

SMALL ENTITY STATUS DENIAL

INVOICE NUMBER

AM1294-02

LICENSE NUMBER

48-26456-01

LICENSE FEE AND DEBT COLLECTION BRANCH
DIVISION OF ACCOUNTING AND FINANCE
OFFICE OF THE CHIEF FINANCIAL OFFICER
U.S. NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555-0001

The enclosed Certification of Small Entity Status (NRC Form 526) is being returned because of the blocks checked below. Enclosed also is an additional copy of NRC Form 526 for your use. If you determine that you qualify as a small entity under a different size standard, the completed form must be returned within 10 days to the address listed above. Questions may be e-mailed to: las2@nrc.gov.

Sail Technology
2201 Vanden Rd
Madison, WI
53704

Att. A. Zimmerman

- The license number is missing.
- The invoice number is missing.
- The SIC/NAICS code is missing.
- The name and address must be entered as it appears on the annual fee invoice.
- The size standard box has not been checked. Check one box only.
- More than one size standard box was checked. Check one box only.

Gross annual receipts include all revenue in whatever form received or accrued from whatever sources, not solely receipts reported from licensed activities. For purposes of this certification, the gross annual receipts reported on the licensee's last tax return should be used to determine eligibility for small entity status. The licensee must have an average gross receipt of \$5 million or less over its last 3 fiscal years to qualify.

- The size standards apply to the licensee, not the individual authorized users listed in the license.
- A subsidiary of a large entity does not qualify as a small entity under the NRC's size standards.
- You do not meet the financial criteria under NRC's size standards.

Licensees classified as manufacturing concerns, with an average number of 500 or fewer employees during each pay period for the preceding 12 calendar months.

- Your company is not classified as a manufacturing concern according to the SIC/NAICS code.

Governmental jurisdictions referred to in the size standards are governments of cities, counties, towns, townships, villages, school districts, or special districts.

- Governmental jurisdictions with a population over 50,000 do not qualify as small entities.
- You do not meet the criteria of a governmental jurisdiction.
- The educational institution is not supported by a qualifying governmental jurisdiction.
- Federal agencies do not qualify as small entities.
- State agencies do not qualify as small entities.
- The hospital is classified as a Nongovernmental Not-For-Profit Organization in the American Hospital Association Guide.

An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an education program for which it awards academic degrees, whose educational programs are available to the public, and is not publicly supported and has 500 or fewer employees.

- You do not meet the criteria of an educational institution.

- NRC Form 526 has not been signed by the Certifying Official.
- Additional information is required.
- Other

SIGNATURE LICENSE FEE AUDITOR

DATE

CERTIFIED

DENIAL

LICENSEE CHALLENGED

Lisa DeSue

2/25/02

NRC FORM 526
(8-2001)
10 CFR 171
Effective
08/13/2001

U.S. NUCLEAR REGULATORY COMMISSION

**CERTIFICATION OF SMALL ENTITY STATUS FOR THE PURPOSES
OF ANNUAL FEES IMPOSED UNDER 10 CFR PART 171
FY 2002**

*3P Dept
1/27
credit report*

SEE IMPORTANT INSTRUCTIONS ON THE REVERSE SIDE

NAME AND ADDRESS OF LICENSEE (as it appears on the invoice):

*Soil Technology, Inc
2201 Vandron Rd
Madison, WI 53704-6795*

*3P
1/27*

INVOICE NUMBER

AM1294-02

LICENSE NUMBER

48-26456-01

E-MAIL ADDRESS

TELEPHONE (Include Area Code)

(608) 221-3501

STANDARD INDUSTRIAL CLASSIFICATION CODE

SIC

SIZE STANDARDS (Check one box only)

DO NOT RETURN THIS FORM IF YOU DO NOT QUALIFY UNDER ONE OF THESE SIZE STANDARDS

MAXIMUM ANNUAL FEE
PER LICENSED CATEGORY
(See Items 2 and 3 on back)

1. SMALL BUSINESS

A for-profit concern that provides a service or a concern not engaged in manufacturing with average gross receipts of \$5 million or less over its last 3 completed fiscal years.

