

Adoption of the FDA Food Code by State and Territorial Agencies Responsible for the Oversight of Restaurants and/or Retail Food Stores

2021

The Food and Drug Administration's (FDA) National Retail Food Team (NRFT) monitors adoption of the FDA Food Code by State and Territorial regulatory agencies in the United States responsible for the regulation of restaurants and/or retail food stores. Adoption of the Food Code represents a successful federal/state/local partnership in improving food safety and signals commitment to the goal of preventing and reducing the incidence of foodborne illness in retail and foodservice establishments in the United States. FDA Retail Food Specialists (Specialists) assess the Food Code adoption activities within each State and territory for the 2021 calendar year. The Center for Food Safety and Applied Nutrition (CFSAN) analyzes and compiles the information gathered by these Specialists into a report that includes the version of the FDA Food Code adopted by each State and Territorial regulatory agency.

Between 1993 and 2001, the FDA Food Code was issued every two years. The 2005 Food Code was the first full edition published on the four-year interval. During the interim period between full editions, FDA may publish one Food Code Supplement that updates, modifies, or clarifies certain provisions. As of December 31, 2021, the [2017 Food Code](#) is the most recent full edition published by FDA, and it was followed by [the Supplement to the 2017 Food Code](#), which was published in 2019. As such, adoption of the Food Code modified with its Supplement is hereinafter indicated with "(w/Suppl.)". For example, adoption of the 2017 Food Code modified with its Supplement in 2019 will be marked as "2017(w/Suppl.)". This report may use two terms to describe the FDA Food Code – 'version' and 'edition'. The term 'version' is associated with the year of publication/release and the term 'edition' is associated with the number of times the Code has been published in its current format. So, the 1993 version is the 1st edition, the 1995 version is the 2nd edition, the 1997 version is the 3rd edition, the 1999 version is the 4th edition, the 2001 version is the 5th edition, the 2005 version is the 6th edition, the 2009 version is the 7th edition, the 2013 version is the 8th edition, and the 2017 version is the 9th edition.

The next scheduled full edition of the FDA Food Code (10th edition), originally scheduled in 2021, is now planned in 2022. In light of the Covid-19 pandemic, the 2020 meeting of the Conference for Food Protection (CFP) was moved to August 2021 and hereafter the CFP meeting will be held on an odd-year cycle. FDA values the input of all retail food stakeholder groups through the CFP and subsequently adjusted its release-year cycle for the Food Code to follow in the year after the CFP meeting is held. With this adjustment to an even-year FDA Food Code release cycle going forward, the next full edition will be released in 2022.

States and Territories Monitored for Food Code Adoption Status in 2021

Geographic Scope:

All 50 States, the District of Columbia (DC), Guam, Northern Marianas Islands, Puerto Rico, American Samoa, and U.S. Virgin Islands.

Terms Defined:

For the purposes of summary by State and population calculation, this report considers DC as a State, and "District of Columbia Department of Health/Health, Regulation and Licensing" is considered as a State agency.

Overview of Food Code Adoption Status in 2021

Population Percentage:

88.07% of the U.S. population lives in a State that at least one State agency has adopted some version of the FDA Food code; **62.47%** of the population lives in a State that adopted one of the two most recent versions (2017 version, 2013 version); and **43.42%** of the population lives in a State that adopted the most recent versions (2017 version).

Number of the States:

Fifty (**50**) States have adopted some version of the Food Code with California the only exception; thirty-four (**34**) States have adopted one of the two most recent versions; and eighteen (**18**) States have adopted the most recent version.

Summary of State Agencies with Oversight of Restaurants and Retail Food Stores

There are 64 State agencies responsible for providing regulatory oversight of either restaurants, or retail food stores, or both. A State may give regulatory oversight to multiple agencies within that State, each assigned to regulate different segments of the retail food industry. For example, a State may have:

- A single regulatory agency: it has responsibility for both restaurants and retail food stores.
- Two regulatory agencies: they have responsibility for both restaurants and retail food stores.
- Two regulatory agencies: one regulatory agency with responsibility for restaurants but not retail food stores, and another regulatory agency with responsibility for retail food stores but not restaurants.
- Two regulatory agencies: one regulatory agency with responsibility for both restaurants and retail food stores, and another regulatory agency with responsibility for retail food stores but not restaurants.
- Three regulatory agencies: one regulatory agency with responsibility for both restaurants and retail food stores, two regulatory agencies with responsibility for restaurants but not retail food stores.

