

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.: 2008-1434-PST-E TCEQ ID: RN101564995 CASE NO.: 36478**  
**RESPONDENT NAME: Se Young Corporation dba Family Mart**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Family Mart, 205 South Collins Street, Arlington, Tarrant County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 16, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Young Bae, Owner/Registered Agent, Se Young Corporation dba Family Mart, 275 East Vista Ridge Mall Drive #6712, Lewisville, Texas 75067  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 23, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 21, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to provide proper release detection for the product piping associated with the underground storage tank ("UST") system. Specifically, the pressurized underground product piping was not being monitored for releases [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>2) Failure to ensure that all tanks are monitored for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the UST was not being monitored for releases on a monthly basis [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>3) Failure to ensure that at least one facility representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the TCEQ [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failure to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever comes first. Specifically, at the time of the investigation the annual Pressure Decay,</p>	<p><b>Total Assessed:</b> \$6,271</p> <p><b>Total Deferred:</b> \$1,254  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$217 (remaining \$4,800 due in 24 monthly payments of \$200 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. On August 11, 2008, performed piping tightness test and line leak detector test; and</p> <p>b. On August 14, 2008, successfully performed annual Stage II compliance tests.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Begin monitoring the UST system for releases at least once per month; and</p> <p>ii. Ensure that a facility representative receives training on the operation and maintenance of the Stage II system.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision a.</p>

<p>Flow Rate Determination and V/L Ratio compliance testing had not been successfully completed. The last successful annual compliance testing was performed on April 30, 2007 [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): 74186





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	25-Aug-2008	<b>Screening</b>	4-Sep-2008	<b>EPA Due</b>	
	<b>PCW</b>	15-Sep-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Se Young Corporation dba Family Mart
<b>Reg. Ent. Ref. No.</b>	RN101564995
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36478	<b>No. of Violations</b>	3
<b>Docket No.</b>	2008-1434-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$6,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$300
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**Notes** The Respondent received one previous NOV for same or similar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$625
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$671  
 Approx. Cost of Compliance \$2,550  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,675
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	10.5%	<b>Adjustment</b>	\$596
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommended upward adjustment in the penalty due to avoided cost associated with Violation Nos. 1 and 3.

<b>Final Penalty Amount</b>	\$6,271
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,271
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,254
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$5,017
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Screening Date 4-Sep-2008

Docket No. 2008-1434-PST-E

PCW

Respondent Se Young Corporation dba Family Mart

Policy Revision 2 (September 2002)

Case ID No. 36478

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101564995

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cheryl Thompson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The Respondent received one previous NOV for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

<b>Screening Date</b> 4-Sep-2008		<b>Docket No.</b> 2008-1434-PST-E		<b>PCW</b>				
<b>Respondent</b> Se Young Corporation dba Family Mart			<i>Policy Revision 2 (September 2002)</i>					
<b>Case ID No.</b> 36478			<i>PCW Revision June 12, 2008</i>					
<b>Reg. Ent. Reference No.</b> RN101564995								
<b>Media [Statute]</b> Petroleum Storage Tank								
<b>Enf. Coordinator</b> Cheryl Thompson								
<b>Violation Number</b>		<input type="text" value="1"/>						
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)						
<b>Violation Description</b>		Failed to provide proper release detection for the product piping associated with underground storage tank (UST) systems. Specifically, the pressurized underground product piping was not being monitored for releases. Failed to ensure that all tanks are monitored for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the UST was not being monitored for releases on a monthly basis.						
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>								
OR	<b>Release</b>		<b>Harm</b>		<b>Percent</b> <input type="text" value="25%"/>			
	Actual	Potential	Major	Moderate		Minor		
		x						
<b>&gt;&gt; Programmatic Matrix</b>								
<b>Falsification</b>		<b>Major</b>		<b>Moderate</b>		<b>Minor</b>		<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>		Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or the environment.						
<b>Adjustment</b>								<input type="text" value="\$7,500"/>
								<input type="text" value="\$2,500"/>
<b>Violation Events</b>								
Number of Violation Events			<input type="text" value="1"/>	Number of violation days		<input type="text" value="19"/>		
<i>mark only one with an x</i>		daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>				
		monthly	x					
		quarterly	<input type="text"/>					
		semiannual	<input type="text"/>					
		annual	<input type="text"/>					
		single event	<input type="text"/>					
One monthly event is recommended from the period of July 23, 2008 (date of investigation) to August 11, 2008 (date of compliance).								
<b>Good Faith Efforts to Comply</b>								
			<b>0.0% Reduction</b>		<input type="text" value="\$0"/>			
			Before NOV		NOV to EDPRP/Settlement Offer			
Extraordinary		<input type="text"/>						
Ordinary		<input type="text"/>						
N/A		x	(mark with x)					
<b>Notes</b>		The Respondent does not meet the good faith criteria for this violation.						
<b>Violation Subtotal</b>								<input type="text" value="\$2,500"/>
<b>Economic Benefit (EB) for this violation</b>					<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<input type="text" value="\$329"/>		<b>Violation Final Penalty Total</b>		<input type="text" value="\$2,901"/>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>								<input type="text" value="\$2,901"/>

