

(b) DEVELOPMENT OF VERIFICATION PROCEDURE.—The Secretary of Commerce shall establish a procedure to verify, upon the petition of an interested party, that a system meets the standards set forth in subsection (a)(2).

(c) PROHIBITION ON CIRCUMVENTION OF THE SYSTEM.—No person shall import, manufacture, or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, a system described in subsection (a).

(d) ENCODING OF INFORMATION ON DIGITAL MUSICAL RECORDINGS.—

(1) PROHIBITION ON ENCODING INACCURATE INFORMATION.—No person shall encode a digital musical recording of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material for the recording.

(2) ENCODING OF COPYRIGHT STATUS NOT REQUIRED.—Nothing in this chapter requires any person engaged in the importation or manufacture of digital musical recordings to encode any such digital musical recording with respect to its copyright status.

(e) INFORMATION ACCOMPANYING TRANSMISSIONS IN DIGITAL FORMAT.—Any person who transmits or otherwise communicates to the public any sound recording in digital format is not required under this chapter to transmit or otherwise communicate the information relating to the copyright status of the sound recording. Any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

(Added Pub. L. 102-563, § 2, Oct. 28, 1992, 106 Stat. 4240.)

SUBCHAPTER C—ROYALTY PAYMENTS

§ 1003. Obligation to make royalty payments

(a) PROHIBITION ON IMPORTATION AND MANUFACTURE.—No person shall import into and distribute, or manufacture and distribute, any digital audio recording device or digital audio recording medium unless such person records the notice specified by this section and subsequently deposits the statements of account and applicable royalty payments for such device or medium specified in section 1004.

(b) FILING OF NOTICE.—The importer or manufacturer of any digital audio recording device or digital audio recording medium, within a product category or utilizing a technology with respect to which such manufacturer or importer has not previously filed a notice under this subsection, shall file with the Register of Copyrights a notice with respect to such device or medium, in such form and content as the Register shall prescribe by regulation.

(c) FILING OF QUARTERLY AND ANNUAL STATEMENTS OF ACCOUNT.—

(1) GENERALLY.—Any importer or manufacturer that distributes any digital audio recording device or digital audio recording medium that it manufactured or imported shall

file with the Register of Copyrights, in such form and content as the Register shall prescribe by regulation, such quarterly and annual statements of account with respect to such distribution as the Register shall prescribe by regulation.

(2) CERTIFICATION, VERIFICATION, AND CONFIDENTIALITY.—Each such statement shall be certified as accurate by an authorized officer or principal of the importer or manufacturer. The Register shall issue regulations to provide for the verification and audit of such statements and to protect the confidentiality of the information contained in such statements. Such regulations shall provide for the disclosure, in confidence, of such statements to interested copyright parties.

(3) ROYALTY PAYMENTS.—Each such statement shall be accompanied by the royalty payments specified in section 1004.

(Added Pub. L. 102-563, § 2, Oct. 28, 1992, 106 Stat. 4240.)

§ 1004. Royalty payments

(a) DIGITAL AUDIO RECORDING DEVICES.—

(1) AMOUNT OF PAYMENT.—The royalty payment due under section 1003 for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.

(2) CALCULATION FOR DEVICES DISTRIBUTED WITH OTHER DEVICES.—With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.

(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

(3) LIMITS ON ROYALTIES.—Notwithstanding paragraph (1) or (2), the amount of the royalty