Of the **64** State regulatory agencies:

- a) There are **45** agencies responsible for both restaurants and retail food stores; 44 out of these 45 have adopted the FDA Food Code, with California Dept. of Public Health, Food & Drug Program the only exception.
- b) There are **9** agencies responsible for restaurants but not retail food stores; 8 out of these 9 have adopted the FDA Food Code, with New York State Department of Health the only exception.
- c) There are **10** agencies responsible for retail food stores but not restaurants; all 10 agencies have adopted the FDA Food Code.
- d) There are **42** health agencies; 40 out of these 42 have adopted the FDA Food Code, except for California Department of Public Health and New York State Department of Health.
- e) There are **17** agriculture agencies; all 17 agencies have adopted the FDA Food Code.
- f) There are **5** other agencies; all 5 agencies have adopted the FDA Food Code.

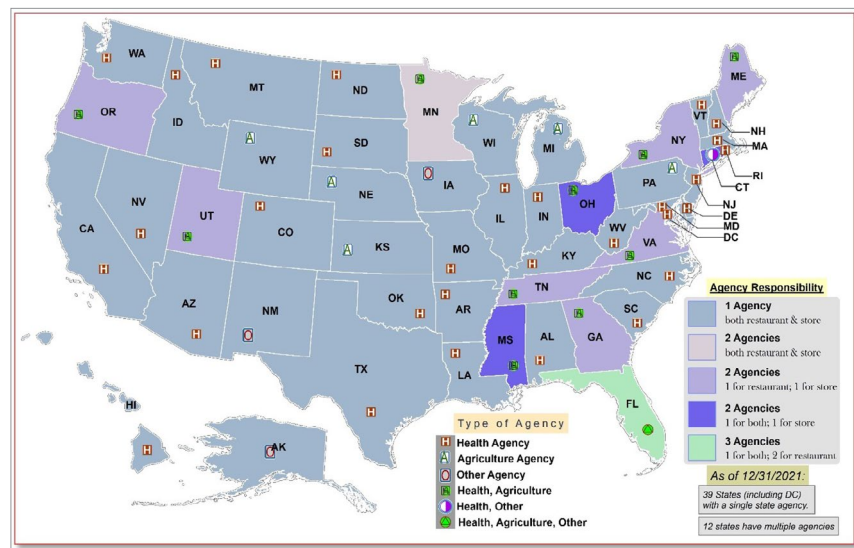


Figure 1: State regulatory agencies have responsibility for oversight of restaurants, and/or retail food stores.

Figure 1 depicts the number of agencies per State with regulatory oversight for restaurants and/or retail food stores. Specific details include:

- There are **39** States with a single State regulatory agency responsible for regulating restaurants and retail food stores.
- There are **12** States that have multiple regulatory agencies, with details provided below:
 - **One (1)** State (**FL**) has **3** agencies, where:
 - One agency is responsible for both restaurants and retail food stores.
 - Two agencies are responsible for restaurants.
 - **Three (3)** States (**CT, MS, OH**) have **2** agencies, where:
 - One agency is responsible for both restaurants and retail food stores.
 - One agency is responsible for retail food stores.
 - **Seven (7)** States (**GA, ME, NY, OR, TN, UT, VA**) have **2** agencies, where:
 - One agency is responsible for restaurants.
 - One agency is responsible for retail food stores.
 - **One (1)** State (**MN**) have **2** agencies, where:
 - Two agencies are responsible for both restaurants and retail food stores.

