.15a	Violation which could reasonably cause/contribute to accident
391.15a	Violation is unlikely to cause or contribute to an accident (non-safety related)
391.45a	Violation is unlikely to cause or contribute to an accident
391.45b	Violation is unlikely to cause or contribute to an accident
391.51a	Violation is unlikely to cause or contribute to an accident
391.51b7	Violation is unlikely to cause or contribute to an accident
Part 395	
395.3a1	Violation which could reasonably cause/contribute to accident
395.3a2	Violation which could reasonably cause/contribute to accident
395.3b1	Violation which could reasonably cause/contribute to accident
395.3b2	Violation which could reasonably cause/contribute to accident
395.8a	Violation is unlikely to cause or contribute to an accident
395.8e	Violation which could reasonably cause/contribute to accident
395.8k1	Violation is unlikely to cause or contribute to an accident

Part 396	
396.3a1	Violation which could reasonably cause/contribute to accident
396.7a	Violation which could reasonably cause/contribute to accident
396.9c2	Violation which could reasonably cause/contribute to accident
396.11a	Violation is unlikely to cause or contribute to an accident
396.17a	Violation is unlikely to cause or contribute to an accident

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Service Center Directors\National Enforcement Team

1.7.2.2.9 01-12-05 EDMS Memo


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Memorandum


U.S. Department
Of Transportation

Federal Motor Carrier
Safety Administration

Subject: **INFORMATION:** SAFETEA-LU Definitions
for Household Goods – Section 4202
(MC-ECC-001-06) Date: April 4, 2006

From: Daniel Hartman
Associate Administrator for Enforcement
and Program Delivery Reply To:
Attn. of MC-ECC

To: Field Administrators
Division Administrators/State Directors
National Enforcement Team

Purpose

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The Act authorized the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period of 2005-2009. This memorandum contains the amended definitions pertaining to the transportation of household goods as found in Section 4202 of SAFETEA-LU, which is contained within SAFETEA-LU Title IV, Subtitle B, also referred to as the “Household Goods Mover Oversight Enforcement and Reform Act of 2005.”

Background

Section 4202 of SAFETEA-LU amends 49 USC 13102 by adding the specific definitions for: “Household Goods Motor Carrier” and “Individual Shipper.”

Definitions Added

HOUSEHOLD GOODS MOTOR CARRIER.—

(A) IN GENERAL.—The term ‘household goods motor carrier’ means a motor

carrier that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

- (i) Binding and nonbinding estimates.
- (ii) Inventorying.
- (iii) Protective packing and unpacking of individual items at personal residences.
- (iv) Loading and unloading at personal residences.

(B) **INCLUSION.**—The term includes any person that is considered to be a household goods motor carrier under regulations, determinations, and decisions of the Federal Motor Carrier Safety Administration that are in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

(C) **LIMITED SERVICE EXCLUSION.**—The term does not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual (other than an employee or agent of the motor carrier).

INDIVIDUAL SHIPPER.—The term ‘individual shipper’ means any person who—

- (A) is the shipper, consignor, or consignee of a household goods shipment;
- (B) is identified as the shipper, consignor, or consignee on the face of the bill of lading;
- (C) owns the goods being transported; and
- (D) pays his or her own tariff transportation charges.

Implementation Date

The effective date of Section 4202 - Definitions; Application of Provisions of SAFETEA-LU was August 10, 2005.

For further information, contact Darrell L. Ruban at (202) 385-2400.


Added to eFOTM 04-25-2006

1.7.2.4.2 04-04-2006 SAFETEA-LU Section 4205 - HHG Carrier Operations

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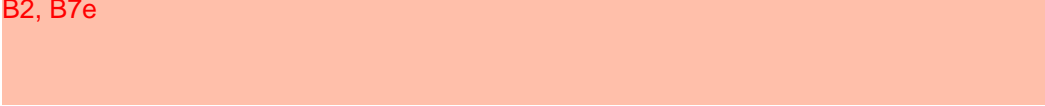
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Memorandum



**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: **INFORMATION:** SAFETEA-LU Amendments Date: April 4, 2006

to the Dispute Settlement Program for Household Goods Carriers – Section 4208 (MC-ECC-004-06)

From: Daniel Hartman
Associate Administrator for Enforcement and Program Delivery

Reply To: Attn. of MC-ECC

To: Division Administrators
Field Administrators
State Directors
Enforcement Team

Purpose

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The Act authorized the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period of 2005-2009. This memorandum outlines the amendments to the requirements of a household goods carrier's dispute settlement program contained in SAFETEA-LU Section 4208.

Background

Section 4208 of SAFETEA-LU amended 49 USC 14708 by expanding the requirements of a household goods carrier's dispute settlement program to include the following:

1. Offering Shippers Arbitration – A household goods carrier must offer individual shippers of household goods arbitration as a means of settling disputes between the household goods carrier and individual shipper concerning damage or loss to the household goods transported and to determine whether carrier charges, in addition to those collected at delivery, must be paid by shippers for transportation and services related to transportation of the household goods.
2. Requests – If a dispute involves a claim for \$10,000 or less and the shipper requests arbitration, the decision of the arbitrator shall be binding on both parties. If the dispute involves a claim for more than \$10,000 and the shipper requests arbitration, the decision of the arbitrator shall only be binding on both parties if the household goods carrier agrees to the arbitration.
3. Deadline for Decision – An arbitrator must render a decision based on the information gathered within 60 days of receipt of written notification of the dispute, unless one of the parties fails to provide information that may reasonably be required to resolve the dispute, in which case the arbitrator may extend the 60-day deadline for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate, including repair, replacement, refund, and reimbursement for expenses, compensation for damages and an order requiring payment of additional carrier charges.
4. Attorney's Fees to Shippers – In any court action to resolve a dispute between an individual shipper and a household goods carrier, the shipper shall be awarded reasonable attorney's fees if:

- a. The shipper submits a claim to the carrier within 120 days after the date of the shipment is delivered or the delivery is scheduled, whichever is later;
- b. The shipper prevails in the court action; and
- c. The shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute; a decision resolving the dispute was not rendered through arbitration within the appropriate time; or the court proceeding is to enforce a decision rendered through arbitration and is instituted after the period for performance under the decision has elapsed.

NEW RULES AND HOW THEY AFFECT FMCSA:

This provision will have no effect on Safety Investigators conducting commercial reviews. Minor changes will need to be made to 49 CFR 375.211.

Implementation Date

The effective date of Section 4205 – Household Goods Carrier Operations of SAFETEA-LU was August 10, 2005.

For further information, contact Darrell L. Ruban at (202) 385-2400.


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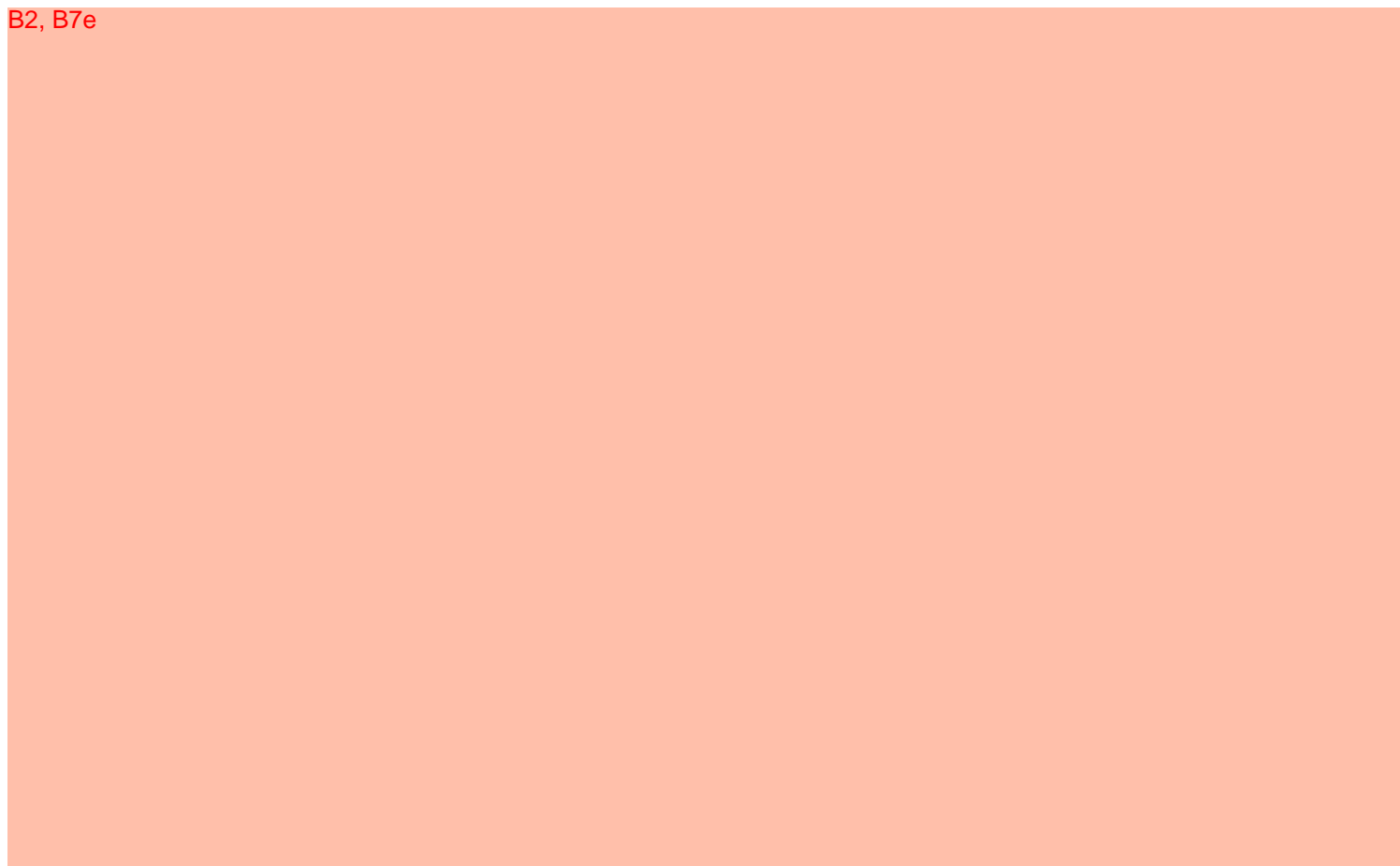
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Memorandum



**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: ACTION: SAFETEA-LU Sections
4130-4133 and 4146 Guidance: Certain
Exemptions to the Hours-of-Service Rules
(ECE-016-06)

From: Daniel Hartman
Associate Administrator for Enforcement
tram Delivery

To: Chief Safety Officer
Associate Administrator for Field Operations
Field Administrators

Date: April 4, 2006

Reply To:
Attn. of MC-ECC

MC-E Office Directors and Division Chiefs
Division Administrators/State Directors
National Enforcement Team
National Training Center

PURPOSE

This memorandum provides guidance to employees of the Federal Motor Carrier Safety Administration (FMCSA) based upon enactment of Public Law 109-59, the Safe Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

The SAFETEA-LU sections addressed in this memorandum are:

Section 4130 - Operators of Vehicles Transporting Agricultural Commodities and Farm Supplies
Section 4131 – Maximum Hours of Service for Operators of Ground Water Well Drilling Rigs
Section 4132 – Hours of Service for Operators of Utility Service Vehicles
Section 4133 – Hours of Service Rules for Operators Providing Transportation to Movie Production Sites
Section 4146 –Exemption During Harvest Periods.

BACKGROUND

SAFETEA-LU was signed into law by the President on August 10, 2005. SAFETEA-LU includes several specific exemptions to FMCSA's hours of service (HOS) rules. These exemptions became effective upon the date of enactment of SAFETEA-LU, August 10, 2005, and are currently in effect with respect to drivers operating commercial motor vehicles (CMVs) even though 49 CFR Part 395 has not yet been changed to include them.

On September 06, 2005, the FMCSA Associate Administrator for Enforcement and Program Delivery issued preliminary guidance regarding specific hours of service exemptions outlined in SAFETEA-LU. This memorandum augments the September 06, 2005 guidance and provides guidance regarding implementation of SAFETEA-LU exemptions found in Sections 4130, 4131, 4132, 4133, and 4146.

During compliance reviews, safety audits, or roadside inspections, FMCSA staff should determine whether any of these exemptions apply and to what extent. Each of the below-described exemptions have specific elements which must be reviewed in order to determine whether the exemption applies to specific operations, transportations, and/or circumstances.

POLICY

1. SAFETEA-LU Section 4130 - Operators of Vehicles Transporting Agricultural Commodities and Farm Supplies

SAFETEA-LU Section 4130 expands the existing hours of service exemption for agricultural

commodities and farm supplies in 49 CFR 395.1(k) by adding a year round exemption for transporters of livestock feed and specific definitions of “agricultural commodity” and “farm supplies for agricultural purposes.”

Please note: Prior to 1996, FMCSA exempted these drivers only from maximum driving and on duty time, which is also the language used in SAFETEA-LU. However, FMCSA subsequently extended the exemption to include all provisions of 49 CFR Part 395 and will continue to do so.

The current agricultural exemption in 49 CFR 395.1(k) reads as follows:

- (k) Agricultural operations. The provisions of this part **shall not apply** to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation:
- (1) Is limited to an area within a 100 air-mile radius from the source of the commodities or the distribution point for the farm supplies, and
 - (2) Is conducted during the planting and harvesting seasons within such State, as determined by the State (emphasis added).

SAFETEA-LU Section 4130 expands and clarifies the agricultural exemption by defining “agricultural commodity” and “farm supplies for agricultural purposes.”

Agricultural commodity.-The term ‘agricultural commodity’ means any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) and insects).

[Livestock is defined in the Emergency Livestock Feed Assistance Act as “cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary....”]

Farm supplies for agricultural purposes.-The term ‘farm supplies for agricultural purposes’ means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and **livestock feed at any time of the year** (emphasis added).

Prior to SAFETEA-LU, FMCSA did not extend the agricultural exemption to transporters of livestock and livestock feed. The following guidance in 49 CFR 395.1 summarizes FMCSA’s application of the exemption prior to SAFETEA-LU:

395.1 Question 31: Does the exception in [§395.1\(k\)](#) for “drivers transporting agricultural commodities or farm supplies for agricultural purposes” cover the transportation of poultry or poultry feed?

Guidance: No. The exception was created by Sec. 345(a)(1) of the National Highway System Designation Act of 1995 [Public Law 104-50, 109 Stat. 568, at 613], which provides in part that the hours of service regulations “shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes...” The terms “agricultural commodities or farm supplies for agricultural purposes” were not defined, but the context clarifies their meaning. Because the statute made the exception available only “during the planting and harvesting seasons” in each State, Congress obviously intended to restrict it to agriculture in the traditional (and etymological) sense, i.e., the cultivation of fields. “Agricultural

commodities” therefore means products grown on and harvested from the land, and “farm supplies for agricultural purposes” means products directly related to the growing or harvesting of agricultural commodities.

Drivers transporting livestock or slaughtered animals, or the grain, corn, hay, etc., used to feed animals, may not use the “agricultural operations” exception.

SAFETEA-LU Section 4130, supersedes the earlier FMCSA interpretation of agricultural commodity. SAFETEA-LU extends the hours of service exemption to include transporters of livestock and livestock feed. Therefore, **Field staff are directed to disregard the above interpretation (49 CFR 395.1, Question 31), and extend the agricultural exemption to carriers of livestock and livestock feed.**

Staff should further note that the SAFETEA-LU definition of “farm supplies for agricultural purposes” **allows transporters of livestock feed to take advantage of the hours of service exemption year round. FMCSA staff, therefore, should not limit the exemption for livestock feed transporters to the “harvest season” as defined by the State.**

2. SAFETEA-LU Section 4131 – Maximum Hours of Service for Operators of Ground Water Well Drilling Rigs

FMCSA rules allow operators of ground water well drilling rigs to restart their 60 or 70 hour clock by taking 24 consecutive hours off duty. SAFTEA-LU Section 4131 reaffirms this provision.

FMCSA defines “Ground water well drilling rig” in 49 CFR 395.2:

Ground water well drilling rig means any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

The exemption for ground water well drilling operators reads as follows (49 CFR 395.1(l)):

Ground water well drilling operations. In the instance of a driver of a commercial motor vehicle who is used primarily in the transportation and operations of a ground water well drilling rig, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

FMCSA staff should continue to allow a 24-hour restart when reviewing ground water well drilling operators. SAFETEA-LU does not offer any additional regulatory exemptions for these drivers.

3. SAFETEA-LU Section 4132 – Hours of Service for Operators of Utility Service Vehicles

Please note: This guidance supersedes the Chief Safety Officer’s memorandum entitled, “Hours of Service Enforcement Guidance under Section 131 of the 2004 Omnibus Appropriations” issued on February 17, 2004, and any similar guidance, to the extent such guidance conflicts with the exemption provisions of SAFETEA-LU Section 4132

which prohibits Field staff from enforcing hours of service regulations regarding operators of utility service vehicles.

Prior to the implementation of SAFETEA-LU, FMCSA allowed operators of utility service vehicles to restart their 60 or 70 hour clock after 24 hours or more off duty. (49 CFR 395.1 (n)). However, SAFETEA-LU Section 4132 exempts operators of utility service vehicles from all provisions of 49 CFR Part 395. Therefore, FMCSA shall not enforce hours of service rules against drivers of utility vehicles.

SAFETEA-LU Section 4132 does not alter the 49 CFR 395.2 definition of utility service vehicle.

Utility service vehicle means any commercial motor vehicle:

- (1) Used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;
- (2) While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and
- (3) Except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

SAFETEA-LU Section 4132 also prohibits a State or political subdivision from enacting or enforcing any hours of service laws or regulations similar to the Federal hours of service regulations contained at 49 CFR Part 395. Therefore, after analysis of this SAFETEA-LU provision, FMCSA has determined that States or political subdivisions are prohibited from imposing hours of service requirements upon either interstate or intrastate utility service drivers.

4. SAFETEA-LU Section 4133 – Hours of Service Rules for Operators Providing Transportation to Movie Production Sites

Please note: This guidance supersedes the Chief Safety Officer's memorandum entitled, "Hours of Service Enforcement Guidance under Section 131 of the 2004 Omnibus Appropriations" issued on February 17, 2004, and any similar guidance, to the extent such guidance conflicts with the exemption provisions of SAFETEA-LU Section 4133 which prohibits Field staff from enforcing hours of service regulations regarding certain operators of CMVs providing transportation of property or passengers to or from motion picture production sites.

Under Section 4133, drivers who provide transportation

- of property or passengers involved in making a movie;
- to or from a movie production site (including a television movie); and
- within a 100 air-mile radius of a driver's work reporting location

are subject to the hours-of-service rules in effect on April 27, 2003 (i.e., are exempt from the new hours-of-service rules). Unlike the 100-air mile radius exemption under 49 CFR 395.1(e)(1), SAFETEA-LU Section 4133 does not require that these drivers start from, or return to, their work reporting location.

FMCSA staff should review these operations for violations of the 10, 15, and 60/70-hour rules for the days drivers operate within the 100 air-miles. While operating under these circumstances, drivers may not take advantage of the 34-hour restart or any other provisions of the new hours of service rules.

