

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

2018

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 2018

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 2018:

Florida, Illinois, Massachusetts, Minnesota, Mississippi, New Mexico, Pennsylvania, Puerto Rico, Rhode Island, United States Virgin Islands. Rulemaking in Kansas and Washington started in 2018 with intent to adopt 2017 Food Code (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 65* 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 **65** 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) **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.
- c) **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.

* Wisconsin Department of Health is merged with WI Department of Agriculture.

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

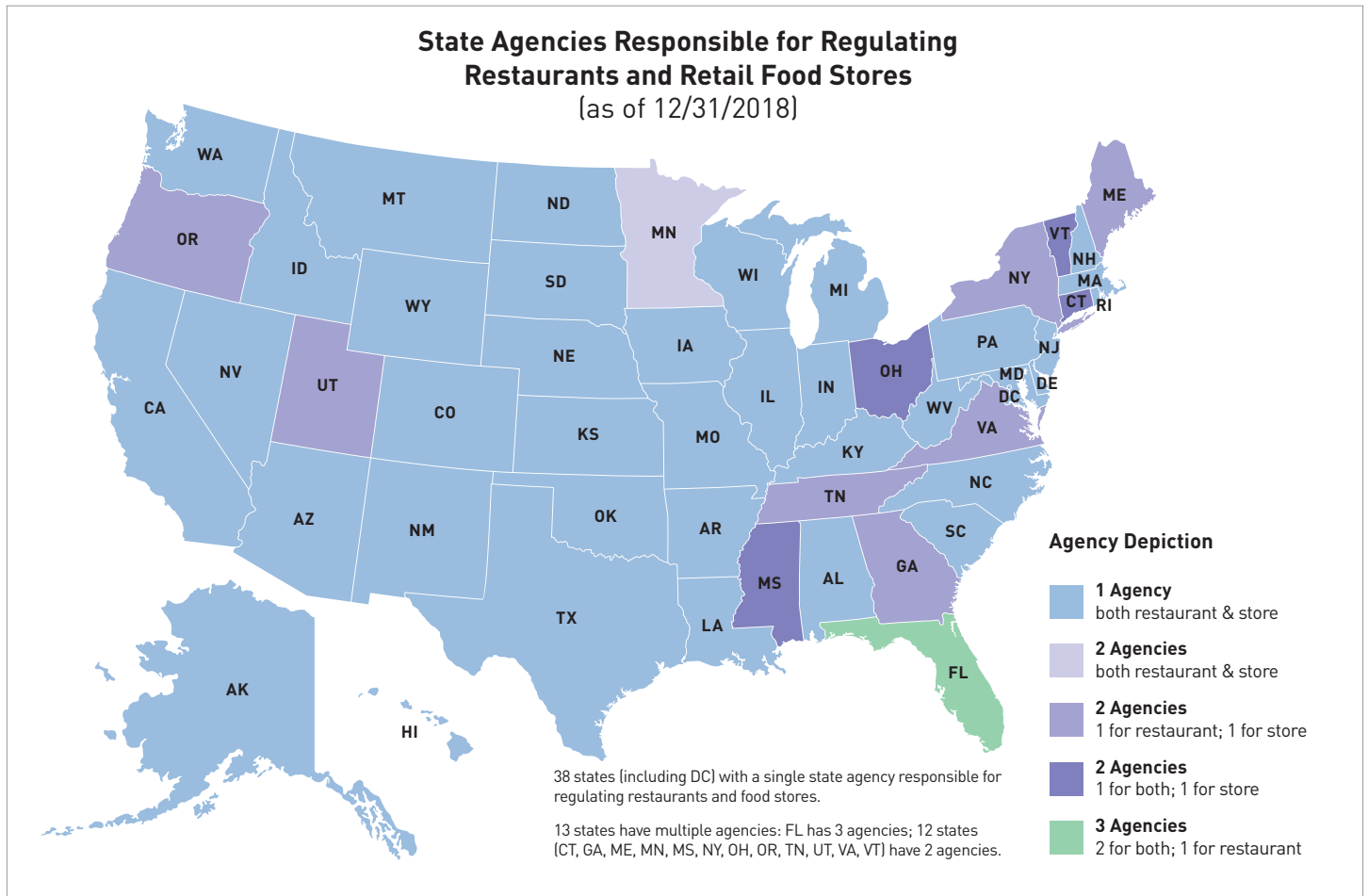


Figure 1: State regulatory agencies have responsibility for oversight of restaurants and retail food stores.

