

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

2017

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 Regional 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.

States and Territories Monitored for Food Code Adoption Status in 2017

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 2017:

Colorado, Connecticut, Guam, Hawaii, Iowa, North Dakota, Ohio.

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 66 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 **66** State regulatory agencies:

- 47** agencies are responsible for both restaurants and retail food stores; 46 out of these 47 have adopted the FDA Food Code, with California Dept. of Public Health, Food & Drug Program the only exception.
- 8** 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.
- 11** agencies are responsible for retail food stores but not restaurants; 10 out of these 11 have adopted the FDA Food Code, with Vermont Agency of Agriculture Food & Markets the only exception.

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

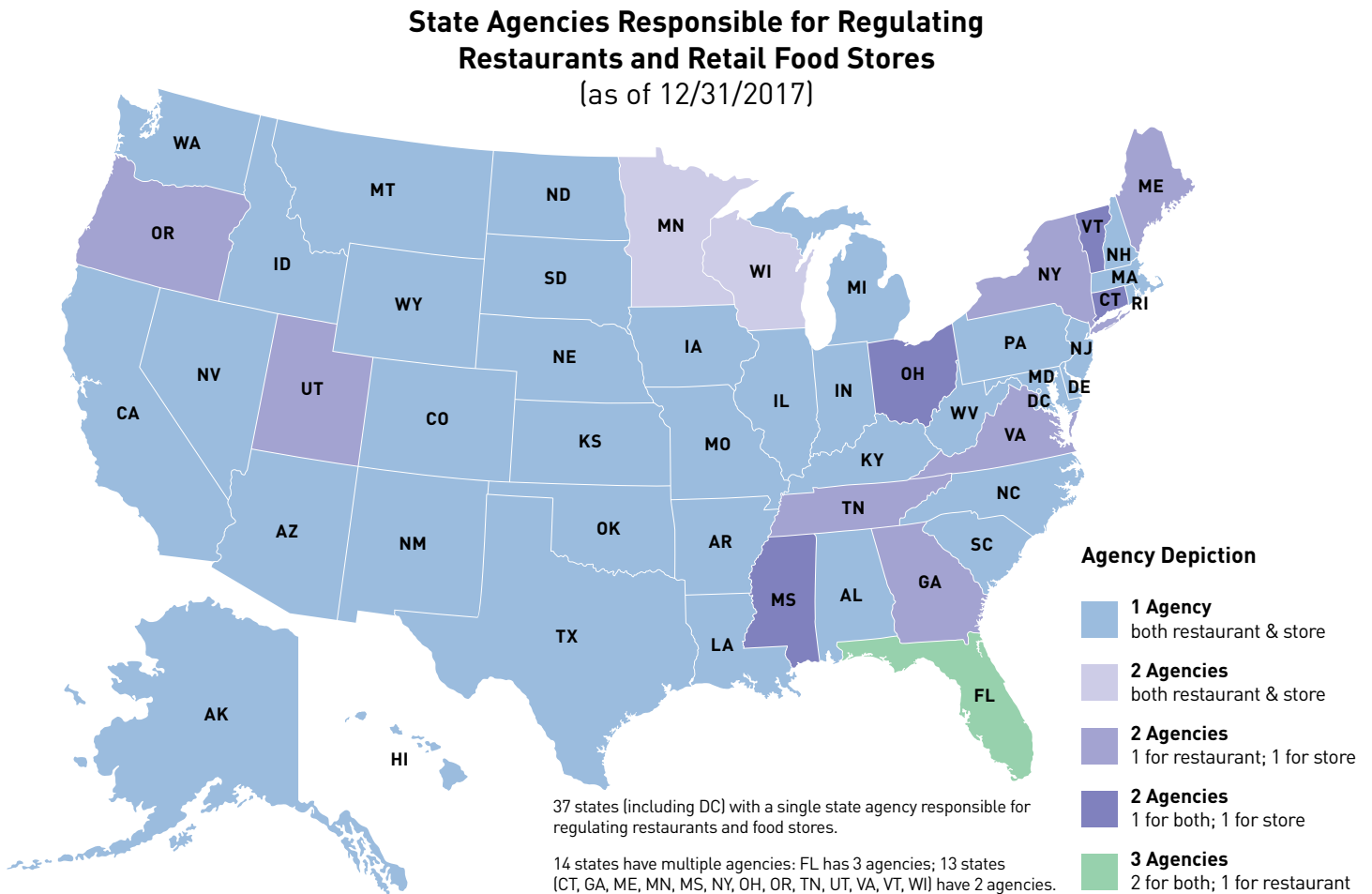


Figure 1: State regulatory agencies have responsibility for oversight of restaurants and retail food stores.

