

May 26, 2011  
311 Cannon House Office Building

**Ranking Member Yvette D. Clarke (D-NY)**  
Subcommittee on Cybersecurity,  
Infrastructure Protection and Security Technologies,  
Committee on Homeland Security

*“Unlocking the SAFETY Act’s Potential to Promote  
Technology and Combat Terrorism”*

### Opening Statement

Congress has made a promise to the makers of a wide range of anti-terrorist devices, services, and technologies, the promise is this: If such products fail during a terrorist attack, their manufacturers will be protected from American plaintiffs' lawyers, who could otherwise bring product liability suits on behalf of those injured in a terrorist attack.

That promise is contained in the "Support Antiterrorism by Fostering Effective Technologies Act of 2002", the SAFETY Act, which is part of the Homeland Security Act.

After 9/11, the SAFETY Act responded to the increased cost of insurance by attempting to protect the incentive to manufacture (or continue to manufacture) certain products designated as "Qualified Anti-terrorism Technologies" by the Secretary for Homeland Security.

Today we'll hear from Acting Under Secretary Benda, and a range of lawyers and practitioners, a large company, and importantly from a small technology company that has gone through the rigorous application process overseen by the Office of Safety Act Implementation (OSAI) in the Science and Technology Directorate of the Department.

I feel it is a good program, a useful program, and a program that has evolved over time to be an effective example of a well-run government service. And it's free; no fees are required to apply to this voluntary program. That's something we may take a look at in a different setting.

It benefits companies in many ways, some of which we'll hear today, and in turn, helps protect American citizens, and importantly protect the American taxpayer from products and technologies that may not be suited for a specific terror attack scenario, or work well as a product, *in any case*.

The Safety Act application process is rigorous for many reasons, and rightfully so. However, it appears to me that the Office of Safety Act Implementation (OSAI) and the S&T Directorate have worked hard to make the program accessible, and I want to hear more about that in detail.

What I don't want to see is a 'rubber stamp' mentality creep into the Safety Act application process, just for the sake of expediency. America has too much at stake.

I also have extraordinary concerns about the recent level of funding for the *DHS Science & Technology Directorate* (\$398M) set in the FY12 House Homeland Security Appropriations mark. If this level of funding prevails, it is estimated that it will eliminate two-thirds of Research and Development funding for the Department.

How this might affect the Safety Act and its rigorous application process, which requires substantial staff and inter-governmental coordination, is of *deep concern* to me, and I'll be listening carefully for those details today.

Finally, I'd like to request of Acting Deputy Under Secretary Benda and his staff, that he remain to listen to Panel Two; practitioners and inside-the-beltway lawyers, who advertise their services in assisting companies apply for Safety Act designation, a large company that already provides DHS with technologies, and especially to hear the experience of a small, agile, savvy technology company from Mississippi who developed a new product, and navigated the application process successfully, using only their own resources. I think it's a fascinating and instructive story.