

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

2019

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 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. The Center for Food Safety and Applied Nutrition (CFSAN) compiles the information gathered by these Specialists into a report that includes which version of the FDA Food Code has been adopted by each State and Territorial regulatory agency. Note that this Report uses two terms to describe the 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.

States and Territories Monitored for Food Code Adoption Status in 2019

Geographic Scope:

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

States and Territories with changes of Food Code adoption status in 2019:

Arkansas, Florida (Department of Business and Professional Regulations), Georgia (Department of Agriculture), Kentucky, Mississippi (Department of Health), New Hampshire, Ohio, Pennsylvania, Puerto Rico, South Carolina, United States Virgin Islands, and West Virginia. Rulemaking in District of Columbia, Delaware, Florida (Department of Agriculture and Consumer Services), Kansas, Michigan, Nebraska, Virginia, and Washington started in 2019 with intent to adopt 2017 Food Code or 2017 Food Code as modified by the Supplement (still in progress).

State Agencies with Oversight of Restaurants and Retail Food Stores

For the purposes of this report, "District of Columbia Department of Health/Health, Regulation and Licensing" is considered as a State agency. 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 with responsibility for both restaurants and retail food stores.
- Two regulatory agencies with responsibility for both restaurants and retail food stores.
- A regulatory agency with responsibility for restaurants but not retail food stores; and another regulatory agency with responsibility for retail food stores but not restaurants.
- A regulatory agency with responsibility for both restaurants and retail food stores; and another regulatory agency with responsibility for retail food stores but not restaurants.
- Two regulatory agencies with responsibility for both restaurants and retail food stores; and another regulatory agency with responsibility for restaurants but not retail food stores.

Of the **64** State regulatory agencies:

- a) **46** agencies are responsible for both restaurants and retail food stores; 45 out of these 46 have adopted the FDA Food Code, with California Dept. of Public Health, Food & Drug Program the only exception.
- b) **Eight** agencies are responsible for restaurants, but not retail food stores; 7 out of these 8 have adopted the FDA Food Code, with New York State Department of Health the only exception.

- c) **10** agencies are responsible for retail food stores but not restaurants; all 10 agencies have adopted the FDA Food Code.

Figure 1 depicts the number of agencies per State with regulatory oversight for restaurants and retail food stores.

