



U.S. DEPARTMENT OF HOMELAND SECURITY

SAFETY Act Certification

Powerful Liability Protection for Qualified Anti-Terrorism Technologies

After the tragic events of September 11th, the U.S. Congress passed into law the Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (“SAFETY Act”, 6 U.S.C. §§ 441-444) to help shield companies that sell anti-terrorism technologies from lawsuits and damages arising from acts of terrorism. By providing protection from this potentially overwhelming liability, the SAFETY Act is meant to encourage the development and deployment of new and innovative anti-terrorism solutions for both government and commercial purposes.

Under an application and approval process administered by the Department of Homeland Security (“DHS”), sellers of anti-terrorism technologies can qualify for SAFETY Act coverage if DHS determines the product or service is effective, reliable and safe. Once a seller receives SAFETY Act approval, it is entitled to powerful liability protection from third-party claims related to the performance of the anti-terrorism technology and professional services, in the event of a terrorist attack.

Not only does the SAFETY Act limit or shield the sellers of Qualified Anti-Terrorism Technologies from liability in the event of a terrorist attack, but it **limits or shields buyers from liability claims against Qualified Anti-Terrorism Technologies and the related professional services.**

The Rapid Responder Emergency Preparedness and Crisis Management System and its related professional, training and consulting services have been DHS SAFETY Act Certified. The seller and buyer have liability protection from claims arising from a terrorist act.

Prepared Response®

Enhancing Your Power to Respond

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One of the 2007 Top 50 Fastest Growing Companies in Washington State

SAFETY Act Overview

TWO LEVELS OF LIABILITY PROTECTION

Rapid Responder and its related professional, training and consulting services have been not only Designated but also Certified as a Qualified Anti-Terrorism Technology by the Department of Homeland Security.

Designation, the first level of liability protection, offers limited liability protection in the event of a terrorist event. Certification extends that to offer the fullest Federal liability protection under the U.S. Government Contractor Defense.

And while many solutions have received Designation status, only about 100 solutions have received full SAFETY Act Certification.

ABOUT SAFETY ACT CERTIFICATION

SAFETY Act Certification is the most powerful liability protection available and ensures that Rapid Responder and its professional, training and consulting services have been rigorously reviewed by the Secretary of the DHS and have consistently proven to be effective, safe and perform as intended.

Specifically, Certification provides the **Government Contractor Defense**, which shields the seller and the buyer from lawsuits brought about from an act of terrorism.

As such, Rapid Responder and its related professional, training and consulting services have been included on the Approved Product List for Homeland Security.

DESIGNATION ONLY LIABILITY PROTECTION

If a technology receives ONLY the SAFETY Act Designation, a more limited liability applies:

- The seller is liable only for the amount of product liability insurance coverage it has.
- Lawsuits against the buyer can only be brought in federal court.
- Damages against the buyer are restricted:
 - No pain and suffering damages unless physical injury has occurred.
 - No punitive damages.

LIABILITY PROTECTION TRIGGERED BY AN “ACT OF TERRORISM”

The SAFETY Act’s powerful liability protection is applicable in the event of an “act of terrorism,” as defined by the statute. The SAFETY Act defines an “act of terrorism” as an act that the Secretary of DHS determines to meet the following criteria:

- It is unlawful;
- It causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States-flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and
- It uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

Notably, the SAFETY Act’s definition of an “act of terrorism” is not the same as the definition under the Terrorism Risk Insurance Act, as amended (“TRIA”). Most importantly, the TRIA definition is limited to only damages within the U.S., or outside the U.S. to an air carrier, vessel or U.S. mission. In contrast, DHS has interpreted the SAFETY Act to apply extra-territorially, and has concluded that an “act of terrorism” may occur on foreign soil if it causes harm (including economic harm) to a person, property, or an entity in the U.S.

In addition, TRIA’s definition of an “act of terrorism” requires that the terrorist perpetrate the act to coerce or influence U.S. policy. The SAFETY Act definition has no such condition. Finally, TRIA’s definition includes a \$5 million damages minimum that does not apply under the SAFETY Act. All told, the SAFETY Act defines an “act of terrorism” in broader terms than TRIA.

For additional information, visit www.safetyact.gov.