

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

2022

Food Code

U.S. Food and Drug Administration



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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 2022 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 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.)”. As of December 31, 2022, the [2022 Food Code](#) is the most recent full edition published by FDA, and it was published on December 28, 2022. 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 (2023 marks 30th anniversary of FDA Food Code in the current format), 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, the 2017 version is the 9th edition, and the 2022 version is the 10th edition.

In light of the Covid-19 pandemic, the 2020 meeting of the Conference for Food Protection (CFP) was moved to August 2021. FDA values the input of all retail food stakeholder groups through the CFP and subsequently adjusted its release-year cycle for the FDA Food Code to follow in the year after the CFP meeting is held. The 10th full edition of the FDA Food Code, originally scheduled in 2021, was published in 2022.

States and Territories Monitored for Food Code Adoption Status in 2022

Geographic Scope:

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

Terminology:

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 Status on Adoption of the FDA Food Code

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 or retail food stores. While one agency adopted the 2017 FDA Food Code, the other agency adopted the 2013 FDA Food Code. Therefore, we consider Georgia as a State which has adopted the 2017 FDA Food Code.

Figure 1 reflects the most recent FDA Food Code version that was adopted by State/Territory. Each State has at least one agency that has adopted the FDA Food Code, with California the only exception. No data has been reported about the status in American Samoa and Northern Mariana Islands.

