

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

2020

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 for the 2020 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 new 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, 2020, the 2017 Food Code (<https://www.fda.gov/media/110822/download>) is the most recent full edition published by FDA, and it was followed by the Supplement to the 2017 Food Code (<https://www.fda.gov/media/133749/download>), which was published in 2019. As such, adoption of the Food Code modified with 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.

States and Territories Monitored for Food Code Adoption Status in 2020

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.

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 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.
- One regulatory agency with responsibility for both restaurants and retail food stores, and another two regulatory agencies with responsibility for restaurants but not retail food stores.

Summary of Adoption Method 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>. Figure 3 displays how the FDA Food Code was adopted among the states’ rulemaking process.

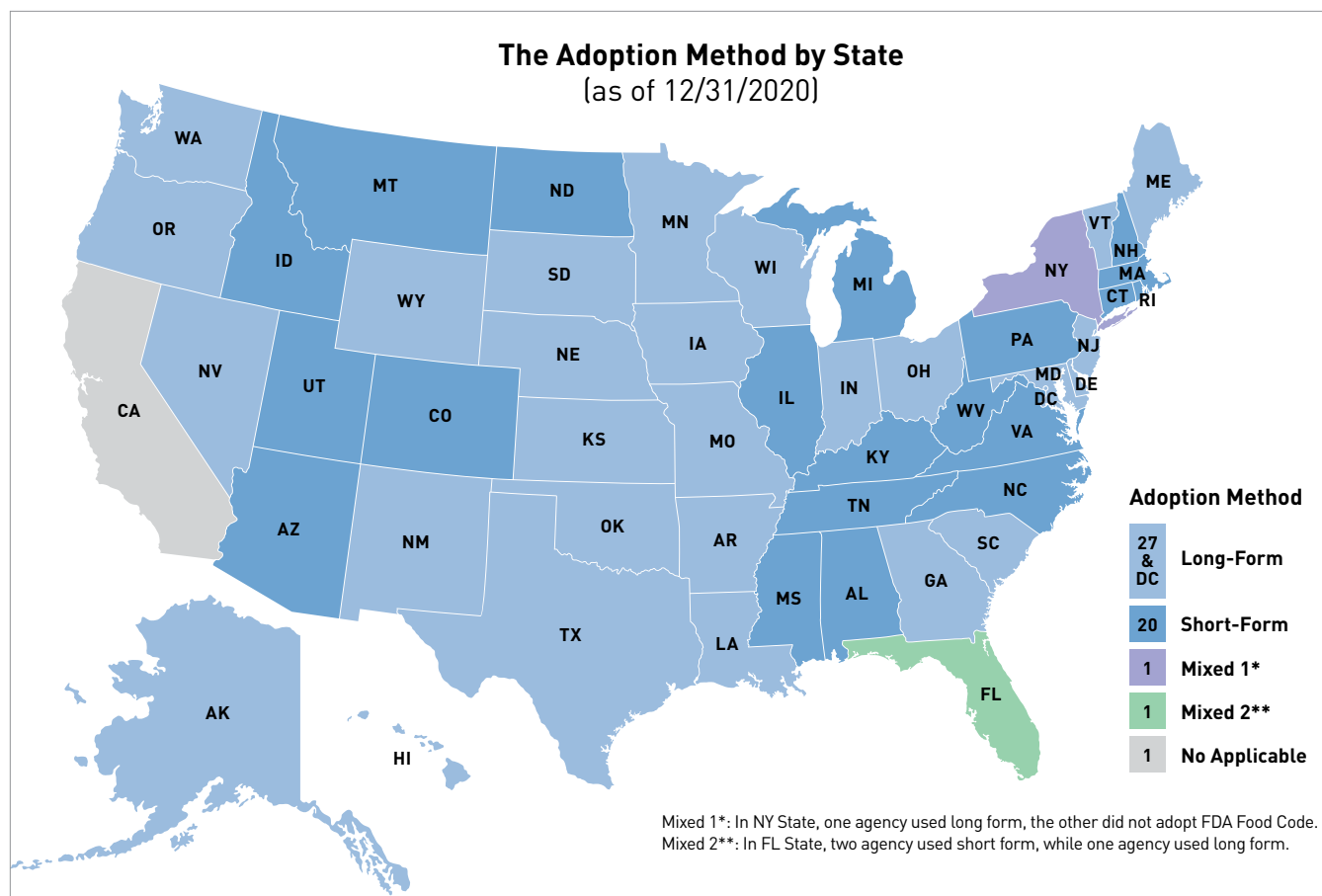


Figure 3: The adoption method by State.