- A. \$350,000 TO \$5,000,000
 B. LESS THAN \$350,000

\$ 2,300
\$ 500

2. MANUFACTURING INDUSTRY

A manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months.

- A. 35 to 500 EMPLOYEES
 B. LESS THAN 35 EMPLOYEES

\$ 2,300
\$ 500

3. SMALL ORGANIZATION

A not-for-profit organization that is independently owned and operated and has annual gross receipts of \$5 million or less.

- A. \$350,000 TO \$5,000,000
 B. LESS THAN \$350,000

\$ 2,300
\$ 500

4. SMALL GOVERNMENTAL JURISDICTION (INCLUDING PUBLICLY SUPPORTED EDUCATIONAL INSTITUTIONS*

A government of a city, county, town, township, village, school district, or special district with a population of less than 50,000.

- A. 20,000 TO 50,000 POPULATION
 B. LESS THAN 20,000 POPULATION

\$ 2,300
\$ 500

5. SMALL EDUCATIONAL INSTITUTION THAT IS NOT STATE OR PUBLICLY SUPPORTED AND HAS 500 OR FEWER EMPLOYEES*

- A. 35 to 500 EMPLOYEES
 B. LESS THAN 35 EMPLOYEES

\$ 2,300
\$ 500

* An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

CERTIFICATION

This certification MUST be signed by the owner of the entity named above or an official empowered to act on behalf of the entity.

I certify that the above named NRC licensee qualifies as a small entity under the size standards established by the NRC for its licensees in 10 CFR 2.810 (60 FR 18344). The licensee qualifies as a small entity under the specific size standard indicated above.

WARNING: 18 U.S.C. Section 1001, Act of June 25, 1948, 62 Stat. 749, makes it a criminal offense to make a willfully false statement or representation to any Department or Agency of the United States as to any matter within its jurisdiction. The submittal of willful false statements is punishable by fine or imprisonment, or both, and for purposes of this certification, may result in revocation or suspension of the license.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.	TYPED OR PRINTED NAME AND TITLE <i>SCOTT ZWAMERMAN V.P.</i>	SIGNATURE <i>[Signature]</i>	DATE <i>1/22/02</i>
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Name: TERRA ENGINEERING & CONSTR	Phone: (608) 221-3501
Address: 2201 VONDRON RD	Fax: (608) 221-4075
City: MADISON, WI 53718	Employees: 50 to 99
Contact: JOHN KARSTEN, President	Sales: \$10 to 20 Million
County: DANE	Location Type:
Metro Area: Madison, WI	Credit Rating Code *: Excellent (A)
	ABI Number: 00-217-0470
Parent Company:	Public Company:

<u>SIC</u>	<u>Primary Line of Business</u>	<u>Years</u>
1794-03	EXCAVATING CONTRACTORS	15+

<u>Key Executive</u>	<u>Title</u>	<u>Key Executive</u>	<u>Title</u>
JOHN KARSTEN	President	GARY E ZIMMERMAN	Finance Exec
GARY E ZIMMERMAN	HR Executive	GARY E ZIMMERMAN	Sales Exec

Notes:

*Scott Zimmerman
Signed 5/26*



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* Our Credit Rating Codes are indicators of probable ability to pay. They are based on business demographic factors such as number of employees, years in business, industry stability, barriers to entry, and government data. We recommend that these ratings be used primarily as a starting point and should not be the sole factor used in making a credit decision. You must obtain more information from bank and trade references, local credit bureaus, or other sources before extending credit. We are not a financial advisor and make no representations or warranties as to the accuracy, timeliness or completeness of the rating codes, and as such will not be responsible for any losses resulting from the use of this information. Furthermore, our liability, if any, will be limited to the initial cost of the credit rating fee paid by the purchaser.

examine small entity fees each year that annual fees are rebaselined. Accordingly, the NRC has re-examined the small entity fees, and does not believe that a change to the small entity fees is warranted for FY 2001. The revision to the small entity fees in FY 2000 was the first change to the fees since they were introduced in FY 1991 and FY 1992. The revised fees were based on the 25 percent increase in average total fees assessed to other materials licensees since the small entity fees were first established and changes that had occurred in the fee structure for materials licensees over time. The NRC does not consider the approximately 13 percent decrease in the average FY 2001 fees for other licensees to be significant enough to warrant another change to the small entity fees this year.

