

**Inspection #**  
**253777**

ARIZONA DEPARTMENT OF WEIGHTS AND MEASURES  
INSPECTION ASSIGNMENT  
ARS 41-2065(A)(13)

**Package**  
Origin COM

253777 FRY'S FOOD AND DRUGS

<b>BMF #</b> 2497 <b>FRYS FOOD AND DRUG STORE #0006</b> 5771 W THUNDERBIRD RD GLENDALE, AZ 85306  Contact: <del>BUDDY JOLICOEUR</del> <b>MARK REINKE</b> Phone: 602-978-9488 Fax Email: Corporate Email: Business.license@kroger.com	Expires: 09/01/2014  <b>License Data</b> # - FeeCode 18 001	<b>Assigned For:</b> 06/18/2014 Time: Contractor: Assigned To: 234 Cesar Rodriguez  Inspection Date: <u>6/20/14</u> Time In / Out: <u>6:45</u> <u>11:30</u>  Cancel Inspection 110 111 112 113																														
<b>Inspection Notes</b> Just go thru the process and let him know. <b>Mark Reinke</b> <b>mark.reinke@frysfood.com</b>		<b>Inspection History</b> <table border="1"><thead><tr><th>Date</th><th>Type</th><th>#</th><th>Origin</th><th>Fail Codes</th></tr></thead><tbody><tr><td>8/31/2011</td><td>PRC</td><td>1</td><td>SCH</td><td>CR:99.2</td></tr><tr><td>8/31/2011</td><td>SMS</td><td>18</td><td>SCH</td><td>103 102 107</td></tr><tr><td>8/31/2011</td><td>UPC</td><td>1</td><td>SCH</td><td>CR:100</td></tr><tr><td>9/8/2008</td><td>PRC</td><td>1</td><td>SCH</td><td>CR:100</td></tr><tr><td>9/8/2008</td><td>UPC</td><td>1</td><td>SCH</td><td>CR:98</td></tr></tbody></table>	Date	Type	#	Origin	Fail Codes	8/31/2011	PRC	1	SCH	CR:99.2	8/31/2011	SMS	18	SCH	103 102 107	8/31/2011	UPC	1	SCH	CR:100	9/8/2008	PRC	1	SCH	CR:100	9/8/2008	UPC	1	SCH	CR:98
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**Complaint #** 28551 **Notified Date** 6/20/14 **Notified By** Phone **Resolution** Valid - Product found to be Short Weight

**Description:** Product: Heritage Farms Chicken Breasts, -> I purchased a package of Heritage Farms boneless, skinless chicken breasts with a net weight of 3.8 pounds. The package comes with a thick, heavy pad under the chicken. When I weighed the chicken breasts, the total weight was about 3 lb. 5 oz. (3.3 pounds). One half pound less than the stated net weight. The pad weighed 8 oz. Adding the pad weight to the chicken weight equals 3.8 pounds.

This is the second sample of Heritage Farms chicken breasts bought from Frys Food. The first was on May 25, 2014 from the Frys at 75th Avenue and Cactus which raised my concern that the net weight included the half pound pad.  
-> Contact complainant Name: Daniel DiTuro

**Failures:**

400 401 402 DWM FX

CP to:

Kroger Co.



# ARIZONA DEPARTMENT OF WEIGHTS AND MEASURES

4425 West Olive Avenue, Suite # 134 Glendale AZ. 85302  
Phone: 602-771-4920 or 1-800-277-6675 (Outside of Phoenix Metro) Fax: 623 939-8586  
Agency contact: Shawn Marquez (602) 771-4929 www.azdwm.gov

BMF # 2497

INSPECTION # 253777

Pursuant to ARS §41-1009, Regulatory Bill of Rights, our Department representative must provide the following information when initiating an inspection:

1. Upon entry of the premises, photo identification must be immediately presented.
2. You must be informed of the purpose of the inspection. The legal authority for conducting the inspection is:

<input checked="" type="checkbox"/> Complaints, ARS §41-2065(A)(6)	<input type="checkbox"/> Commercial Device, ARS §41-2065 (A)(6)(13) (16) and ARS §41-2091(B)
<input type="checkbox"/> Vapor Recovery, ARS §41-2065 (A)(15) and ARS §41-2134	<input type="checkbox"/> Vapor Recovery Compliance, ARS §41-2134
<input type="checkbox"/> RSA/RSR, ARS §41-2065(A)(6) and ARS §41-2094(D)(H)	<input type="checkbox"/> Public/Deputy Weighmaster, ARS §41-2065(A)(6) and ARS §41-2093(B)(G)
<input checked="" type="checkbox"/> Net contents of packaged goods, ARS §41-2065(A)(7)(18)	<input type="checkbox"/> Commodities in Public Institutions, ARS §41-2065 (A)(12)
<input type="checkbox"/> Fuel Quality, ARS §41-2065 (A)(14)	<input type="checkbox"/> CBG Audit, ARS §41-2065(D)
<input type="checkbox"/> Price Verification/Posting, ARS §41-2065(A)(6) and ARS §41-2081(C)(F)(H)(K)(L)(M)	<input type="checkbox"/> Livery/ Limo, ARS §41-2091, (K), (L), (M)
3. Inspection fees must be disclosed.

Certification Fees – The certification fee shall be comparable to the license fee prescribed in ARS §41-2092.

Mgrs. Initials

4. Allow you an opportunity to have an authorized on-site representative accompany our representative, except during confidential interviews.
5. Provide notice of the right to have:
  - a. Copies of any original documents taken from your site.
  - b. A split sample of any sample taken.
  - c. Copies of any analysis performed on samples taken.
6. Inform you when a conversation is tape-recorded.
7. Inform you when pictures are being taken
8. Inform you that any statement made by you or your representative may be included in the inspection report.
9. Prior to initiation of an inspection, provide you with a copy of this form.
10. Inform you that a copy of the inspection report (and related deficiency documents) will be provided at the time of inspection or will be available on the web at <http://www.azdwm.gov> home page, under [Online Inspection Search](#) link (your BMF# is required), within 30 days of the inspection date. The inspection report or related documents shall contain all deficiencies identified during the inspection including statutory, administrative rule or NIST handbook cites.
11. Inform you that an e-mail notification of this inspection will be submitted to e-mail address accounts registered in our database under the Business contact information.
12. Inform you that a copy of this form will be retained with the associated inspection report per state requirements.
13. Inform you that at least once a month following an inspection, which reveals deficiencies and until the department "closes" all related actions, the agency shall update you as to the status of any pending agency actions.
14. Inform you that you have the right to appeal an Administrative Order pursuant to A.A.C. R20-2-109. The appeal also provides an informal settlement conference prior to the formal Administrative Hearing.

I acknowledge that I have been informed of my rights pursuant to ARS §41-1009 as disclosed above.

Authorized Signature

Joseph Mothes  
Print Name

Asst. Front End Man. 06/20/14  
Title Date



ARIZONA DEPARTMENT OF WEIGHTS AND MEASURES

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State Ombudsman 602-277-17292

PACKAGE INSPECTION

ARS § 41-2081 (A)

PAGE 1 OF 1

BMF# 2497

INSPECTION # 253777

TEST DATE

6/20/14

Pkg TYPE	Lot Size	Item \$	IN	PACKER OUTSIDE	PACKAGE DESCRIPTION		AUDIT RESULT	TEST RESULT	Fail Code	
					Type (see back)	Item (see back)				
1 R S	4	2.99		KROGER Co	CHICKEN	PARTS	P	P	402	1
2 R S						HERITAGE FARM CHICKEN BREAST	P	P		2
3 R S							P	F	P	3
4 R S							P	F	P	4
5 R S							P	F	P	5
6 R S							P	F	P	6
7 R S							P	F	P	7
8 R S							P	F	P	8
9 R S							P	F	P	9
10 R S							P	F	P	10
11 R S							P	F	P	11
12 R S							P	F	P	12
13 R S							P	F	P	13
14 R S							P	F	P	14
15 R S							P	F	P	15
16 R S							P	F	P	16
17 R S							P	F	P	17
18 R S							P	F	P	18
19 R S							P	F	P	19
20 R S							P	F	P	20

REMARKS: SEE COMMENTS SHEET  
PRODUCT TAKEN OFF SALE

The above commodity(s) may be inspected by an official of the Department pursuant to ARS §§ 41-2065(A)(12, 18 and 19) and removed from sale if in violation ARS §§ 41-2066.