Summary of Status on State Adoption of the FDA Food Code

Figure 2 reflects the most recent Food Code version that was adopted by each State. Each State has at least one agency that has adopted the FDA Food Code, with California the only exception. If a State has multiple agencies, we count the agency that has adopted the most recent version of FDA Food Code. For example, two Georgia agencies are responsible for providing regulatory oversight of restaurants and/or retail food stores. While one agency adopted the 2017 FDA Food Code, and the other agency adopted the 2013 FDA Food Code. Therefore, we consider Georgia as a State which has adopted the 2017 FDA Food Code.

Specific details regarding the Food Code versions adopted by different States are provided below:

- The **2017** Food Code is the most recent version adopted by **18** States: Arizona, Delaware, Florida (two of three agencies), Georgia (one of two agencies), Illinois, Iowa, Mississippi (one of two agencies), Nebraska, New Hampshire, New Mexico, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia (two agencies), and Washington.
- The **2013** Food Code is the most recent version adopted by **16** States: Alabama, Arkansas, Colorado, Connecticut (one of two agencies), Hawaii, Idaho, Kentucky, Massachusetts, Minnesota (two agencies), Montana, North Dakota, Ohio (two agencies), Utah (two agencies), West Virginia, Wisconsin, and Wyoming.
- The **2009** Food Code is the most recent version adopted by **9** States: District of Columbia, Kansas, Maine, Maryland, Michigan, Missouri, Nevada, Oregon (two agencies), and Tennessee (two agencies).
- The **2005** Food Code is the most recent version adopted by **2** States: Alaska, and New Jersey.
- The **2001** Food Code is the most recent version adopted by **4** States: Indiana, Louisiana, New York (one of two agencies), and Vermont.
- The **1995** Food Code is the most recent version adopted by **1** State: South Dakota.