Specific details include:

- There are **38** States (including DC) with a single State regulatory agency responsible for regulating restaurants and retail food stores.
- There are **13** 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.
 - **1** State (**MN**) 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 2018). Each State has at least one agency that has adopted the FDA Food Code, with California the only exception.

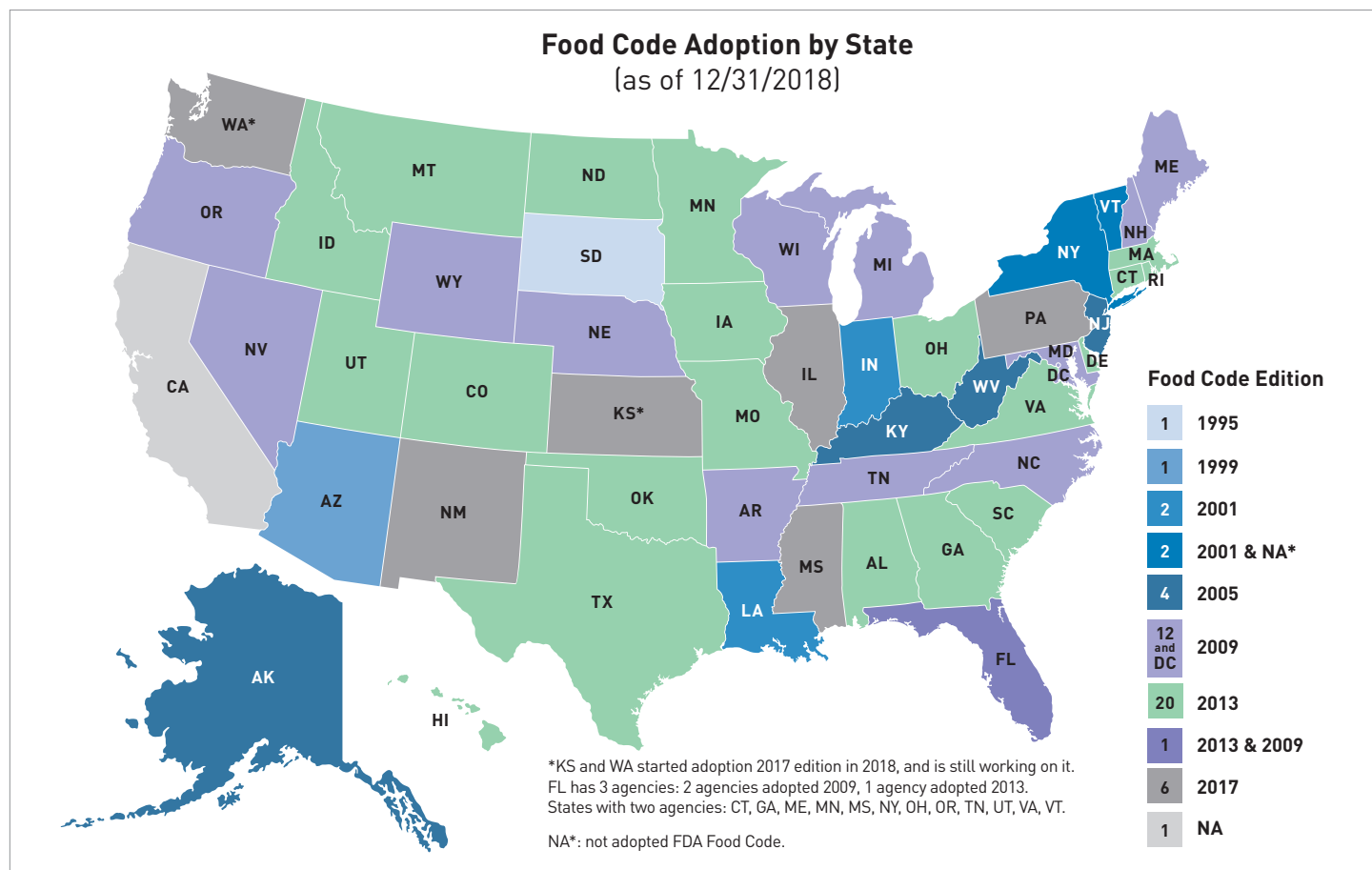


Figure 2: Food Code edition by State as of 2018.

Specific details regarding the Food Code versions adopted by different State regulatory agencies (as of 12/31/2018) are provided below.

- The **1995** Food Code is the most recent version adopted in one State: South Dakota.
- The **1999** Food Code is the most recent version adopted in one State: Arizona.
- 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 four States: Alaska, Kentucky, New Jersey, and West Virginia.
- The **2009** Food Code is the most recent version adopted in 12 States and DC: Arkansas, District of Columbia, Maine, Maryland, Michigan, Nebraska, Nevada, New Hampshire, North Carolina, Oregon (both agencies), Tennessee (both agencies), Wisconsin and Wyoming.
- The **2013** Food Code is the most recent version adopted in 21 States: Alabama, Colorado, Connecticut (both agencies), Delaware, Florida (one of three agencies), Georgia (both agencies), Hawaii, Idaho, Iowa, Massachusetts, Minnesota (both agencies), Missouri, Montana, North Dakota, Ohio (both agencies), Oklahoma, Rhode Island, South Carolina, Texas, Utah (both agencies), and Virginia (both agencies).

- The **2017** Food Code is the most recent version adopted in 4 States: Illinois, Mississippi (one of two agencies), New Mexico, Pennsylvania.
- Additionally, Kansas and Washington started 2017 Food Code adoption in 2018 and are still in progress.

Of the 65 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 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 12/31/2018)

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	2013*
GA	Georgia Department of Public Health	2013
GA	Georgia Department of Agriculture	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	2017#
KY	Kentucky Cabinet for Health and Family Services	2005
LA	Louisiana Department of Health and Hospitals	2001
MA	Massachusetts Department of Public Health	2013*
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
MN	Minnesota Department of Health	2013*
MN	Minnesota Department of Agriculture	2013*

State	Agency Name	Food Code Version
MO	Missouri Department of Health and Senior Services	2013
MS	Mississippi Department Of Health	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
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	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
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	2017*
RI	Rhode Island Department of Health Office of Food Protection	2013*
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	2017#
WI	Wisconsin Department of Agriculture Trade and Consumer Protection**	2009
WV	West Virginia Department of Health and Human Resources	2005
WY	Wyoming Department of Agriculture	2009

Note: #--Rulemaking started in 2018 but still working on it; *--Rulemaking completed in 2018; **--Merged another agency.

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.

