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SAFETY ACT

SUPPORT ANTI-TERRORISM BY FOSTERING
EFFECTIVE TECHNOLOGIES ACT OF 2002

Protecting You, Protecting U.S.

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A Summary of the SAFETY Act

- The Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (SAFETY Act) was enacted as part of the Homeland Security Act of 2002 (Title VIII, Subtitle G)
- Intended to facilitate the development and deployment of anti-terrorism technologies by creating systems of “risk management” and “litigation management”
- Protections apply only to claims arising out of, relating to, or resulting from an Act of Terrorism

What is considered an “Anti-Terrorism Technology?”

- Any technology that is designed, developed, modified or procured for preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause



What is Eligible for SAFETY Act Protections?

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

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

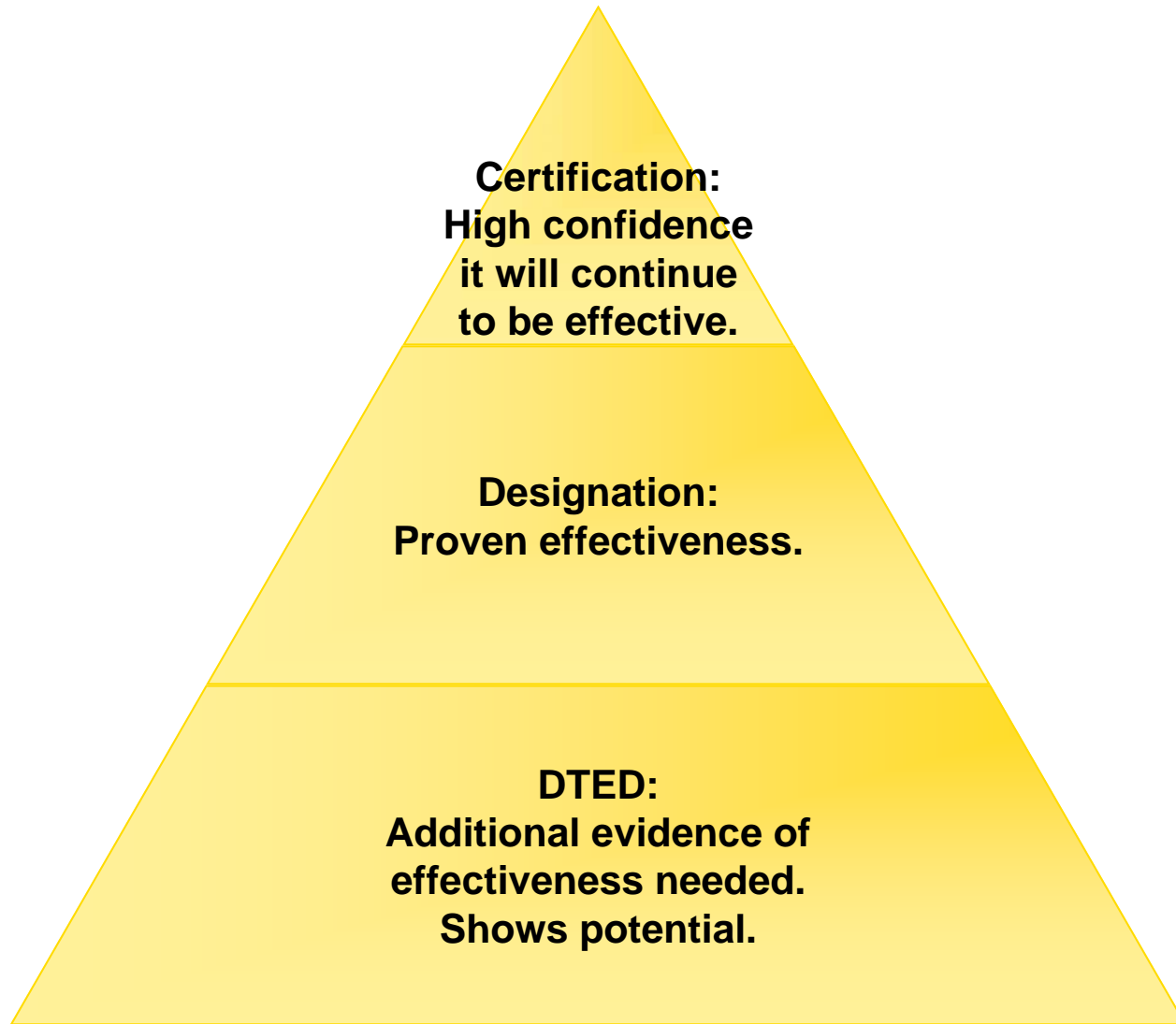
Examples of eligible technologies:

- Threat and vulnerability assessment services
 - Detection Systems
 - Blast Mitigation Materials
 - Screening Services
- Sensors and Sensor Integration
- Threatening Object Detectors
 - Decision Support Software
 - Security Services
- Crisis Management Systems



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Snapshot of the Distinction



Benefits of SAFETY Act Designation

- Liability = Insurance required by DHS
- Exclusive action in Federal court
- No joint and several liability for non-economic damages
- No punitive damages or prejudgment interest
- Plaintiff's recovery reduced by amounts from collateral sources

The Safety Act Insurance Requirement

Maximum Amount. For the total [otherwise compensable third party] claims related to 1 such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller's anti-terrorism technologies.



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SAFETY Act Protections Extend to Users

“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 QATT, the Seller’s suppliers or contractors, or any other person or entity...”

Preamble to Final Rule, 6 CFR Part 25, at 33150.

Criteria for SAFETY Act Designation

- Prior United States Government use or demonstrated substantial utility and effectiveness
- Availability of the Technology for immediate deployment in public and private settings
- Existence of extraordinarily large or unquantifiable potential third party liability risk exposure to the Seller or other provider of the technology
- Substantial likelihood that the Technology will not be deployed unless SAFETY Act risk management protections are extended
- Magnitude of risk exposure to the public if the Technology is not deployed
- Evaluation of scientific studies that can be feasibly conducted in order to assess the capability of the Technology to substantially reduce risks of harm
- Whether the Technology is effective in facilitating the defense against Acts of Terrorism
- ATT determination made by Federal, State, or Local officials



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Red=Technical criterion

Blue=Economic criterion

What Do We Look for in Terms of Effectiveness in a SAFETY Act Application?

- 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)
 - Interferents
 - 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



What Are the Benefits of SAFETY Act Certification?

In addition to the benefits provided under Designation, Certification allows a Seller to:

- Assert the Government Contractor Defense for claims arising from acts of terrorism
- Be placed on DHS's Approved Products List for Homeland Security
- Certificate of Conformance issued to the Seller

Additional Criteria for Certification

- Designation is a prerequisite for granting Certification
- To receive Certification, a Qualified Anti-terrorism Technology 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



Certification

Performs as intended:

High confidence it will continue to be effective

- Consistent positive results (e.g., long-term low failure rates and false alarms)
- Reliability/Availability is high (e.g., MTBF)
- Performs in accordance with performance specifications
- Installation, use, maintenance procedures proven
- Documented processes (e.g., training, hiring, technology refresh) are being followed
- Standards are identified and met
- QA/QC processes are effective



How is Your Proprietary Data Protected?

- Strong data protection measures that conform to DHS information security standards
- All application reviewers are screened for conflicts of interests, sign conflict of interest statements for each application they review, and sign general nondisclosure agreements



Pre-Application Consultation

- Provided at no cost (as is the rest of the program)
- Offer the opportunity to have a teleconference with the Office of SAFETY Act Implementation staff
- Receive a preliminary assessment of your product or service and its potential eligibility for SAFETY Act liability protections
- Obtain guidance for completing the applications for Designation and Certification
- Ask us questions!



Safety Act and Standards

- *Final Rule*

- The Department reiterates that it intends to protect proprietary and other protected information to the maximum extent possible. No copyrighted or otherwise protected intellectual property will be distributed by the Department without the express permission of the owner.
- The Department has to date and will continue to work closely with standard setting organizations that have sought SAFETY Act protection for antiterrorism standards. The Secretary has discretion to decide which standards are relevant with respect to the criteria for SAFETY Act Designation and Certification, and the Department remains open to the concept that a standard itself may constitute a QATT.



Additional SAFETY Act Information

The screenshot shows the homepage of the SAFETY Act website. At the top left is the U.S. Department of Homeland Security logo. The main header reads "SAFETY ACT" with the subtitle "Support Anti-terrorism by Fostering Effective Technologies Act of 2002". Navigation links include Home, Feedback, and Login. A menu bar contains ABOUT, FAQs, HELP TOPICS, HELP REQUEST, FORMS & INFO, SECURITY/PRIVACY NOTICE, and DHS.GOV. The main content area features a sidebar with "DESIGNATIONS / CERTIFICATIONS" including links for "DT&E Designations for Homeland Security", "Designations for Homeland Security", and "Approved Product List for Homeland Security". The central banner has the text "Encouraging the Development and Deployment of Anti-terrorism Technologies" and a "Download Application Kit" button. The background image shows a woman working on a laptop.