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

- **Twenty (20)** 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, Utah, Virginia, and West Virginia.
- **Twenty eight (28)** 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, Texas, Vermont, Washington, Wisconsin and Wyoming.
- **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.

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	15: AZ, DE, FL, GA, IA, IL, MS, NE, NH, NM, PA, RI, SC, VA, WA	100,367,434	30.28
2013	18: AL, AR, CO, CT, HI, ID, KY, MA, MN, MT, ND, OH, OK, TX, UT, WI, WV, WY	96,255,611	29.04
2009	10: DC, KS, MD, ME, MI, MO, NC, NV, OR, TN	52,091,350	15.72
2005	2: AK, NJ	10,022,385	3.02
2001	4: IN, LA, NY, VT	32,287,611	9.74
1999	0	0	0
1997	0	0	0
1995	1: SD	886,667	0.27
None	1: 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, Food Safety and Sanitation Program	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 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/Health, Regulation and Licensing	2009	Long-Form	Both#	2012

State	Agency Name	Food Code Version Adopted	Adoption Method	Oversight Responsibility	Effective Year
DE	Delaware Division of Public Health and Social Services	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 State Department of Health, Sanitation 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
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	2013	Short-Form	Both#	2019
LA	Louisiana Department of Public Health	2001	Long-Form	Both#	2002
MA	Massachusetts Department of Public Health, Bureau of Environmental Health, Food Protection Program	2013	Short-Form	Both#	2018
MD	Maryland Department of Health and Mental Hygiene/Prevention and Health Promotion Administration	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 Division of Public Health/ NCDHHS	2009	Short-Form	Both#	2012
ND	North Dakota Department of Health, Division of Food and Lodging	2013	Short-Form	Both#	2018
NE	Nebraska Department of Agriculture	2017*	Long-Form	Both#	2020
NH	New Hampshire DHHS, Food Protection Section	2017	Short-Form	Both#	2019

State	Agency Name	Food Code Version Adopted	Adoption Method	Oversight Responsibility	Effective Year
NJ	New Jersey dept of health & Senior Serv	2005	Long-Form	Both#	2005
NM	New Mexico Environment Department	2017	Long-Form	Both#	2019
NV	Nevada Department of Health and Human Services, Division of Public & Behavioral Health	2009	Long-Form	Both#	2013
NY	New York State Department of Health Bureau of Community Environmental Health and Food Protection	None**	Not applicable	Restaurants	Not applicable
NY	New York State Department of Agriculture and Markets Division of Food Safety and Inspection	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	2013	Long-Form	Both#	2016
OR	Oregon Health Authority	2009	Long-Form	Restaurants	2011
OR	Oregon Department of Agriculture	2009	Long-Form	Retail Food Stores	2011
PA	Pennsylvania Department of Agriculture	2017	Short-Form	Both#	2018
RI	Rhode Island Department of Health Office of Food Protection	2017 (w/Suppl.) *	Short-Form	Both#	2021
SC	South Carolina Department of Health and Environmental Control (SCDHEC)	2017	Long-Form	Both#	2019
SD	South Dakota Department of Health, OPHPR & OHP	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 Health Services - Public Sanitation and Retail Food Safety	2013	Long-Form	Both#	2015
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/Food and Dairy Safety Program	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, Environmental Health	2017 (w/Suppl.) *	Long-Form	Both#	2021
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 2020.

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

***: FDA specialist has confirmed with Program Manager of CT DPH, adoption of newer FDA Food Code has been delayed.

Food Code Adoption Status Changes Between 2019 and 2020

In 2020, 10 States (11 State agencies) have completed Food Code adoption related rulemaking (see details in Table 3).

- **Eight (8)** States changed Food Code adoption status from previous version to the 2017 version: AZ is from 1999 version; DE, IA, RI and VA are from 2013 version; FL (one agency), NE and WA are from 2009 version.
- **Two (2)** States changed Food Code adoption status from previous version to 2013: WI and WY are from 2009 version.

Additionally, Kansas, Michigan, and Missouri are still in progress with intent to adopt Food Code 2017.

Table 3: Changes in Food Code adoption between 2019 and 2020

State	Food Code version in 2019	Food Code version in 2020
AZ	1999	2017
DE	2013	2017
FL (one agency)	2009	2017
IA	2013	2017
NE	2009	2017
RI	2013	2017
VA (two agencies)	2013	2017
WA	2009	2017
WI	2009	2013
WY	2009	2013

Overview Food Code Adoption Changes in 4 Years

The 2017 Food Code is the most recent full edition published by FDA in February of 2018. 2017 is the year before 2017 Food Code was published. Table 4 showed the changes before and after 2017 FDA Food Code published. Figure 4 displayed the changes in a chart.