## Economic Benefit Worksheet

**Respondent** Se Young Corporation dba Family Mart  
**Case ID No.** 36478  
**Reg. Ent. Reference No.** RN101564995  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	23-Jul-2008	30-Apr-2009	0.77	\$58	n/a	\$58

**Notes for DELAYED costs** Estimated cost to monitor the UST system for releases at a frequency of at least once every month. The date required is the investigation date. The final date is the projected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$250	23-Jul-2007	11-Aug-2008	1.97	\$21	\$250	\$271
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs** Actual cost for conducting annual piping tightness test and line leak detector test. The date required is one year prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance \$1,750

**TOTAL** \$329

<b>Screening Date</b> 4-Sep-2008		<b>Docket No.</b> 2008-1434-PST-E		<b>PCW</b>	
<b>Respondent</b> Se Young Corporation dba Family Mart				<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 36478				<i>PCW Revision June 12, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN101564995					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Cheryl Thompson					
<b>Violation Number</b>		<input type="text" value="2"/>			
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>		Failed to ensure that at least one facility representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the TCEQ.			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	x	<input type="text"/>	
<b>Percent</b>				<input type="text" value="10%"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>				<input type="text" value="0%"/>	
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.				
<b>Adjustment</b>				<input type="text" value="\$9,000"/>	
				<input type="text" value="\$1,000"/>	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<input type="text" value="43"/>	<b>Number of violation days</b>	
<i>mark only one with an x</i>	daily	<input type="text"/>	<input type="text"/>	<b>Violation Base Penalty</b>	
	monthly	<input type="text"/>	<input type="text"/>		
	quarterly	x	<input type="text"/>		
	semiannual	<input type="text"/>	<input type="text"/>		
	annual	<input type="text"/>	<input type="text"/>		
	single event	<input type="text"/>	<input type="text"/>		
One quarterly event is recommended from the period of July 23, 2008 (date of investigation) to September 4, 2008 (date of screening).					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/>	<b>Reduction</b>	<input type="text" value="\$0"/>	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>		
N/A	x	(mark with x)			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.				
<b>Violation Subtotal</b>				<input type="text" value="\$1,000"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<input type="text" value="\$17"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,160"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$1,160"/>	

## Economic Benefit Worksheet

**Respondent:** Se Young Corporation dba Family Mart  
**Case ID No.:** 36478  
**Reg. Ent. Reference No.:** RN101564995  
**Media:** Petroleum Storage Tank  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	23-Jul-2008	4-Apr-2009	0.70	\$17	n/a	\$17
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to train facility representatives on the operation of Stage II equipment. The date required is the date of investigation and final date is the projected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance	\$500	<b>TOTAL</b>	\$17
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<b>Screening Date</b> 4-Sep-2008	<b>Docket No.</b> 2008-1434-PST-E	<b>PCW</b>	
<b>Respondent</b> Se Young Corporation dba Family Mart		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 36478		<small>PCW Revision June 12, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101564995			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Cheryl Thompson			
<b>Violation Number</b>	3		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever comes first. Specifically, at the time of the investigation the annual Pressure Decay, Flow Rate Determination and V/L Ratio compliance testing had not been successfully completed. The last successful annual compliance testing was performed on April 30, 2007.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Release</b>	<b>Harm</b>	
		Major    Moderate    Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>
			<b>Minor</b>
	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or the environment.		
<b>Adjustment</b>		\$7,500	
		<b>\$2,500</b>	
<b>Violation Events</b>			
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<input type="text" value="365"/> <b>Number of violation days</b>
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text" value="x"/>	
single event	<input type="text"/>		
One annual event is recommended for the 12 month period preceding the July 23, 2008 investigation.			
<b>Good Faith Efforts to Comply</b>		<b>25.0%</b> Reduction	<b>\$625</b>
	<b>Before NOV</b>	<b>NOV to EDRP/Settlement Offer</b>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text" value="x"/>	<input type="text"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>	
<b>Notes</b>	The Respondent returned to compliance on August 14, 2008.		
<b>Violation Subtotal</b>		<b>\$1,875</b>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$325"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$2,210"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<b>\$2,210</b>	

