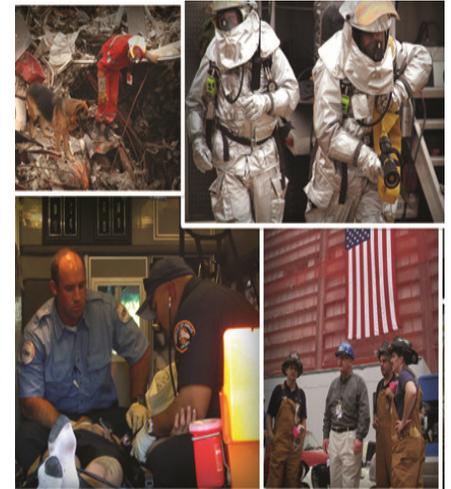


SAFETY Act 101:

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

February 2013

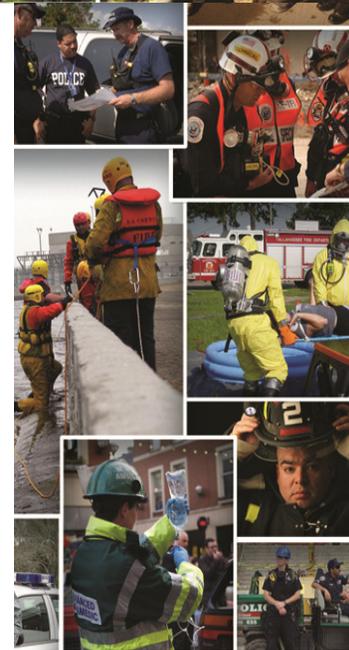


Bruce Davidson
Director, Office of SAFETY Act Implementation
DHS S&T



Homeland Security

Science and Technology





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 effective anti-terrorism technologies by creating systems of “risk management” and “litigation management” 
- Provides important legal liability protections for manufacturers and sellers of technologies and services 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



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

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 Plans / Services

Crisis Management Systems

Venue Security



Recent Approvals

- Physical security services that deter, prevent, detect, alert and respond to a variety of security threats at commercial facilities
- Active and passive perimeter vehicle barricades
- Real-time, web-based situational awareness dashboard, data surveillance and early-warning software system
- An evacuation planning tool undergoing testing and evaluation that provides evacuation modeling for sports stadiums



Recent Approvals

- Cargo screening services at TSA approved Certified Cargo Screening Facilities
- Risk management and mitigation planning services for maritime CIKR
- Explosives detection canine services
- Coastal and border surveillance system for tracking vessels in coastal maritime areas and items of interest in land border areas