Unlike the annual fees assessed to other licensees, the small entity fees are not designed to recover the agency costs associated with particular licensees. Rather, they are designed to provide some fee relief for qualifying small entity licensees while at the same time recovering from those licensees some of the agency's costs for activities that benefit them. The costs not recovered from small entities must be recovered from other licensees. The current small entity fees of \$500 and \$2,300 provide considerable relief to many small entities.

The NRC has declined to adopt the suggestion of one commenter on the FY 2001 proposed fee rule that the NRC establish additional tiers of annual fees for small entities to further reduce the license fee burden on smaller entities. Reductions in the fees for small entities must be paid by other NRC licensees in order to meet the requirements of OBRA-90, as amended, that NRC must recover most of its budget through fees. While establishing more tiers would provide additional fee relief for some small entities, it would result in an increase in the small entity subsidy other licensees pay. For FY 2000, approximately 35 percent of the small entities qualifying for reduced annual fees qualified for the lower tier small entity fee. The NRC believes that maintaining a single lower tier annual fee for small entities with relatively low gross annual receipts of less than \$350,000, for small governmental jurisdictions with a population of less than 20,000, and for manufacturing entities that have an average of less than 35 employees continues to provide a further reduction of the impact of the annual fees to a significant number of small entities.

In the future the NRC plans to re-examine the small entity fees every two years, in the same years in which it conducts the biennial review of fees as required by the CFO Act, instead of each year that annual fees are rebaselined as indicated in the FY 2000 fee rule. The annual fees for materials users now include the cost of amendments, renewals, and inspections. However, at a maximum, annual fees are rebaselined every three years, but may be rebaselined earlier if warranted. Therefore, reviewing the small entity fees only when the annual fees are rebaselined results in a variable schedule for the re-examinations and any potential changes to the fees. Re-examining the small entity annual fees every two years, on the same

schedule as the biennial review under the CFO Act, provides a routine, predictable schedule and allows licensees to anticipate when potential changes to these fees might occur. Therefore, the NRC plans to re-examine the small entity fees in FY 2003.

IV. Summary

The NRC has determined that the 10 CFR part 171 annual fees significantly impact a substantial number of small entities. A maximum fee for small entities strikes a balance between the requirement to recover 98 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. On the basis of its regulatory flexibility analysis, the NRC concludes that a maximum annual fee of \$2,300 for small entities and a lower-tier small entity annual fee of \$500 for small businesses and not-for-profit organizations with gross annual receipts of less than \$350,000, small governmental jurisdictions with a population of less than 20,000, small manufacturing entities that have less than 35 employees, and educational institutions that are not State or publicly supported and have less than 35 employees, reduces the impact on small entities. At the same time, these reduced annual fees are consistent with the objectives of OBRA-90. Thus, the fees for small entities maintain a balance between the objectives of OBRA-90 and the RFA. Therefore, the analysis and conclusions established in the FY 2000 fee rule remain valid for FY 2001.

Attachment 1 to Appendix A—Nuclear Regulatory Commission Small, Entity Compliance Guide, Fiscal Year 2001

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Introduction

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires all Federal agencies to prepare a written guide for each "major" final rule as defined by the Act. The NRC's fee rule, published annually to comply with the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, is considered a "major" rule under SBREFA. Therefore, in compliance with the law, this compliance guide has been prepared to assist NRC material licensees in complying with the FY 2001 fee rule.