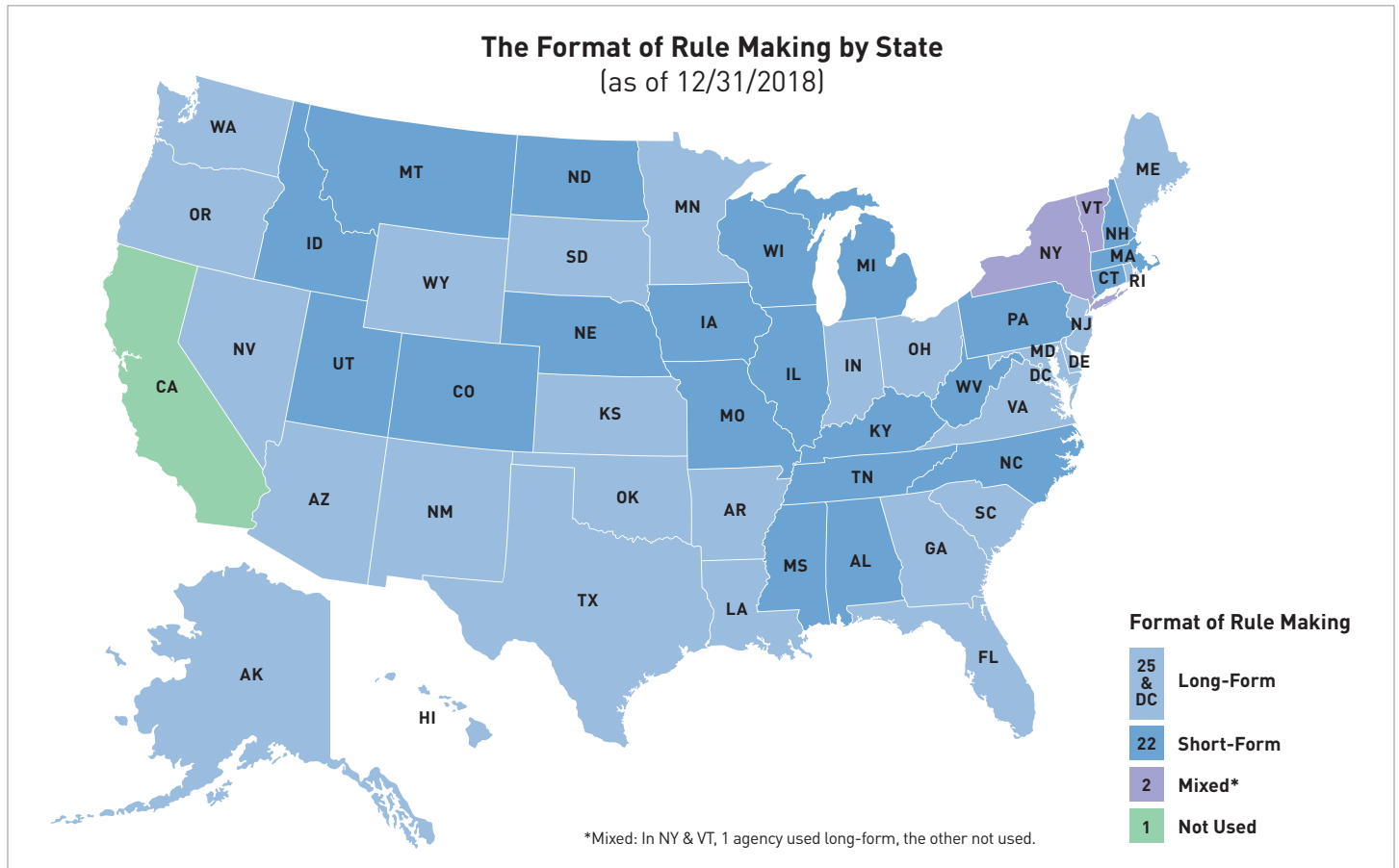


Figure 3: The adoption method by State

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

- **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, Florida, Georgia, Hawaii, Indiana, Kansas, Louisiana, Maine, Maryland, Minnesota, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Virginia, Washington, and Wyoming.
- **22** States used short-form (a.k.a. *FDA Food Code was adopted by reference*) format: Alabama, Colorado, Connecticut, Idaho, Illinois, Iowa, Kentucky, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Pennsylvania, Rhode Island, Tennessee, Utah, West Virginia, and Wisconsin.
- **Two** States with multiple agencies but only one agency used long-form format to adopt FDA Food Code whereas the other agency did not use any edition of 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 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 2018, 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.