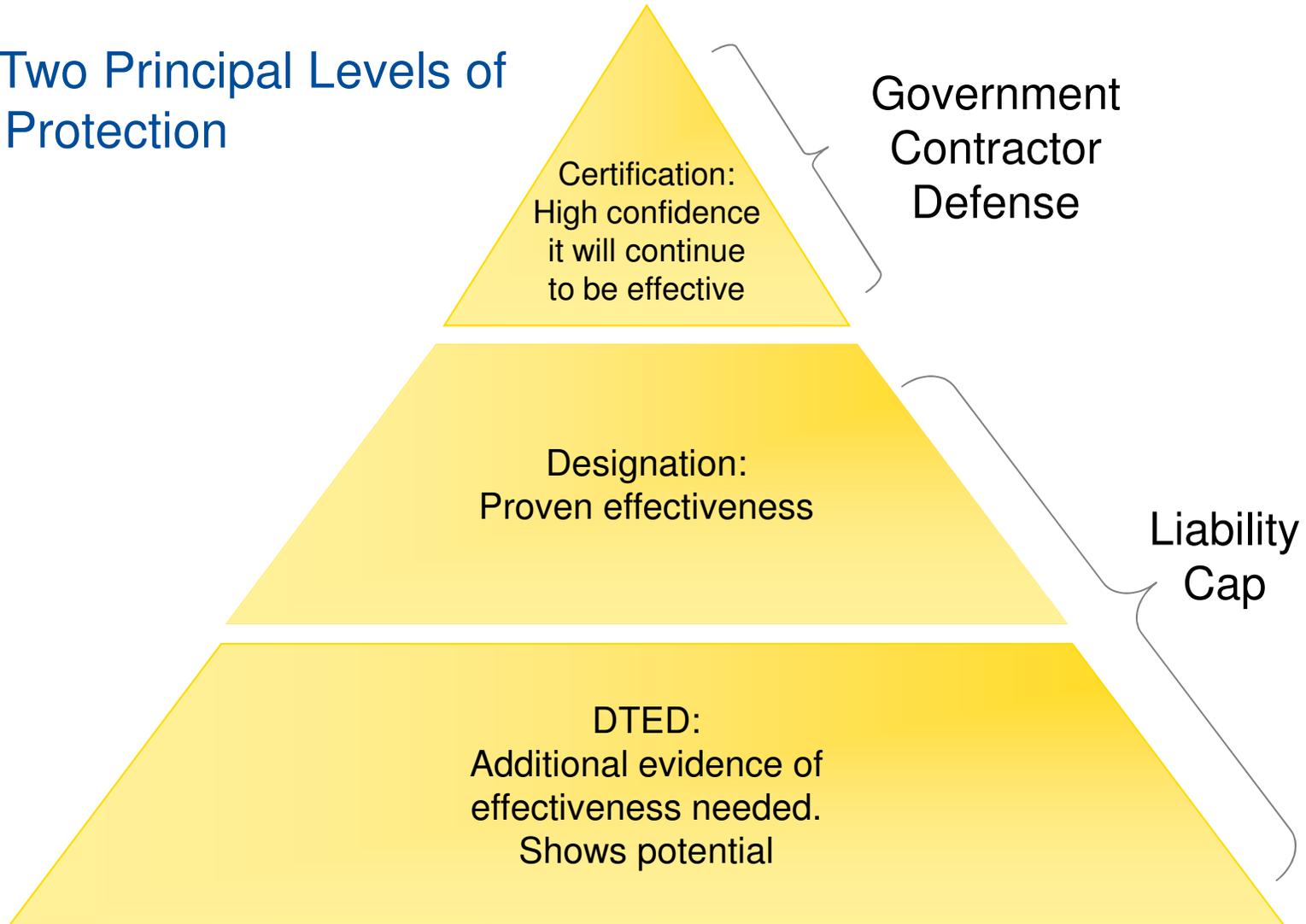
Recent Approvals

- Multi-layered security system deployed at a major venue
- Anti-terrorism detection, collection and analysis tool for the detection of terrorist surveillance and pre-attack planning
- Codes and standards that have an association with preventing, detecting, identifying, deterring acts of terrorism or limiting the damage such acts might cause
- System design, integration, monitoring and maintenance for perimeter security and anti-intrusion systems



Essential Concepts

1. Two Principal Levels of Protection





Essential Concepts

2. Benefits of Designation

- Liability = Insurance required by DHS
- Exclusive action in Federal Court
- No Joint and Several Liability for non-economic damages
- No punitive or prejudgment interest
- Recovery reduced by amounts from collateral sources



Essential Concepts

3. Benefits of Certification

- Benefits of Designation +
- Assert Government Contractor Defense
 - Even if not selling to a Government entity
 - Includes services and COTS
- Placed on SAFETY Act's Approved Product List for Homeland Security



Essential Concepts

4. 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, at 33150

*QATT (Qualified Anti-Terrorism Technology), a technology or service that is approved by DHS for SAFETY Act protections.



Essential Concepts

5. Criteria for 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

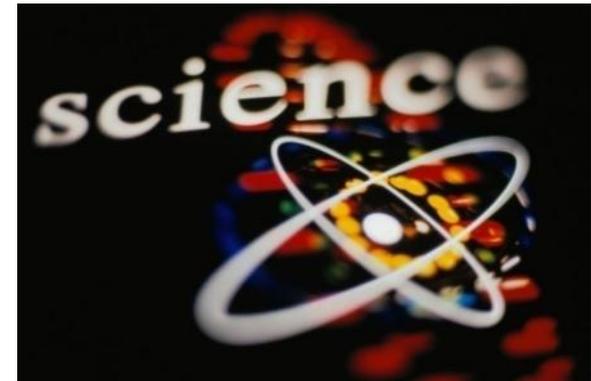
Red=Technical criterion Blue=Economic criterion