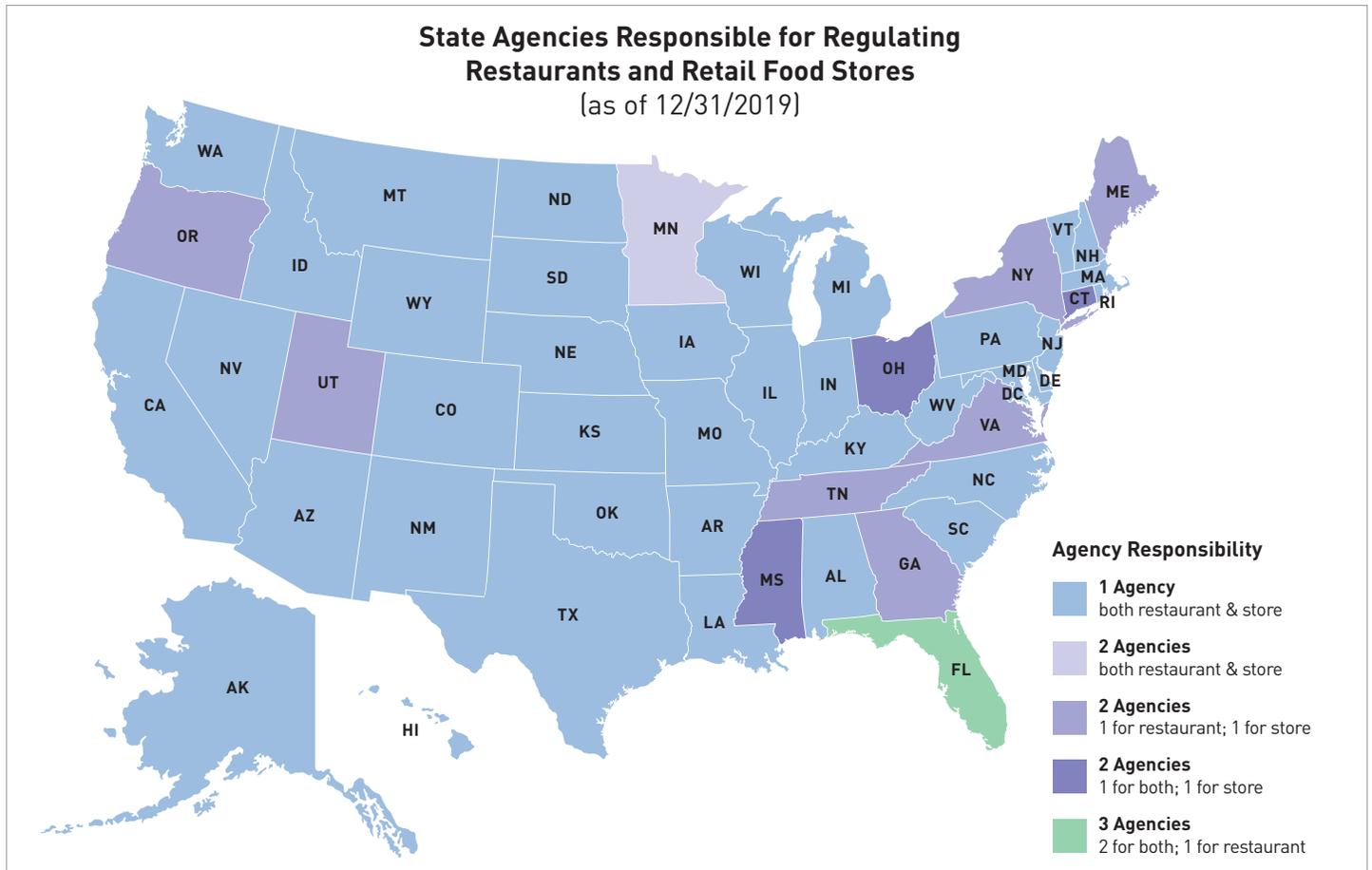


Figure 1: State regulatory agencies have responsibility for oversight of restaurants, and retail food stores.

Specific details include:

- There are **38** States and DC 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** State (**FL**) has **three** agencies, where:
 - Two agencies are responsible for both restaurants and retail food stores.
 - One agency is responsible for restaurants.
 - **Three** States (**CT, MS, OH**) have **two** agencies, where:
 - One agency is responsible for both restaurants and retail food stores.
 - One agency is responsible for retail food stores.
 - **Seven** States (**GA, ME, NY, OR, TN, UT, VA**) have **two** agencies, where:
 - One agency is responsible for restaurants.
 - One agency is responsible for retail food stores.
 - **One** State (**MN**) have **two** 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 in each State regulatory agency. Each State has at least one agency that has adopted the FDA Food Code, with California the only exception.