FMCSA staff should review hours of service for violations of the 11, 14, and 60/70-hour rules on days when drivers operate outside the 100 air-mile radius. Drivers may, during this period, utilize the 34-hour restart provision.

Staff should use the old hours of service rules **ONLY** on days the driver operates within 100 air-miles of the work reporting location. For example, eight hour rest periods apply only **BETWEEN** consecutive days the driver operates under the old rules. Ten hour rest periods apply both **BEFORE AND AFTER** days the driver operates under the current hours of service rules.

Example:

A driver regularly operates outside 100 air-miles. He takes 34 hours off duty (taking advantage of the restart under the new hours of service rules) then operates within 100 air-miles. He drives five hours, has four hours on duty not driving, three hours off duty then drives another five hours returning to his work reporting location. He takes eight hours off duty and repeats the schedule. At this point the driver is in compliance with the hours of service rules. He then takes eight hours off duty and operates beyond 100 air-miles the next day. The driver is in violation of the 14-hour rule as soon as he starts driving and the 11 hour rule after driving more than one hour because he was not off duty for ten consecutive hours prior to operating under the new hours of service rules.

In addition, a driver who transports equipment and passengers to or from motion picture production sites may be required to operate under the current hours of service rules on some days and under the old hours of service rules on other days, depending on whether the driver stays within a 100-air mile radius.

5. SAFETEA-LU Section 4146 –Exemption During Harvest Periods.

SAFETEA-LU creates an exemption for transporters of grapes during harvest season in the State of New York. Specifically, Section 4146 exempts drivers from hours of service regulations under 49 CFR Part 395 for those operations entirely:

- within State of New York;
- west of Interstate 81;
- within 150 air-miles from where the grapes were picked or distributed; and

- during the harvest period as defined by the State of New York.

Note: Unlike the other exemptions described in this memorandum, this exemption expires at the end of Fiscal Year 2009 (i.e., September 30, 2009).

IMPLEMENTATION DATE

These exemptions became effective upon the date of enactment of SAFETEA-LU, August 10, 2005, and are currently in effect with respect to drivers operating CMVs.

If you have any questions or need additional information, please contact the Enforcement and Compliance Division at (202) 366-9699.

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Added to eFOTM 04-25-2006

1.7.2.5 Inspection

1.7.2.5.1 12-27-07 Requirements for Inspection of CMVs operated by Mexico-domiciled Carriers under the Cross-Border Demonstration Project

Memorandum



**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**


Subject: **ACTION:** Requirements for Inspection of CMVs operated by Mexico-domiciled Carriers under the Cross-Border Demonstration Project