Essential Concepts

5a. How to Establish Effectiveness

- 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





Essential Concepts

6. 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



Essential Concepts

6a. Performs as Intended

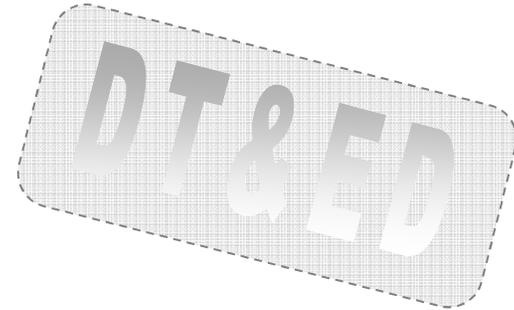
- High confidence it will continue to be effective
 - Consistent positive results (e.g., long-term low failure rates and false alarms)
 - Reliability/Availability is high (e.g., MTBF)
 - Performs in accordance with performance specifications
 - Installation, use, maintenance procedures proven
 - Documented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



Essential Concepts

7. 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 three years) and limited number of sites





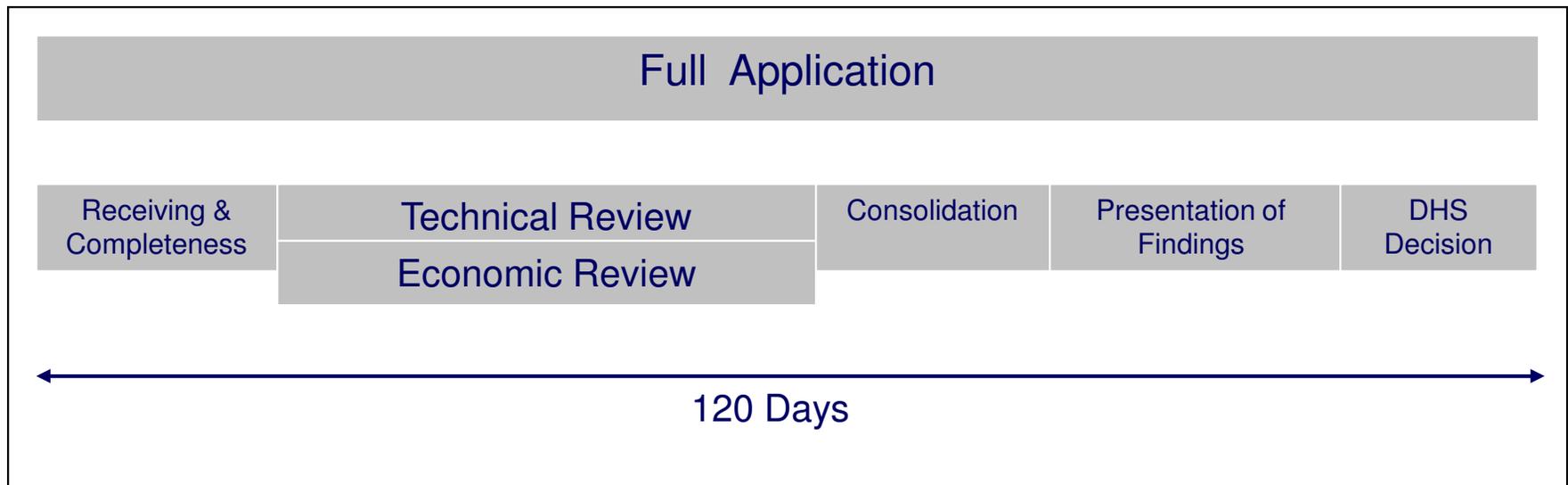
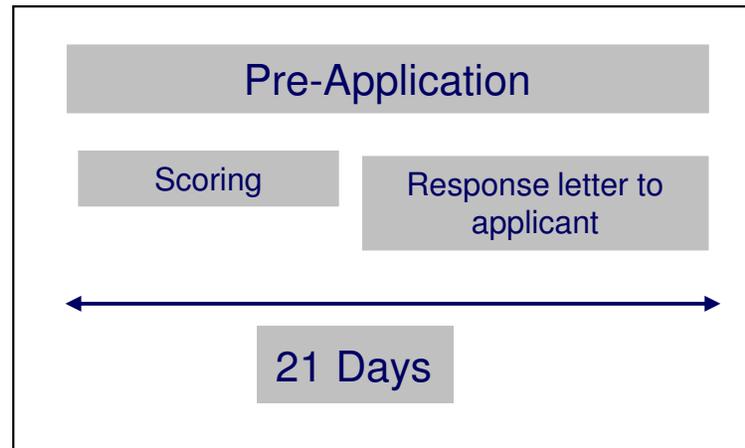
Essential Concepts

8. SAFETY Act Approval 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



Timeline: SAFETY Act Application



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





Who are the SAFETY Act Reviewers?