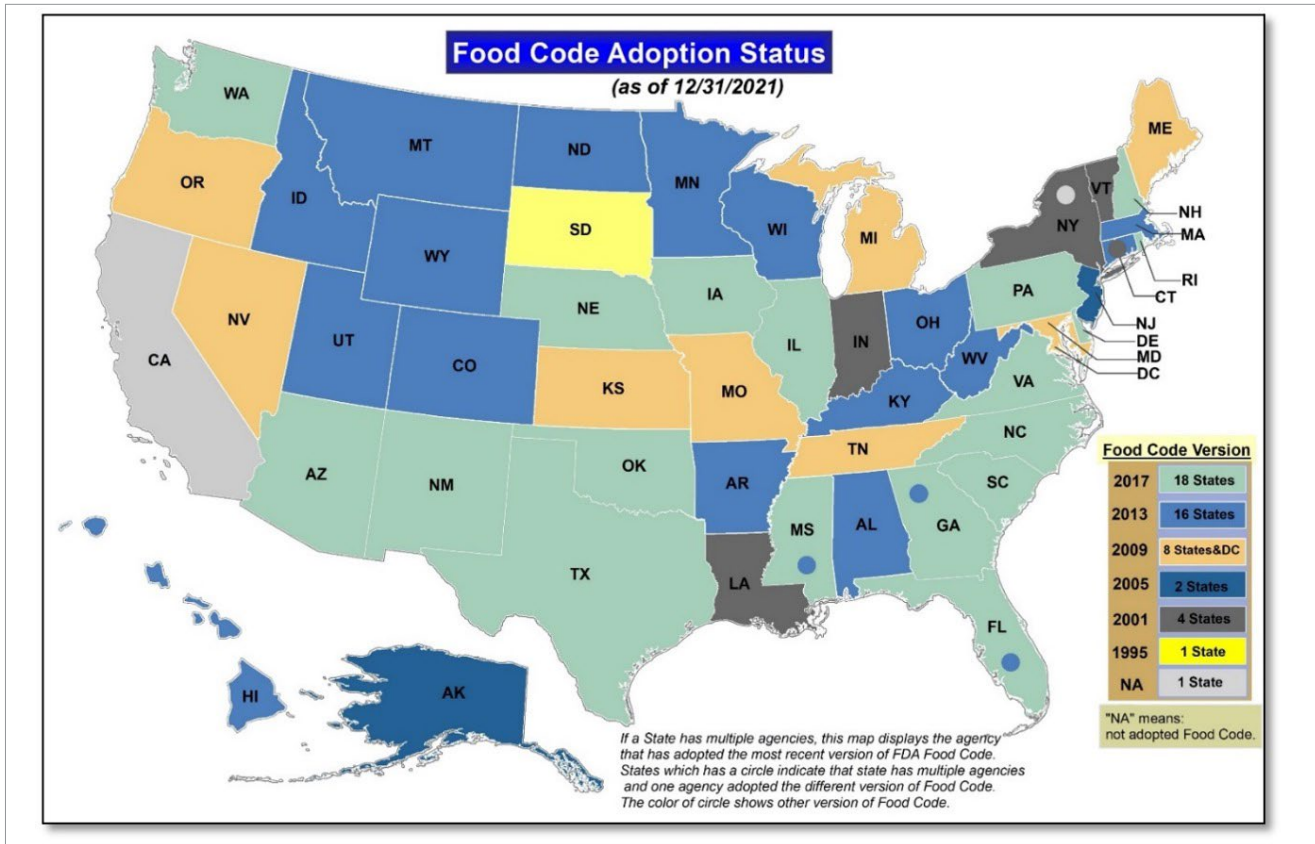


Figure 2: FDA Food Code versions were adopted by States in 2021. If a State has multiple agencies, this map displays the agency that has adopted the most recent version of FDA Food Code. (1) CT has two agencies: one agency adopted 2013 version, the other agency adopted 2001 version; (2) FL has three agencies: two adopted 2017 version, and one adopted 2013 version; (3) GA has two agencies: one agency adopted 2017 version, the other agency adopted 2013 version; (4) MS has two agencies: one agency adopted 2017 (w/Suppl.), while the other agency adopted 2013 version; (5) NY also has two agencies: one agency adopted 2001 version, the other agency not adopted FDA Food Code.

Summary of Method on State Adoption of the FDA Food Code

Typically, there are two code adoption methods: one is the “short-form” or “adoption by reference” approach where a simple statement is published stating that certified copies of the proposed code are on file for public review; The alternative method is the “long-form” or “section-by-section” approach where the proposed code is published in its entirety. See the FDA Food Code 2017 Preface, “7. Code Adoption/Certified Copies” for additional information: <https://www.fda.gov/food/fda-food-code/food-code-2017>.

Specific details regarding the adoption methods of States are provided below.

- **Twenty-seven (27)** States used long-form format (FDA Food Code was adopted section-by-section): Alaska, Arkansas, Delaware, District of Columbia, Georgia, Hawaii, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Vermont, Washington, Wisconsin, and Wyoming.
- **Twenty-one (21)** States used short-form format (FDA Food Code was adopted by reference): Alabama, Arizona, Colorado, Connecticut, Idaho, Illinois, Kentucky, Massachusetts, Michigan, Mississippi, Montana, New Hampshire, North Carolina, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, and West Virginia.
- **One (1)** State has three agencies. Two agencies used short-form, but one agency used long-form format to adopt FDA Food Code: Florida.

- **One (1)** State has two agencies where only one agency used long-form format to adopt FDA 2001 Food Code whereas the other agency did not adopt any edition of FDA Food Code: New York.
- **One (1)** State did not adopt FDA Food Code: California.

Figure 3 displays how the FDA Food Code was adopted among the states' rulemaking process.