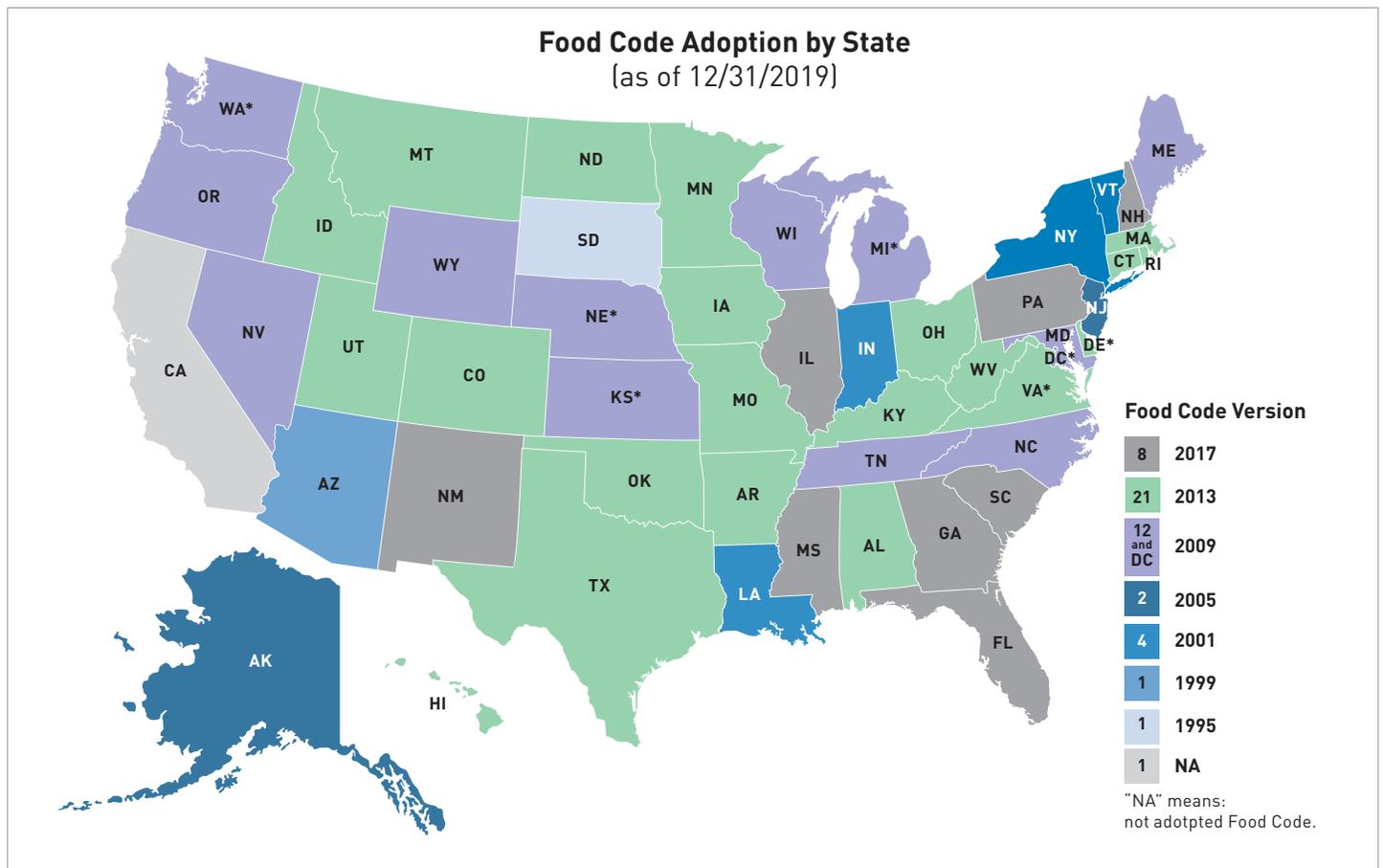


Figure 2: FDA Food Code versions Adopted by States in 2019. If a State has multiple agencies, this map displays the agency that has adopted the most recent version of FDA Food Code: (1) FL has three agencies: one adopted 2017 version, one is still working on adoption of 2017 version, and one adopted 2013 version; (2) GA has two agencies: one agency adopted 2017 version, the other agency adopted 2013 version; (3) MS has two agencies: one agency adopted 2017 version including the Supplement to the 2017 version, while the other agency adopted 2013 version; (4) NY also has two agencies: one agency adopted 2001 version, the other agency not adopted FDA Food Code; (5) These eight States each of them has two agencies and both agencies adopted same Food Code version, they are: CT, ME, MN, OH, OR, TN, UT, VA.

Note: *-- DC, DE, KS, MI, NE, and VA started adoption of 2017 version, and are still working on it; and WA is working on adoption of 2017 version including the Supplement to the 2017 version."

Specific details regarding the Food Code versions adopted by different State regulatory agencies (as of 12/31/2019) are provided below.

- The **2017** Food Code is the most recent version adopted in **eight** States: Florida (one of three agencies), Georgia (one of two agencies), Illinois, Mississippi (one of two agencies), New Hampshire, New Mexico, Pennsylvania, and South Carolina.
- The **2013** Food Code is the most recent version adopted in **21** States: Alabama, Arkansas, Colorado, Connecticut (both agencies), Delaware, Hawaii, Idaho, Iowa, Kentucky, Massachusetts, Minnesota (both agencies), Missouri, Montana, North Dakota, Ohio (both agencies), Oklahoma, Rhode Island, Texas, Utah (both agencies), and Virginia (both agencies), and West Virginia.
- The **2009** Food Code is the most recent version adopted in **12** States and DC: District of Columbia, Kansas, Maine, Maryland, Michigan, Nebraska, Nevada, North Carolina, Oregon (both agencies), Tennessee (both agencies), Washington, Wisconsin, and Wyoming.