Table 4: Changes in Food Code adoption between 2017 and 2020

Food Code version	#States in 2017	#States in 2018	#States in 2019	#States in 2020
2017	0	4	8	15
2013	21	21	20	18
2009	16	15	14	10
2005	5	4	2	2
2001	4	4	4	4
1999	2	1	1	0
1997	1	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 published; (2) in the past 4 years, adoption of 2009 Food Code decreased each year.

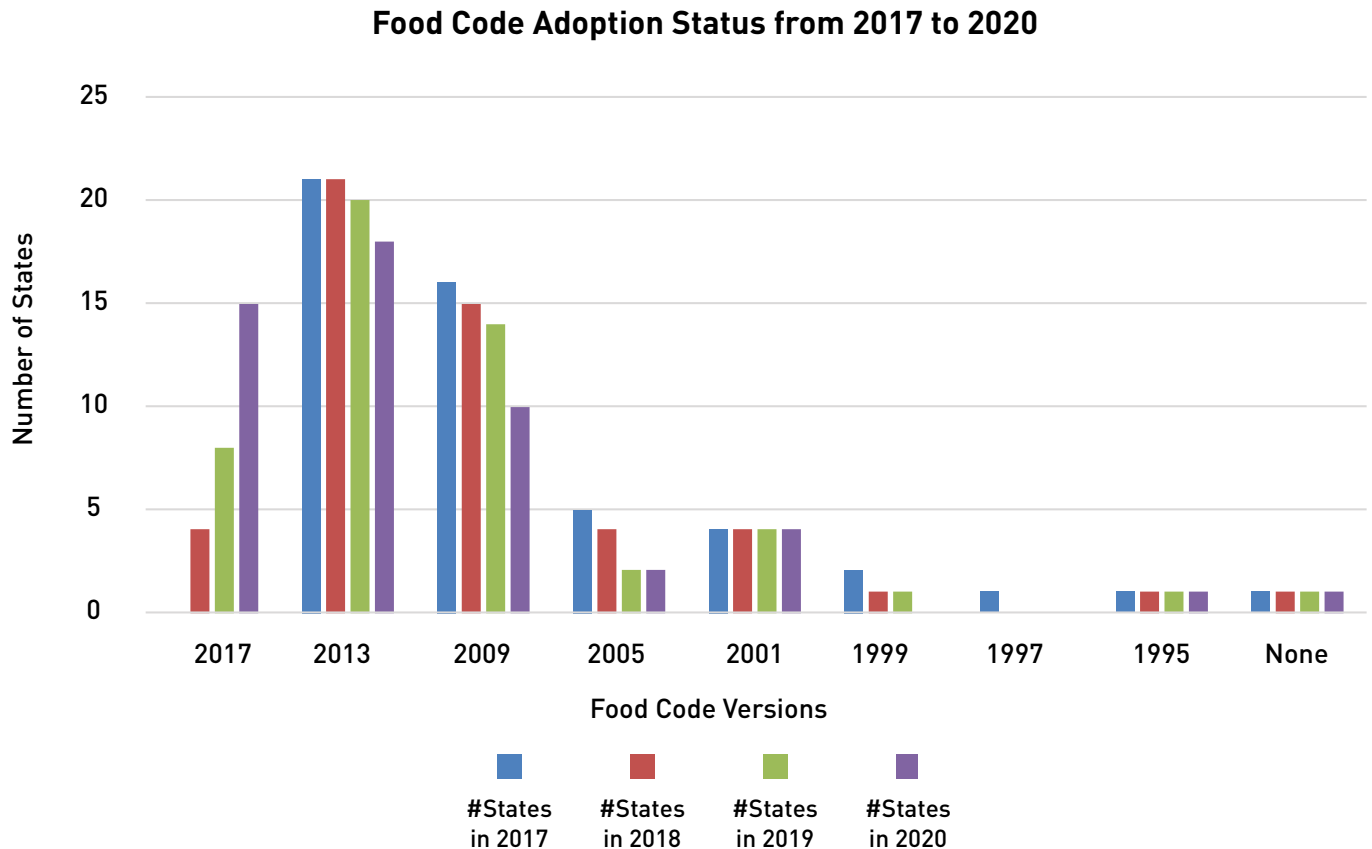


Figure 4: Number of States by Food Code version adopted in 2017, 2018, 2019, and 2020

Additionally, eight States (AK, CA, IN, LA, NJ, NY, SD, and VT) have not changed adoption status for more than 12 years.

Territorial Agencies' FDA Food Code Adoption

Two territorial agencies (Puerto Rico and U.S. Virgin Islands) have adopted 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. We do not know the status in American Samoa and Northern Mariana Islands.