AZDWM Department Inspector

Commodity Reinspection Recommended  
DWM- 53 Issued ☒

RODRIGUEZ 234

Recommend Civil Penalty Consideration ☒

Acknowledged By

Print And Date

Joseph Mathias 06/20/14



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State Ombudsman 602-277-7292

**SMALL SCALE INSPECTIONS**

ARS §41-2064

PAGE 1 OF 1

Tolerance Applied:

Maint ☐ Accept ☒

BMF# AZDWM1

INSPECTION # 253777

TEST DATE 6/20/14

Fee Code	TEST LOAD										Results		TAG #	MODEL	SERIAL	LOCATION	FAIL CODE
	ERROR							PASS	FAIL								
	Zero (0)	20 D	500D	Shift 2000D 2005 2005	2000D 4000D 4005 4005	Full Error	Return to 0-Error										
1	001	0	0	0	0-1	-1	-1	-2	-	X		INCREASE	METTLER Toledo	PRE INSPECTION		1	
2		-	0	0	-	-1	-1	-	0			DECREASE	BBA 422-3PM	TEST		2	
3																3	
4	001	0	0	0	0-1	-1	-1	-1	0	X		INCREASE	METTLER Toledo	POST INSPECTION		4	
5		-	0	0	-	-1	-1	-	0			DECREASE	BBA 422-3PM	TEST		5	
6																6	
7																7	
8														WEIGHT KIT USED: AZ-6		8	
9																9	
10																10	
11																11	
12																12	
13																13	
14																14	
15																15	
16																16	
17																17	
18																18	
19																19	
The above commodity or device may be collected by an official of the Department pursuant to ARS §§ 41-2065(A)(13) 41-2066(A)(3) for analysis, evidence, or unreparable device.																	

The above commodity or device may be collected by an official of the Department pursuant to ARS §§ 41-2065(A)(13) 41-2066(A)(3) for analysis, evidence, or unrepairable device.

RECOMMEND CIVIL PENALTY ☐

DWM-53 ISSUED ☐

AZDWM Department Inspector

RODRIGUEZ 234

Acknowledged By

Joseph Metts

Print and Date

Joseph Metts 06/20/14



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RANDOM PACKAGE TEST

A.R.S. §41-2065

PAGE 1 OF 1

BMF# 2497

INSPECTION # 253777

TEST DATE 6/20/14

Manufacturer: THE KROGER CO

CINCINNATI, OHIO 45202

Product Name:

CHICKEN BREAST WITH RIB MEAT

Container:

TRAY/PLASTIC

Brand: HERITAGE FARM

Lot Code:

P-705

A Unit of Measure:

.001

B Inspection Lot Size:

4

C Sample Size: Tables 2-1or 2-2

4

Cat. "A" ☒ Cat "B" ☐

D Initial Tare Size:

2

E Allowed # of Unreasonable Errors:

0

F Range of Package Errors (d) :

.241

G Range of Tare Weight (b) :

0

H Tare Ratio (Table 2.3):

0

I Total Pkgs to Open for Tare:

2

J Average Tare:

.585

Unused ☐ Used ☒

K Total Error (all pkg in sample size):

-2.585

L Number unreasonable minus errors:

4

M If L > E: (Lot fails, stop; if not, continue)

C

N Average Error : (Dim. Units) K/C

-646.25

O Average Error (labeled units): (N x A)

-0.64625

P Price/lb:

\$ 2.99

Q Average Error : (OxP)

\$ 1.93228

R If O is zero or + (end test) Lot Passes

P

If O is not zero or + and Cat A : continue

C

If O is not zero or + and Cat B : Lot Fails

P

S Compute Sample Standard Deviation

F

T Sample Correction Factor (Table 2 - 1):

U Sample Error Limit: (SxT)

V (Disregard signs+/-) If N>U: (Lot Fails)