- The **2005** Food Code is the most recent version adopted in **two** States: Alaska, and New Jersey.
- The **2001** Food Code is the most recent version adopted in **four** States: Indiana, Louisiana, New York (one of two agencies), and Vermont.
- The **1999** Food Code is the most recent version adopted in **one** State: Arizona.
- The **1995** Food Code is the most recent version adopted in **one** State: South Dakota.
- Additionally, District of Columbia, Delaware, Florida (Department of Agriculture), Kansas, Michigan, Nebraska, and Virginia (both agencies) started 2017 Food Code adoption but are still in progress; and Washington started 2017 Food Code and the Supplement to the 2017 Food Code adoption but is still in progress.

Of the 64 State regulatory agencies from 50 States and the District of Columbia (DC), 62 State agencies have adopted codes patterned after the 1995, 1999, 2001, 2005, 2009, 2013, or 2017 versions of the FDA Food Code; whereas 2 State agencies have not adopted the FDA Food Code. Table 1 lists the details.

Table 1: The list of State regulatory agencies and adopted Food Code versions (as of 12/31/2019)

State	Agency Name	Food Code Version
AK	Alaska DEC, Food Safety and Sanitation Program	2005
AL	Alabama Department of Public Health	2013
AR	Arkansas Department of Health	2013*
AZ	Arizona Department of Health Services	1999
CA	California Department of Public Health, Food & Drug Program	Not Adopted
CO	Colorado Department of Health and Environment	2013
CT	Connecticut Department of Consumer Protection	2013
CT	Connecticut Department of Public Health	2013
DC	District of Columbia Department of Health/Health, Regulation and Licensing	2009, in progress 2017
DE	Delaware Division of Public Health and Social Services	2013, in progress 2017
FL	Florida Department of Business and Professional Regulations	2017*
FL	Florida Department of Agriculture	2009, in progress 2017
FL	Florida Department of Health	2013
GA	Georgia Department of Public Health	2013
GA	Georgia Department of Agriculture	2017*
HI	Hawaii State Department of Health, Sanitation Branch	2013
IA	Iowa Department of Inspections and Appeals	2013
ID	Idaho Department of Health & Welfare	2013
IL	Illinois Department of Public Health	2017
IN	Indiana State Department of Health	2001
KS	Kansas Department of Agriculture	2009, in progress 2017
KY	Kentucky Cabinet for Health and Family Services	2013*
LA	Louisiana Department of Health and Hospitals	2001
MA	Massachusetts Department of Public Health	2013

State	Agency Name	Food Code Version
MD	Maryland Department of Health and Mental Hygiene	2009
ME	Maine DHS/Div. of Environmental Health/Health Inspection Program	2009
ME	Maine Department of Agriculture	2009
MI	Michigan Department of Agriculture	2009, in progress 2017
MN	Minnesota Department of Health	2013
MN	Minnesota Department of Agriculture	2013
MO	Missouri Department of Health and Senior Services	2013
MS	Mississippi Department of Health	2017 (Supplement to the 2017) *
MS	Mississippi Department of Agriculture	2013
MT	Montana Department of Health & Human Services	2013
NC	North Carolina Division of Public Health/NCDHHS	2009
ND	North Dakota Department of Health, Division of Food and Lodging	2013
NE	Nebraska Department of Agriculture	2009, in progress 2017
NH	New Hampshire DHHS, Food Protection Section	2017*
NJ	New Jersey Department of health & Senior Service	2005
NM	New Mexico Environment Department	2017
NV	Nevada Department of Health and Human Services	2009
NY	New York State Department of Health	Not Adopted
NY	New York Department of Agriculture	2001
OH	Ohio Department of Health	2013 (Supplement to the 2013) *
OH	Ohio Department of Agriculture	2013 (Supplement to the 2013) *
OK	Oklahoma State Department of Health	2013
OR	Oregon Health Authority	2009
OR	Oregon Department of Agriculture	2009
PA	Pennsylvania Department of Agriculture	2017 (Supplement to the 2017) *
RI	Rhode Island Department of Health Office of Food Protection	2013
SC	South Carolina Department of Health and Environmental Control (SCDHEC)	2017*
SD	South Dakota Department of Health, OPHPR & OHP	1995
TN	Tennessee Department of Health Environmental Health Division	2009
TN	Tennessee Department of Agriculture	2009
TX	Texas Department of Health Services - Public Sanitation and Retail Food Safety	2013
UT	Utah Department of Agriculture and Food	2013
UT	Utah Department of Health	2013
VA	Virginia Department of Agriculture and Consumer Services	2013, in progress 2017
VA	Virginia Department of Health	2013, in progress 2017
VT	Vermont Department of Health	2001

