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**Section 508 Exceptions Procedure**

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Directive No: CIO 2130-P-04.0

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*Issued by the EPA Chief Information Officer,  
Pursuant to Delegation 1-19, dated 07/07/2005*

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**Section 508 Exceptions Procedure**

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**1. PURPOSE**

The U.S. Environmental Protection Agency (EPA) Section 508 Exceptions Procedure describes the steps that EPA offices must take when seeking an exception to the requirements of Section 508 of the Rehabilitation Act, as amended (29 U.S.C. § 794d) (hereinafter Section 508), for an Information and Communication Technology<sup>1</sup> (ICT).

This procedure ensures that EPA applies a consistent, Agency-wide approach to exceptions to Section 508. These exceptions include:

- **Legacy ICT.** Any component or portion of existing ICT that complies with an earlier standard issued pursuant to Section 508 (as republished in Appendix D), and that has not been altered on or after January 18, 2018, shall not be required to be modified to conform to the revised 508 Standards.
- **National Security Systems.** The revised Section 508 standards do not apply to ICT operated by agencies as part of a national security system, as defined by 40 U.S.C. 11103(a).
- **Incidental ICT.** ICT acquired by a contractor incidental to a contract shall not be required to conform to the revised Section 508 standards. This includes ICT that is not a deliverable under the contract but may or may not be used to perform work under that contract.
- **ICT Functions Located in Maintenance or Monitoring Spaces.** Where status indicators and operable parts for ICT functions are in spaces that are frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment, such status indicators, and operable parts shall not be required to conform to the revised Section 508 standards.
- **Undue Burden or Fundamental Alteration.** Where EPA determines that conformance to requirements in the revised Section 508 standards would impose an undue burden or would result in a fundamental alteration to the nature of the ICT, then conformance shall be required only to the extent that it does not impose an undue burden, or result in a fundamental alteration in the nature of the ICT.
- **Best Meets.** Where ICT that conforms to one or more requirements in the revised Section 508 standards is not commercially available, the Agency shall procure the ICT that best meets the revised Section 508 standards consistent with the Agency's business needs.

This procedure helps EPA employees:

- Determine when an exception applies.

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<sup>1</sup> As defined by the U.S. Access Board's [ICT Standards and Guidelines](#).

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- How to document the justification for an exception.
- How to request approval of an exception.

When to provide an alternative means of access for ICT that meet an exception.

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**2. SCOPE**

This procedure applies to requests for exceptions to the Section 508 requirements pertaining to all ICT acquired, developed, maintained, or used by EPA as defined in EPA's Section 508 Policy.

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**3. AUDIENCE**

This procedure applies to all EPA and contractor personnel who are involved in the acquisition, management, operations, and maintenance of ICT across the Agency as defined in EPA's Section 508 Policy.

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**4. BACKGROUND**

The U.S. Access Board (Access Board) issues the *Electronic and Information Technology Accessibility Standards (36 C.F.R. Part 1194)* for Section 508 and defines "accessibility" for ICT. On January 18, 2017, the Access Board published a [Final Rule for ICT Standards and Guidelines](#) (commonly known as the Section 508 Refresh). The Section 508 Refresh updates and reorganizes the Section 508 standards in response to market trends and innovations and harmonizes requirements with other guidelines and standards in the United States and abroad. Visit the [Access Board website](#) for additional information about the Access Board and Section 508.

EPA's Section 508 Acquisition Procedure provides tailored guidance for the Agency's purchasing community on how to incorporate the new Section 508 Refresh standards into all EPA acquisitions.