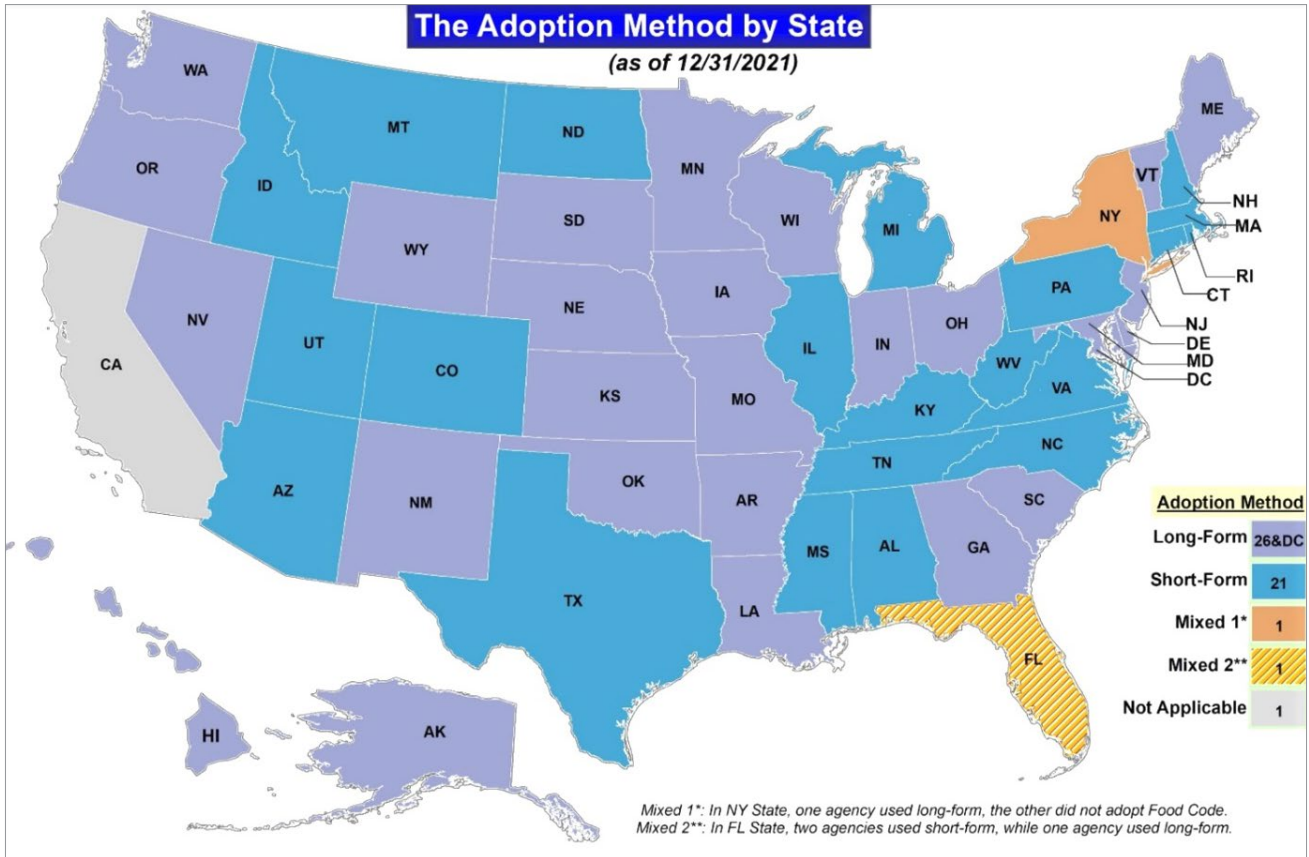


Figure 3: The adoption method by State.

Summary of the Food Code Adoption by Population

For the purposes of summary by State and population calculation, if a State has multiple agencies, we count the agency that has adopted the most recent version of FDA Food Code. For example, two New York agencies are responsible for providing regulatory oversight of restaurants and/or retail food stores. While one agency adopted the 2001 FDA Food Code and the other agency has not adopted the FDA Food Code. Therefore, we consider New York as a State which has adopted the 2001 FDA Food Code.

Table 1 shows the total and the percentage of population broken down by the versions of the Food Code that were adopted in each State.