P

F

TARE COMPUTATION					PACKAGE COMPUTATION			
	(a)	(b)	(c)	(d)	(e)	(Dim. Units)		
Random #	Gross Weight	Tare Weight	Net Weight	Pkg Error (c - Label Weight)	Label Weight	(a - L ) (0/+)	MAV (weight)	MAV (Dim. Units)
1	3	3.848	.585	3.263	- .497		.094	94
2	4	4.079	.585	3.494	- .486			
3	1	4.451		3.866	-1.084			
4	2	3.677	1	3.092	- .518			
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
Comments: Random # H8133 TABLE 3					TOTALS:	2585		
MAV-H8133 TABLE 2-9					All PACKAGES EXCEED MAV			
MAV/6 = .094/6 = 0.01566								
Acknowledged By					Print and Date			
[Signature]					Joseph Mettes 06/20/14			

AZDWM Department Inspector

Rodriguez 234



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State Ombudsman 602-277-7292

## ADMINISTRATIVE ORDER STOP SALE, STOP USE, HOLD OR REMOVAL

Failure to meet the requirements of ARS Title 41, Chapter 15 or AAC Title 20, Chapter 2 You may request an administrative hearing (AAC R20-2-109) by contacting the Department

BMF # 2497

INSPECTION # 253777

INSPECTION DATE: 6/20/14

IF NO BMF:	BUSINESS NAME: <u>Fry's</u>	LOC #	PHONE:
	ADDRESS:	CITY:	ZIP:

COMMODITY:	<u>CHICKEN BREAST WITH RIB MEAT</u>	COMMODITY NAME:	<u>HERITAGE FARM - CHICKEN BREAST</u>
PACKER/MANUF:	<u>KROGER Co.</u>	PACKER/MANUF ADDRESS:	<u>CINCINNATI, OHIO 45202</u>
		LOT #	<u>P-705</u> QTY: <u>4</u>

- ☐ Return the commodity to source (eg. packer/manuf.).  
☒ Relabel the commodity at its actual quantity.  
☐ Separate the commodities that are at or more than their represented quantity from the tagged lot & return those commodities for sale.
- ☐ Place a notice on the commodity of the violation and discount the commodity accordingly.  
☐ Sell the commodity provided it can be brought up to the represented quantity.

DEVICE	DEVICE SERIAL #:	RSA/RSR/WEIGHMASTER
TYPE:	<u></u>	BMF #: <u></u> RSR #: <u></u>

The described device is prohibited from use until Department approval is granted.

FUEL QUALITY	PRICE/METHOD OF SALE
--------------	----------------------

This fuel is prohibited from sale until it can be brought up to its represented quality or disposed of as indicated after Department approval is granted:

PUMP #:	<u></u>
GRADE:	<u></u>

COMMODITY(S):

The above business/person is prohibited from performing RSA/RSR/Weighmaster duties until Department approval is granted.

This commodity is prohibited from sale until one of the following occurs:

- |                                                                                                                       |                                              |                                                   |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> Remove off spec product in storage tank and replace with on-spec product.                    | <input type="checkbox"/> Price Item          | <input type="checkbox"/> Correct shelf price sign |
| <input type="checkbox"/> Octane violation - downgrade to appropriate octane grade.                                    | <input type="checkbox"/> Correct % Reduction | <input type="checkbox"/> Correct UPC data base    |
| <input type="checkbox"/> Add sufficient quantity of on-spec product to storage tank to bring product into compliance. | <input type="checkbox"/> Correct Labeling    | <input type="checkbox"/> Correct method of sale   |
| <input type="checkbox"/> Remove water from storage tank (for diesel and non-oxygenated motor fuel).                   |                                              |                                                   |
| <input type="checkbox"/> Remove to another area within the state if specifications of that area can be met.           |                                              |                                                   |

VAPOR RECOVERY The vapor system at the above BMF # or business address is prohibited from use until Department approval is granted

REMARKS	• ALL PACKAGES EXCEED MAY
ARS: <u>41-20814, I</u>	
ARS: <u>41-2115 A, B2</u>	
AAC: <u>R20-2-104H</u>	
AAC: <u>R20-2-302</u>	
RECOMMEND CIVIL PENALTY	<input checked="" type="checkbox"/>

### BUSINESS OWNER/MANAGER:

You must send this completed form to the Department within 7 days after proper disposition is completed.