- **Online:** www.safetyact.gov
 - FAQs
 - Help Topics
 - Help Desk: Online form for questions requiring an individual response
- **Email:** helpdesk@safetyact.gov
- **Toll-Free:** 1-866-788-9318

SAFETY Act Award 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 5-8 year term | Government Contractor of Defense (GCD) for any and all deployments made within 5-8 year term |



Who are the SAFETY Act Reviewers?

- Approximately 420 experts available to review applications.
- Conflict of Interest & Non-Disclosure Agreement signed by each reviewer per application.
- Three Technical Reviewers and two Economic Reviewers per application.
- Reviewers from the FFRDCs, non-profits, Federal Government, Federal & National Labs, and Academia.
- 100+ already trained reviewers (SMEs) in:
 - Cyber
 - Economic
 - Chemical
 - Biological
 - Explosive
 - Rad/Nuc
 - Human
 - Services



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Where are SAFETY Act Products Used?

**Alltel Stadium
Jacksonville, FL**



**Kansas City
International
Airport
Kansas City, MO**



**Port of Long Beach
Long Beach, CA**



**Cal Expo
Sacramento, CA**



Examples of FY 2007 SAFETY Act Designations

The Boeing Company: Systems Engineering and Integration Services for SBInet Border Security

The Boeing Company provides *Systems Engineering and Integration Services for SBInet Border Security*. These **system engineering and integration services** provide border, infrastructure, facility, and site security solutions for the Federal Secure Border Initiative Network (SBInet) Program.

Raytheon Company: Device Relationship Management Solution

Raytheon Company provides a *Device Relationship Management Solution* that assists customers in establishing a **centralized enterprise data management system** that facilitates information exchange **between security equipment and those who operate the security equipment**.

HOK Event, Inc.: Event Security Management Services for Super Bowl XLI, Miami, Florida

HOK Event, Inc., provides *Event Security Management Services for Super Bowl XLI, Miami, Florida*. These services include the planning and coordination of perimeter and access control stations, as well as coordination with Federal, state, and local law enforcement, NFL Security, and other agencies prior to and during **the Super Bowl**.



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Examples of FY 2007 SAFETY Act Designations

American, Science & Engineering, Inc.: X-Ray Inspection Systems

American, Science & Engineering, Inc. (AS&E), provides a family of *X-ray Inspection Systems* that utilizes transmission and backscatter X-rays in different inspection settings **to search parcels, cargo, pallets, vehicles and persons.**

BAE Systems Information and Electronic Systems Integration, Inc.: First InterComm™ (First Responder Interoperable Communications) System

BAE Systems Information and Electronic Systems Integration, Inc., provides the *First InterComm™ (First Responder Interoperable Communications) System*. First InterComm™ is a system of devices that enables **communications between disparate radios and other communication devices** employed by Federal, state and local public safety agencies.

IBM Corporation: Automated Commercial Environment (ACE)

The IBM Corporation provides the *Automated Commercial Environment (ACE)*. ACE is an integrated system of Commercial-Off-The-Shelf (COTS) software, hardware and infrastructure merged with custom built software. ACE is designed to provide the capability to access data in **the international supply chain** to anticipate, identify, track, and intercept high-risk shipments.



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Examples of FY 2007 SAFETY Act Designations

Nomadics, Inc.: Fido®

Nomadics, Inc., provides the *Fido*® line of **portable trace explosives detectors**. The **product line includes** the Fido X, Fido XT, and **robot-mounted variants**, which are trace detection systems that detect vapors and particles from explosive compounds.

Isonics Corporation: EnviroSecure© Detection System models 5100 and 5700

The Isonics Corporation provides the *EnviroSecure*© Detection System for the detection of **toxic industrial chemicals and chemical warfare agents**. The Technology which includes the 5100 and 5700 models, can be used as part of an existing building's heating, ventilation, and air conditioning (**HVAC**) system to continually monitor the air for these substances.

Dow Chemical Corporation: Dow Chemical Facility Security Services

The Dow Chemical Corporation provides The *Dow Chemical Facility Security Services*, a comprehensive set of services designed to enhance security **and protect key assets**. The Designation covers those Dow Chemical facilities where the Technology is deployed and that were determined by the Coast Guard to be compliant with the security guidelines established under the Maritime Transportation Security Act of 2002, P.L. 107-295, as implemented by 33 C.F.R. Part 105 (2007). Dow's Technology includes security vulnerability assessments, protection of secure assets, protection of proprietary information and cyber security, emergency preparedness and response services, and involvement of local communities in the deployment of the Technology. It also includes an ongoing security and audit process.