Specific details include:

- There are **37** States (including DC) with a single State regulatory agency responsible for regulating restaurants and retail food stores.
- There are **14** States that have multiple regulatory agencies, with details provided below:
 - **1** State (**FL**) has **3** agencies, where:
 - 2 agencies are responsible for both restaurants and retail food stores.
 - 1 agency is responsible for restaurants.
 - **4** States (**CT, MS, OH, VT**) have **2** agencies, where:
 - 1 agency is responsible for both restaurants and retail food stores.
 - 1 agency is responsible for retail food stores.
 - **7** States (**GA, ME, NY, OR, TN, UT, VA**) have **2** agencies, where:
 - 1 agency is responsible for restaurants.
 - 1 agency is responsible for retail food stores.
 - **2** States (**MN, WI**) have **2** agencies, where:
 - 2 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 edition that was adopted in each State regulatory agency (as of 2017). Each State has at least one agency that has adopted the FDA Food Code, with California the only exception.

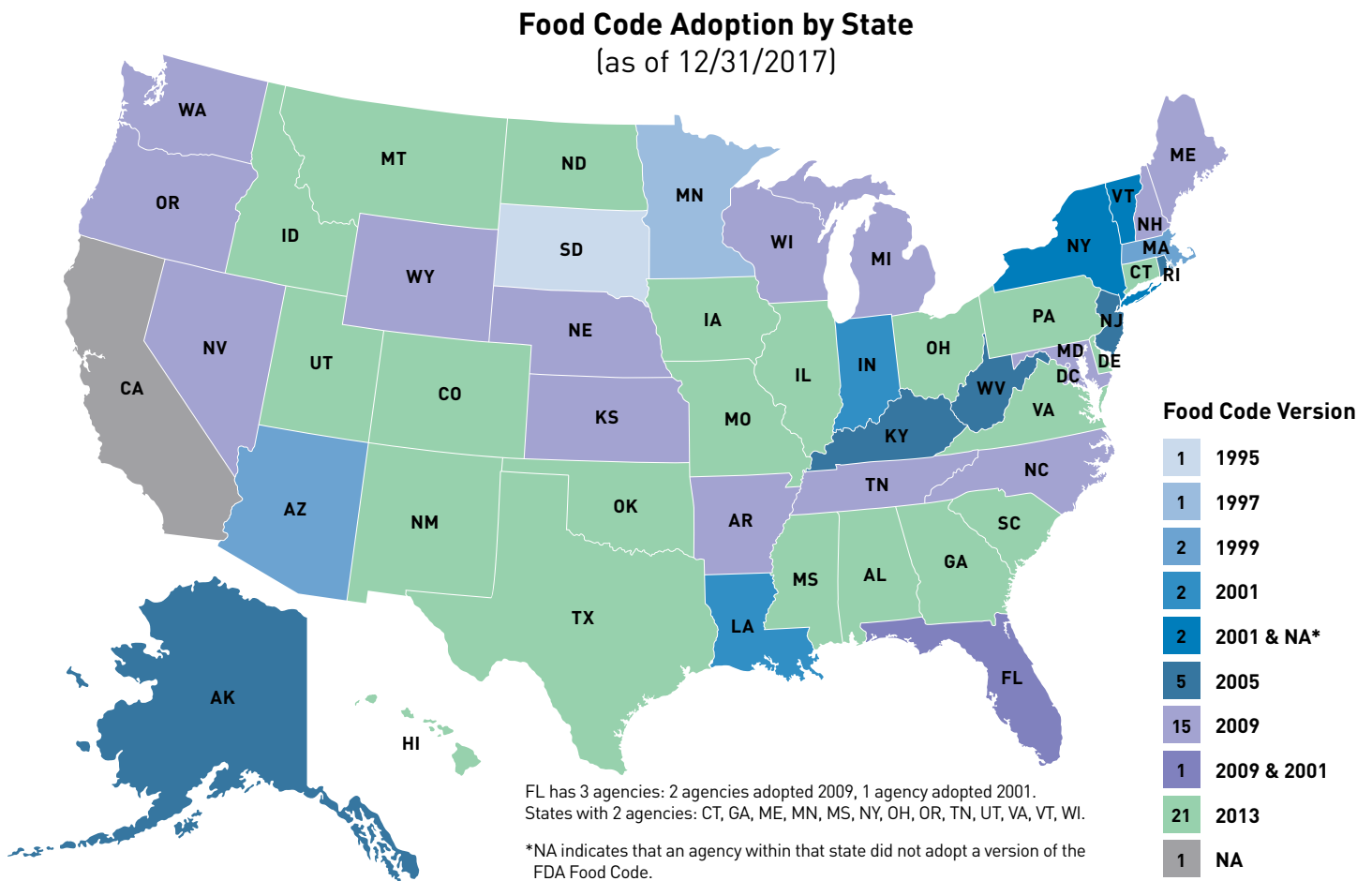


Figure 2: Food Code edition by State as of 2017.

Specific details regarding the Food Code versions adopted by different State regulatory agencies (as of 12/31/2017) are provided below.

- The **1995** Food Code is the most recent version adopted in **one** State: South Dakota.
- The **1997** Food Code is the most recent version adopted in **one** State: Minnesota (both agencies).
- The **1999** Food Code is the most recent version adopted in **two** States: Arizona, and Massachusetts.
- The **2001** Food Code is the most recent version adopted in **four** States: Indiana, Louisiana, New York (one of two agencies), and Vermont (one of two agencies).
- The **2005** Food Code is the most recent version adopted in **five** States: Alaska, Kentucky, New Jersey, Rhode Island, and West Virginia.
- The **2009** Food Code is the most recent version adopted in **15** States and DC: Arkansas, District of Columbia, Florida (two of three agencies), Kansas, Maine, Maryland, Michigan, Nebraska, Nevada, New Hampshire, North Carolina, Oregon (both agencies), Tennessee (both agencies), Washington, Wisconsin (both agencies), and Wyoming.

- The **2013** Food Code is the most recent version adopted in **21** States: Alabama, Colorado, Connecticut (both agencies), Delaware, Georgia (both agencies), Hawaii, Idaho, Illinois, Iowa, Mississippi (both agencies), Missouri, Montana, New Mexico, North Dakota, Ohio (both agencies), Oklahoma, Pennsylvania, South Carolina, Texas, Utah (both agencies), and Virginia (both agencies).