From: William A. Quade

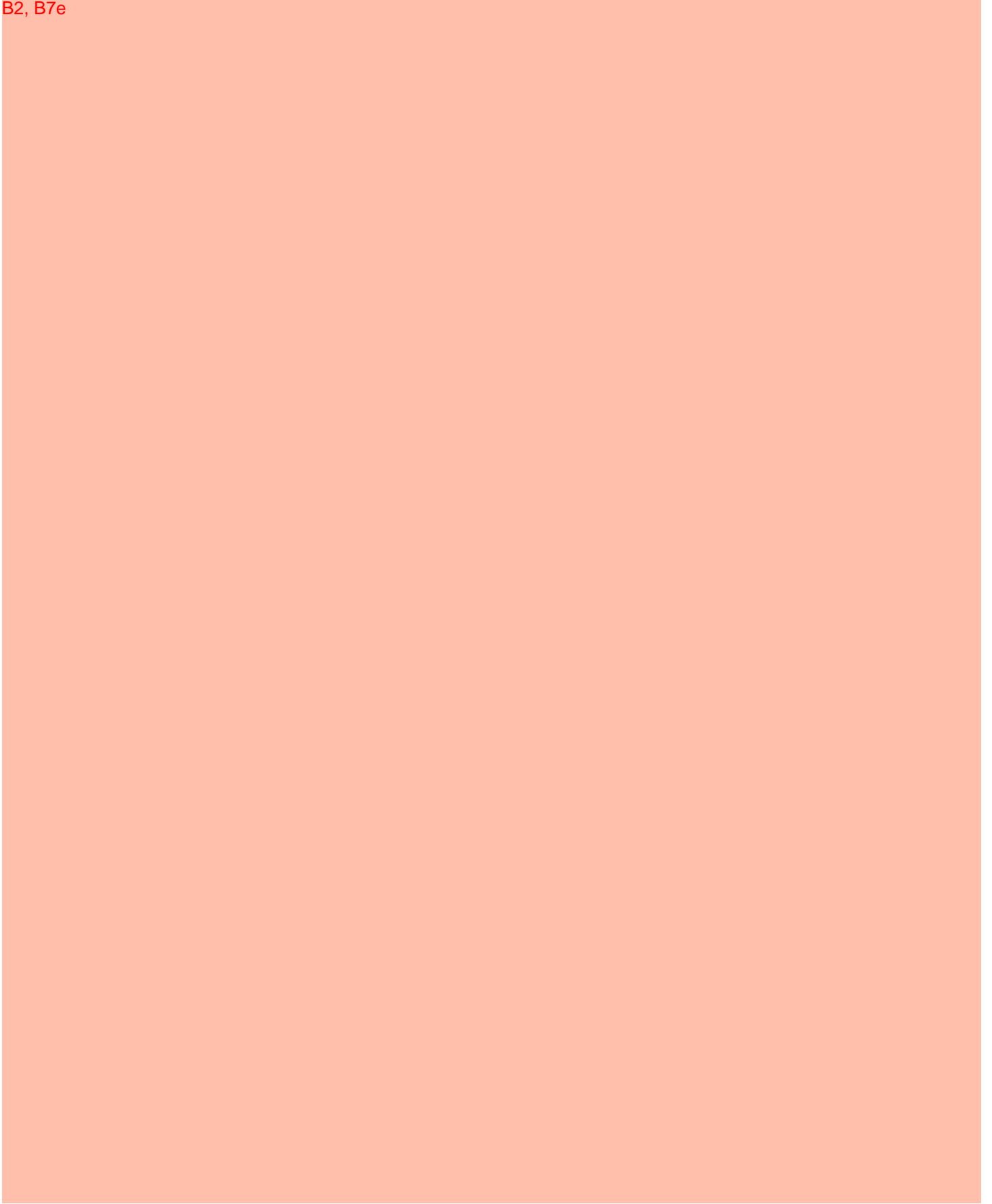
Date: December 27, 2007

Reply to Attn. of: MC-ESB

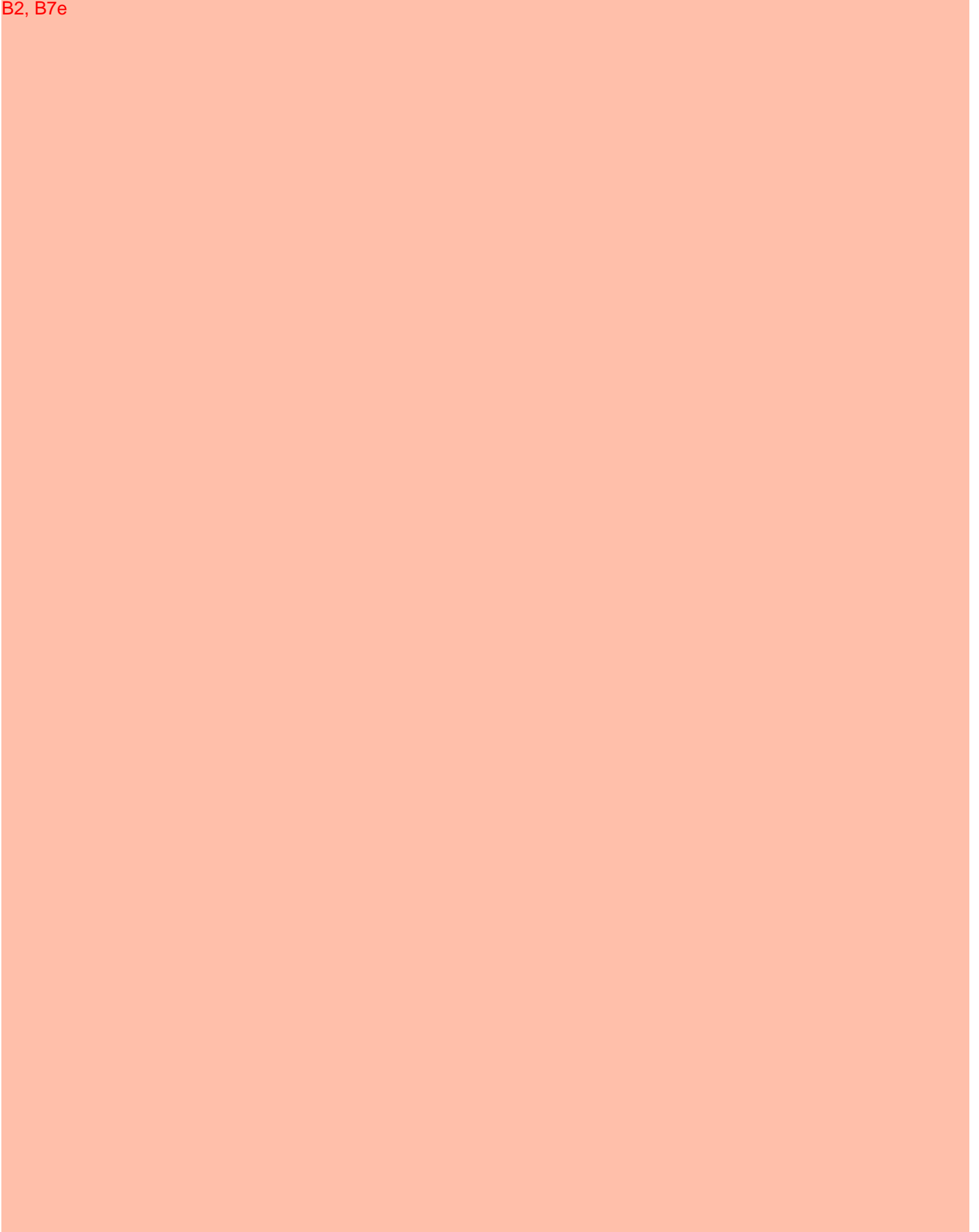
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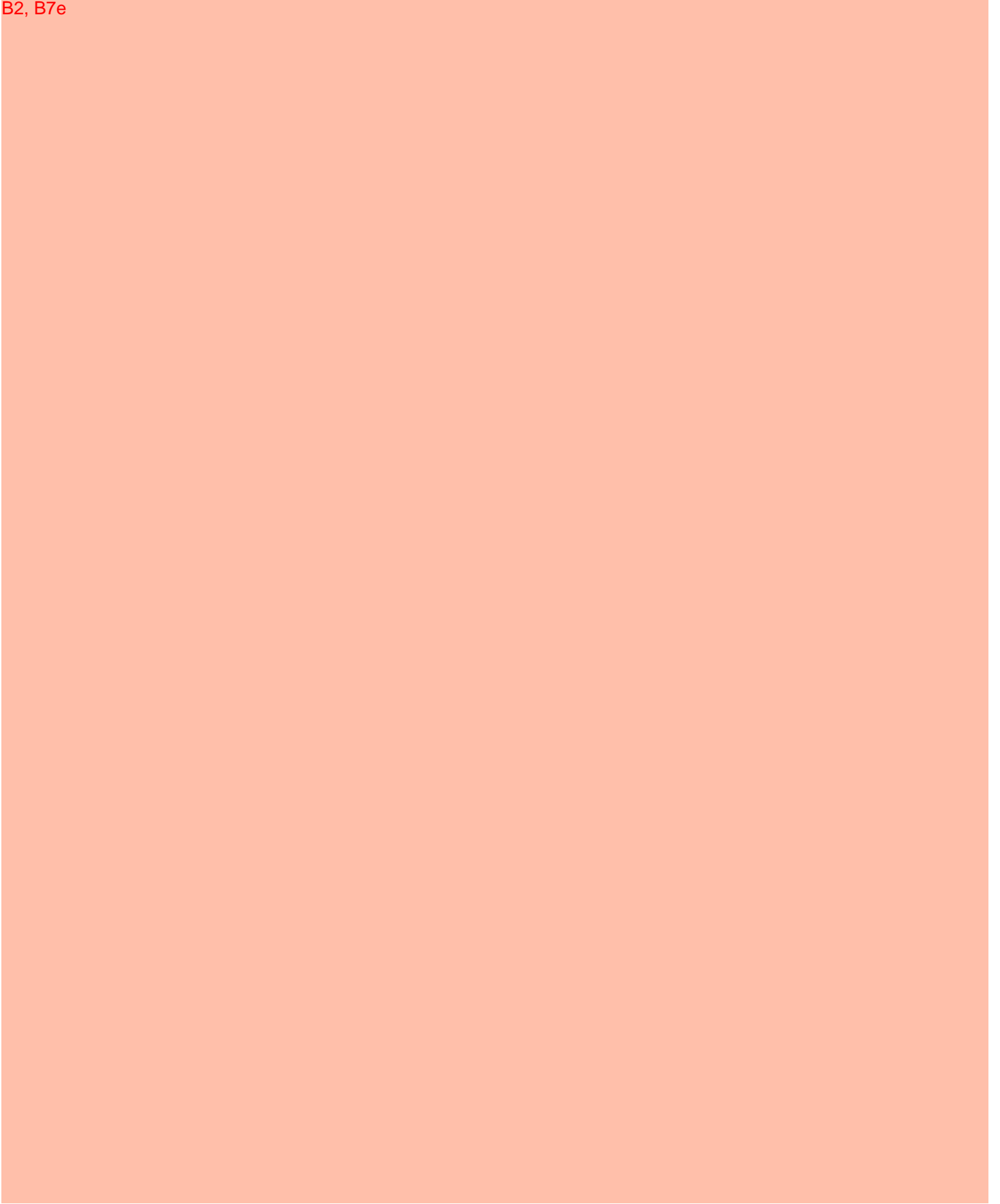
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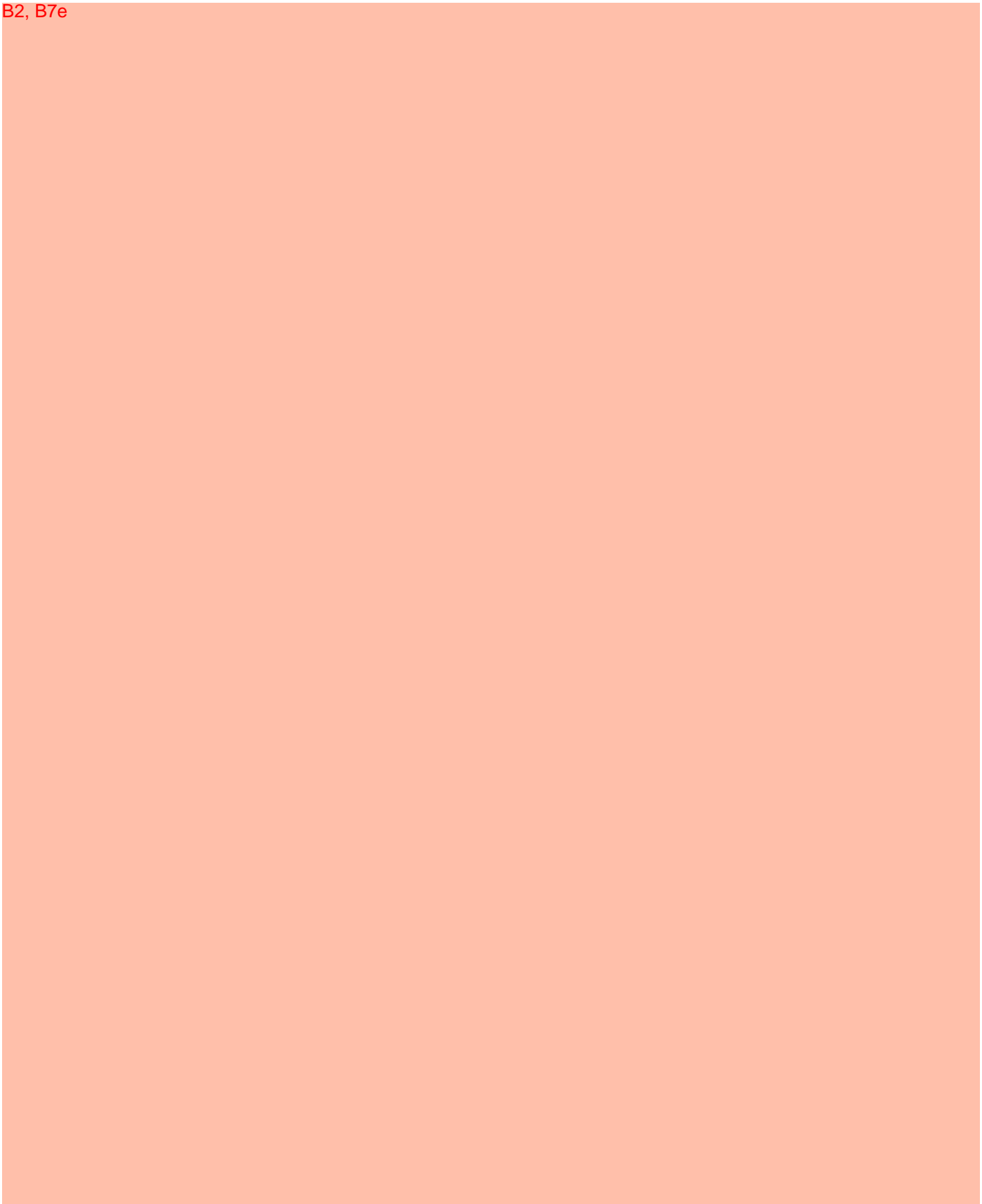
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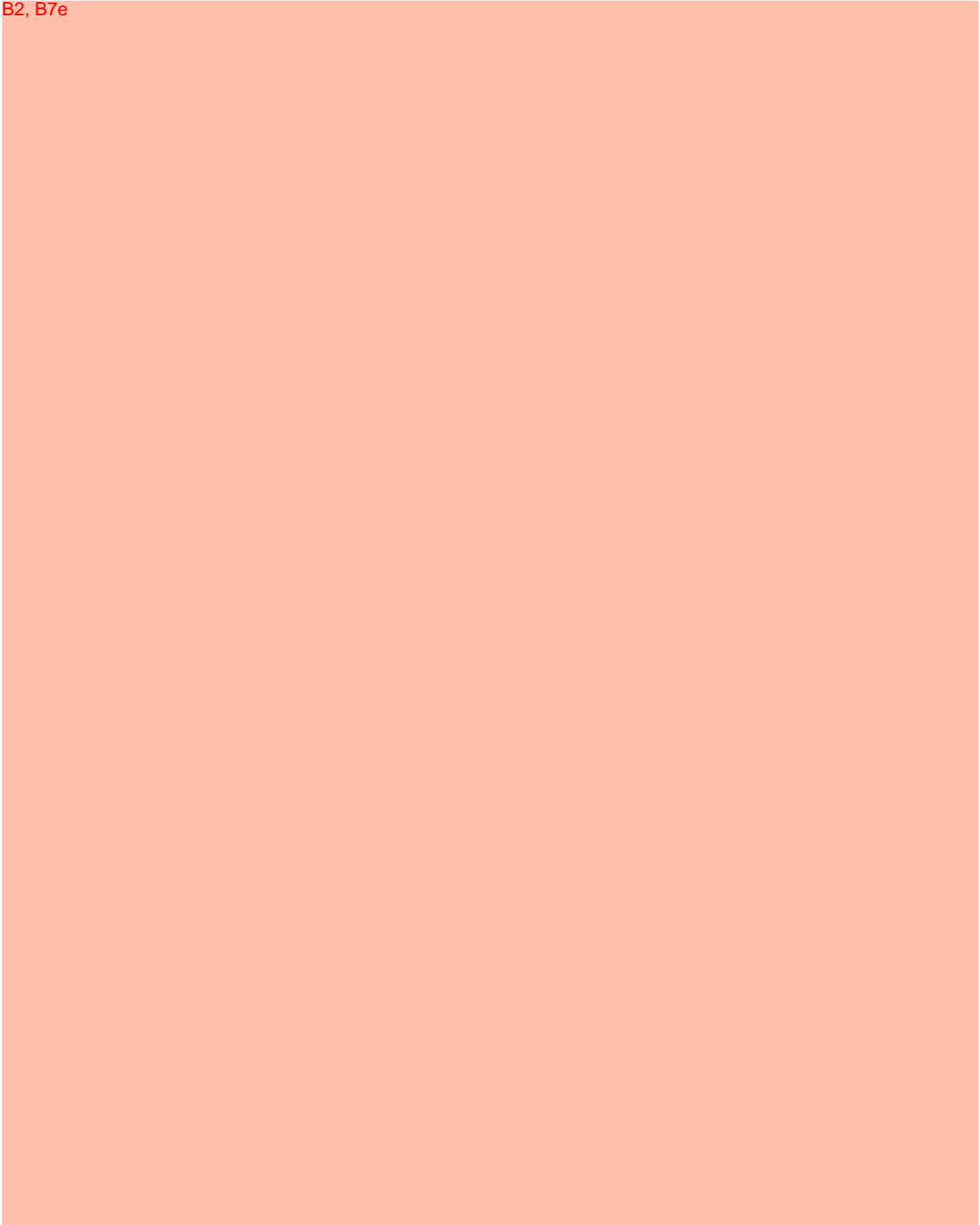
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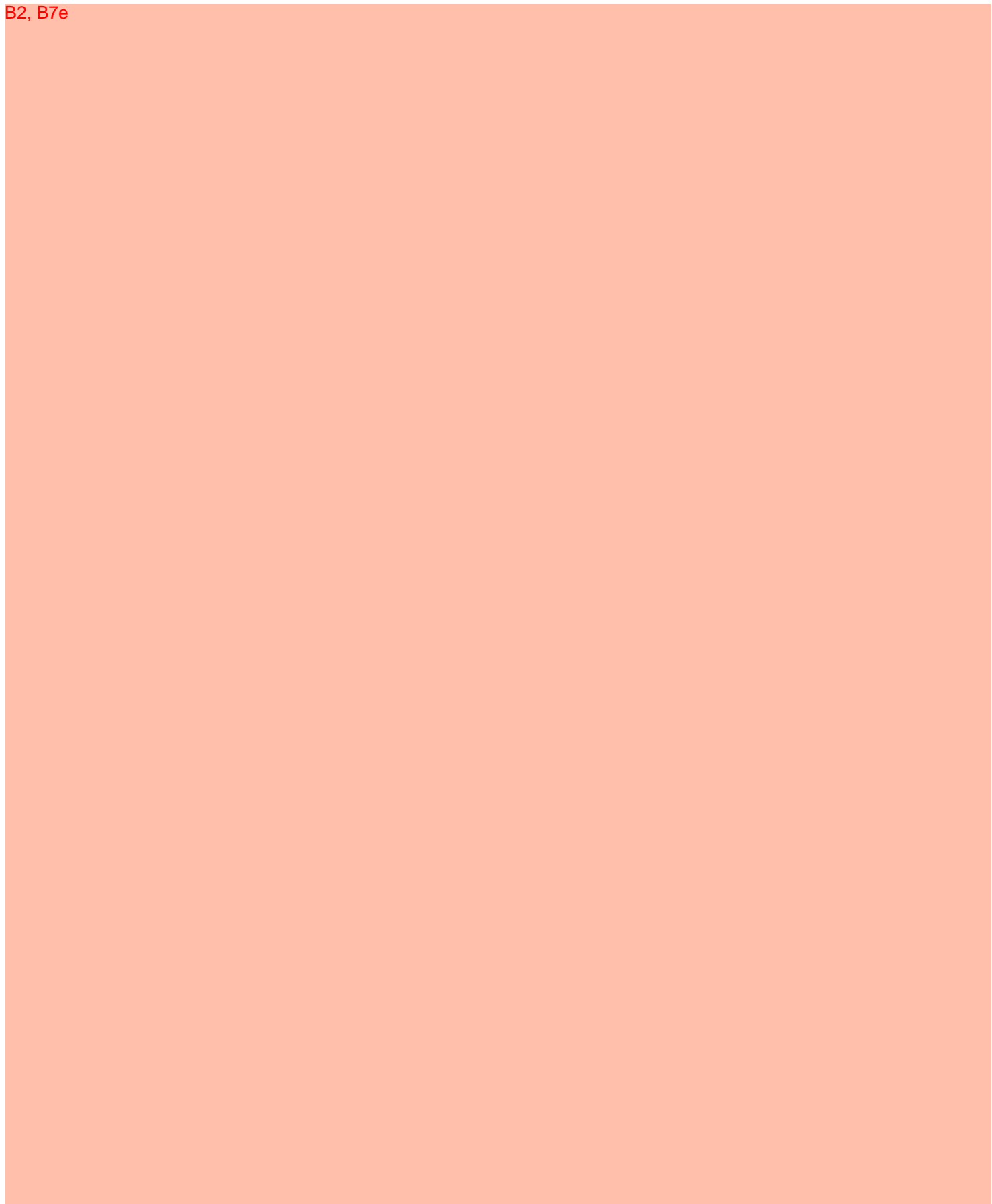
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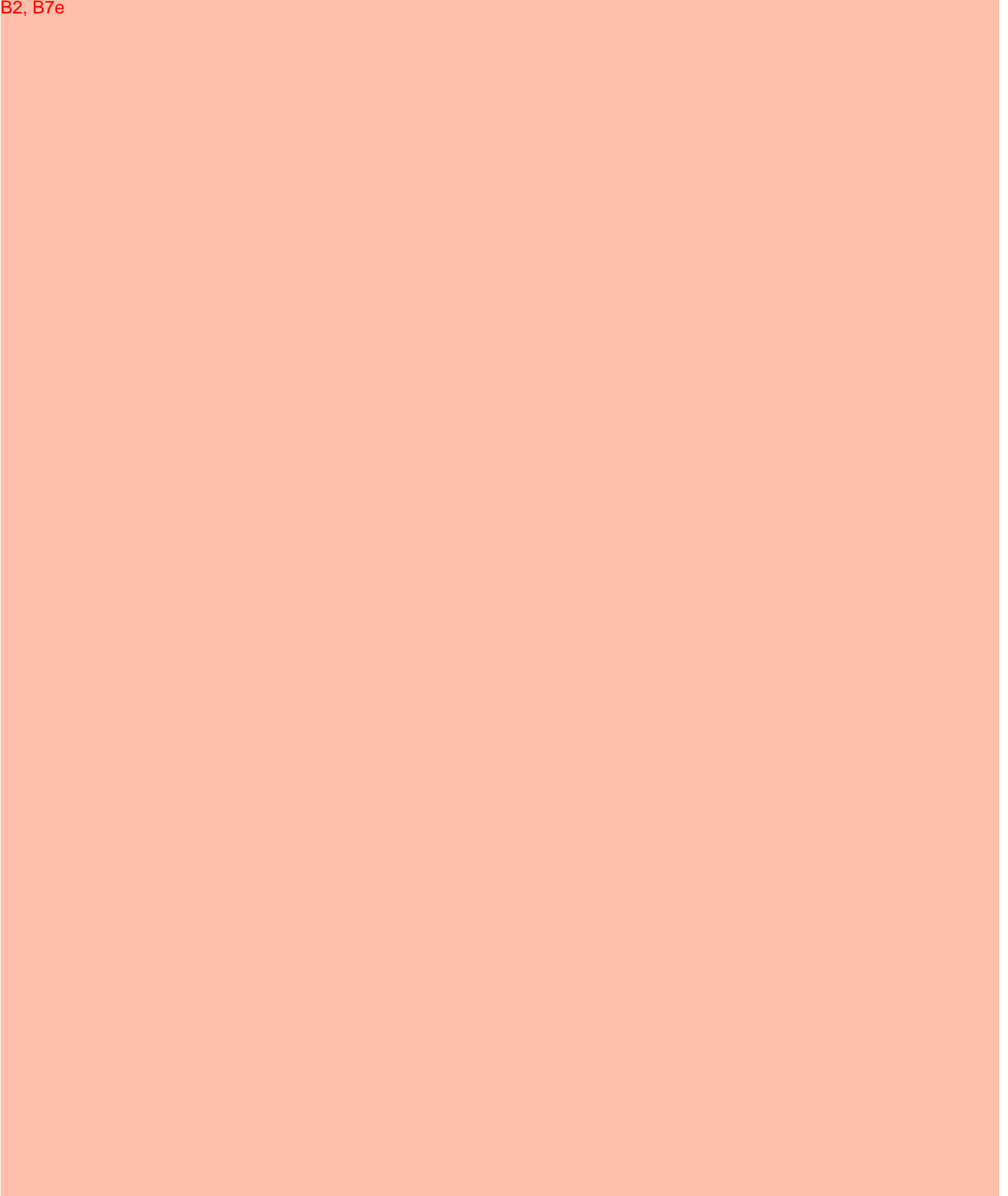
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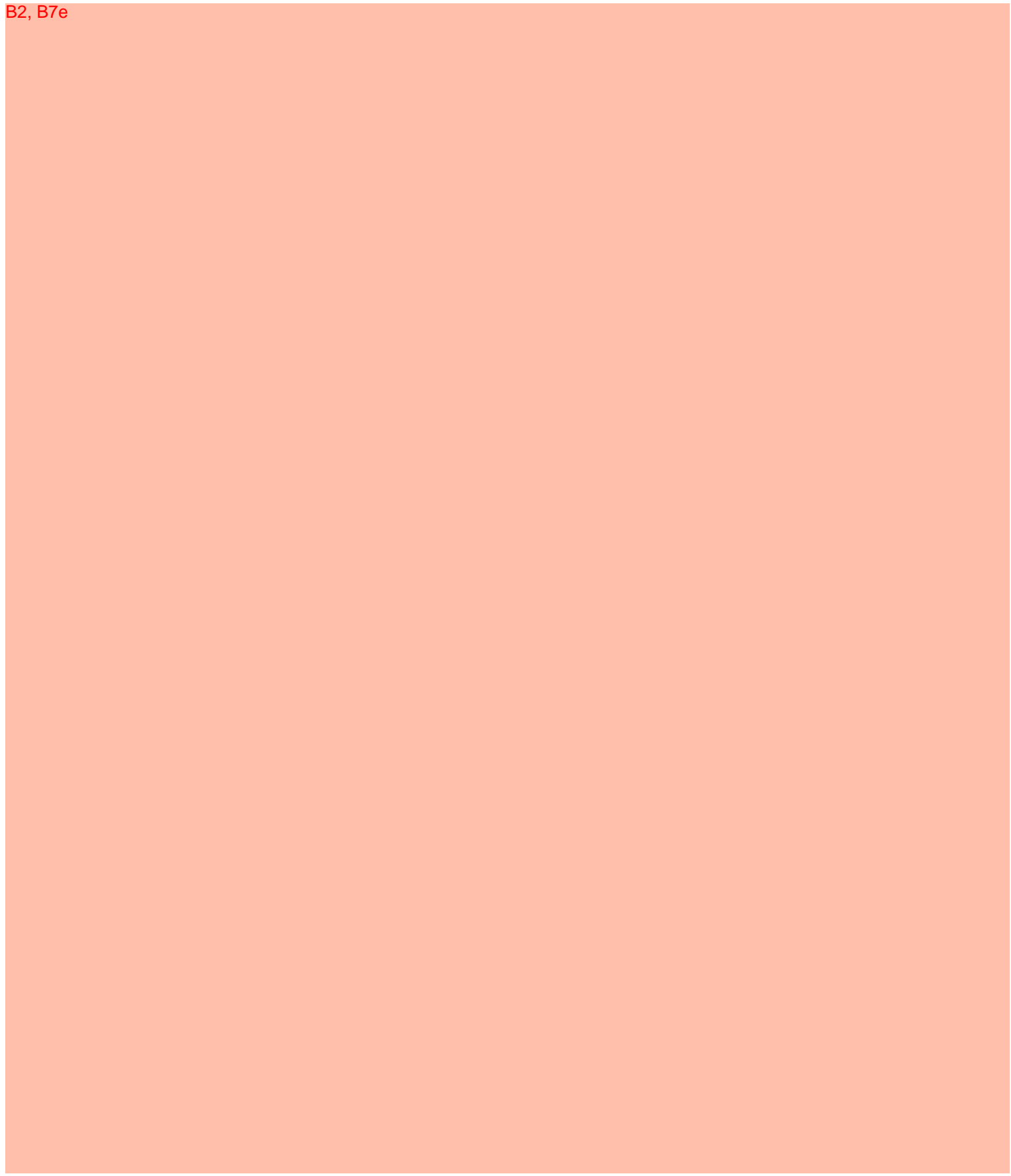
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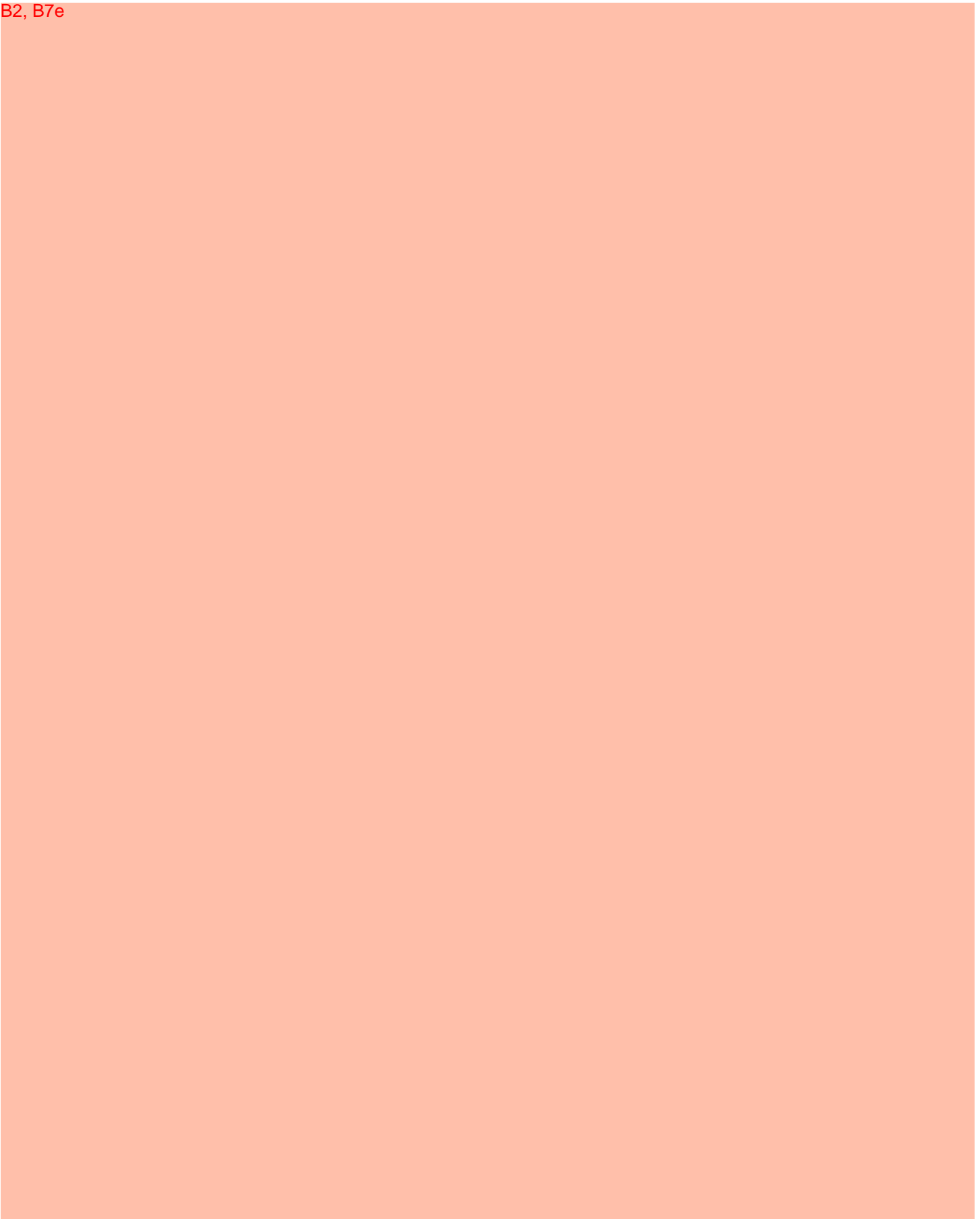
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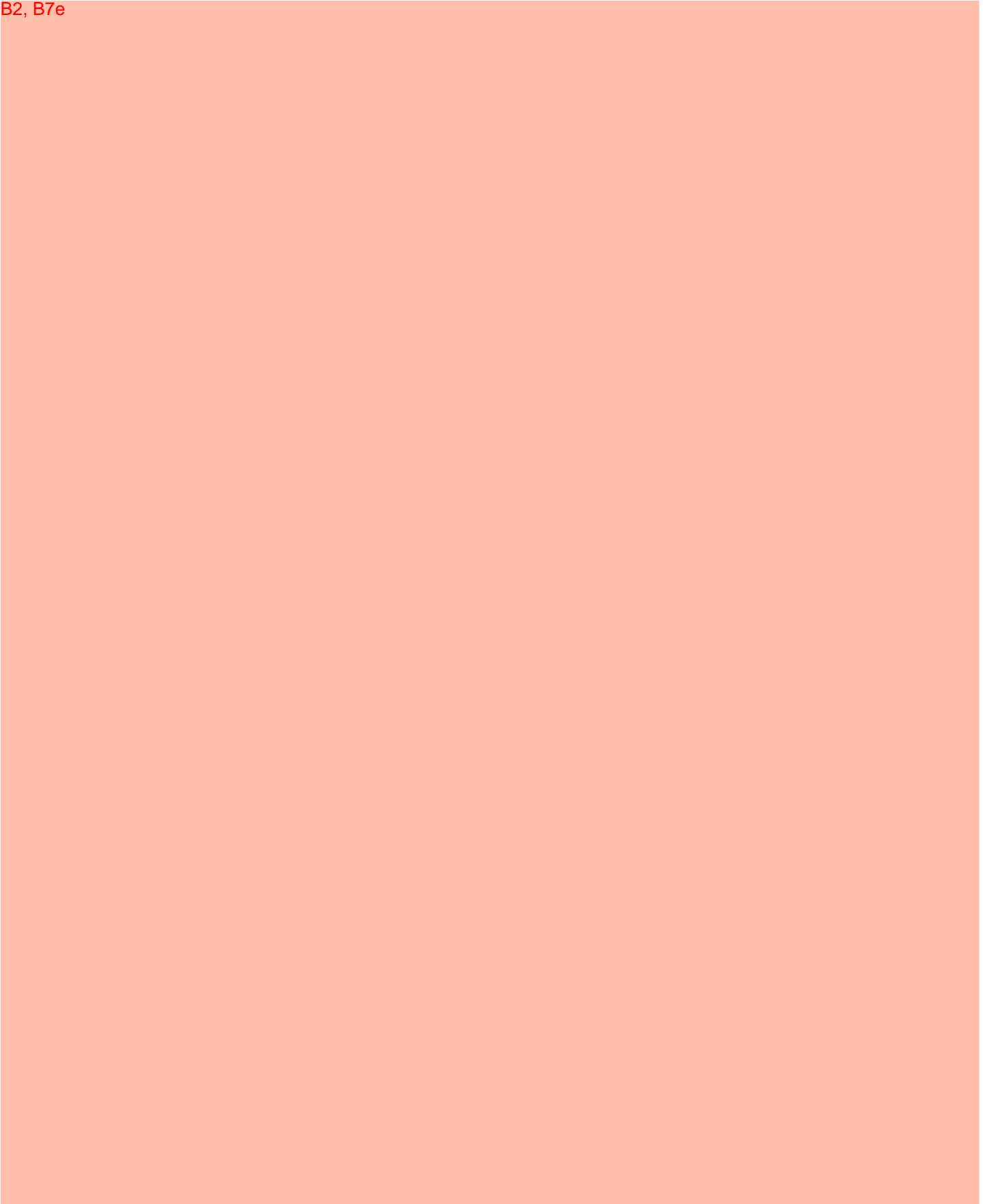
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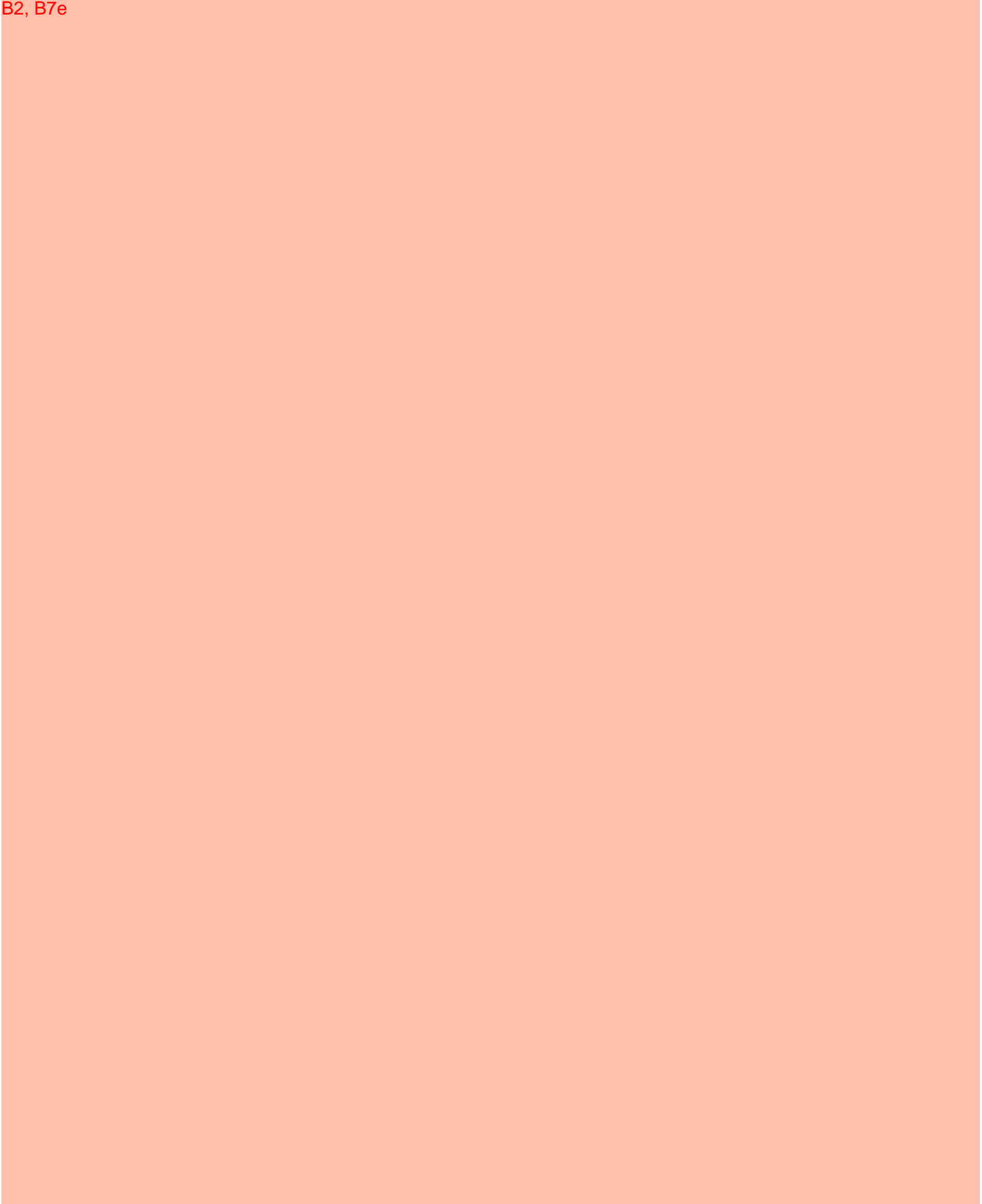
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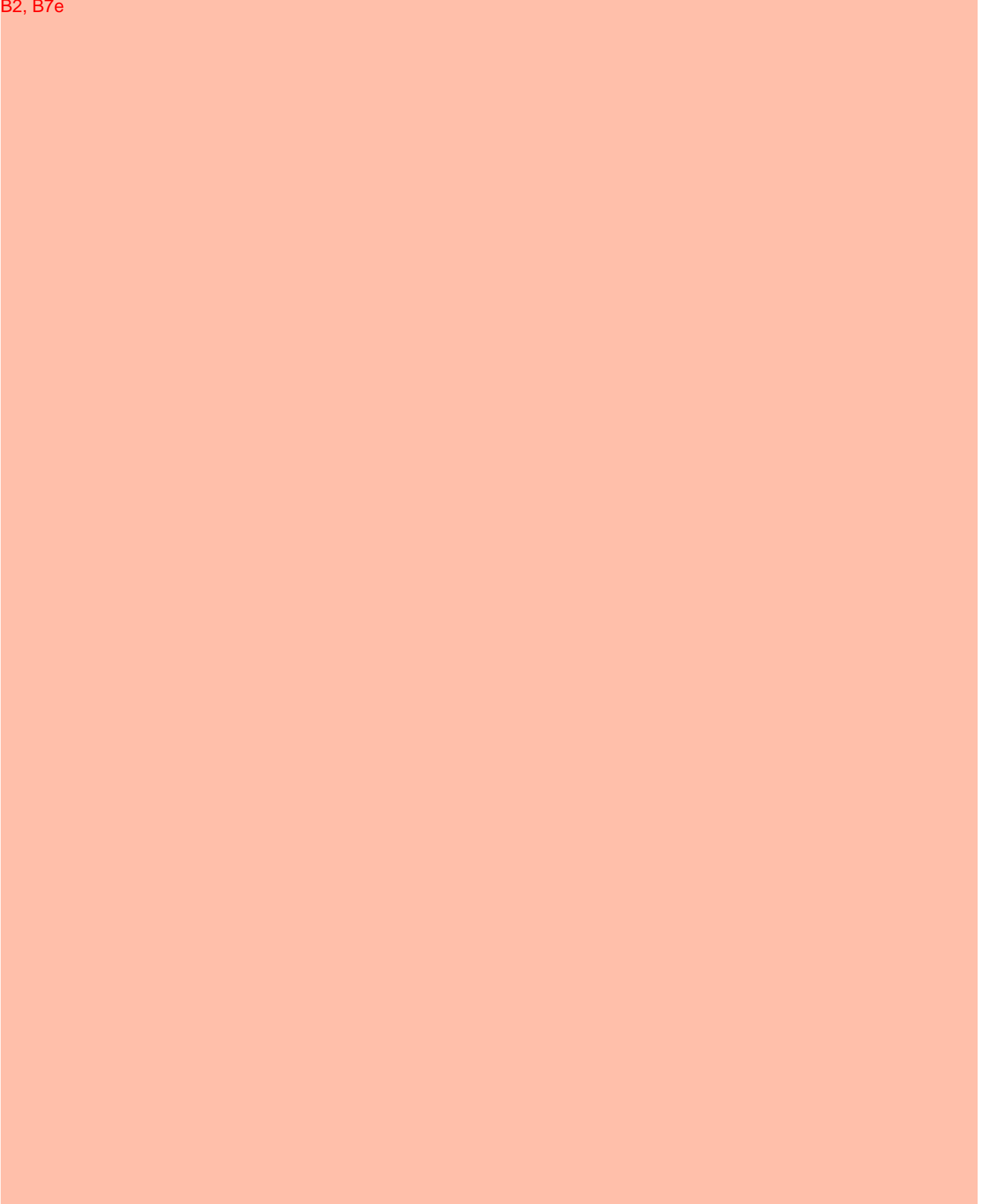
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Of Transportation