State	Agency Name	Food Code Version
WA	Washington State Department of Health, Environmental Health	2009, in progress 2017 including the Supplement to the 2017
WI	Wisconsin Department of Agriculture Trade and Consumer Protection	2009
WV	West Virginia Department of Health and Human Resources	2013*
WY	Wyoming Department of Agriculture	2009

Note: *--Rulemaking completed in 2019.

Summary of Adoption Method of the FDA Food Code

Figure 3 displays how the FDA Food Code was adopted among the state regulatory agencies' rulemaking process.

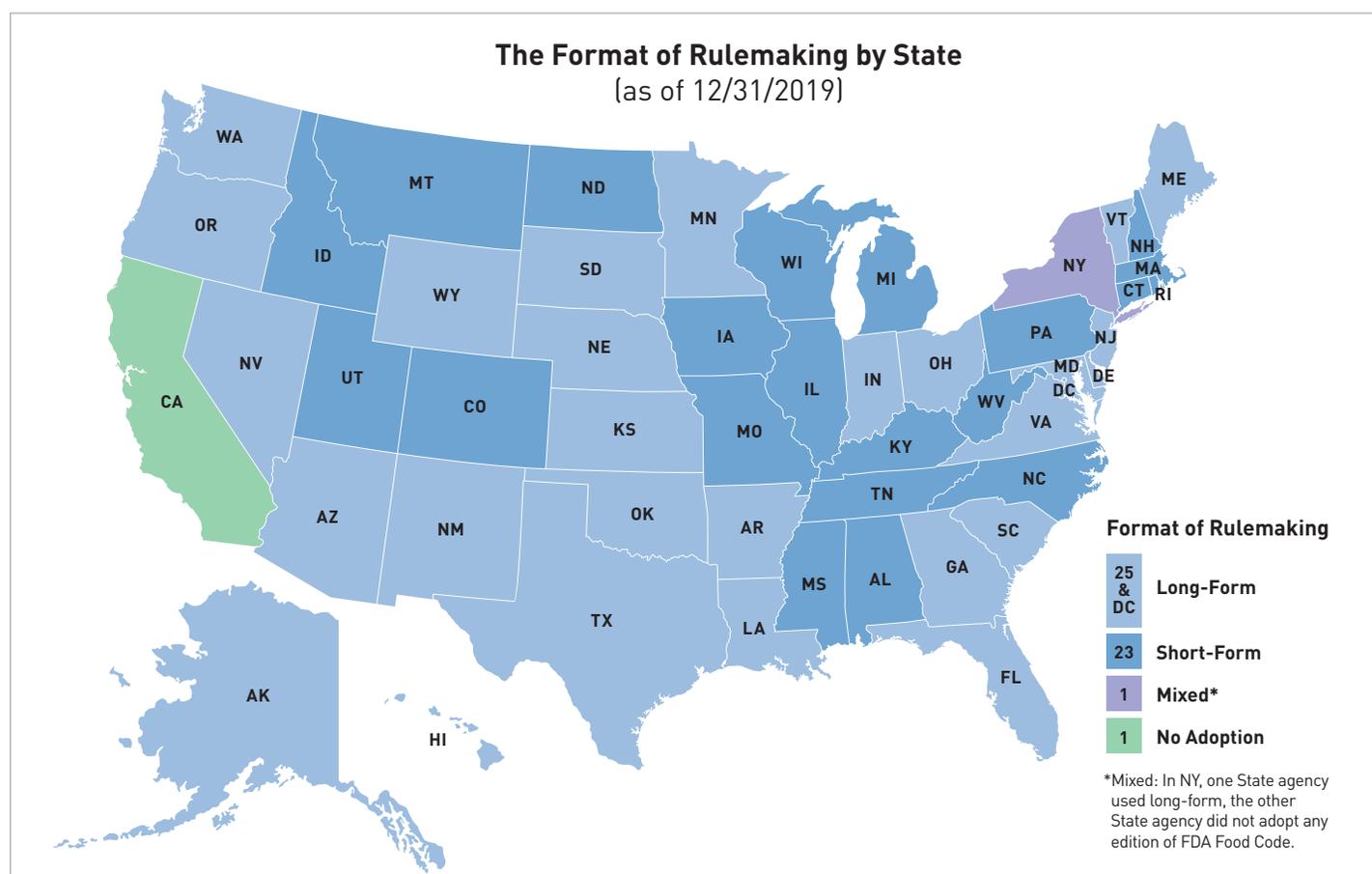


Figure 3: The adoption method of rulemaking by State.

Specific details regarding the adoption methods of State regulatory agencies are provided below.

- **25** States and DC used long-form (a.k.a. *FDA Food Code was used by section-by-section reference*) format: Alaska, Arizona, Arkansas, Delaware, District of Columbia, Georgia, Hawaii, Indiana, Kansas, Louisiana, Maine, Maryland, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Vermont, Washington, and Wyoming.
- **23** States used short-form (a.k.a. *FDA Food Code was adopted by reference*) format: Alabama, Colorado, Connecticut, Florida, Idaho, Illinois, Iowa, Kentucky, Massachusetts, Michigan, Mississippi, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Pennsylvania, Rhode Island, Tennessee, Utah, Virginia, West Virginia, and Wisconsin.

- **One** State with multiple agencies but only one agency used long-form format to adopt FDA 2001 Food Code whereas the other agency did not use any edition of FDA Food Code: New York.
- **One** State did not adopt FDA Food Code: California Department of Public Health, Food & Drug Program Food Code is modeled after the FDA 2001 version Food Code, but it is not equivalent.

Summary of the Food Code Adoption Changes by Population and Number of States