Of the 66 State regulatory agencies from 50 States and the District of Columbia (DC), 63 State agencies have adopted codes patterned after the 1995, 1997, 1999, 2001, 2005, 2009, or 2013 versions of the FDA Food Code; whereas 3 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 12/31/2017)

State	Agency Name	Food Code Version
AK	Alaska Department of Environmental Conservation, Food Safety and Sanitation Program	2005
AL	Alabama Department of Public Health	2013
AR	Arkansas Department of Health	2009
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
DE	Delaware Division of Public Health and Social Services	2013
FL	Florida Department of Business and Professional Regulations	2009
FL	Florida Department of Agriculture	2009
FL	Florida Department of Health	2001
GA	Georgia Department of Public Health	2013
GA	Georgia Department of Agriculture	2013
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	2013
IN	Indiana State Department of Health	2001
KS	Kansas Department of Agriculture	2009
KY	Kentucky Cabinet for Health and Family Services	2005
LA	Louisiana Department of Health and Hospitals	2001
MA	Massachusetts Department of Public Health	1999
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

State	Agency Name	Food Code Version
MN	Minnesota Department of Health	1997
MN	Minnesota Department of Agriculture	1997
MO	Missouri Department of Health and Senior Services	2013
MS	Mississippi Department Of Health	2013
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
NH	New Hampshire Department of Health and Human Services, Food Protection Section	2009
NJ	New Jersey Department of Health & Senior Service	2005
NM	New Mexico Environment Department	2013
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
OH	Ohio Department of Agriculture	2013
OK	Oklahoma State Department of Health	2013
OR	Oregon Health Authority	2009
OR	Oregon Department of Agriculture	2009
PA	Pennsylvania Department of Agriculture	2013
RI	Rhode Island Department of Health Office of Food Protection	2005
SC	South Carolina Department of Health and Environmental Control (SCDHEC)	2013
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 State 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
VA	Virginia Department of Health	2013
VT	Vermont Agency of Agriculture, Food & Markets	Not Adopted
VT	Vermont Department of Health	2001
WA	Washington State Department of Health, Environmental Health	2009
WI	Wisconsin Department of Health Services	2009
WI	Wisconsin Department of Agriculture	2009
WV	West Virginia Department of Health and Human Resources	2005
WY	Wyoming Department of Agriculture	2009