Federal Motor Carrier Safety Administration

Subject: **ACTION:** Enforcement Policy; Auxiliary Lights Permitted under 49 CFR 393.11(d) Date: June 27, 2006

From: Dan Hartman Associate Administrator for Enforcement and Program Delivery Refer To: MC-PSV

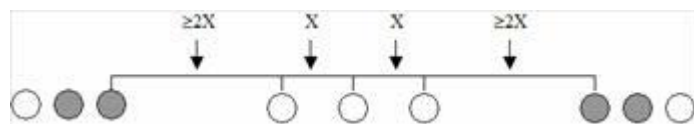
To: Assistant Administrator and Chief Safety Officer
Associate Administrator for Field Operations
MC-E Office Directors/Division Chiefs
Office of Chief Counsel, Enforcement and Litigation
Service Center Field Administrators
Division Administrators/State Director
National Enforcement Team
National Training Center

ENFORCEMENT POLICY

In consideration of an upcoming technical amendment to rescind 49 CFR 393.11(d), auxiliary lamps which supplement identification lamps are permitted under the conditions specified below. This policy will remain in effect until the Agency has adopted the technical amendment.

BACKGROUND

There is a conflict between the requirement of section 393.11(d), which prohibits all auxiliary lights that are in a horizontal line with the required identification lamps (3-lamp cluster), and a July 2005 interpretation from the National Highway Traffic Safety Administration (NHTSA) to the Truck Manufacturer's Association. The interpretation permits these auxiliary lights provided they are positioned at a distance that is at least twice the distance that separates each lamp in the 3-lamp cluster as illustrated in the diagram provided below. NHTSA has determined that this separation ensures that effectiveness of the 3-lamp cluster is not impaired.



COMMUNICATION OF FMCSA POLICY WITH STATE AGENCIES

Division Administrators and State Directors are to contact the lead Motor Carrier Safety Assistance Program agency in their States and advise them of the Agency's enforcement policy concerning commercial motor vehicles equipped with auxiliary lamps that supplement

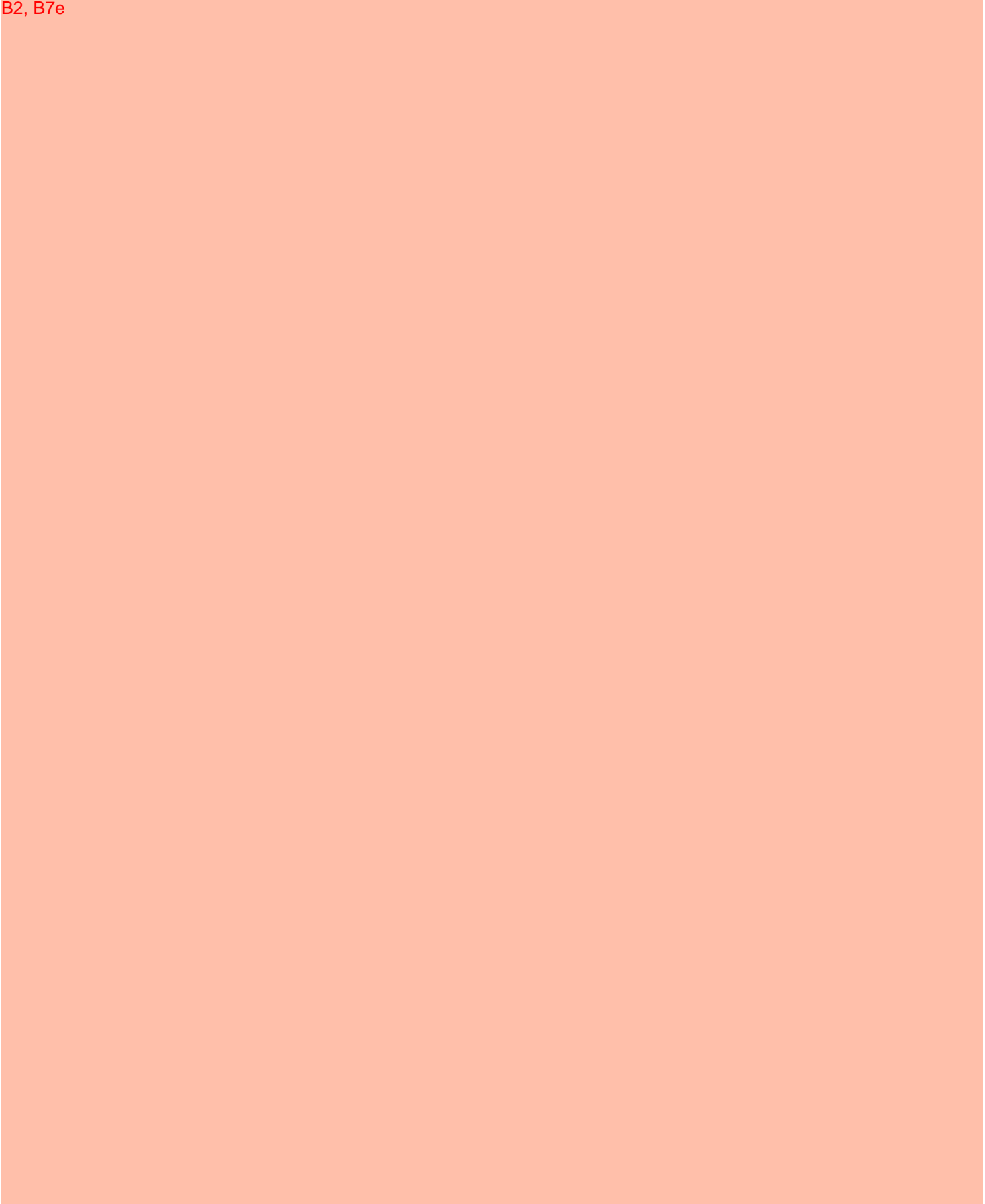
identification lamps. Please request that the States refrain from penalizing motor carriers that use auxiliary lamps which conform to the spacing requirements noted above.

If you have any questions concerning this issue, please contact the Vehicle and Roadside Operations Division, at (202) 366-5370.