- Reviewers from the FFRDCs, non-profits, Federal Government, Federal & National Labs, and Academia

- 100+ trained reviewers (SMEs) in areas of:

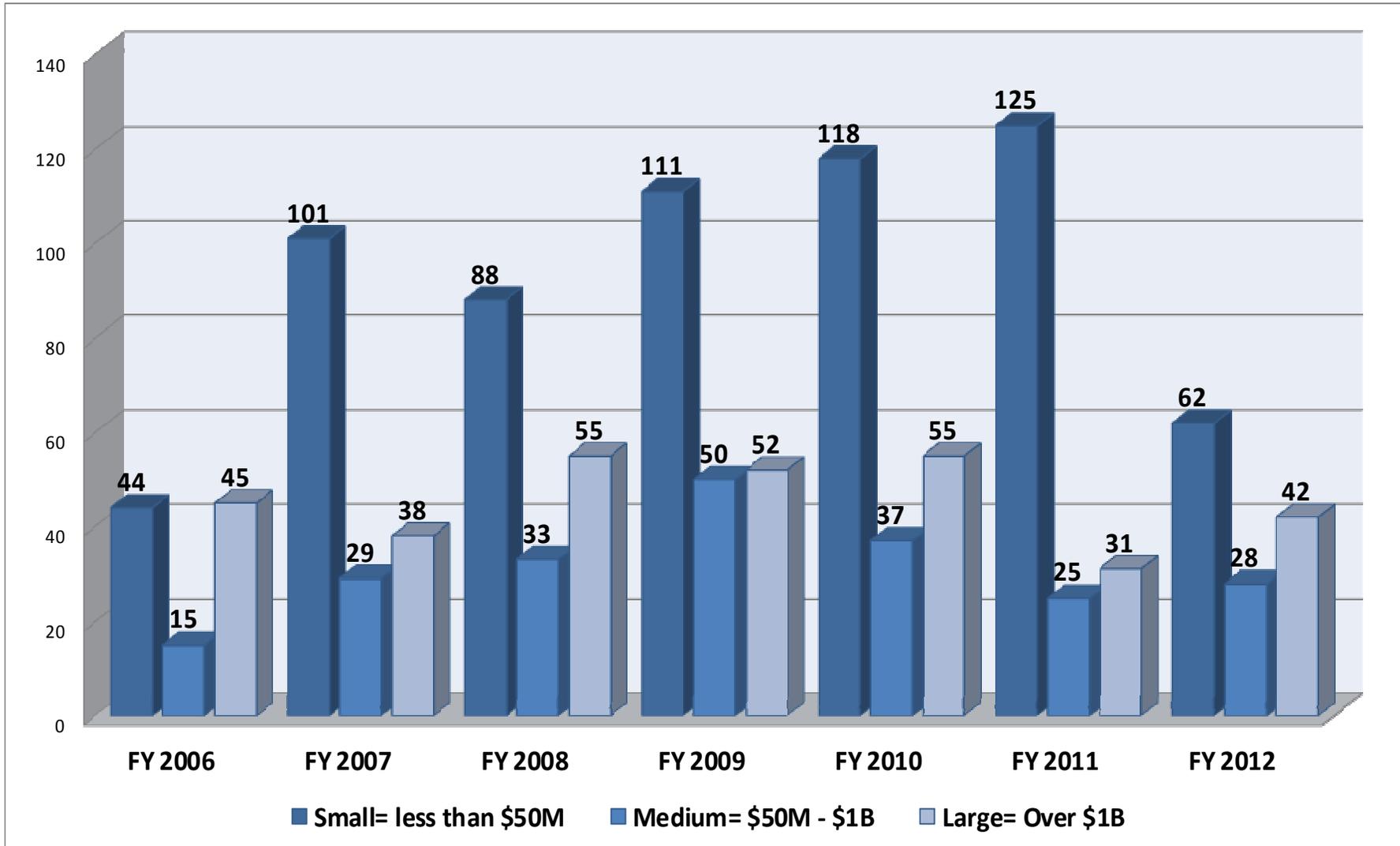
- Cyber
- Economic
- Chemical
- Biological
- Explosives
- Rad/Nuclear
- Human Factors