Summary of the Adoption Method of the FDA Food Code

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

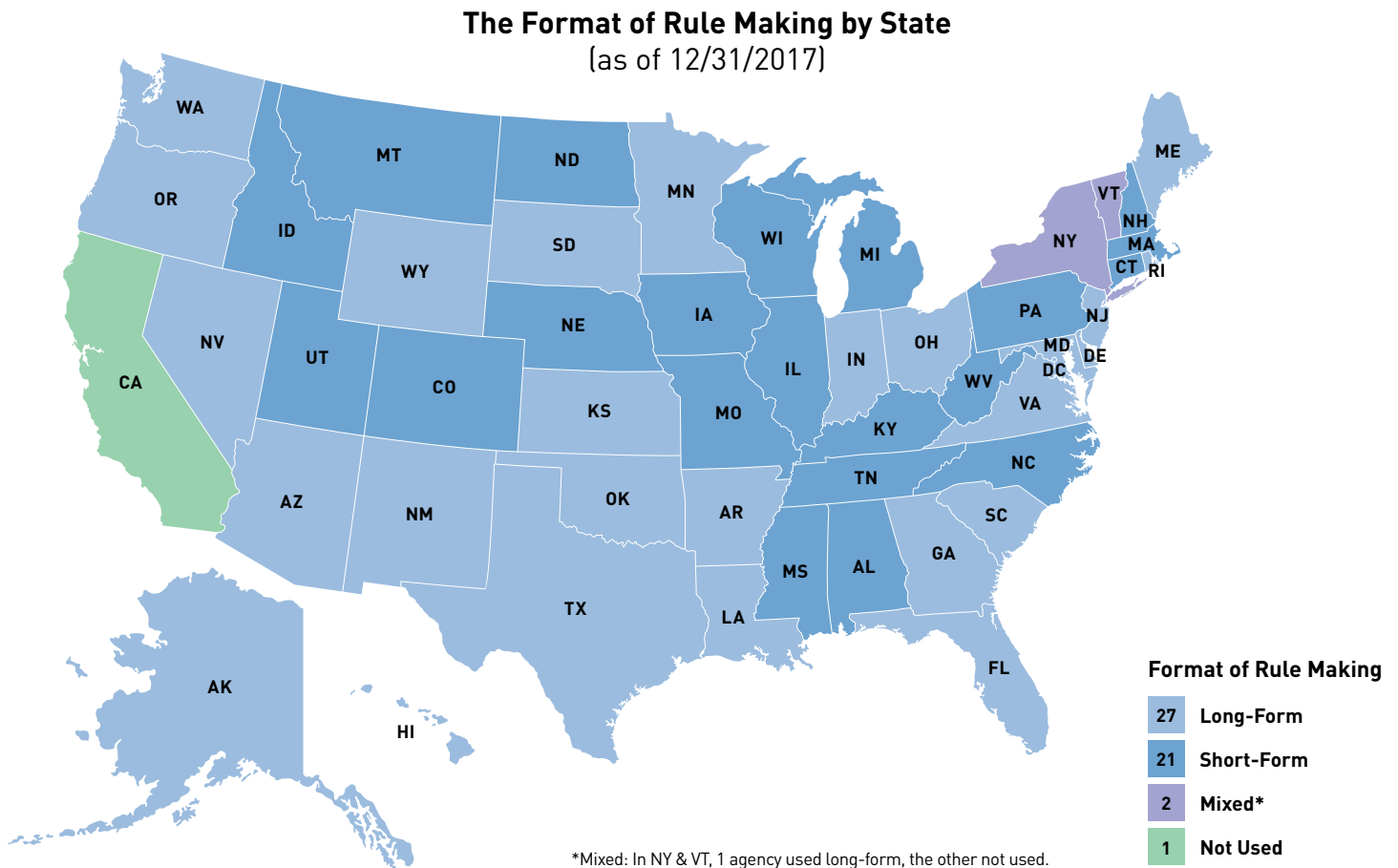


Figure 3: The adoption method by State

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

- **26 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, Florida, Georgia (2 agencies), Hawaii, Indiana, Kansas, Louisiana, Maine (2 agencies), Maryland, Minnesota (2 agencies), Nevada, New Jersey, New Mexico, Ohio (2 agencies), Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Texas, Virginia, Washington, and Wyoming.
- **21 States used short-form (a.k.a. FDA Food Code was adopted by reference):** Alabama, Colorado, Connecticut (2 agencies), Idaho, Illinois, Iowa, Kentucky, Massachusetts, Michigan, Mississippi (2 agencies), Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Pennsylvania, Tennessee (2 agencies), Utah (2 agencies), West Virginia, and Wisconsin (2 agencies).
- **Two States with multiple agencies but only one agency used long-form adopted FDA Food Code whereas the other agency not used FDA Food Code:** New York and Vermont.
- **One State did not adopt FDA Food Code:** California Department of Public Health, Food & Drug Program Food Code is modeled after the FDA 2001 edition Food Code, but it is not equivalent.