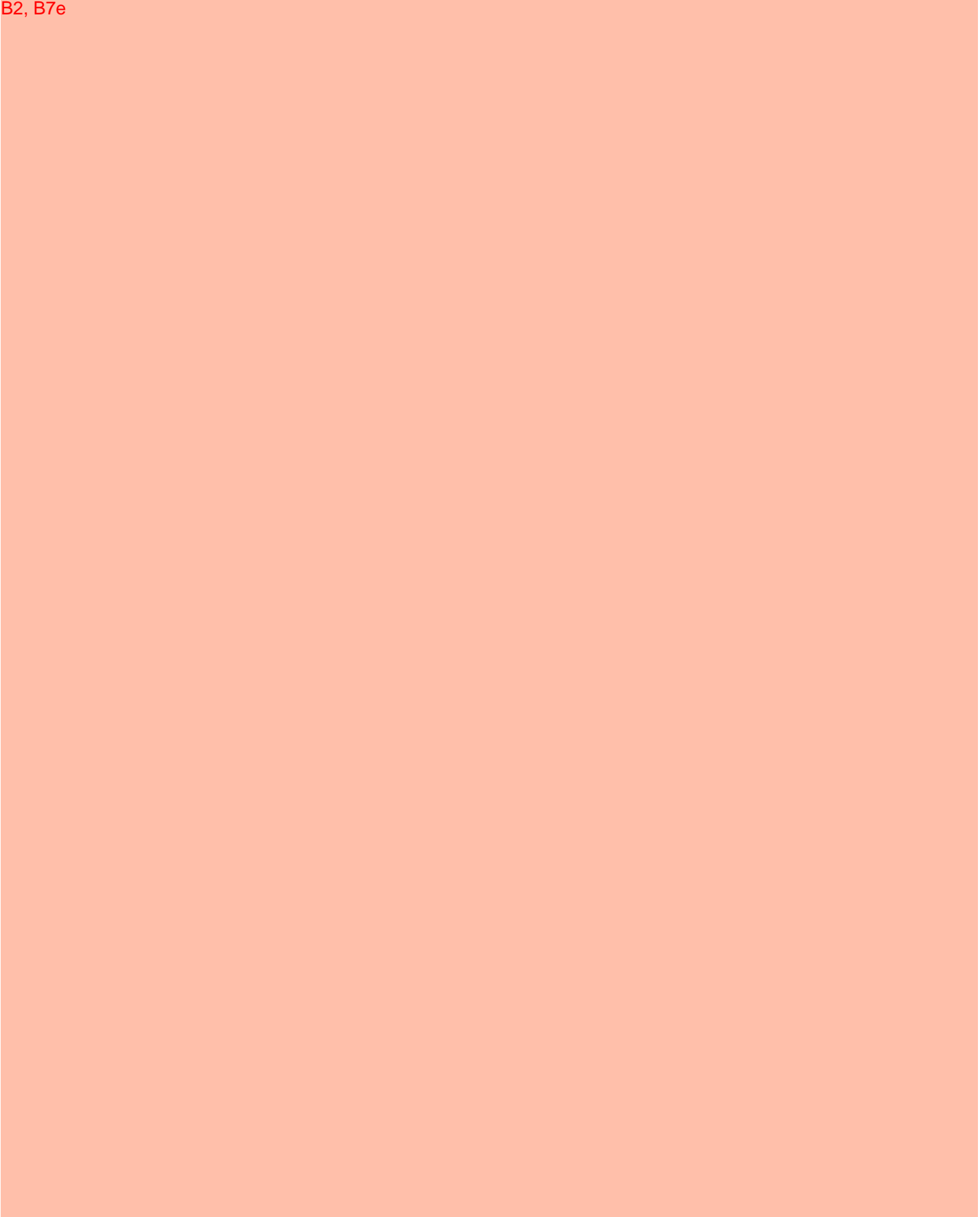
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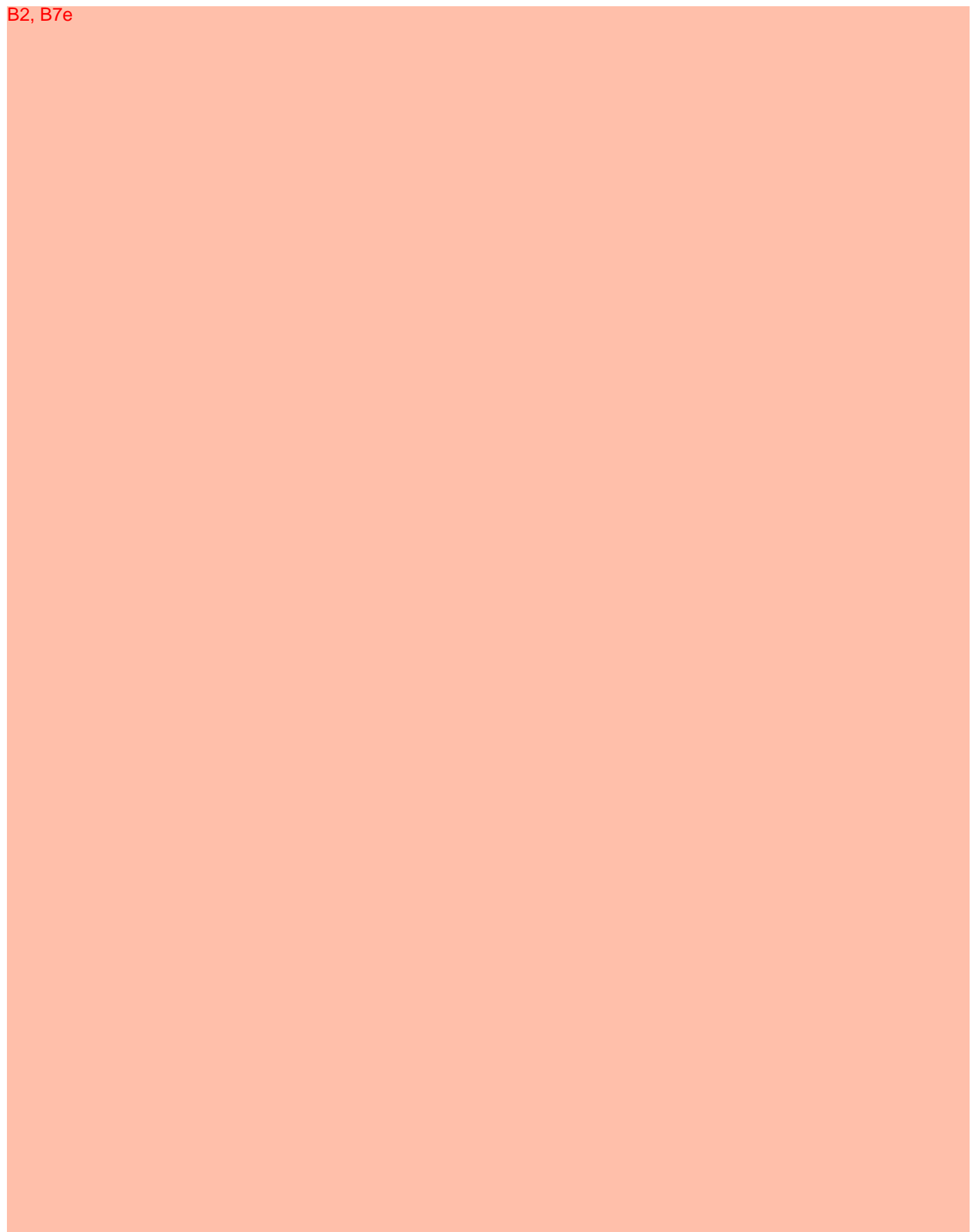
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Memorandum



**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: HOS Exemptions in Reauthorization Act
From: William R. Paden
Associate Administrator for Enforcement
and Program Delivery

Date: 09/06/05
In Reply Refer To: MC-E

To: Field Administrators
Division Administrators
Enforcement Team

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law on August 10, 2005.

SAFETEA-LU includes several specific exemptions to FMCSA's hours-of-service (HOS) rules. These exemptions became effective upon the date of enactment of SAFETEA-LU (August 10, 2005). They are not included in the new HOS rule published on August 25 because that document was finalized before SAFETEA-LU became law. FMCSA will develop regulations incorporating these HOS exemptions into the Federal Motor Carrier

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Although the States are not legally required to incorporate these exemptions in their State programs (item 3 below is an exception), we ask that you encourage your State partners to acknowledge these exemptions as they continue enforcing the safety rules. We believe the national interest is best served by maintaining uniformity as far as possible. Once FMCSA has incorporated the new SAFETEA-LU exemptions into its regulations, the States will have three years to adopt them.

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Sec. 4132 exempts drivers of USVs from Part 395 and prohibits States or their political subdivisions from enacting or enforcing an HOS law or regulation “similar to” Part 395 against drivers operating in interstate commerce. The definition of a “utility service vehicle” from the NHS Designation Act was codified at 49 CFR 395.2 and remains applicable to Sec. 4132.

As of August 10, 2005, USV drivers are not required to comply with Federal HOS regulations; FMCSA personnel may not attempt to enforce our HOS rules against these drivers. Congress also stripped State personnel of their authority to enforce “similar” HOS rules (i.e., the State versions of Part 395 adopted to qualify for Motor Carrier Safety Assistance Program (MCSAP) funding). States may enforce their HOS regulations against USV drivers in intrastate commerce, but not against those operating in interstate commerce. It is important to make this point clear to our State partners.

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Drivers transporting people or equipment involved in making a movie to or from a production site are required to comply with the HOS rules in effect before the 2003 rule was adopted. However, if they operate beyond a 100 air-mile radius of the place where they reported for work in the morning, the 2005 HOS rules apply.

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Sec. 4147 creates an exemption from the regulations in 49 CFR Parts 390-396, Subpart A of Part 397, and Part 399 for two types of drivers if compliance with those regulations would prevent the drivers from responding to an “emergency condition requiring immediate response.” The two types are drivers of CMVs used (1) primarily to transport propane winter heating fuel or (2) to respond to a pipeline emergency.

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condition that, if left unattended, is reasonably likely to result in immediate serious bodily harm, death, or substantial damage to property.” Although examples of an emergency condition are given (and refilling empty gas tanks is specifically excluded), the exemption is not clear-cut. Without further investigation, an enforcement officer will rarely be able to tell whether an exemption claimed by a driver meets the terms of this statute.

Gas leaks or pipeline breaks are serious matters that require immediate attention. Consult legal staff at one of the Service Centers before undertaking enforcement action against a driver who claims an exemption under this provision.

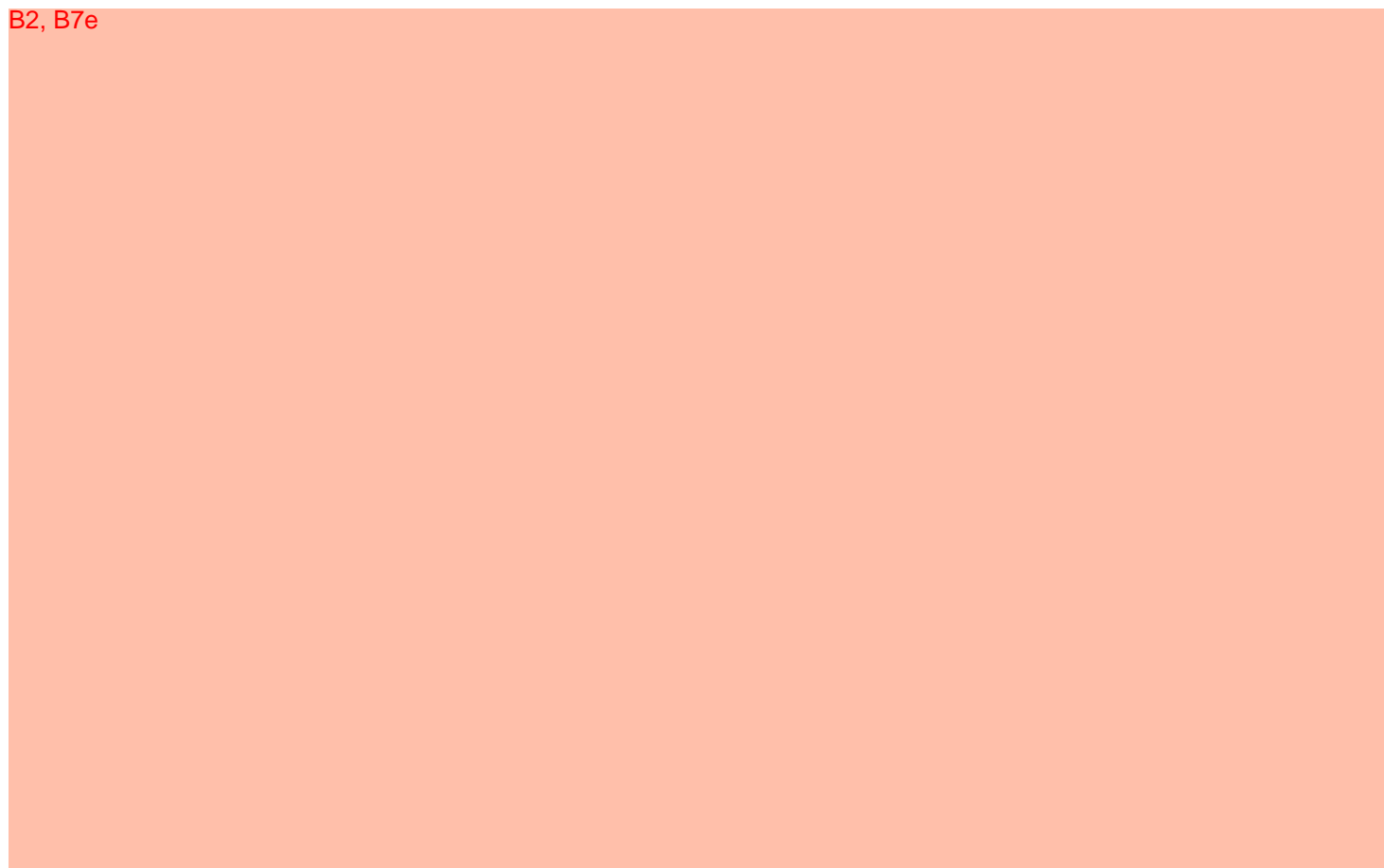
Please distribute this memorandum to your staff as well as your State MCSAP partners immediately. If you have any questions, please contact Chuck Horan at 202-366-2362. Thank you for your cooperation in this matter.

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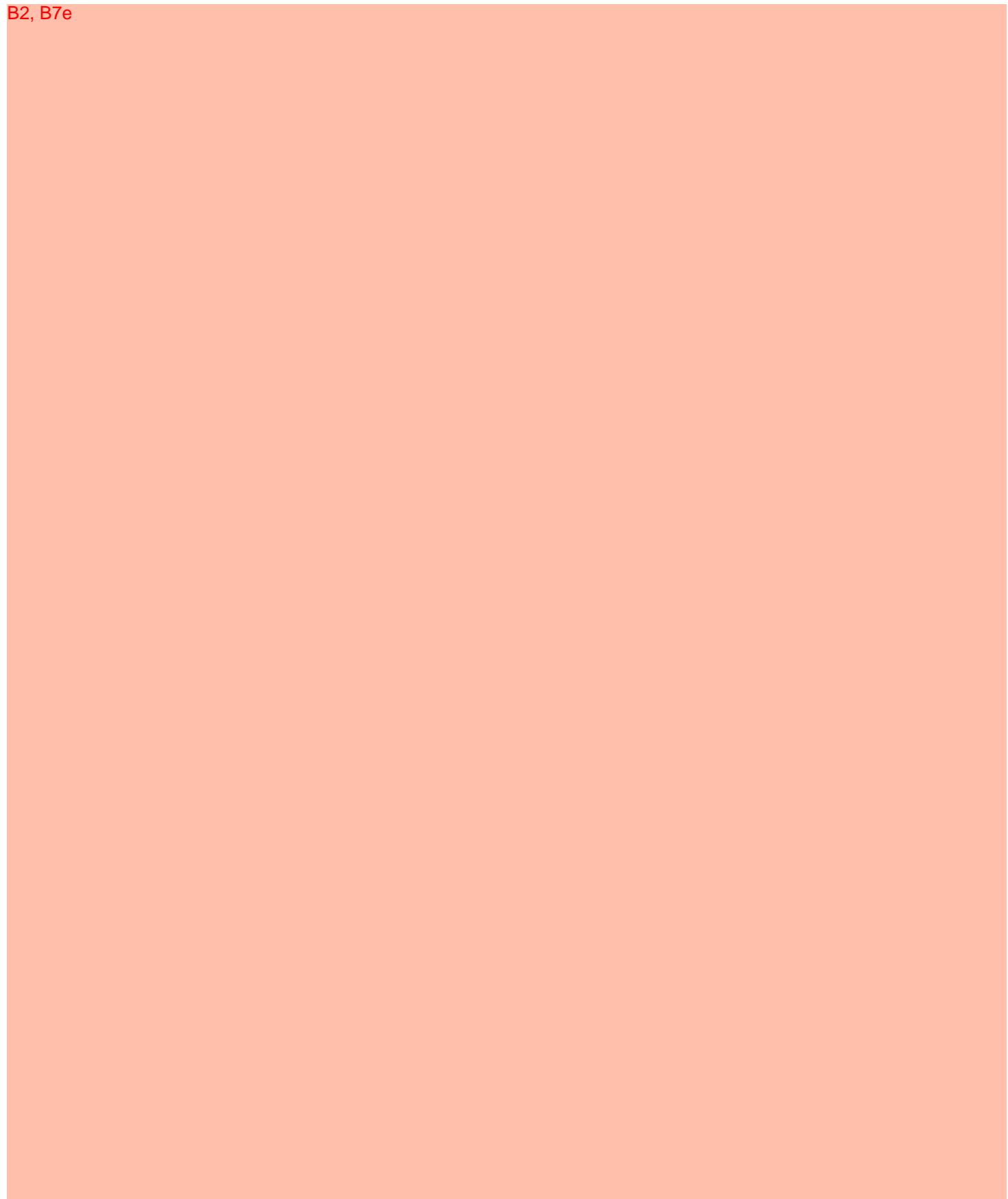
Added to eFOTM 12-28-2005

1.7.2.5.13 08-26-05 New Hours of Service Regulations

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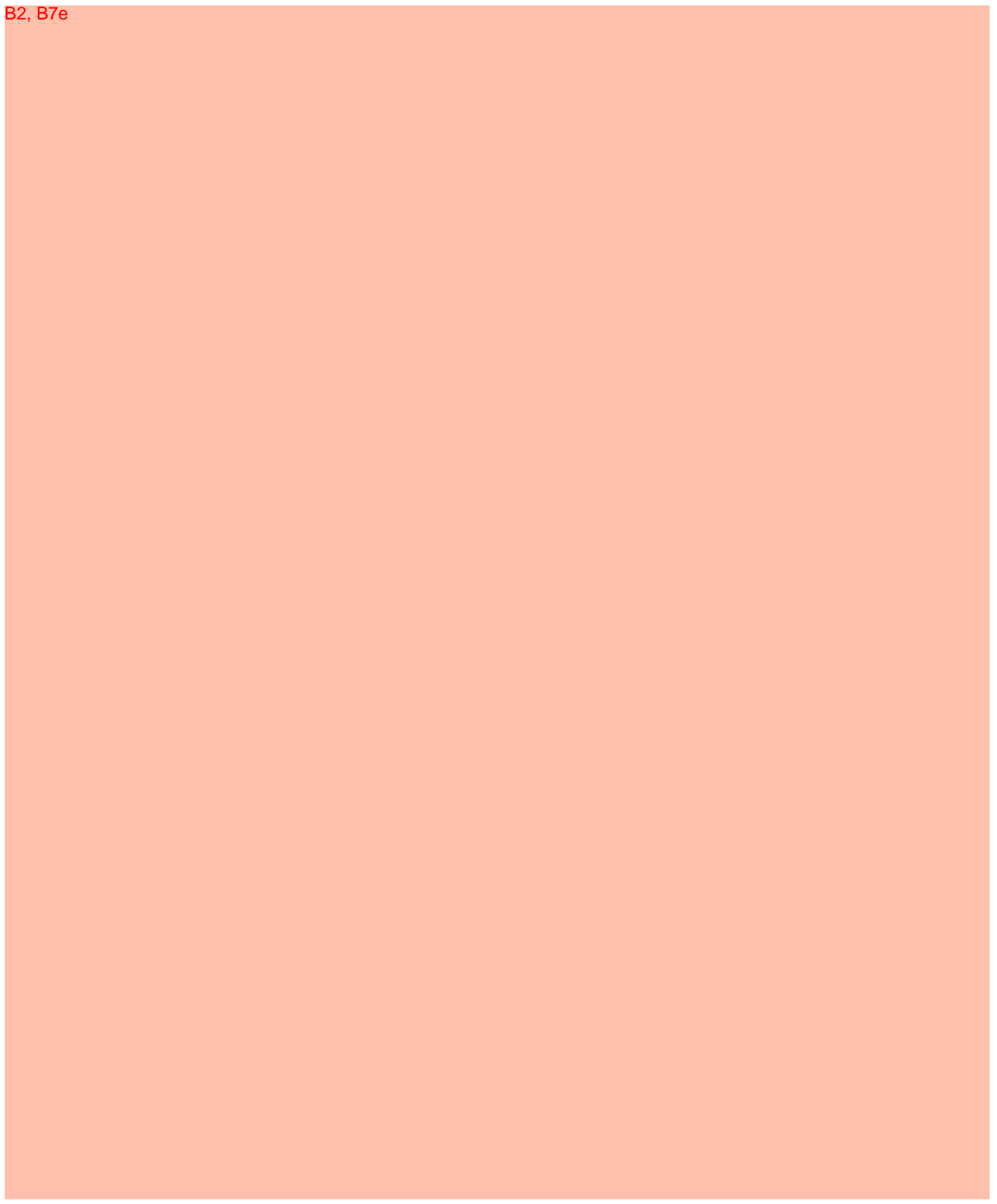
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**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: Enforcement of Motor Carriers'
Self-Certification of Compliance with the
Motor Vehicle Safety Standards

Date: 08-26-2005

From: William R. Paden
Associate Administrator for
Enforcement and Program Delivery

In Reply Refer To: MC-ECE

To: Field Administrators
Division Administrators

The purpose of this memorandum is to provide policy guidance to increase highway safety by ensuring that all commercial motor vehicles (CMV) are certified by the vehicle manufacturer or registered importer as complying with all applicable Motor Vehicle Safety Standards in effect at the time of manufacture. This policy is summarized in table format in Attachment 1.