Table 1: FDA Food Code adoption by population (source of population: 2020 US Census)

Food Code version	State(s)	Population in 2020	% of U.S.
2017	18: AZ, DE, FL, GA, IA, IL, MS, NC, NE, NH, NM, OK, PA, RI, SC, TX, VA, WA	143,911,680	43.42
2013	16: AL, AR, CO, CT, HI, ID, KY, MA, MN, MT, ND, OH, UT, WI, WV, WY	63,150,753	19.05
2009	9: DC, KS, MD, ME, MI, MO, NV, OR, TN	41,651,962	12.57

Food Code version	State(s)	Population in 2020	% of U.S.
2005	<u>2</u> : AK, NJ	10,022,385	3.02
2001	<u>4</u> : IN, LA, NY, VT	32,287,611	9.74
1999	<u>0</u>	0	0
1997	<u>0</u>	0	0
1995	<u>1</u> : SD	886,667	0.27
None	<u>1</u> : CA	39,538,223	11.93

List of State Regulatory Agencies and Food Code Adoption Status

Of the 64 State regulatory agencies, 62 State agencies have adopted codes patterned after the 2017, 2013, 2009, 2005, 2001, or 1995 versions of the FDA Food Code, whereas 2 State agencies have not adopted the FDA Food Code (Table 2).

Table 2: The list of State regulatory agencies and Food Code adoption status

State	Agency Name	Food Code Version Adopted	Adoption Method	Oversight Responsibility	Effective Year
AK	Alaska Department of Environmental Conservation	2005	Long-Form	Both#	2005
AL	Alabama Department of Public Health	2013	Short-Form	Both#	2016
AR	Arkansas Department of Health	2013	Long-Form	Both#	2019
AZ	Arizona Department of Health Services	2017	Short-Form	Both#	2020
CA	California Department of Public Health, Food & Drug Program	None**	Not applicable	Both#	Not applicable
CO	Colorado Department of Public Health and Environment	2013	Short-Form	Both#	2019
CT	Connecticut Department of Consumer Protection	2013 (w/Suppl.)	Short-Form	Retail Food Stores	2016
CT	Connecticut Department of Public Health	2001	Short-Form	Both#	2007
DC	District of Columbia Department of Health	2009	Long-Form	Both#	2012
DE	Delaware Department of Health	2017	Long-Form	Both#	2020
FL	Florida Department of Business and Professional Regulations	2017	Short-Form	Restaurants	2019
FL	Florida Department of Agriculture and Consumer Services	2017	Short-Form	Both#	2020
FL	Florida Department of Health	2013	Long-Form	Restaurants	2018
GA	Georgia Department of Public Health	2013	Long-Form	Restaurants	2015
GA	Georgia Department of Agriculture	2017	Long-Form	Retail Food Stores	2019
HI	Hawaii Department of Health/Food Safety Branch	2013	Long-Form	Both#	2017
IA	Iowa Department of Inspections and Appeals	2017 (w/Suppl.)	Long-Form	Both#	2021
ID	Idaho Department of Health & Welfare	2013	Long-Form	Both#	2016