For the purposes of summary by State and population calculation, if a State has multiple agencies as of 2019, 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 FDA 2001 Food Code whereas the other agency did not adopt FDA Food Code; we consider New York as a State which has adopted FDA 2001 Food Code.

Table 2: States had changes on Food Code adoption status in 2019

State Name	AR	FL (1 agency)	GA (1 agency)	KY	MS (1 agency)	NH	OH (2 agencies)	PA	SC	WV
Food Code version in previous year	2009	2013	2013	2005	2017	2009	2013	2017	2013	2005
Food Code version in 2019	2013	2017	2017	2013	2017 (modified with the Supplement)	2017	2013 (modified with the Supplement)	2017 (modified with the Supplement)	2017	2013

As of 12/31/2019, 10 States have completed Food Code adoption related rulemaking in 2019 (see details in Table 2); and seven States and DC had Food Code adoption related rulemaking activities but are still in progress (see details in Table 3).

Table 3: States have rulemaking activities on Food Code adoption in 2019, and are still in progress (not completed)

State Name	DC	DE	FL (1 agency)	KS	MI	NE	VA (2 agencies)	WA
Current adopted Food Code version	2009	2013	2009	2009	2009	2009	2013	2009
Working on adoption of Food Code version	2017	2017	2017	2017	2017	2017	2017	2017 (modified with the Supplement)

- **Four** States changed Food Code adoption status from previous version to 2017 version: FL, GA and SC are from 2013 version; NH is from 2009 version.
- **Three** States changed Food Code adoption status from previous version to 2013 version: KY, and WV are from 2005 version, AR is from 2009 version.
- **Two** States changed Food Code adoption status from 2017 version to the 2017 version modified with the Supplement: MS and PA.
- **One** State changed Food Code adoption status from 2013 version to the 2013 version modified with the Supplement: OH.
- **Seven** States and DC started rulemaking and are working on Food Code adoption from previous version to 2017 version or to the 2017 version modified with the Supplement: DC, DE, FL, KS, MI, NE, VA and WA.