In particular, and in anticipation of the United States (U.S.) and Mexico finalizing NAFTA long-haul cross border operations, Title 49 of the Code of Federal Regulations requires both Mexico-domiciled carriers applying for authority (Form OP-1(MX)) to operate beyond U.S. municipalities and commercial zones on the U.S.-Mexico border as well as Mexico-domiciled carriers applying for a certificate of registration (Form OP-2) to operate in municipalities or commercial zones on the border, to certify, as part of the application process, that they are in compliance with the Federal Motor Carrier Safety Regulations (FMCSRs), the Hazardous Materials Regulations, and the Federal Motor Vehicle Safety Standards (FMVSS). If FMCSA or State inspectors determine through vehicle inspections or during a pre-authority safety audit that Mexico-domiciled motor carriers are operating vehicles not in compliance with the applicable Motor Vehicle Safety Standards, FMCSA may use this information to deny, suspend or revoke a carrier's operating authority or certificate of registration for making a false certification or issue appropriate penalties for the falsification.

CMVs manufactured to meet United States or Canadian safety standards, and displaying a Vehicle Identification Number (VIN) that meets National Highway Traffic Safety Administration's (NHTSA) or Canada's requirements, are considered to be in compliance. In addition, FMCSA determined, based on information from the Truck Manufacturers Association (TMA), that most model year 1996 and later CMVs manufactured in Mexico meet the FMVSS, regardless of whether the vehicle bears FMVSS certification labels. For vehicles which do not have certification labels, it has been determined that enforcement officials should defer to the VIN on a plate or plates in various locations on the vehicle. The VIN will assist the inspectors in determining what year the vehicle was manufactured to determine compliance with the FMVSS or Canadian Motor Vehicle Safety Standards (CMVSS). Attachment 2 provides a sample VIN plate, including instructions on how to read the VIN to determine year of manufacture.

No adverse action will be taken against vehicles operated by Mexico-domiciled motor carriers with labels certifying compliance with the CMVSS in effect at the time of manufacture. With only a few differences, the Canadian motor vehicle safety standards are identical to the U.S. manufacturing performance standards (the FMVSS), and FMCSA's operating regulations incorporate the FMVSS critical to continued safe operation.

Regardless of whether a vehicle has a certification label, vehicles with violations of the FMCSRs that are serious enough to meet the current out-of-service criteria are to be placed out of service. FMCSA will continue to impose civil penalties for violations of Part 393 of the FMCSRs concerning parts and accessories necessary for safe operation, including regulations that cross-reference the FMVSS. For your convenience, we have included the attached chart (see Attachment 3) which cross references the FMCSRs with the FMVSS.

The Office of Enforcement and Compliance is working with the Office of Information Systems to establish system requirements and operational procedures for implementing the policy. This policy will become effective when these guidelines have been established and modifications to the appropriate software and Motor Carrier Management Information System have been completed. Further guidance will be forthcoming.


I encourage you to work closely with your State Motor Carrier Safety Assistance Program (MCSAP) partners as we implement this policy. If you have questions or need additional information, please contact Mary Pat Woodman at marypat.woodman@fmcsa.dot.gov or by (202) 366-6333.

Attachments


FMCSA:mwoodman:tmh 07/11/05
cc: MC-ECE, MC-E, MC-AES, MC-CC, MC-AA
h:\mwoodman\Enforcement.Mexico.Domiciled.FMVSS

Added to eFOTM 12-28-2005


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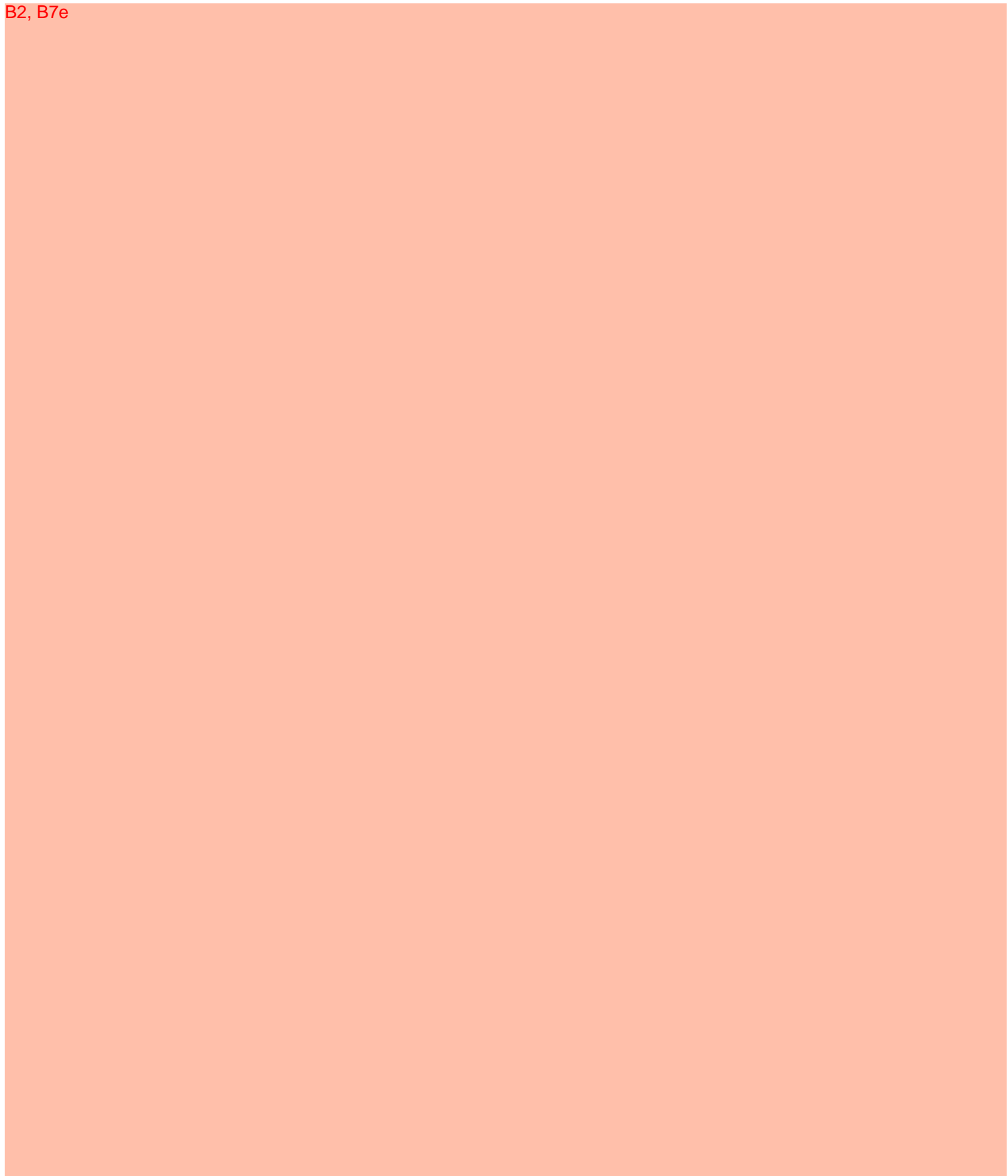
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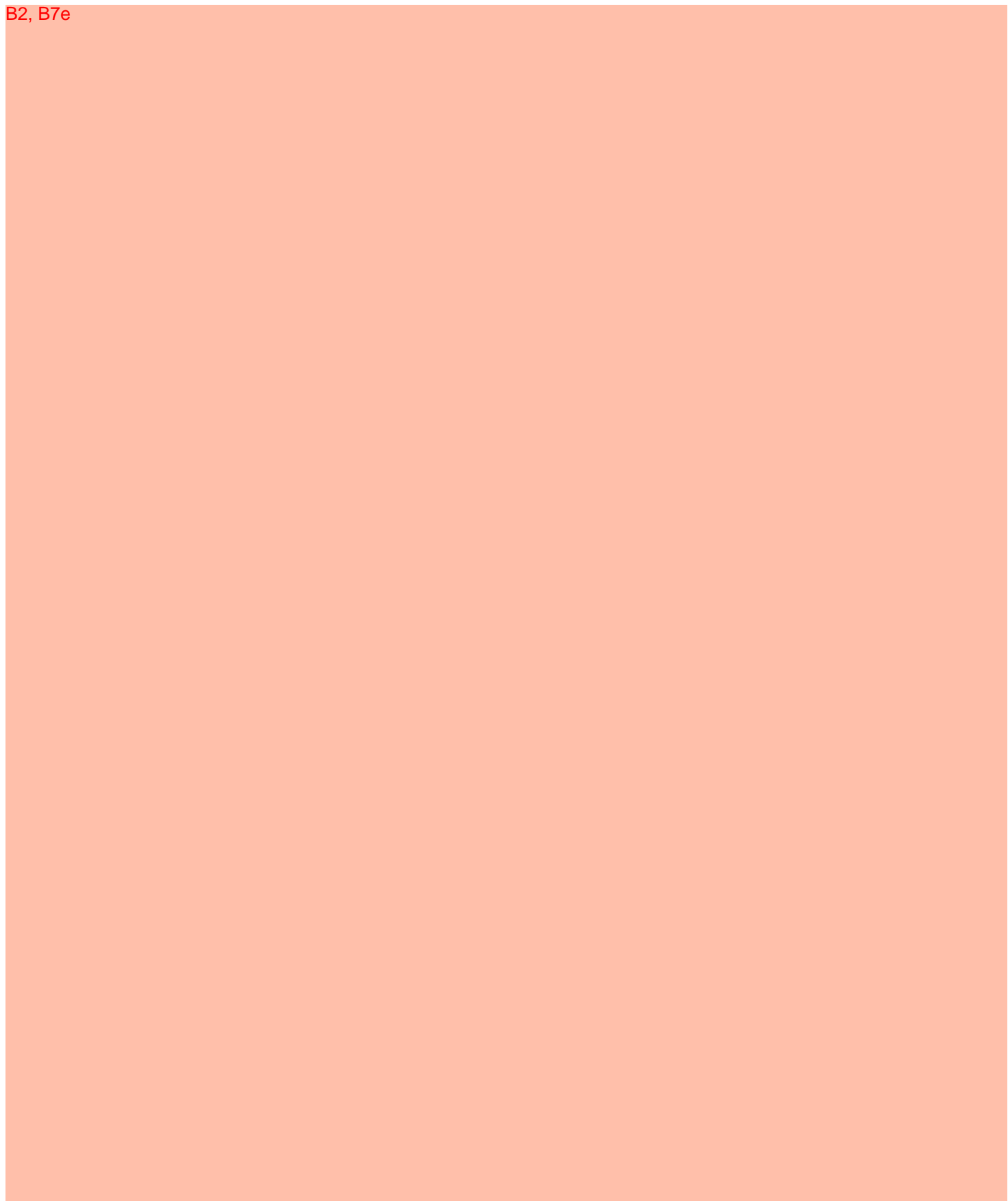
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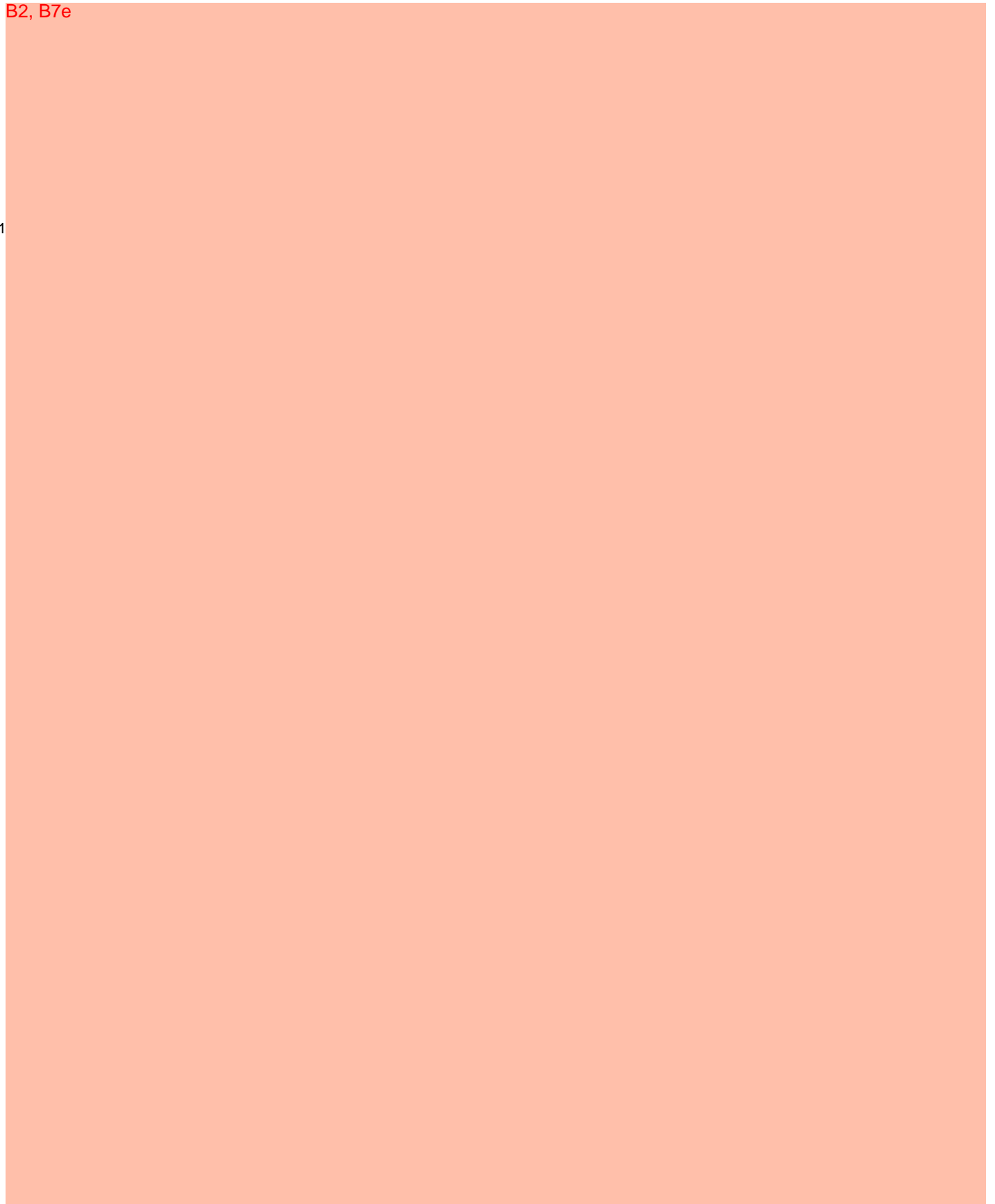


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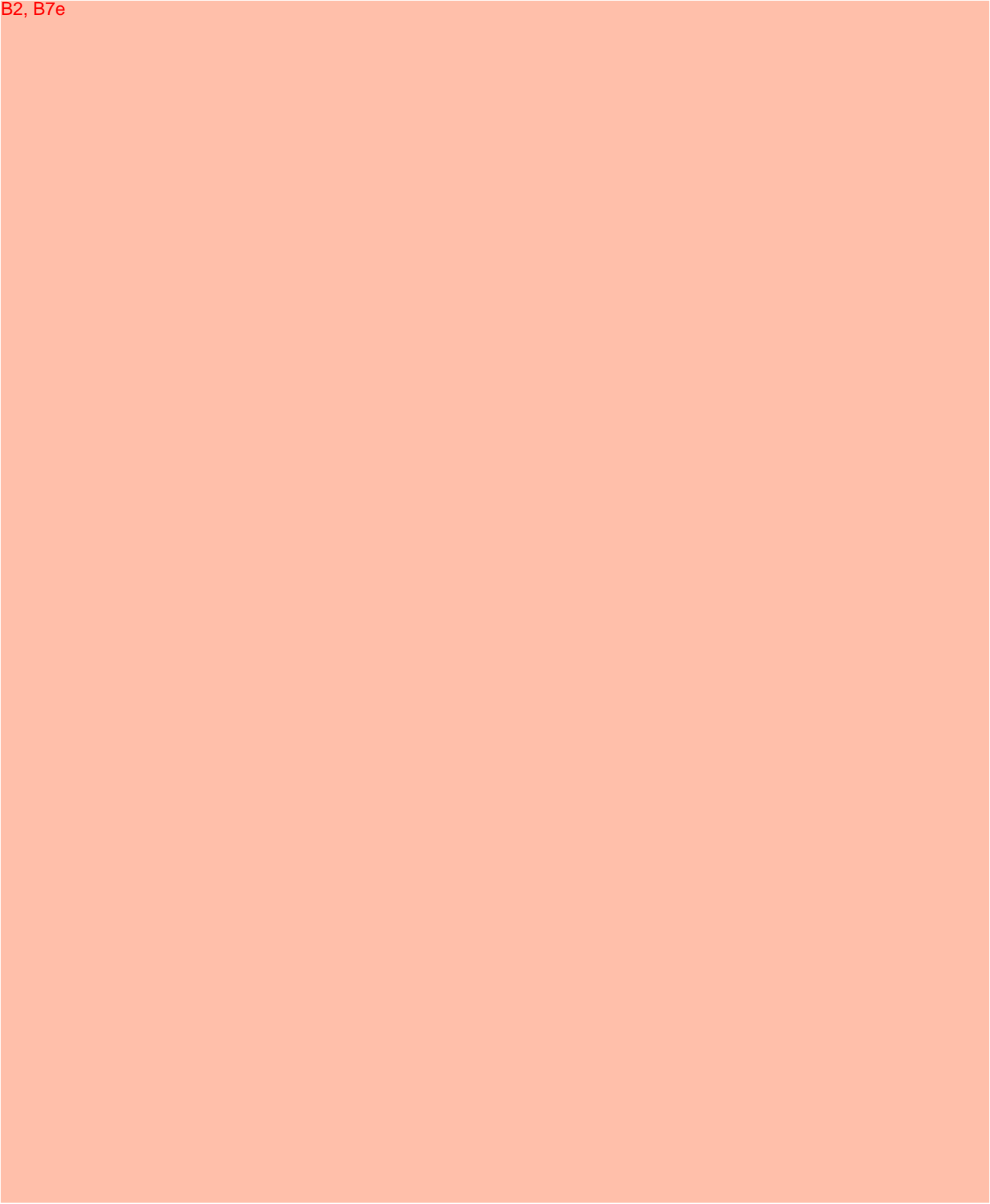