Summary of the Food Code Adoption by Population in 2017

For the purposes of 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 Vermont 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 use FDA Food Code; we consider Vermont as a State which has adopted FDA 2001 Food Code. Table 2 shows the total and the percentage of the population broken down by the editions of the Food Code that were adopted in each State. Figure 4 shows the summary results in a bar chart.

Table 2: FDA Food Code Adoption by population (source of population: 2010 US Census)

Food Code Version	State(s)	Population	% of U.S.
1995	1: SD	814,180	0.26
1997	1: MN	5,303,925	1.72
1999	2: AZ, MA	12,939,646	4.19
2001	4: IN, LA, NY, VT	31,021,017	10.05
2005	5: AK, KY, NJ, RI, WV	16,747,053	5.42
2009	16: AR, DC, FL, KS, MD, ME, MI, NC, NE, NH, NV, OR, TN, WA, WI, WY	80,688,798	26.13
2013	21: AL, CO, CT, DE, GA, HI, IA, ID, IL, MO, MS, MT, NM, OH, OK, PA, SC, TX, UT, VA	123,976,963	40.16
Not adopted	1: CA	37,253,956	12.07

Summary of Food Code Adoption Status by Number of States and Percentage of the U.S. Population

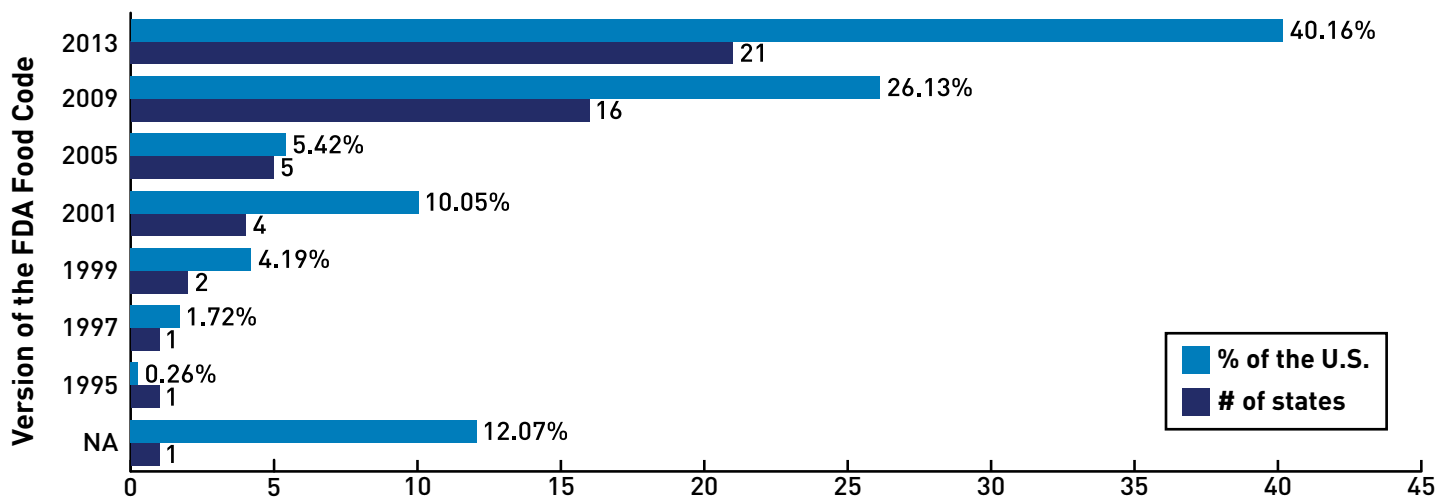


Figure 4: The numbers of States and the percentage of the population by the editions of FDA Food Code

Territorial Agencies' FDA Food Code Adoption

As of 12/31/2017, two territorial agencies (in Puerto Rico and U.S. Virgin Islands) have adopted the 2013 version of FDA Food Code; one territorial agency (in Guam) has adopted the 2005 version of FDA Food Code. We don't know the status in American Samoa and Northern Mariana Islands.