Table 4: As of 12/31/2019, FDA Food Code adoption by population (source of population: 2010 US Census)

Food Code version	State(s)	Population	% of U.S.
2017	8: FL, GA IL, MS, NH, NM, PA, SC	64,990,284	21.05
2013	21: AL, AR, CO, CT, DE, HI, IA, ID, KY, MA, MN, MO, MT, ND, OH, OK, RI, TX, UT, VA, WV	101,116,859	32.75
2009	13: DC, KS, MD, ME, MI, NC, NE, NV, OR, TN, WA, WI, WY	57,655,100	18.67
2005	2: AK, NJ	9,502,125	3.08
2001	4: IN, LA, NY, VT	31,021,017	10.05
1999	1: AZ	6,392,017	2.07
1995	1: SD	814,180	0.26
No adoption	1: CA	37,253,956	12.07

Table 4 shows the total and the percentage of population broken down by the versions of the Food Code that were adopted in each State. Figure 4 compares population percentage by Food Code adoption between 2019 and 2018 in bar chart, and Figure 5 compares number of States by Food Code Adoption in 2019 and 2018 in bar chart.



Figure 4: Compare population percentage by Food Code adoption in 2019 and 2018

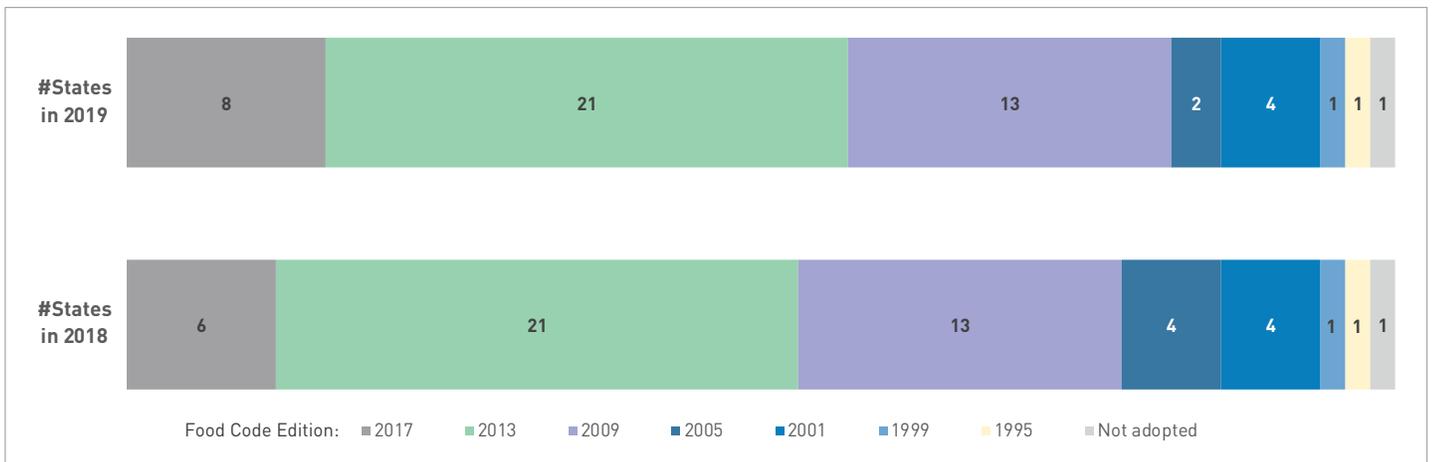


Figure 5: Compare number of States by Food Code version in 2019 and 2018

Territorial Agencies' FDA Food Code Adoption

As of 12/31/2019, two territorial agencies (Puerto Rico and U.S. Virgin Islands) have adopted the current version of FDA Food Code, that is 2017 version modified with the Supplement, and they used short-form format. One territorial agency (Guam) has adopted the 2005 version of Food Code. We do not know the status in American Samoa, and Northern Mariana Islands.