State	Agency Name	Food Code Version Adopted	Adoption Method	Oversight Responsibility	Effective Year
IL	Illinois Department of Public Health	2017	Short-Form	Both#	2019
IN	Indiana State Department of Health	2001	Long-Form	Both#	2004
KS	Kansas Department of Agriculture	2009	Long-Form	Both#	2013
KY	Kentucky Cabinet for Health and Family Services-Food Safety Branch	2013	Short-Form	Both#	2019
LA	Louisiana Department of Public Health	2001	Long-Form	Both#	2002
MA	Massachusetts Department of Public Health	2013	Short-Form	Both#	2018
MD	Maryland Department of Health and Mental Hygiene	2009	Long-Form	Both#	2012
ME	Maine Department of Health and Human Services, Health Inspection Program	2009 (w/Suppl.)	Long-Form	Restaurants	2013
ME	Maine Department of Agriculture	2009 (w/Suppl.)	Long-Form	Retail Food Stores	2013
MI	Michigan Department of Agriculture and Rural Development	2009	Short-Form	Both#	2013
MN	Minnesota Department of Health	2013	Long-Form	Both#	2019
MN	Minnesota Department of Agriculture	2013	Long-Form	Both#	2019
MO	Missouri Department of Health and Senior Services	2009	Long-Form	Both#	2013
MS	Mississippi Department of Health	2017 (w/Suppl.)	Short-Form	Both#	2019
MS	Mississippi Department of Agriculture	2013	Short-Form	Retail Food Stores	2015
MT	Montana Department of Health & Human Services	2013	Short-Form	Both#	2015
NC	North Carolina Department of Health and Human Services	2017 (w/Suppl.)*	Short-Form	Both#	2021
ND	North Dakota Department of Health	2013	Short-Form	Both#	2018
NE	Nebraska Department of Agriculture	2017	Long-Form	Both#	2020
NH	New Hampshire Department of Health and Human Services	2017	Short-Form	Both#	2019
NJ	New Jersey Department of Health, Public Health and Food Protection Program	2005	Long-Form	Both#	2005
NM	New Mexico Environment Department	2017	Long-Form	Both#	2019
NV	Nevada Department of Health and Human Services	2019	Long-Form	Both#	2013
NY	New York State Department of Health	None**	Not applicable	Restaurants	Not applicable
NY	New York State Department of Agriculture and Markets	2001	Long-Form	Retail Food Stores	2004
OH	Ohio Department of Health	2013 (w/Suppl.)	Long-Form	Both#	2019
OH	Ohio Department of Agriculture	2013 (w/Suppl.)	Long-Form	Retail Food Stores	2019
OK	Oklahoma State Department of Health	2017*	Long-Form	Both#	2021
OR	Oregon Department Health/Food Pools Lodging	2009	Long-Form	Restaurants	2011
OR	Oregon Department of Agriculture	2009	Long-Form	Retail Food Stores	2011

State	Agency Name	Food Code Version Adopted	Adoption Method	Oversight Responsibility	Effective Year
PA	Pennsylvania Department of Agriculture	2017	Short-Form	Both#	2018
RI	Rhode Island Department of Health	2017 (w/Suppl.)	Short-Form	Both#	2021
SC	South Carolina Department of Health and Environmental Control	2017	Long-Form	Both#	2019
SD	South Dakota Department of Health, Office of Health Protection	1995	Long-Form	Both#	1997
TN	Tennessee Department Of Health Environmental Health Division	2009	Short-Form	Restaurants	2013
TN	Tennessee Department of Agriculture	2009	Short-Form	Retail Food Stores	2013
TX	Texas Department of State Health Services	2017 (w/Suppl.) *	Short-Form	Both#	2021
UT	Utah Department of Agriculture and Food	2013	Short-Form	Retail Food Stores	2016
UT	Utah Department of Health	2013	Short-Form	Restaurants	2016
VA	Virginia Department of Agriculture and Consumer Services	2017	Short-Form	Retail Food Stores	2021
VA	Virginia Department of Health	2017	Short-Form	Restaurants	2021
VT	Vermont Department of Health	2001	Long-Form	Both#	2003
WA	Washington State Department of Health	2017 (w/Suppl.)	Long-Form	Both#	2022
WI	Wisconsin Department of Agriculture Trade and Consumer Protection	2013 (w/Suppl.)	Long-Form	Both#	2020
WV	West Virginia Department of Health and Human Resources	2013	Short-Form	Both#	2019
WY	Wyoming Department of Agriculture	2013 (w/Suppl.)	Long-Form	Both#	2020

Note:

Both#: the agency has responsibility for restaurants and retail food stores.

*: the agency completed rulemaking in 2021.

**.: the agency did not adopt any version of FDA Food Code, no adoption.

Food Code Adoption Status Changes Between 2020 and 2021

In 2021, three States (3 State agencies) have completed Food Code adoption related rulemaking (see details in Table 3).

- **North Carolina** State changed Food Code adoption status from 2009 version to the 2017 version.
- **Oklahoma** State changed Food Code adoption status from 2013 version to the 2017 version.
- **Texas** State changed Food Code adoption status from 2013 version to the 2017 version.

Table 3: Changes in Food Code adoption between 2020 and 2021

State	Food Code version in 2020	Food Code version in 2021
North Carolina	2009	2017
Oklahoma	2013	2017
Texas	2013	2017

Additionally, one agency in Kansas, and two agencies in Ohio are still in progress with intent to adopt the 2017 FDA Food Code.