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**5. AUTHORITY**

- [ICT Final Standards and Guidelines, 36 C.F.R. Part 1194 \(2017 and as amended 2018\)](#).
  - [Guidance on the Telecommunications Act \(also known as Communication Act of 1934\) Section 255 Guidelines](#), as amended, [47 U.S.C. §255](#) (1996).
  - Section 508 of the Rehabilitation Act of 1973, as amended, [29 U.S.C. §794d, \(1998\)](#).
  - Federal Acquisition Regulation (FAR): Section 508-Based Standards in Information and Communication Technology ([48 CFR Parts 2, 7, 10, 11, 12, and 39](#)).[The Clinger-Cohen Act of 1996 \(40 U.S.C. 1401\(3\)\)](#), also known as the Information Technology Management Reform Act.
  - CIO Policy 2130.2 Section 508 Policy.
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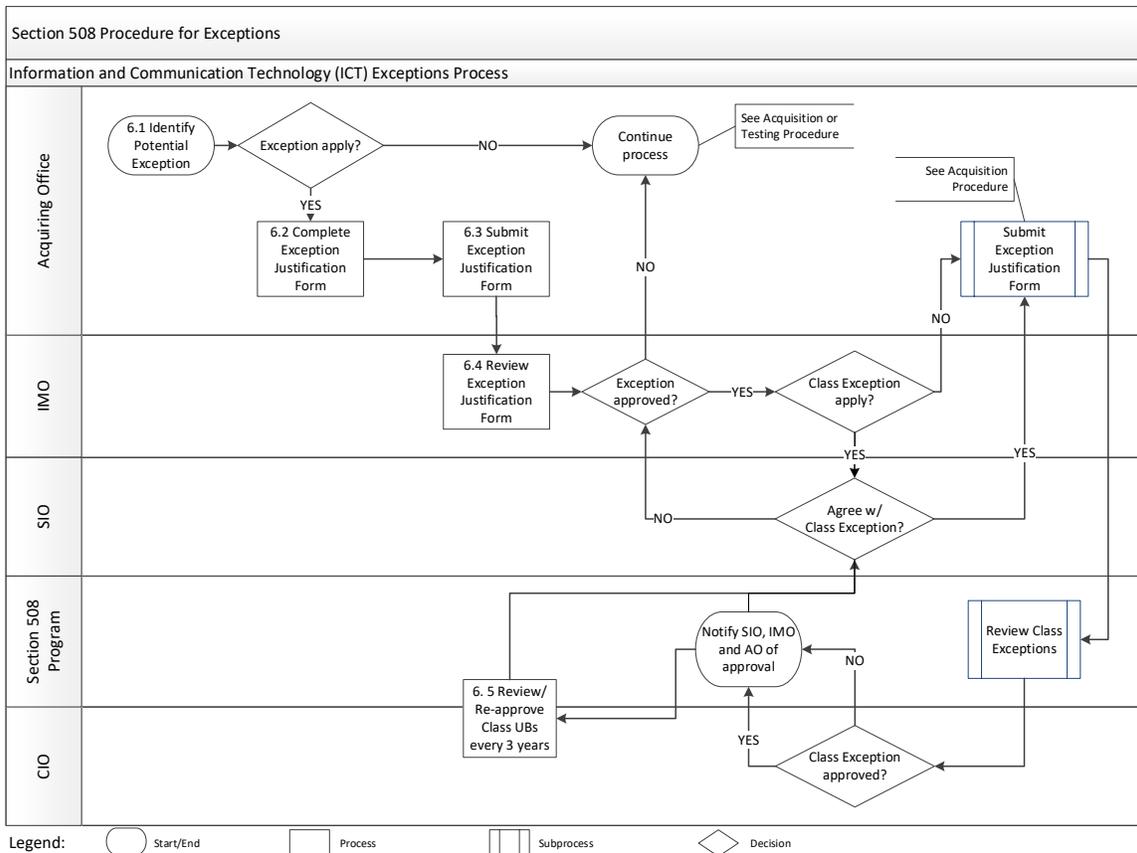
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- f. [EPA Delegation of Authority 1-84](#), Information Resources Management, December 18, 2001.
- g. [Federal Information Technology Acquisition Reform Act \(FITARA\)](#) (Title VIII, Subtitle D of the National Defense Authorization Act (NDAA) for Fiscal Year 2015, Pub. L. No. 113-291), December 19, 2014.

**6. PROCEDURE**

EPA’s Section 508 Exceptions Procedure outlines the activities EPA will perform if claiming an exception applies to an ICT and how to document the results of the activities described in this procedure in the [Exception Justification Form](#) for review and approval by the local Information Management Officer (IMO). The Section 508 Exceptions Process flow-chart gives a high-level overview of the general process, followed by more in-depth instructions.