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Examples of FY 2007 SAFETY Act Designations

Brijot Imaging Systems, Inc.: BIS-WDS™ Prime

Brijot Imaging Systems, Inc., provides *BIS-WDS™ Prime*, a passive millimeter wave concealed threat detection system. The Technology, which includes the Prime 1603 and the GEN 2 models, uses millimeter wave detectors to image suspicious objects made of metal, plastic, ceramic, composite, liquid, and other materials present on a subject person **from a stand-off distance**.

BIVAC N.A.: Third Party Validation Services for C-TPAT

BIVAC North America, Inc., the Bureau Veritas Group, BIVAC International, and BIVAC Asian, provide *Third Party Validation Services*, offered exclusively as part of the Customs-Trade Partnership Against Terrorism (C-TPAT) **Third Party Validators Pilot Program**. These services are designed to identify foreign companies that meet C-TPAT Minimum Security Requirements and transmit these findings to Customs and Border Protection (CBP).



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Examples of FY 2007 SAFETY Act Certifications

Northrop Grumman Space & Mission Systems Corporation: Tactical Automated Security System

Northrop Grumman Space & Mission Systems Corporation provides its *Tactical Automated Security System (TASS)*. The TASS provides planning services for the development and integration of **perimeter access security measures and responses**.

ADT Security Services, Inc.: Electronic Security Services

ADT Security Services, Inc., provides *Electronic Security Services*. These services include access control and credentialing, perimeter monitoring, motion detection, alarm system notification and monitoring, security patrols, emergency response reporting, video monitoring and recording, and automatic fire and smoke detection and monitoring. The services are intended to help **secure public and private facilities and infrastructure**.

Lockheed Martin Corporation: MetroGuard™

Lockheed Martin Corporation's *MetroGuard™*, for **public facility protection** applications, provides an early warning of chemical, biological or radiological agent release through the use of a network of single-point Remote Detector Units (RDU). The release event is communicated by the RDU to one or more base station control computers which receive and process sensor data for system operators and first responders, thus enabling implementation of response protocols.



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Examples of FY 2007 SAFETY Act Certifications

MadahCom, Inc.: Wireless Audio Visual Emergency System (WAVES)

MadahCom, Inc., provides a fixed *Wireless Audio Visual Emergency System* (WAVES) and a portable *Tactical WAVES* (TACWAVES) (collectively, WAVES). WAVES provides **mass notification to alert, warn and inform people of actions to take in the event of a terrorist attack.**

Insitu Group, Inc.: A20 Unmanned Aerial System (ScanEagle™)

The Insitu Group, Inc., provides the *A20 Unmanned Aerial System* (*ScanEagle™*), an **autonomous aerial vehicle system** designed to provide intelligence, surveillance and reconnaissance data.

Quatrotec Inc.: Baggage and Cargo Handling System (BCHS)

Quatrotec, Inc., provides its *Baggage and Cargo Handling System*. The **Technology is used to develop, design, construct, and commission in-line baggage and cargo handling systems** at airports. The Technology aids in the screening of plane-bound baggage and cargo for concealed weapons or explosives through the use of advanced technologies including, but not limited to, X-ray, millimeter wave, computed tomography (CT), and explosive trace detection devices.



Examples of FY 2007 SAFETY Act Certifications

Kollsman, Inc.: LORROS Mk II

Kollsman, Inc., provides the *Long Range Reconnaissance and Observation System (LORROS) MkII*, a **remote observation system capable of providing 24-hour video surveillance in all weather and lighting conditions**. This Technology includes the hardware selection process, and hardware and software installation and integration services.



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Examples of FY 2007 SAFETY Act DT&E

Designations

MindCo, Inc.: MINDS

MindCo, Inc., provides the *MINDS*, a security system that monitors the environment for the presence of nuclear spectra. It is designed to detect and identify the presence of **radionuclide elements**.

VeriTainer Corporation, Inc.: VeriSpreader™

VeriTainer Corporation, Inc., provides the *VeriSpreader*, a **crane-mounted radiation scanning device**.

The National Biometric Security Project: Biometric Testing and Evaluation Process

The National Biometric Security Project provides the *Biometric Testing and Evaluation Process (BTEP)*, a method of testing biometric identification products and a listing that declares the suitability of those products for homeland and conventional security applications. The Technology is designed to certify that biometric identification products meet a variety of industry best standards.



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