

SAFETY Act

The Support Anti-Terrorism by Fostering Effective Technologies Act of 2002

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A Summary of the SAFETY Act

- Purpose of this presentation is to provide an overview of SAFETY Act Protections for vendors and technology users
 - Congressionally enacted as part of the Homeland Security Act of 2002
 - Provides legal liability protections for providers of qualified anti-terrorism technologies that could save lives in the event of a terrorist attack
 - Protections apply **only** to claims arising out of, relating to, or resulting from an **act of terrorism** when SAFETY Act covered technologies have been deployed
 - The Secretary of Homeland Security determines an act to be an “act of terrorism” for purposes of the SAFETY Act



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What is Eligible for SAFETY Act Protections?

The SAFETY Act liability protections apply to a wide range of technologies, including:

- Products
- Services
- Software and other forms of intellectual property

Threat and Vulnerability Assessment Services

Detection Systems

Blast Mitigation Materials

Screening Services

Sensors and Sensor Integration

Cybersecurity capabilities

Decision Support Software

Security Plans / Services

Crisis Management Systems

Venue Security



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What protections are available?

Liability cap

Exclusive action in federal court

No joint and several liability for non-economic damages

No punitive damages or prejudgment interest



Limitations on the use and deployment

Limited term

Liability protections associated apply only to acts that occur during the term

All benefits of Designation plus...

Assert Government Contractor Defense

Placed on SAFETY Act's Approved Products list for Homeland Security



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Developmental Testing & Evaluation (DT&E) Designation

For technology that:

- Is in a prototype stage
- Has lab tests that are not operational in nature (too controlled)
- Indicated potential effectiveness
- Has a testing scenario identified and “customers” to prove relevant metrics
- Limited term (up to 3 years) and limited number of sites

DT&ED



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Is Technology Effective?

- Successful testing in operational environment
- Operational testing
 - Evidence of performance metrics, including:
 - Probability of Detection
 - False Positive and False Negative Rates
 - Limits of Detection (and why that limit is relevant)
 - Maintenance and Training
- Suitable performance of past deployments documented
- Domain expertise appropriate and available
- In/external audits favorable
- Customer feedback favorable
- QA plans documented
- Repeatability proven



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Criteria for Certification

Designation is a prerequisite for issuing Certification.

To receive Certification, a Qualified Anti-Terrorism Technology (QATT) must also be shown to:

- Perform as intended
- Conform to the Seller's specifications
- Be safe for use as intended
 - Seller is required to provide safety and hazard analyses



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Are Users Protected?

SAFETY Act Protections Extend to Users

(whether Designation or Certification)

“Such cause of action may be brought only against the Seller* of the QATT** and may not be brought against the buyers, the buyers’ contractors, downstream users of the Qualified Anti-Terrorism Technology, the Seller’s suppliers or contractors, or any other person or entity...”

Preamble to Final Rule, 6 CFR Part 25, page 33150

***Seller**- any person, firm, or other entity that provides a QATT to customer(s) and to whom a Designation has been issued.



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SAFETY Act Coverage Summary

| | DTED | Designation | Certification |
|--------------------------|--|---|---|
| Effectiveness Evaluation | Needs more proof, but potential exists | Proven effectiveness (with confidence of repeatability) | Consistently proven effectiveness (with high confidence of enduring effectiveness) |
| Protection | Liability cap only for identified test event(s) and for limited duration (≤ 3 yrs) | Liability cap for any and all deployments made within 5 year term | Government Contractor Defense (GCD) for any and all deployments made within 5 year term |



Timeline: SAFETY Act Application

Preparation: As long as you need!

Pre-applications
21 days

Full Applications
120 days

SAFETY Act Protections
36 months to 5 years



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Who are the SAFETY Act Reviewers?

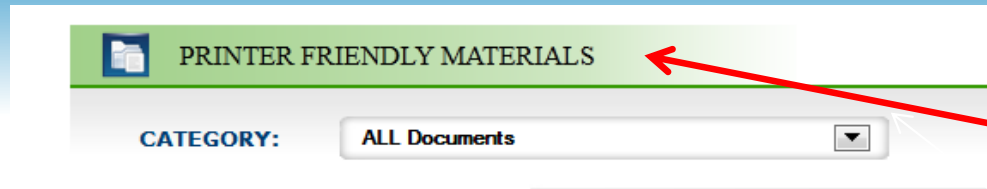
- Reviewers from the FFRDCs, non-profits, Federal Government, Federal & National Labs, and Academia
- Three Technical Reviewers and two Economic Reviewers per application
- 100+ trained reviewers (SMEs) in areas of:
 - Cyber
 - Chemical
 - Biological
 - Economic
 - Explosives
 - Rad/Nuclear
 - Human Factors



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Online Materials



Check out the Printer Friendly Materials and the FAQs!

- Application Kit (PDF)
- Application for Block Certification and Instructions
- Application for Block Designation and Instructions
- Application for Certification and Instructions
- Application for D,T and E Designation and Instructions
- Application for Designation and Certification and Instructions
- Application for Designation and Instructions
- Application for Re
- Application for Tr
- Block Standards
- Contour Instructi
- Final SAFETY Act



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Additional Information

- Online: www.safetyact.gov
- FAQs
- Help Topics
- Step-by-Step User Guide
- SAFETY Act Fact Sheet
- Help Desk: Online form for questions requiring an individual response
- Email: SAFETYActHelpDesk@dhs.gov
- Toll-Free: 1-866-788-9318



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