Licensees may use this guide to determine whether they qualify as a small entity under NRC regulations and are eligible to pay reduced FY 2001 annual fees assessed under 10 CFR part 171. The NRC has established two tiers of separate annual fees for those materials licensees who qualify as small entities under NRC's size standards.

Licensees who meet NRC's size standards for a small entity must submit a completed NRC Form 526 "Certification of Small Entity Status for the Purposes of Annual Fees Imposed Under 10 CFR part 171" to qualify for the reduced annual fee. Effective with the final FY 2001 fee rule, the NRC will phase out sending NRC Form 526 with each

materials license annual fee invoice. This form can be accessed on the NRC's external web site at <http://www.nrc.gov>. The form can then be accessed by selecting "Planning & Financial Management" and then selecting "NRC License Fee Program" and under "Forms" selecting NRC Form 526. Licensees who cannot access the NRC's external web site may obtain NRC Form 526 through the local point of contact listed in the NRC's "Materials Annual Fee Billing Handbook," NUREG/BR-0238, which is enclosed with each annual fee billing. Alternatively, the form may be obtained by calling the fee staff at 301-415-7554, or by e-mailing the fee staff at fees@nrc.gov. The completed form, the appropriate small entity fee, and the payment copy of the invoice should be mailed to the U.S. Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch, to the address indicated on the invoice. Failure to file the NRC small entity certification Form 526 in a timely manner may result in the denial of any refund that might otherwise be due.

NRC Definition of Small Entity

The NRC has defined a small entity for purposes of compliance with its regulations (10 CFR 2.810) as follows:

1. *Small business*—a for-profit concern that provides a service or a concern not engaged in manufacturing with average gross receipts of \$5 million or less over its last 3 completed fiscal years;
2. *Manufacturing industry*—a manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months;
3. *Small organization*—a not-for-profit organization which is independently owned and operated and has annual gross receipts of \$5 million or less;
4. *Small governmental jurisdiction*—a government of a city, county, town, township, village, school district or special district with a population of less than 50,000;
5. *Small educational institution*—an educational institution supported by a qualifying small governmental jurisdiction, or one that is not state or publicly supported and has 500 or fewer employees.¹

To further assist licensees in determining if they qualify as a small entity, we are providing the following guidelines, which are based on the Small Business Administration regulations.

1. A small business concern is an independently owned and operated entity which is not considered dominant in its field of operations.
2. The number of employees means the total number of employees in the parent company, any subsidiaries and/or affiliates, including both foreign and domestic locations (i.e., not solely the number of

¹ An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

employees working for the licensee or conducting NRC licensed activities for the company).

3. Gross annual receipts includes all revenue received or accrued from any source, including receipts of the parent company, any subsidiaries and/or affiliates, and account for both foreign and domestic

locations. Receipts include all revenues from sales of products and services, interest, rent, fees, and commissions, from whatever sources derived (i.e., not solely receipts from NRC licensed activities).

4. A licensee who is a subsidiary of a large entity does not qualify as a small entity.

NRC Small Entity Fees

In 10 CFR 171.16 (c), the NRC has established two tiers of small entity fees for licensees that qualify under the NRC's size standards. The fees are as follows:

	Maximum annual fee per licensed category
<i>Small Business Not Engaged in Manufacturing and Small Not-For Profit Organizations (Gross Annual Receipts):</i>	
\$350,000 to \$5 million	\$2,300
Less than \$350,000	500
<i>Manufacturing entities that have an average of 500 employees or less:</i>	
35 to 500 employees	2,300
Less than 35 employees	500
<i>Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):</i>	
20,000 to 50,000	2,300
Less than 20,000	500
<i>Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Less:</i>	
35 to 500 employees	2,300
Less than 35 employees	500

