

#### § 73.9005

to obtain the specified value, and can be displayed using video processing techniques such as line doubling or sharpening to improve the perceived quality of the image.

(b) A covered demodulator product shall not record or cause the recording of marked content in digital form unless such recording is made using one of the following methods:

(1) A method that effectively and uniquely associates such recording with a single covered demodulator product (using a cryptographic protocol or other effective means) so that such recording cannot be accessed in usable form by another product except where the content of such recording is passed to another product as permitted under this subpart or

(2) An authorized recording method in accordance with any applicable obligations established as a part of its approval pursuant to § 73.9008 (provided that for recordings made on removable media, only authorized recording methods expressly approved pursuant to § 73.9008 for use in connection with removable media may be used).

(c) Paragraph (b) of this section does not impose restrictions regarding the storage of marked content as a transitory image.

(d) The requirements of this section shall become applicable on July 1, 2005.

#### § 73.9005 Compliance requirements for covered demodulator products: Audio.

Except as otherwise provided in §§ 73.9003(a) or 73.9004(a), covered demodulator products shall not output the audio portions of unscreened content or of marked content in digital form except in compressed audio format (such as AC3) or in linear PCM format in which the transmitted information is sampled at no more than 48 kHz and no more than 16 bits/sample. The requirements of this section shall become applicable on July 1, 2005.

#### § 73.9006 Add-in covered demodulator products.

(a) Where a covered demodulator product passes unscreened content or marked content to another product, other than where such covered demodulator product passes, or directs

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such content to be passed to an output (e.g., where a demodulator add-in card in a personal computer passes such content to an associated software application installed in the same computer), it shall pass such content:

(1) Using a robust method; or

(2) Protected by an authorized digital output protection technology authorized for such content in accordance with any applicable obligations established as a part of its approval pursuant to § 73.9008. Neither unscreened content nor marked content may be so passed in unencrypted, compressed form via a User Accessible Bus.

(b) The requirements of this section shall become applicable on July 1, 2005.

#### § 73.9007 Robustness requirements for covered demodulator products.

The content protection requirements set forth in the demodulator compliance requirements shall be implemented in a reasonable method so that they cannot be defeated or circumvented merely by an ordinary user using generally-available tools or equipment. The requirements of this section shall become applicable on July 1, 2005.

NOTE TO § 73.9007: Generally-available tools or equipment means tools or equipment that are widely available at a reasonable price, including but not limited to, screwdrivers, jumpers, clips and soldering irons. Generally-available tools or equipment also means specialized electronic tools or software tools that are widely available at a reasonable price, other than devices or technologies that are designed and made available for the specific purpose of bypassing or circumventing the protection technologies used to meet the requirements set forth in this subpart. Such specialized electronic tools or software tools includes, but is not limited to, EEPROM readers and writers, debuggers or decompilers.

#### § 73.9008 Interim approval of authorized digital output protection technologies and authorized recording methods.

(a) *Certifications for digital output protection technologies and authorized recording methods.* The proponent of a specific digital output protection technology or recording method seeking approval for use in covered demodulator

products shall certify to the Commission that such digital output protection technology or recording method is appropriate for use in covered demodulator products to give effect to the broadcast flag. Such certification shall include the following information:

(1) A general description of how the digital output protection technology or recording method works, including its scope of redistribution;

(2) A detailed analysis of the level of protection the digital output protection technology or recording method affords content;

(3) Information regarding whether content owners, broadcasters or equipment manufacturers have approved or licensed the digital output protection technology or recording method for use; and

(4) If the technology is to be offered publicly, a copy of its licensing terms, and fees, as well as evidence demonstrating that the technology will be licensed on a reasonable, non-discriminatory basis.

(5) If any of the information is proprietary in nature, the proponent may seek confidential treatment of the proprietary portion of their certification pursuant to §0.459 of this chapter.