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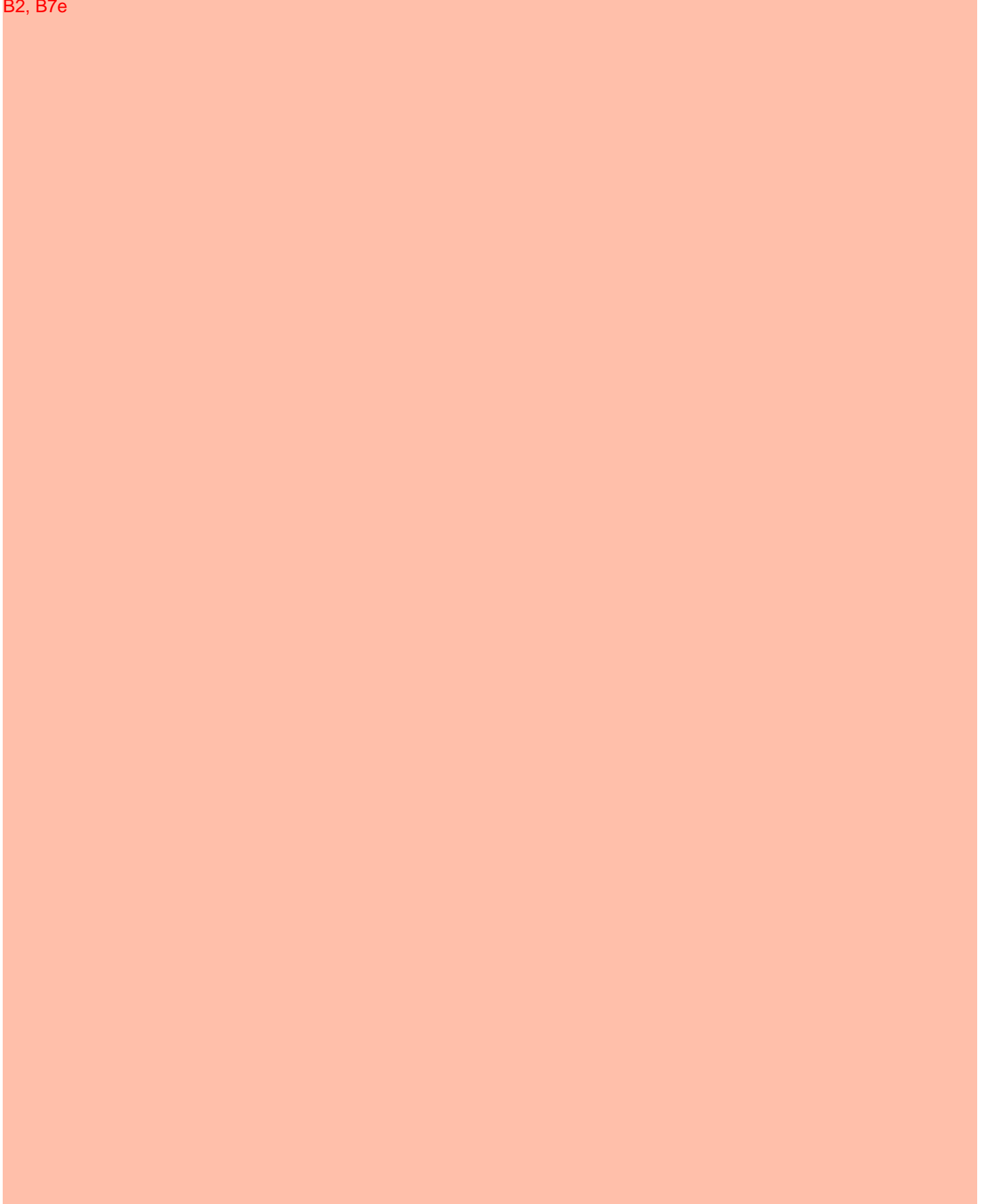
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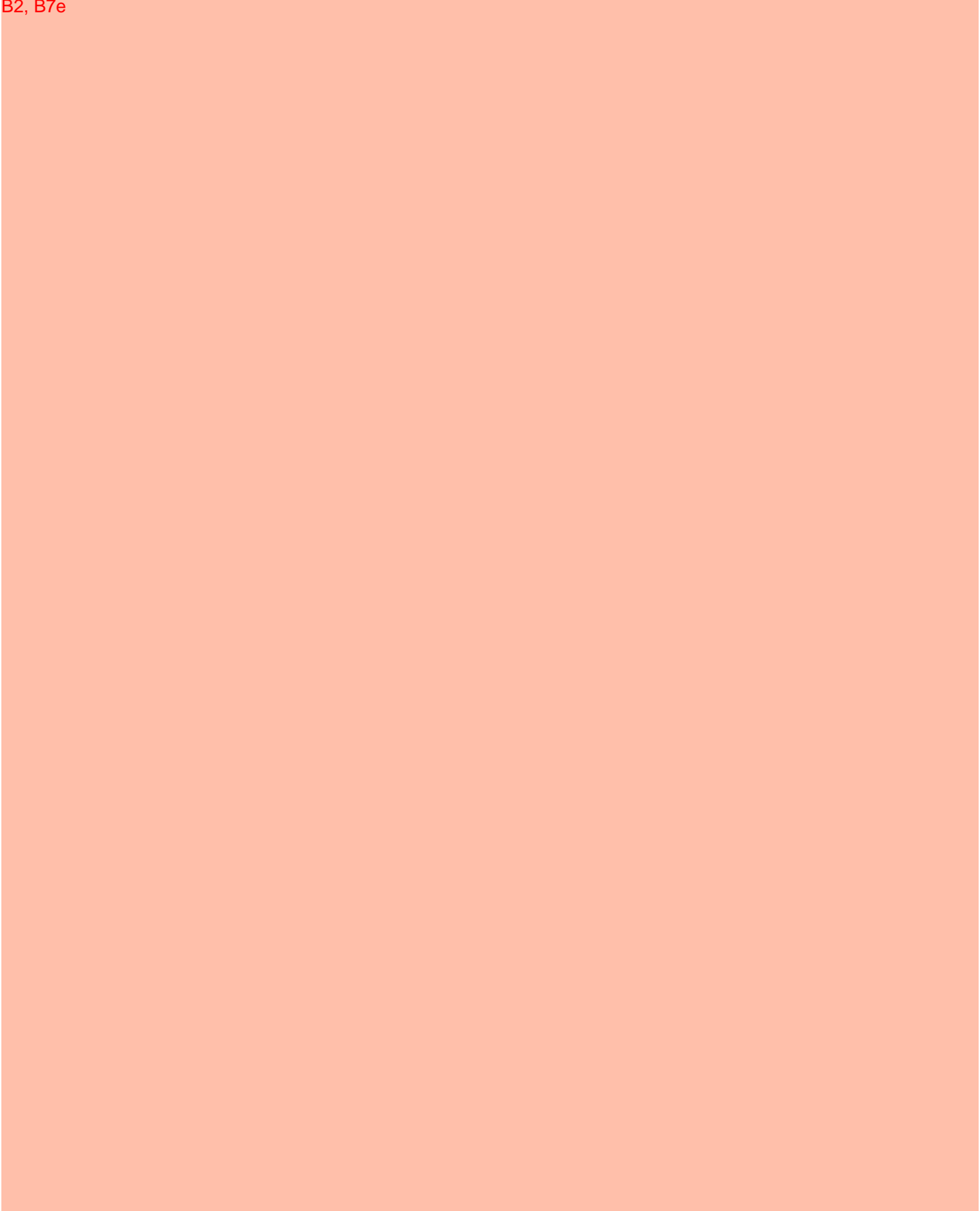
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Memorandum


**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: **ACTION:** Enforcement Policy; Auxiliary Lights Permitted under 49 CFR 393.11(d) Date: June 27, 2006

From: Dan Hartman Associate Administrator for Enforcement and Program Delivery Refer To: MC-PSV

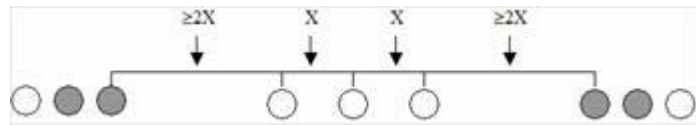
To: Assistant Administrator and Chief Safety Officer
Associate Administrator for Field Operations
MC-E Office Directors/Division Chiefs
Office of Chief Counsel, Enforcement and Litigation
Service Center Field Administrators
Division Administrators/State Director
National Enforcement Team
National Training Center

ENFORCEMENT POLICY

In consideration of an upcoming technical amendment to rescind 49 CFR 393.11(d), auxiliary lamps which supplement identification lamps are permitted under the conditions specified below. This policy will remain in effect until the Agency has adopted the technical amendment.

BACKGROUND

There is a conflict between the requirement of section 393.11(d), which prohibits all auxiliary lights that are in a horizontal line with the required identification lamps (3-lamp cluster), and a July 2005 interpretation from the National Highway Traffic Safety Administration (NHTSA) to the Truck Manufacturer's Association. The interpretation permits these auxiliary lights provided they are positioned at a distance that is at least twice the distance that separates each lamp in the 3-lamp cluster as illustrated in the diagram provided below. NHTSA has determined that this separation ensures that effectiveness of the 3-lamp cluster is not impaired.




COMMUNICATION OF FMCSA POLICY WITH STATE AGENCIES

Division Administrators and State Directors are to contact the lead Motor Carrier Safety Assistance Program agency in their States and advise them of the Agency's enforcement policy concerning commercial motor vehicles equipped with auxiliary lamps that supplement identification lamps. Please request that the States refrain from penalizing motor carriers that use auxiliary lamps which conform to the spacing requirements noted above.

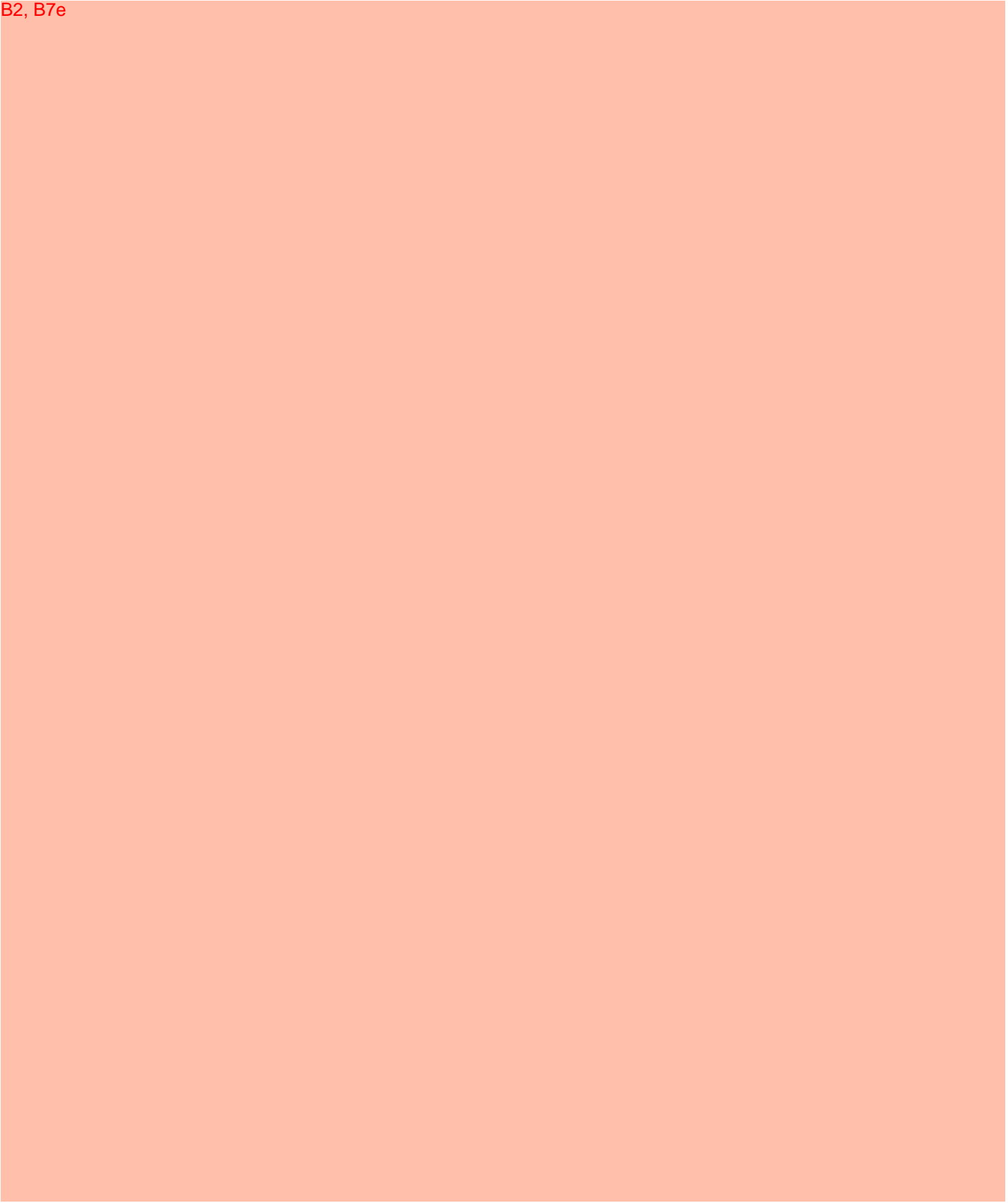
If you have any questions concerning this issue, please contact the Vehicle and Roadside Operations Division, at (202) 366-5370.