To pay a reduced annual fee, a licensee must use NRC Form 526. Effective with the final FY 2001 fee rule, the NRC is phasing out mailing NRC Form 526 with each annual fee invoice issued to materials licensees. Instead, licensees can access this form on the NRC's external web site at <http://www.nrc.gov>. The form can then be accessed by selecting "Planning & Financial Management" and then selecting "NRC License Fee Program" and under "Forms" selecting NRC Form 526. Those licensees that qualify as a "small entity" under the NRC size standards at 10 CFR 2.810 would be able to complete the form in accordance with the instructions provided, and submit the completed form and the appropriate payment to the address provided on the invoice. Licensees who cannot access the NRC's external web site may obtain NRC Form 526 through the local point of contact listed in the NRC's "Materials Annual Fee Billing Handbook," NUREG/BR-0238, which is enclosed with each annual fee invoice. Alternatively, licensees may obtain the form by calling the fee staff at 301-415-7544, or by e-mailing us at fees@nrc.gov.

Instructions for Completing NRC Small Entity Form 526

1. File a separate NRC Form 526 for each annual fee invoice received.
2. Complete all items on NRC Form 526 as follows:
 - a. The license number and invoice number must be entered exactly as they appear on the annual fee invoice.
 - b. The Standard Industrial Classification (SIC) Code must be entered if known.
 - c. The licensee's name and address must be entered as they appear on the invoice. Name and/or address changes for billing purposes must be annotated on the invoice. Correcting the name and/or address on NRC Form 526, or on the invoice does not constitute a request to amend the license. Any request to amend a license is to be submitted to the

respective licensing staffs in the NRC Regional or Headquarters Offices.

d. Check the appropriate size standard for which the licensee qualifies as a small entity. Check only one box. Note the following:

(1) A licensee who is a subsidiary of a large entity does not qualify as a small entity.

(2) The size standards apply to the licensee, including all parent companies and affiliates—not the individual authorized users listed in the license or the particular segment of the organization that uses licensed material.

(3) Gross annual receipts means all revenue in whatever form received or accrued from whatever sources—not solely receipts from licensed activities. There are limited exceptions as set forth at 13 CFR 121.104. These are: The term receipts excludes net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income; proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS); and amounts collected for another entity by a travel agent, real estate agent, advertising agent, or conference management service provider.

(4) The owner of the entity, or an official empowered to act on behalf of the entity, must sign and date the small entity certification.

The NRC sends invoices to its licensees for the full annual fee, even though some entities qualify for reduced fees as a small entity. Licensees who qualify as a small entity and file NRC Form 526, which certifies eligibility for small entity fees, may pay the reduced fee, which for a full year is either \$2,300 or \$500 depending on the size of the entity, for each fee category shown on the invoice. Licensees granted a license during the first six months of the fiscal year, and licensees who file for termination or for a possession only license and permanently cease licensed activities during the first six months of the fiscal year, pay only 50 percent of the annual

fee for that year. Such an invoice states the "Amount Billed Represents 50% Proration." This means the amount due from a small entity is not the prorated amount shown on the invoice, but rather one-half of the maximum annual fee shown on NRC Form 526 for the size standard under which the licensee qualifies, resulting in a fee of either \$1150 or \$250 for each fee category billed, instead of the full small entity annual fee of \$2,300 or \$500.

A new small entity form (NRC Form 526) must be filed with the NRC each fiscal year to qualify for reduced fees in that year. Because a licensee's "size," or the size standards, may change from year to year, the invoice reflects the full fee and a new Form 526 must be completed and returned in order for the fee to be reduced to the small entity fee amount. Licensees will not be issued a new invoice for the reduced amount. The completed NRC Form 526, the payment of the appropriate small entity fee, and the "Payment Copy" of the invoice should be mailed to the U.S. Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch at the address indicated on the invoice.

If you have questions regarding the NRC's annual fees, please call the license fee staff at 301-415-7554, e-mail the fee staff at fees@nrc.gov, or write to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Office of the Chief Financial Officer.

False certification of small entity status could result in civil sanctions being imposed by the NRC under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 et. seq. NRC's implementing regulations are found at 10 CFR part 13.

[FR Doc. 01-14856 Filed 6-13-01; 8:45 am]

BILLING CODE 7590-01-P