**Section 508 Exceptions Process**



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**6.1 DETERMINE IF AN EXCEPTION APPLIES**

Under certain conditions, Section 508 allows EPA to exempt ICT from meeting Section 508 requirements. As described in [Section 1. Purpose](#), these exceptions include:

- [Legacy ICT](#).
- [National security systems](#).
- ICT acquired by a contractor [incidental to a federal contract](#).
- [ICT functions located in maintenance or monitoring spaces](#).
- Undue burden, including class undue burden.
  - NOTE: The applicability of the undue burden exception is rare and only applies to accessibility features or components of the ICT that impose a significant difficulty or expense to the Agency. In determining whether an action would result in an undue burden, the Agency shall consider all resources available to the agency for the ICT's development, procurement, maintenance or use, and make every effort to provide an alternative means of access.
- Fundamental alteration, including class fundamental alteration, to the ICT.
- Best meets.

For assistance in determining if an ICT qualifies for an exception, use the following resources provided by the U.S. General Services Administration (GSA).

- [Determine ICT Exceptions](#) – Detailed explanations of each type of exception.
- [508 Standards and Exceptions Chart and Examples](#) - Sample template for reporting standards and exceptions in solicitations.

Consult with the local Section 508 Liaison and the EPA Section 508 Program.

**6.2 DOCUMENT THE EXCEPTION**

If it is determined an ICT meets an exception, then document the determination in the [Exception Justification Form](#). The type of exception may require that additional information be provided in the [Exception Justification Form](#). The Exception Justification Requirements Table provides an overview of the information required to justify the exception.

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**Exception Justification Requirements Table**

Yes or No, is this information required?	Legacy ICT	National Security System	Incidental ICT	Maintenance/Monitoring System	Best Meets	Undue Burden	Class Undue Burden	Fundamental Alteration
Description of market research performed	Yes	No	No	No	Yes	Yes	Yes	Yes
Description of the non-compliant component(s) of the ICT	Yes	Yes	No	No	Yes	Yes	Yes	Yes
Basis for determining how ICT best meets the standards	No	No	No	No	Yes	Yes	Yes	Yes
Basis for determining why exception applies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Description of the costs and technical adjustments needed to make the ICT fully accessible	No	No	No	No	Yes	Yes	Yes	Yes
Identify the alternative means of access	Yes	No	No	No	Yes	Yes	Yes	Yes

**6.3 SUBMIT EXCEPTION JUSTIFICATION FORM**

 Submit the [Exception Justification Form](#) to the local IMO.

**6.4 APPROVE EXCEPTION JUSTIFICATION FORM**

 The local IMO reviews and then approves or rejects the [Exception Justification Form](#).

- If claiming Class Undue Burden or Class Fundamental Alteration, then the SIO and the Agency's Chief Information Officer (CIO) review and make a determination on the request.
- **If approved**, then include a copy of the approved [Exception Justification Form](#) with the ICT Accessibility Certification Form.
- **If denied**, then follow EPA's Section 508 Acquisition and Testing Procedures. to ensure conformance to the Section 508 technical requirements.

**6.5 REVIEW CLASS JUSTIFICATIONS**

At least once every three years, the CIO, with assistance from EPA's Section 508 Program Manager, shall review all Class Undue Burden and Fundamental Alteration justifications. The CIO might withdraw a Class exception justification if improvements to an ICT made the Class exception obsolete.

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**7. ROLES AND RESPONSIBILITIES**

The following EPA employees ensure compliance with this procedure.

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**EPA'S CIO**

1. Provide leadership for EPA's information management and technology programs and policies, including the Section 508 Program.
2. Provide senior level guidance and support in addressing any overarching Section 508 issues/challenges identified by EPA offices in the process of developing and acquiring ICT.
3. Provide Section 508 policies, guidance, and support to the Agency, with the help of EPA's Section 508 Program Manager and the Agency's Section 508 Executive Council.
4. Participate as needed in consultations with EPA offices to address difficult or complex issues that have a Section 508 compliance component.
5. Reviews and grant new class undue burden or class fundamental alteration claim requests received from EPA program or regional offices. Review and approve these requests at least once every three years.

**SENIOR INFORMATION OFFICIALS (SIOs)**

1. Review and approve the office's class undue burden or class fundamental alteration claims.
2. Submit the office's class undue burden or class fundamental alteration claims for final review and approval by the CIO.