- Three Technical Reviewers and two Economic Reviewers per application
- Conflict of Interest & Non-Disclosure Agreement signed by each reviewer per application

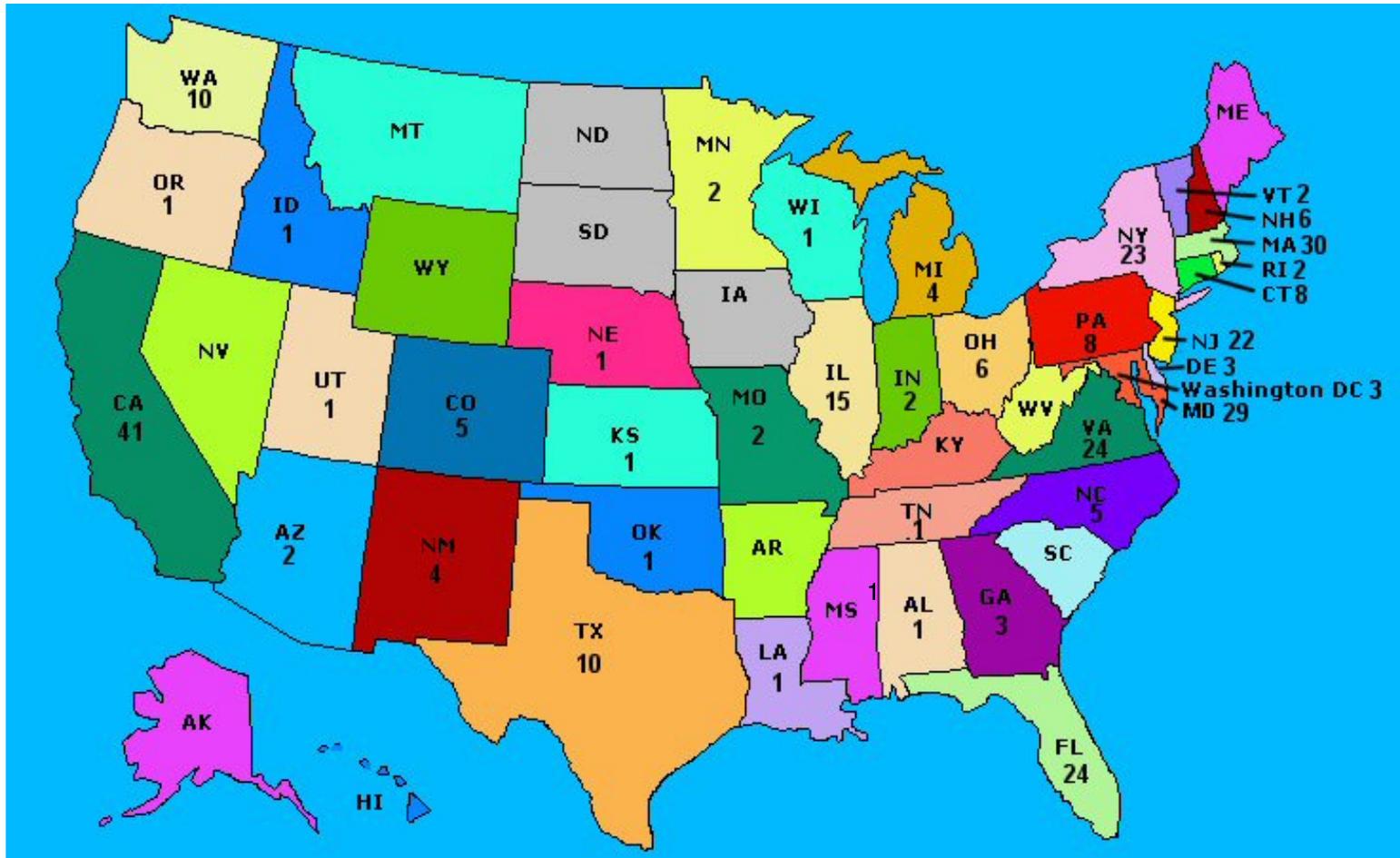


Applications by Company Size





Designated or Certified QATTs by State



*FY 11 Data



New SAFETY Act Marks





Additional SAFETY Act Information



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



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