## Economic Benefit Worksheet

**Respondent:** Se Young Corporation dba Family Mart  
**Case ID No.:** 36478  
**Reg. Ent. Reference No.:** RN101564995  
**Media:** Petroleum Storage Tank  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	23-Jul-2007	14-Aug-2008	1.96	\$25	\$300	\$325
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for annual testing of the Stage II equipment. The date required is one year prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance

\$300

**TOTAL**

\$325

## Compliance History

Customer/Respondent/Owner-Operator: CN602949836 SE Young Corporation Classification: AVERAGE Rating: 1.17  
 Regulated Entity: RN101564995 FAMILY MART Classification: AVERAGE Site Rating: 1.17  
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 74186  
 REGISTRATION  
 Location: 205 S COLLINS ST, ARLINGTON, TX, 76010 Rating Date: 9/1/2008 Repeat Violator: NO  
 TCEQ Region: REGION 04 - DFW METROPLEX  
 Date Compliance History Prepared: October 01, 2008  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: September 24, 2003 to September 24, 2008  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Cheryl Thompson Phone: (817) 588-5886

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? SE Young Corporation
4. If Yes, who was/were the prior owner(s)?  
Chi Minhum  
Pak-Chi Inc.  
Ariana Shawn, Inc.
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/19/2004	(266206)
2	05/25/2004	(273193)
3	05/18/2006	(464348)
4	08/14/2008	(699526)
5	08/21/2008	(687603)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/19/2004 (266206)

Self NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality (TCEQ), the U.S. Environmental Protection Agency (EPA), or any local program.

Self NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to verify proper operation of the Stage II equipment at least once every 12 months for the TXP-102, TXP-104 and TXP-201.5 TXP-101 and TXP-103, which must be performed at least once every 36 months.

Self NO Classification: Moderate  
Report?

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: Failure to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including the absence or disconnection of any component that is a part of the approved system.

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
SE YOUNG CORPORATION DBA	§	TEXAS COMMISSION ON
FAMILY MART	§	
RN101564995	§	ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1434-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Se Young Corporation dba Family Mart ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 205 South Collins Street in Arlington, Tarrant County, Texas (the "Station").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
4. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 26, 2008.

6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of Six Thousand Two Hundred Seventy-One Dollars (\$6,271) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Seventeen Dollars (\$217) of the administrative penalty and One Thousand Two Hundred Fifty-Four Dollars (\$1,254) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Eight Hundred Dollars (\$4,800) of the administrative penalty shall be payable in 24 monthly payments of Two Hundred Dollars (\$200) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

10. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:

a. On August 11, 2008, performed piping tightness test and line leak detector test; and

b. On August 14, 2008, successfully performed annual Stage II compliance tests.

11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

12. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to provide proper release detection for the product piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 23, 2008. Specifically, the pressurized underground product piping was not being monitored for releases.
2. Failed to ensure that all tanks are monitored for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(a) and (c)(1), as documented during an investigation conducted on July 23, 2008. Specifically, the UST was not being monitored for releases on a monthly basis.
3. Failed to ensure that at least one facility representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the TCEQ, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 23, 2008.
4. Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever comes first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 23, 2008. Specifically, at the time of the investigation the annual Pressure Decay, Flow Rate Determination and V/L Ratio compliance testing had not been successfully completed. The last successful annual compliance testing was performed on April 30, 2007.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Se Young Corporation dba Family Mart, Docket No. 2008-1434-PST-E" to:

Financial Administration Division, Revenues Section

Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order:

- i. Begin monitoring the UST system for releases at least once per month, in accordance with 30 TEX. ADMIN. CODE § 334.50 (relating to Release Detection); and
- ii. Ensure that a facility representative receives training on the operation and maintenance of the Stage II system, in accordance with 30 TEX. ADMIN. CODE § 115.248 (relating to Training Requirements).

b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Se Young Corporation dba Family Mart  
DOCKET NO. 2008-1434-PST-E  
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### SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*John Erdwin*  
For the Executive Director

3/9/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*J Bae*  
Signature

2-26-09  
Date

Young Bae  
Name (Printed or typed)  
Authorized Representative of  
Se Young Corporation dba Family Mart

Owner  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.