(b) *Initial certification window.* Following the effective date of this subpart, the Commission shall issue a public notice commencing an initial certification window for digital output protection technologies or recording methods. Within thirty (30) days after the date of this public notice, proponents of digital output protection technologies or recording methods may file certifications pursuant to paragraph (a) of this section. Following close of the initial certification window, the Commission shall issue a public notice identifying the certifications received and commencing an opposition window. Within twenty (20) days after the date of this public notice, oppositions may be filed with respect to a certification.

(1) If no objections are received in response to a proponent's certification within the twenty (20) day opposition window, the Commission shall expeditiously issue a determination indicating whether the underlying digital

output protection technology or recording method is approved for use with covered demodulator products.

(2) If an objection is raised within the twenty (20) day opposition window alleging that a proponent's certification contains insufficient information to evaluate the appropriateness of the underlying digital output protection technology or recording method for use with covered demodulator products, the proponent may file a reply within 10 days after the close of the twenty (20) day opposition window. The Commission shall determine whether to dismiss the certification without prejudice or to undertake a full review of the certification's merits pursuant to paragraph (d) of this section.

(3) If an objection is raised within the twenty (20) day opposition window alleging that a proponent's digital output protection technology or recording method is inappropriate for use with covered demodulator products, the Commission shall undertake a full review of the associated certification's merits pursuant to paragraph (d) of this section. The proponent may file a reply within 10 days after the close of the twenty (20) day opposition window. In such cases, the Commission shall issue a determination indicating whether the underlying digital output protection technology or recording method is approved for use with covered demodulator products.

(c) *Effect of subsequent certifications.* Where a proponent of a digital output protection technology or recording method files a certification pursuant to paragraph (a) of this section subsequent to the initial certification window described in paragraph (b) of this section:

(1) If no objections are received in response to a proponent's certification within twenty (20) days after the date of public notice of the filing of such certification, the Commission shall expeditiously issue a determination indicating whether the underlying digital output protection technology or recording method is approved for use with covered demodulator products.

(2) If an objection is raised within twenty (20) days after the date of public notice of the filing of a proponent's

certification alleging that such certification contains insufficient information to evaluate the appropriateness of the underlying digital output protection technology or recording method for use with covered demodulator products, the proponent may file a reply within 10 days after the close of the twenty (20) day opposition window. The Commission shall determine whether to dismiss the certification without prejudice or to undertake a full review of the certification's merits pursuant to paragraph (d) of this section.

(3) If an objection is raised within twenty (20) days after the date of public notice of the filing of a proponent's certification alleging that the underlying digital output protection technology or recording method is inappropriate for use with covered demodulator products, the proponent may file a reply within 10 days after the close of the twenty (20) day opposition window. The Commission shall undertake a full review of the certification's merits pursuant to paragraph (d) of this section. In such cases, the Commission shall issue a determination indicating whether the underlying digital output protection technology or recording method is approved for use with covered demodulator products.

(d) *Commission determinations.* Where the Commission undertakes a full review of the merits of a certification for a digital output protection technology or recording method, the Commission may consider, where applicable, the following factors:

(1) Technological factors including but not limited to the level of security, scope of redistribution, authentication, upgradability, renewability, interoperability, and the ability of the digital output protection technology to revoke compromised devices;

(2) The applicable licensing terms, including compliance and robustness rules, change provisions, approval procedures for downstream transmission and recording methods, and the relevant license fees;

(3) The extent to which the digital output protection technology or recording method accommodates consumers' use and enjoyment of unencrypted digital terrestrial broadcast content; and

(4) Any other relevant factors the Commission determines warrant consideration.

(e) *Revocation of approval.* (1) If the security of a content protection technology or recording method approved for use in covered demodulator products has been compromised, a person may seek revocation of such approval pursuant to § 76.7 of this chapter.

(2) Petitioners seeking revocation of a content protection technology or recording method's approval for use in covered demodulator products shall articulate in detail the extent to which the content protection or recording technology has been compromised and demonstrate why alternative measures are insufficient to address the breach in security.

#### § 73.9009 Manufacture for exportation.

The requirements of this subpart do not apply to demodulators, covered demodulator products or peripheral TSP products manufactured in the United States solely for export.

#### ALPHABETICAL INDEX—PART 73

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