Date Department approval was granted:	<u>6/20/14</u>	Granted By:	<u></u>
---------------------------------------	----------------	-------------	---------

DEPARTMENT REPRESENTATIVE	<u>RODRIGUEZ 234</u>
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TAG # <u>B12176</u>	SAMPLE # <u></u>	AUTHORIZED SIGNATURE/DATE	<u>Shawn Marquez</u> <u>6/20/14</u>
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## INSPECTION COMMENTS / NOTES

A.R.S. §41-1009(A)(7)

PAGE 1 OF 1

BMF# 2497

INSPECTION # 253777

DATE: 6/20/14

### COMMENTS / NOTES

- All Packages Exceed May
- Pictures of most short weight package on scale attached
- Pictures of tare on scale attached.
- Pictures of pre dried and post dried soaked pads on scale attached

AZDWM Department Inspector

Rodriguez 234

Acknowledged By

Print and Date

Shawn Marquez 06/20/14

Picture of soaker before drying.



METTLER TOLEDO

MAX 3 kg d = 0.005  
MAX 6 lb d = 0.001

0.812 lb

DATE RECEIVED	8/1/13
DATE OF SALE	8/31/14
TECHNICAL	Don't Dr
METTLER TOLEDO	
800.671.5000	
CALL FOR SERVICE: 1-800-523-5123	

Jun20 2014 10:25am



Picture of soaker after drying



METTLER TOLEDO  
0.525

MAX 35.11 - 0.005  
MAX 68.3 - 0.001

Model: 35.11  
Serial: 318  
Date: 8/21/12  
Mettler Toledo  
Call for service: 1-800-522-8123

Department of  
Weighing & Laboratory  
State of Arizona  
50998

"HERITAGE FARMS"

"LOW CHICKEN PRICES"

Hatched, Raised and Harvested in USA

P-795 0.10

2 110656011903



3.98

2.99

\$11.90

NET WT. LB.

PRICE/LB.

REGULAR PRICE

SELL BY

6/28/2012

Jun20 2014 10:23am



Picture of soaker  
after drying



Jun20 2014 10:21am



Picture of most short  
weight package

HERITAGE  
FARM

Where  
Value  
Grows™

CHICKEN BREASTS  
WITH RIB MEAT  
ENHANCED WITH UP TO 15% CHICKEN BROTH\*

BONELESS • SKINLESS

KEEP REFRIGERATED OR FROZEN

NET WT. LBS. 4.95  
PRICES: \$14.80  
2 11065610148015  
0/28/2014  
Hatched, Raised and Harvested in USA  
P-795 0.10  
"LOW CHICKEN PRICES"  
"HERITAGE FARMS"

METTLER TOLEDO

MAX 3 kg = 0.005  
MAX 6 lb = 0.001

UNIT 8/28/14 35A 422-3PM  
NET WEIGHT 5.284949-7BP  
DATE OF 8/1/13  
DATE OF 8/31/14  
TECHNICAL DATA  
METTLER TOLEDO  
CALL FOR SERVICE 1-800-523-9123

Department of  
Weights & Measures  
State of Arizona  
60908

Jun20 2014 8:00am



Picture of  
complete tare

NET WT. LB 3.76 PRICE/LB 2.99  
2 10656011248  
Hatched, Raised and Harvested in USA  
"LOW CHICKEN PRICES"  
P-705 8/19  
6/28/2014  
\$11.24  
RETAIL PRICE  
SELL BY

METTLER TOLEDO

0.585 lb

MAX 3 kg d = 0.005  
MAX 6 lb d = 0.001

UNIT WEIGHT	50M 42.2-3PM
UNIT WEIGHT	328449-7BP
DATE RECEIVED	8/1/13
DATE DUE	8/31/14
TECHNICAL	Don't Dr.
TO: METTLER TOLEDO	DATE: 8/1/14
601 1001 1008 (Inquired Company)	
CALL FOR SERVICE: 1-800-523-9123	

Jun20 2014 10:20am