**INFORMATION MANAGEMENT OFFICERS (IMOs)**

1. Provide consultation to their office, in coordination with the designated Section 508 Liaison.
2. Review and approve or reject the [Exception Justification Form](#).
3. Monitor all local ICT developed or acquired throughout the fiscal year to ensure full accessibility to people with disabilities and work with others to address any shortcomings.

**EPA SECTION 508 PROGRAM MANAGER AND ASSISTANT SECTION 508 PROGRAM MANAGER**

1. Assist offices regarding Section 508 policies, procedures and guidance, exceptions and undue burden claims, and approaches that may be used to provide alternative means of access.
2. Review class undue burden or class fundamental alteration claims received before submitting them to the CIO for review at least once every three years.
3. Make undue burden, fundamental alteration, class fundamental alteration and class undue burden claims available for EPA employees and other stakeholders to view.

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**ACQUIRING OFFICIALS, WHO MAY INCLUDE, BUT ARE NOT LIMITED TO, SYSTEM SPONSORS, PROJECT MANAGERS, PURCHASE CARD HOLDERS, CONTRACTING OFFICERS' REPRESENTATIVES (CORs), ICT DEVELOPERS**

1. Complete and submit the [Exception Justification Form](#) to the IMO, along with any relevant documentation.
2. If claiming the best meets, fundamental alteration, class fundamental alteration, undue burden or class undue burden, , provide an alternative means of access to the information or data that is affected for people with disabilities.

**SECTION 508 LIAISONS**

1. Provide consultation and guidance to the IMO and staff on Section 508 standards, related documentation, exceptions, and undue burden claims and approaches that may be used to provide alternative means of access.
2. Work in coordination with the EPA Section 508 Program Manager to address any accessibility policy and guidance issues.

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**8. RELATED INFORMATION**

- a. OMB Memorandum, "[Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act \(PDF\)](#)," January 24, 2013.
- b. GSA Section508.gov website, [Determine ICT Exceptions](#).
- c. GSA Section508.gov website, [508 Standards and Exceptions Chart and Examples](#).

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**9. DEFINITIONS**

**Accessibility Support Documentation and Services.** Documentation or services for the ICT that supports accessibility (for example, an accessibility support desk).

**Alternative Access or Alternative Means of Access.** Alternative access refers to another way of ensuring that data and information are made available to people with disabilities when an Agency would face a significant difficulty or expense (for example, undue burden) in meeting applicable Section 508 standards.

**Assistive Technology.** Assistive technology (AT) is adaptive equipment that people with disabilities commonly use to communicate and obtain access to information resources. Examples include, but are not limited to, screen readers, screen magnifiers, and speech recognition software.

**Best Meets.** Where ICT conforming to one or more requirements in the Revised 508 Standards is not commercially available, the agency shall procure the ICT that best meets the Revised 508 Standards consistent with the agency's business needs.

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**Class Exemption for Undue Burden or Fundamental Alteration.** Where the Agency anticipates recurring instances of undue burden or fundamental alteration for certain types of technology (for example, cartographic, geographic information systems (GIS)-based systems), a class undue burden or class fundamental alteration may be requested on a program, regional or Agencywide basis. The purpose of granting a class exemption for undue burden or fundamental alteration is to be efficient and effective by reducing the need to document a recurring undue burden or fundamental alteration repeatedly. The Agency CIO reviews and makes a determination on all undue burden or fundamental alteration requests. Please refer to undue burden and fundamental alteration definitions for additional information. Class exemption designations still require that an alternative means of access be provided.

**Commercial Non-availability.** Commercial non-availability is used to describe those ICT procurements where the marketplace has no commercial products or information systems that meet any of the technical or functional standards.

**Electronic Content.** Electronic information and data, as well as the encoding that defines its structure, presentation, and interactions.

**Fundamental Alteration.** A modification to ICT that would change the basic nature or purpose for which the product or its components were designed.

**Hardware.** A tangible device, equipment, or physical components of ICT, such as telephones, computers, multifunction copy machines, and keyboards.

**Incidental ICT.** ICT acquired by a contractor incidental to a contract. This includes ICT that is not a deliverable under the contract but may or may not be used to perform work under that contract.

**Information and Communication Technology (ICT).** Information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT include, but are not limited to, computers and peripheral equipment, information kiosks and transaction machines, telecommunications equipment, customer premises equipment, multifunction office machines, software, applications, websites, videos, and electronic documents.<sup>2</sup>

**Legacy ICT.** ICT that has been procured, maintained, or used on or before January 18, 2018.

**Maintenance or Monitoring Spaces.** Where status indicators and operable parts for ICT functions are located in spaces that are frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment.