As of 12/31/2018, 10 States had Food Code adoption related rulemaking activities occurring in 2018:

Table 2: States having changes on Food Code adoption status in 2018

Food Code Adoption	FL	IL	KS	MA	MN	MS	NM	PA	RI	WA
In previous year	2009	2013	2009	1999	1997	2013	2013	2013	2005	2009
In 2018	2013	2017	2017	2013	2013	2017	2017	2017	2013	2017

- **Four** States changed Food Code adoption status from 2013 edition to 2017 edition: IL, MS, NM, and PA.
- **Four** States changed Food Code adoption status from elder edition to 2013 edition: FL is from 2009 edition, MA is from 1999 edition, MN is from 1997 edition, and RI is from 2005 edition.
- **Two** States started rulemaking and are working on Food Code adoption status from 2009 edition to 2017 edition: KS, and WA.

Table 2 lists the specific changes by State.

Table 3: As of 12/31/2018, 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
1999	1: AZ	6,392,017	2.07
2001	4: IN, LA, NY, VT	31,021,017	10.05
2005	4: AK, KY, NJ, WV	15,694,486	5.08
2009	13: AR, DC, MD, ME, MI, NC, NE, NH, NV, OR, TN, WI, WY	52,309,830	16.94
2013	21: AL, CO, CT, DE, FL, GA, HI, IA, ID, MA, MN, MO, MT, ND, OH, OK, RI, SC, TX, UT, VA	125,122,907	40.53
2017	6: IL, KS, MS, NM, PA, WA	40,137,145	13.00
Not adopted	1: CA	37,253,956	12.07

Table 3 shows the total and the percentage of population broken down by the editions of the Food Code that were adopted in each State. Figure 4 compares population percentage by Food Code adoption between 2017 and 2018 in bar chart, and Figure 5 compares number of States by Food Code Adoption in 2017 vs. 2018 in bar chart.