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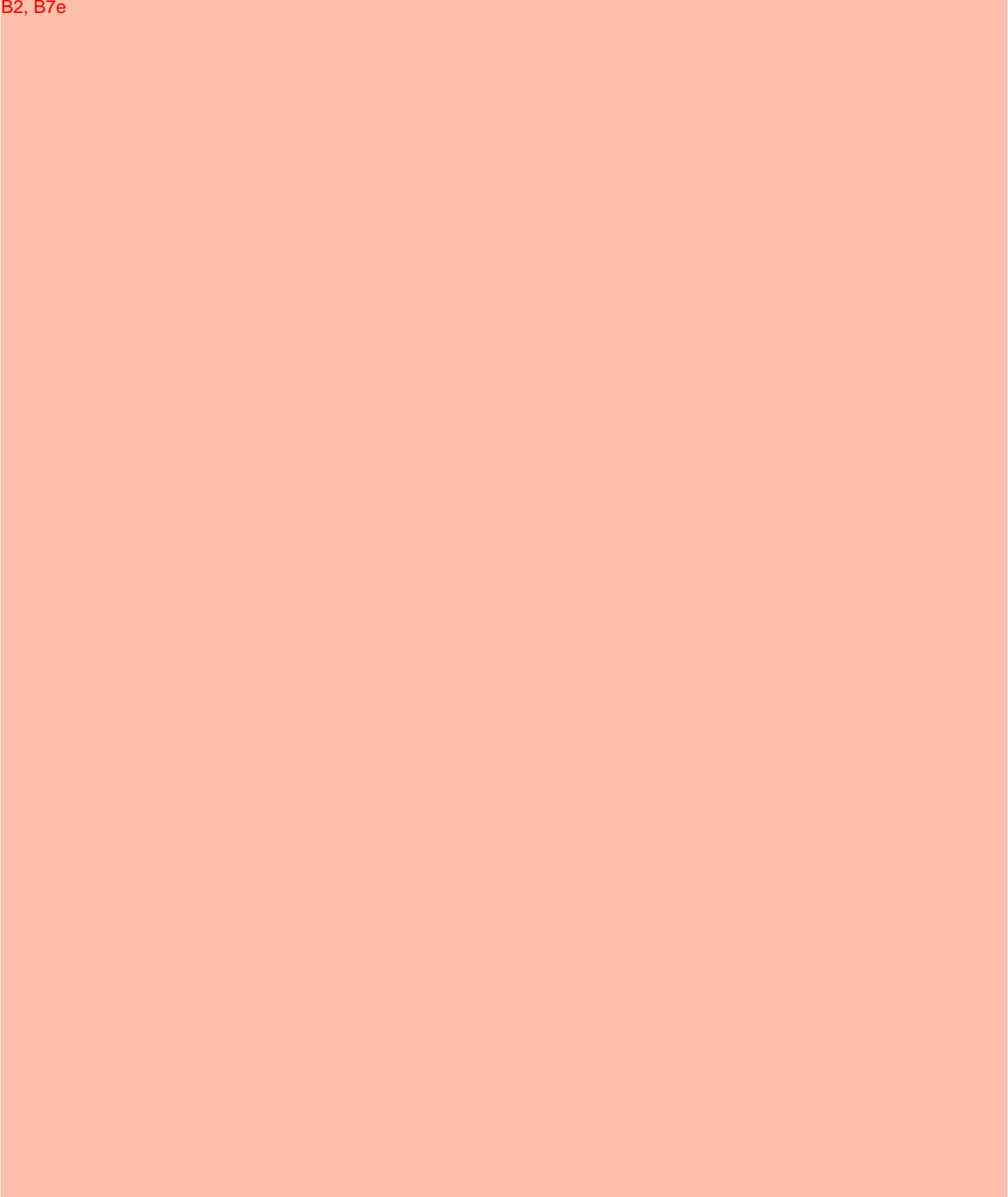
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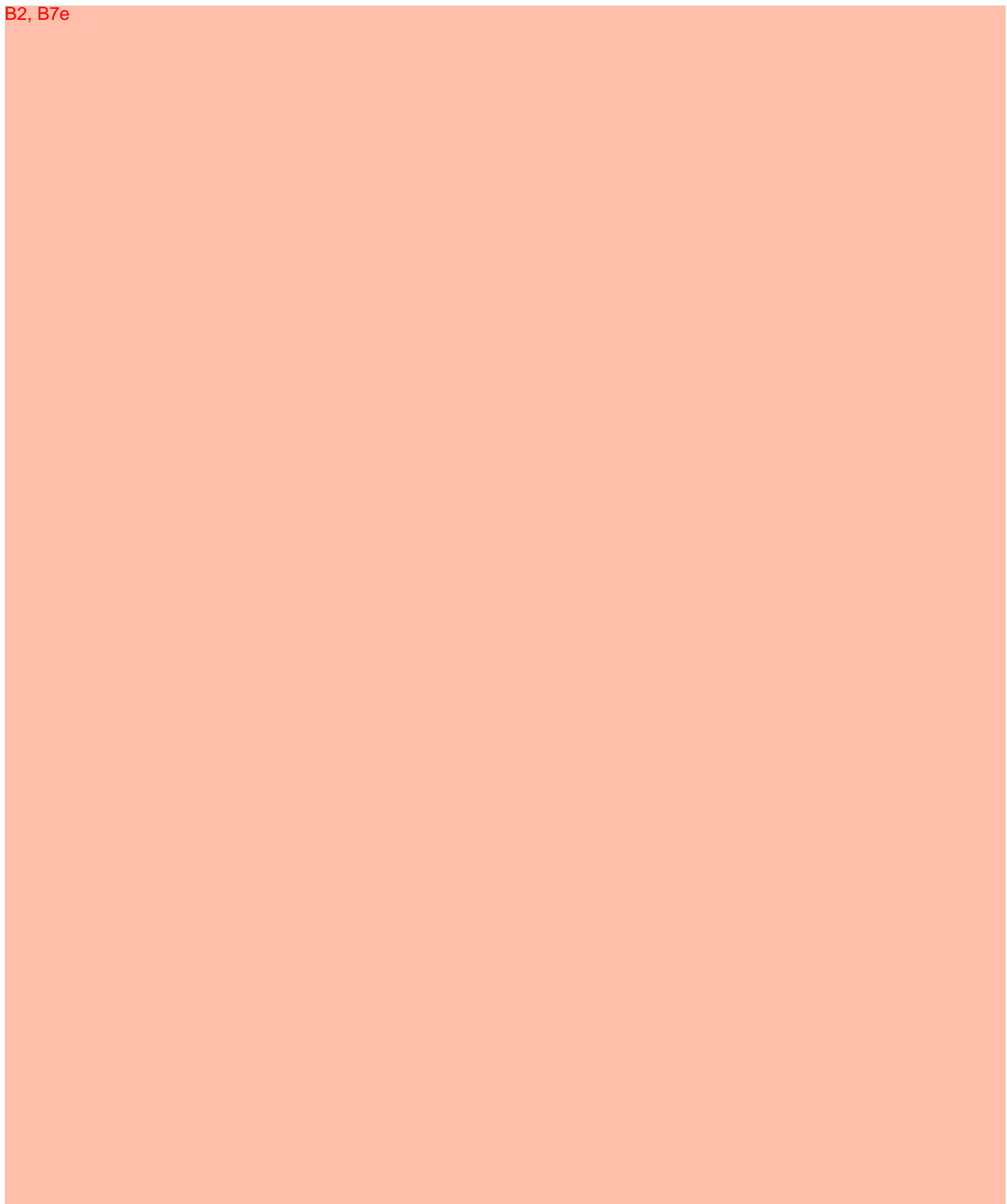
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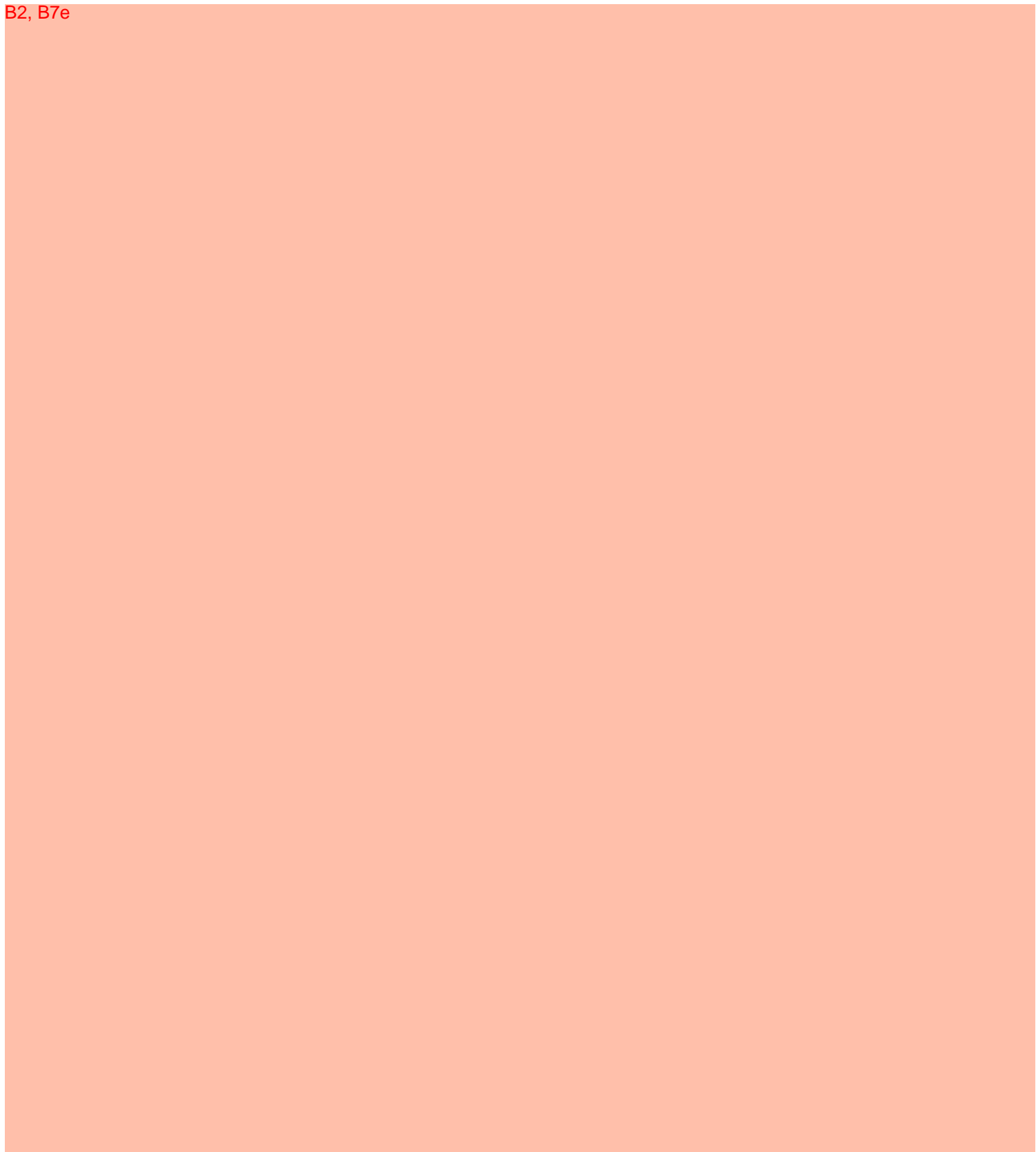
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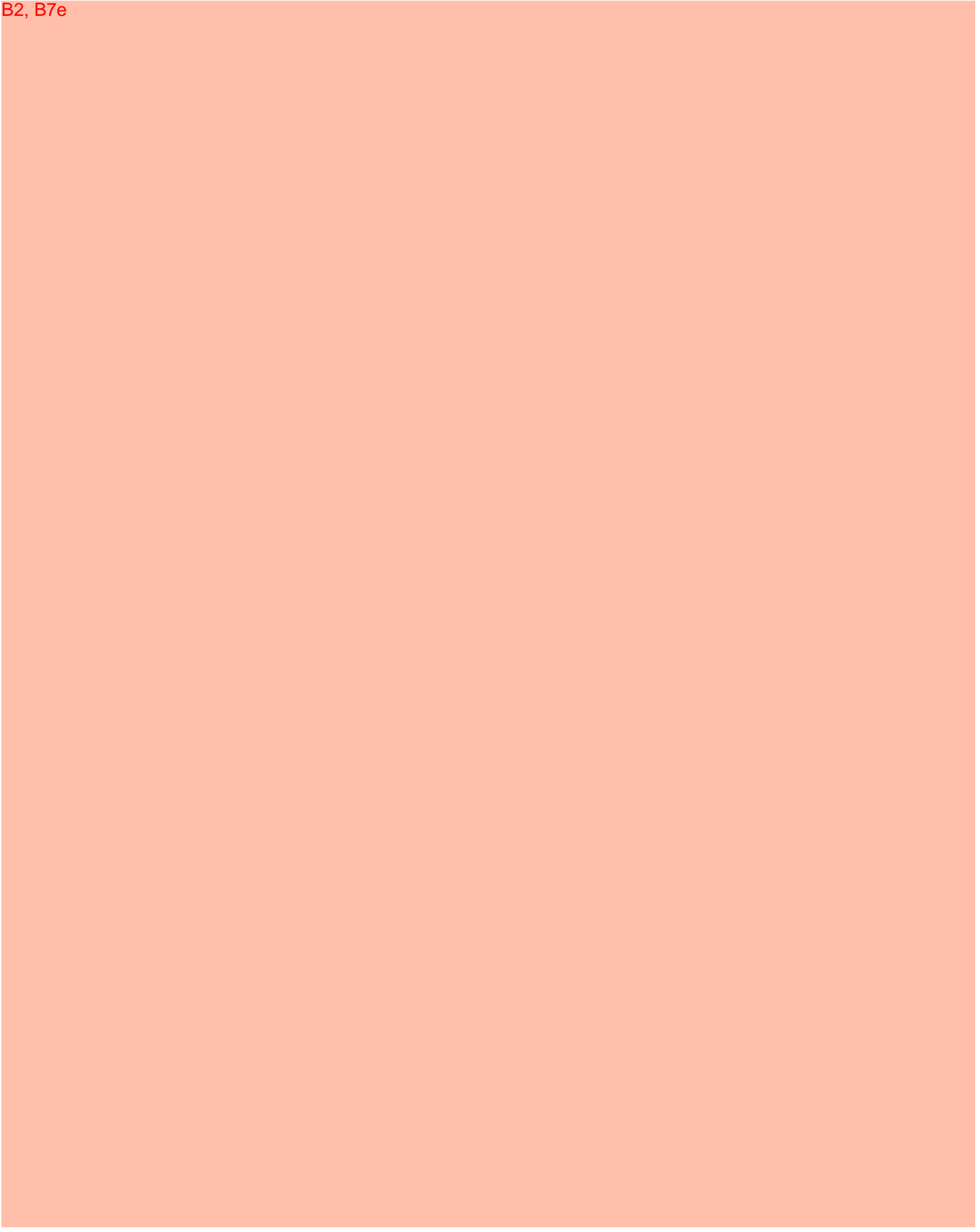
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Memorandum



**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: HOS Exemptions in Reauthorization Act Date: 09/06/05
From: William R. Paden In Reply Refer To: MC-E
Associate Administrator for Enforcement
and Program Delivery

To: Field Administrators
Division Administrators
Enforcement Team

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law on August 10, 2005.

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Added to eFOTM 12-28-2005

1.7.2.6.12 08-26-05 Self Cert Compliance w Motor Vehicle Safety Standards

Memorandum



**U.S. Department
Of Transportation**

**Federal Motor Carrier
Safety Administration**

Subject: Enforcement of Motor Carriers'
Self-Certification of Compliance with the
Motor Vehicle Safety Standards

Date: 08-26-2005

From: William R. Paden
Associate Administrator for
Enforcement and Program Delivery

In Reply Refer To: MC-ECE

To: Field Administrators
Division Administrators

The purpose of this memorandum is to provide policy guidance to increase highway safety by ensuring that all commercial motor vehicles (CMV) are certified by the vehicle manufacturer or registered importer as complying with all applicable Motor Vehicle Safety Standards in effect at the time of manufacture. This policy is summarized in table format in Attachment 1.

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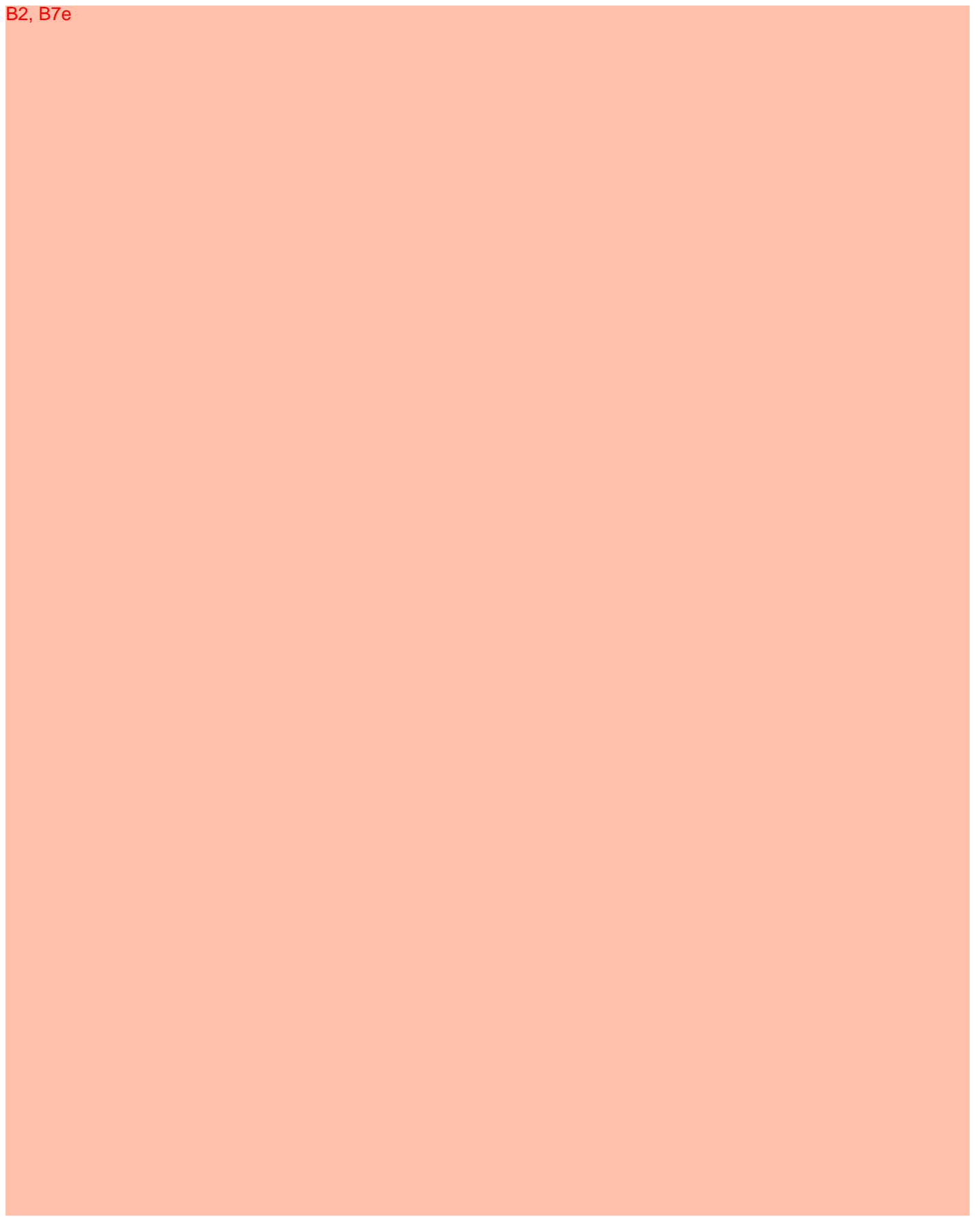
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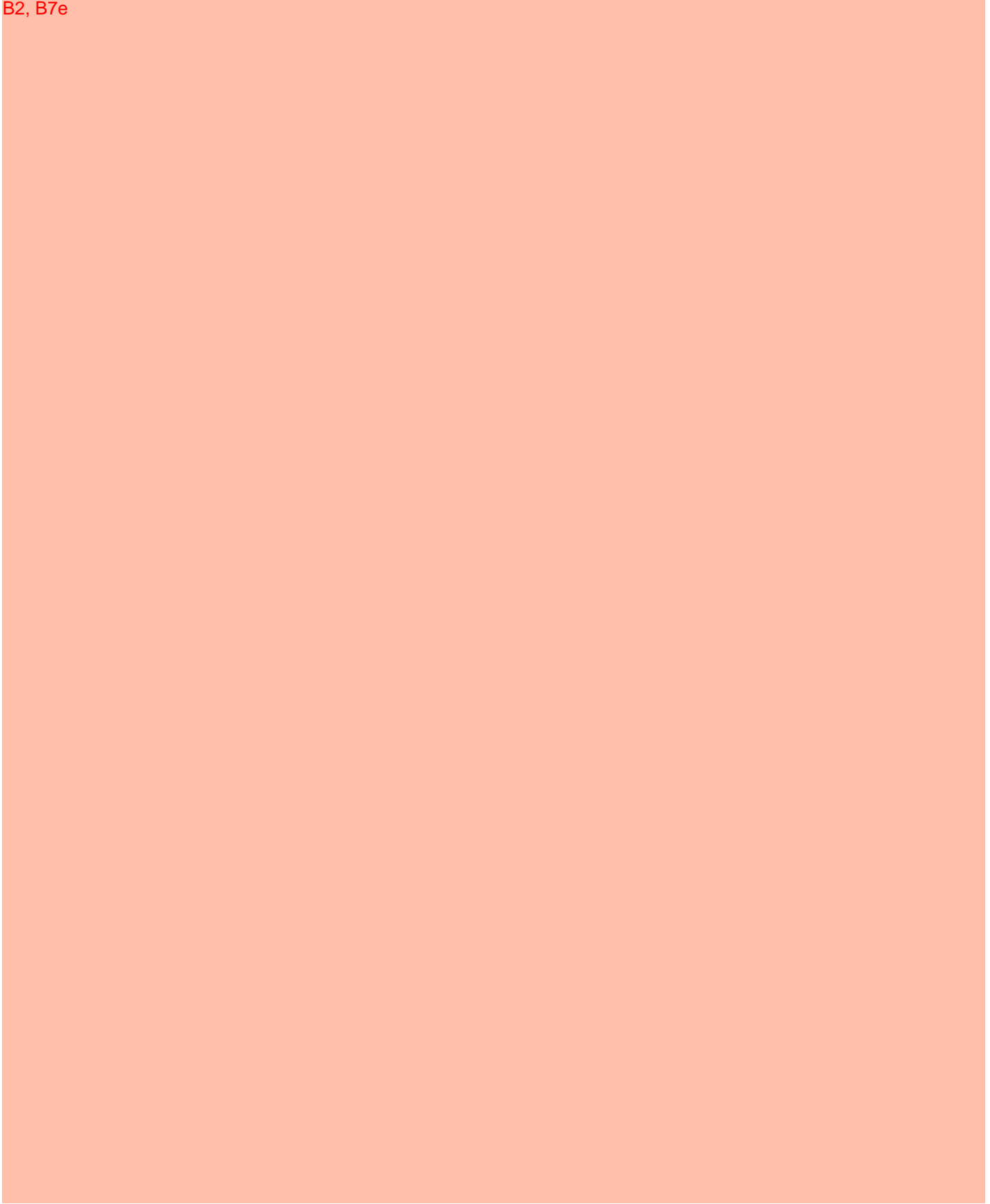
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Safety Administration

Subject: **ACTION:** Change in New Entrant Program Procedures for Passenger Carriers Date: February 22, 2005

From: William R. Paden In Reply Refer To: MC-ECP
Associate Administrator for Enforcement and Program Delivery

To: Field Administrators
Division Administrators

The purpose of this memorandum is to provide guidance for implementing new procedures for passenger carriers in the new entrant program.

Background

On May 13, 2002, the Federal Motor Carrier Safety Administration (FMCSA) published its New Entrant Safety Assurance Process Interim Final Rule. The new regulations established minimum requirements for any new carrier applying for a new USDOT number on or after January 1, 2003. These regulations apply in the same manner to passenger carriers as property carriers.

Policy

In response to recent passenger carrier accidents and FMCSA's recognition that new entrant passenger carriers should be subject to expedited safety audits to ensure safety management controls are in place, safety audits will be performed on all new entrant passenger carriers within nine months after beginning operations. This policy change is effective on March 1, 2005. This policy change will be reflected in the MCMIS software by March 1.

Appropriate revisions to the Field Operations Training Manual will be included in the new version that will be released in April 2005. New entrants that transport passengers will be otherwise subject to the same procedures that apply to all new entrant motor carriers. For example, new entrant passenger carriers will still remain in the new entrant program for 18 months like all new entrants. There is simply an earlier deadline for a safety audit to be performed on a new entrant passenger carrier. It is estimated that this policy change will affect approximately 700 to 1,100 passenger carriers annually. This policy change is in the best interest of the American traveling public who expect commercial passenger transportation to be fatality free.

If you have any questions or need additional information, please contact Phil Hanley at (202) 366-6811 or via e-mail at phil.hanley@fmcsa.dot.gov.

FMCSA:Pchandler:tmh 02/10/05
cc:MC-E,MC-EC,MC-ECP
h:/pchandler/Nine Month Passenger Memo

1.7.2.7 Other

1.7.2.7.1 02-21-07 Conducting the Pre-Authorization Safety Audit