**National Security Systems.** Any ICT operated by agencies as part of a national security system, as defined by 40 U.S.C. 11103(a).

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<sup>2</sup> As defined by the U.S. Access Board's [Information and Communication Technology \(ICT\) Standards and Guidelines](#).

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**Reasonable Accommodation.** In general, a reasonable accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability [employee or prospective employee] to enjoy equal employment opportunities, benefits, and privileges.

**Safe Harbor Clause.** Existing ICT that meets the [original Section 508 Standards](#) do not have to be remediated to conform to the revised standards if no changes were made to the legacy ICT affecting interoperability, the user interface, or access to information or data after January 18, 2018. This is referred to as the “[Safe Harbor](#)” clause. ICT that is altered after January 18, 2018, must conform to the [revised Section 508 Standards](#).

**Software.** Programs, procedures, rules, and related data and documentation that direct the use and operation of ICT and instruct it to perform a given task or function. Software includes, but is not limited to, applications, non-Web software, and platform software.

**Undue Burden.** Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, an agency shall consider all its resources. (Recurring instances of undue burdens are Class Undue Burden.)

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**10. WAIVERS**

There are no exceptions or waivers that apply to this procedure.

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**11. MATERIAL SUPERSEDED**

This procedure supersedes the *Accessible Electronic and Information Technology Standards, Procedures, and Guidance* (6 pp, 33 KB), CIO 2130-P/S/G-01.0, March 30, 2006.

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**12. CONTACTS**

Please email EPA’s Section 508 Program at [Section508@epa.gov](mailto:Section508@epa.gov) with any questions about this document.

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**Vaughn Noga**  
**Deputy Assistant Administrator for Environmental Information**  
**and Chief Information Officer**  
**U.S. Environmental Protection Agency**

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**Appendix A: Exception Justification Form**

1. Complete the form below for Information and Communication Technology (ICT) to be developed, procured, updated, or upgraded by the Agency. Click on the greyed text after each question and use the pull-down option to provide your answers. All questions with an asterisk (\*) require an answer.
  2. Submit the completed form and supporting documentation for review and approval to your local Information Management Officer (IMO).
    - a. If applying for a class undue burden or class fundamental alteration exception, your local SIO and the EPA Chief Information Officer (CIO) will also need to review and approve.
  3. If approved, retain this form with the completed ICT Accessibility Certification Form for official records.
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**GENERAL INFORMATION**

1. **Today's Date:** Select today's date.
2. **\*Program/Region:** Select Program/Region from menu.
3. **\*Name:** Enter the name of the person completing the form.
4. **\*Role:** Select Role.  
  
If other, please describe: Enter other role.
5. **\*Name of the product(s):** Enter the name of the product(s).
6. **Product version (if applicable):** Enter the product version.
7. **\*Type of exception:** N/A

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**FOR BEST MEETS, UNDUE BURDEN, CLASS UNDUE BURDEN, AND FUNDAMENTAL ALTERATION EXCEPTION CLAIMS**

Answer the following questions, if claiming the best meets, undue burden, class undue burden, or fundamental alteration exception.

**8. \*Describe the market research performed.**

Describe the market research performed.

**9. \*Describe the non-compliant elements of the ICT.**

Describe the non-compliant elements of the ICT.

**10.\*Describe the costs and technical adjustments needed to make the ICT fully accessible.**

Describe the costs and technical adjustments needed to make the ICT fully accessible.

**11. Provide any additional considerations that are relevant to the exception.**

Provide any additional considerations that are relevant to the exception.

**12.\*Describe the proposed method(s) of alternative access.**

Describe the proposed method(s) of alternative access.

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**SIGNATURES**

The following signatures are required to acknowledge delivery and receipt of the final submission of the Exception Justification Form.

Acquiring Official

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Signature

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Email Address

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Senior Information Official or Information Management Officer (as delegated)

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Signature

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Email Address

**If claiming the Class Undue Burden or Class Fundamental Alteration Exception, the following signatures are also required.**

Senior Information Official

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Signature

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Email Address

US EPA Chief Information Officer

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Signature

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Email Address