Figure 4: Compare population percentage by Food Code adoption in 2017 vs. 2018

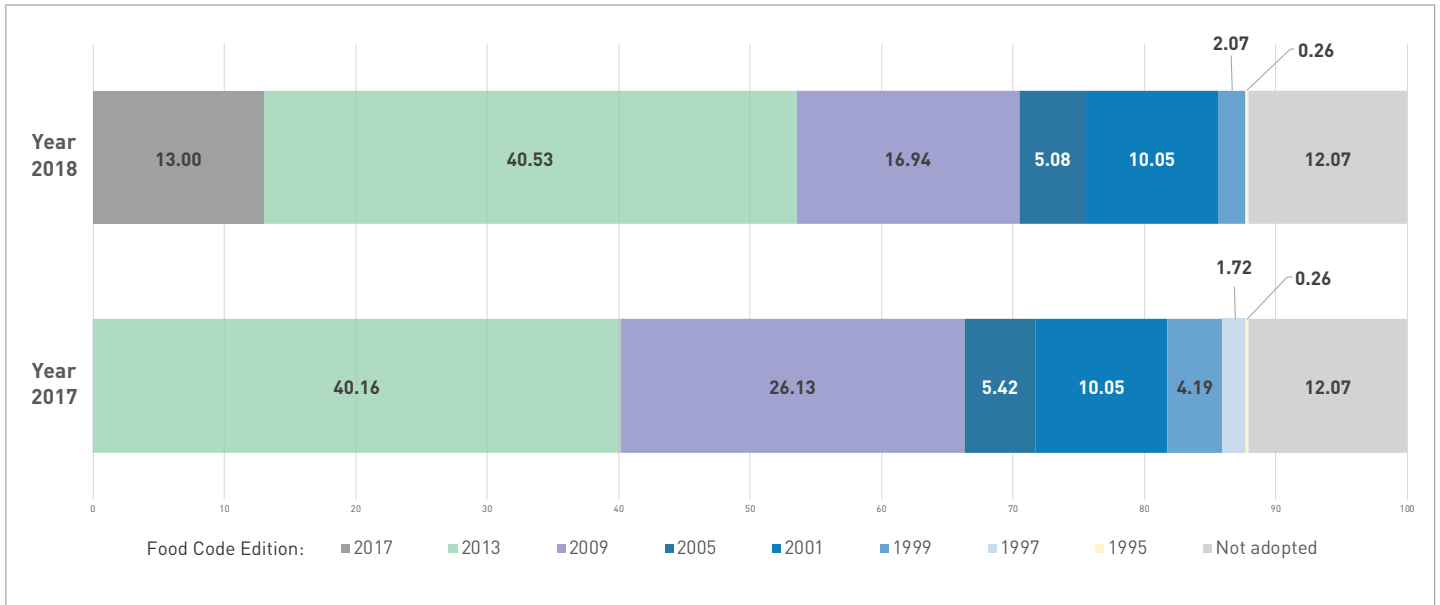
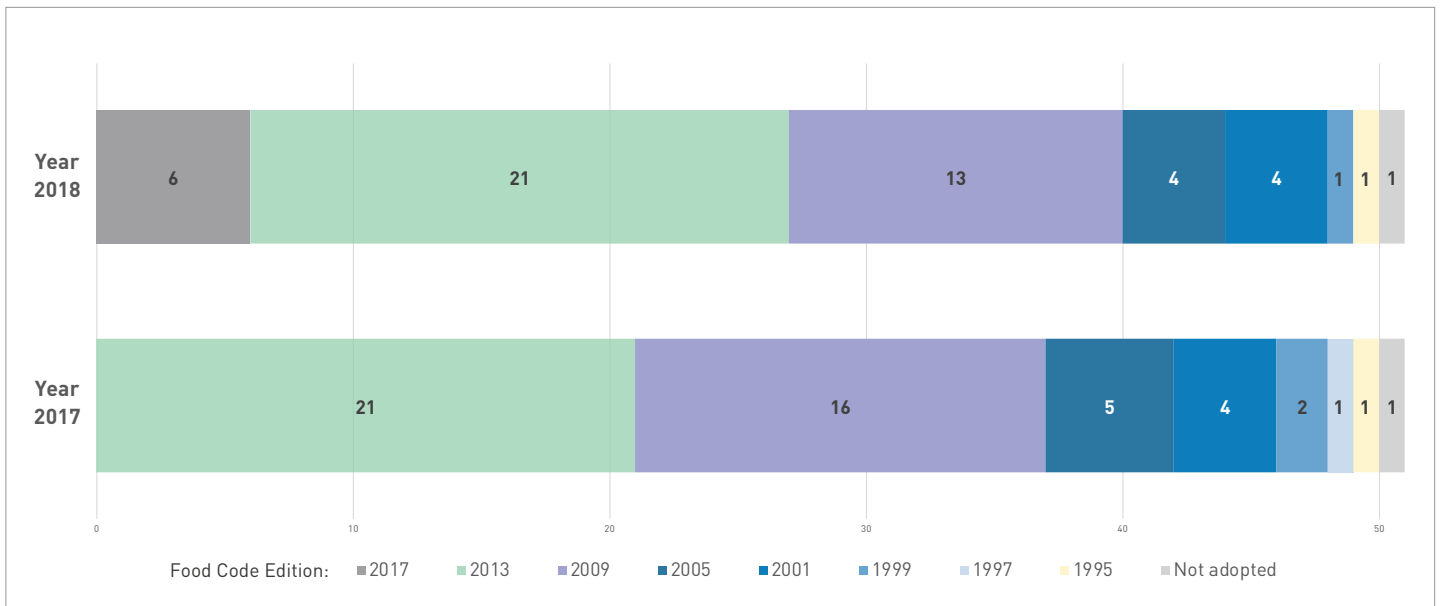


Figure 5: Compare number of States by Food Code adoption in 2017 vs. 2018



Territorial Agencies' FDA Food Code Adoption

As of 12/31/2018, two territorial agencies (Puerto Rico and U.S. Virgin Islands) have automatically adopted the current version of FDA Food Code: the 2017 version, and they used short-format 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.