Overview Food Code Adoption Changes in 4 Years

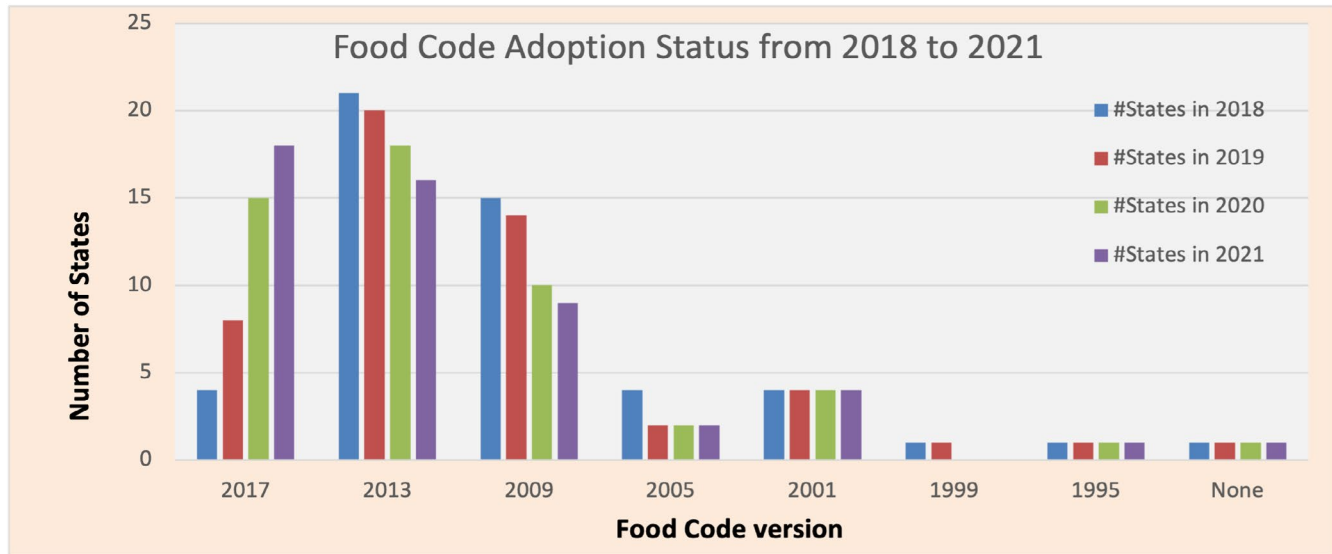


Figure 4: Number of States by Food Code version adopted in 2018, 2019, 2020, and 2021

The 2017 Food Code is the most recent full edition, and it was published by FDA in February of 2018. Table 4 shows the changes after the 2017 FDA Food Code was published. Figure 4 displays the changes in a chart.

Table 4: Food Code adoption status from 2018 to 2021

Food Code version	#States in 2018	#States in 2019	#States in 2020	#States in 2021
2017	4	8	15	18
2013	21	20	18	16
2009	15	14	10	9
2005	4	2	2	2
2001	4	4	4	4
1999	1	1	0	0
1997	0	0	0	0
1995	1	1	1	1
Not adopted	1	1	1	1

Both Table 4 and Figure 4 provided two trends: (1) adoption of 2017 Food Code increased every year since it was published; (2) in the past 4 years, adoption of 2013 Food Code, 2009 Food Code decreased each year.

Additionally, eight States (AK, CA, IN, LA, NJ, NY, SD, and VT) have not changed adoption status for more than 10 years.

Territorial Agencies' FDA Food Code Adoption

Two territorial agencies (Puerto Rico and U.S. Virgin Islands) have adopted the 2017 FDA Food Code and its Supplement, and they used short-form format. One territorial agency (Guam) has adopted the 2005 FDA Food Code, and Guam used long-form format. No data has been reported about the status in American Samoa and Northern Mariana Islands.