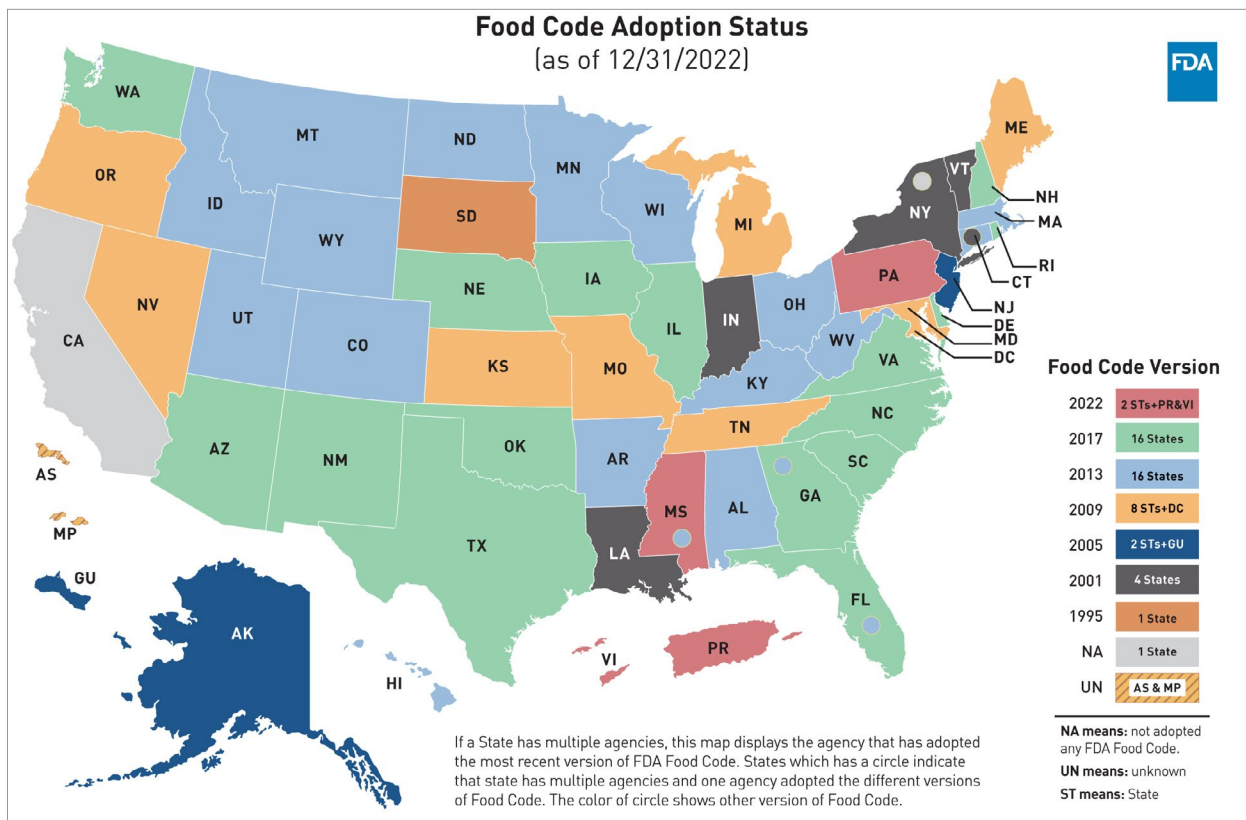


Figure 1: FDA Food Code versions were adopted by States and Territories in 2022. If a State has multiple agencies, this map displays the agency that has adopted the most recent version of FDA Food Code. (1) CT has two agencies: one agency adopted 2013 version, the other agency adopted 2001 version; (2) FL has three agencies: two agencies adopted 2017 version, and one agency 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 2022 version, while the other agency adopted 2013 version; (5) NY also has two agencies: one agency adopted 2001 version, the other agency has not adopted FDA Food Code.

Specific details regarding the Food Code versions adopted by different State or Territory are provided below:

- The **2022** Food Code is the most recent version adopted by **2** States: Mississippi (one of two agencies), and Pennsylvania; and **2** Territories: Puerto Rico and Virgin Islands.
- The **2017** Food Code is the most recent version adopted by **16** States: Arizona, Delaware, Florida (two of three agencies), Georgia (one of two agencies), Illinois, Iowa, Nebraska, New Hampshire, New Mexico, North Carolina, Oklahoma, 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; and **1** Territory: Guam.
- 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.

Number of the States:

Fifty (**50**) States (including DC) have adopted some version of the Food Code with California the only exception; thirty-four (**34**) States have adopted one of the three most recent versions (published in the last 10 years); eighteen (**18**) States have adopted one of the two most recent versions (published in the last 5 years); and two (**2**) States have adopted the most recent version (published on December 28 of 2022).

Food Code Adoption Status Changes in the Year of 2022

In 2022, three State agencies and two Territorial agencies have completed Food Code adoption related rulemaking (see details in Table 1). Mississippi, Pennsylvania, Puerto Rico, and Virgin Islands adopt as soon as new FDA Food Code is released.

Table 1: Changes in Food Code adoption between 2021 and 2022

State/Territory	Food Code version in 2021	Food Code version in 2022
Mississippi	2017 (w/Suppl.)	2022
Oklahoma	2017	2017(w/Suppl.)
Pennsylvania	2017 (w/Suppl.)	2022
Puerto Rico	2017 (w/Suppl.)	2022
Virgin Islands	2017 (w/Suppl.)	2022

- **Mississippi** State (one agency: Department of Health) changed Food Code adoption status from 2017 version with Supplement to the 2022 version.
- **Oklahoma** State changed Food Code adoption status from 2017 version to the 2017 version with Supplement.
- **Pennsylvania** State changed Food Code adoption status from 2017 version with Supplement to the 2022 version.
- **Puerto Rico** changed Food Code adoption status from 2017 version with Supplement to the 2022 version.
- **Virgin Islands** changed Food Code adoption status from 2017 version with Supplement to the 2022 version.

Additionally, agencies in Indiana, Kansas, and Ohio are still in progress with intent to adopt the 2017 or 2022 FDA Food Code. Agency in Missouri is planning to restart the rulemaking process in 2023 with the newest edition of the Food Code.

Summary of Method on 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 2022 Preface, “7. Code Adoption/Certified Copies” for additional information: <https://www.fda.gov/food/fda-food-code/food-code-2022>.

Specific details regarding the adoption methods of State/Territory are provided below.

- **Twenty-seven (27)** States (including DC) 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; **One (1)** Territory also used long-form format: Guam.
- **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; **Two (2)** Territories also used short-form format: Puerto Rico and Virgin Islands.
- **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 2 displays how the FDA Food Code was adopted among rulemaking process.

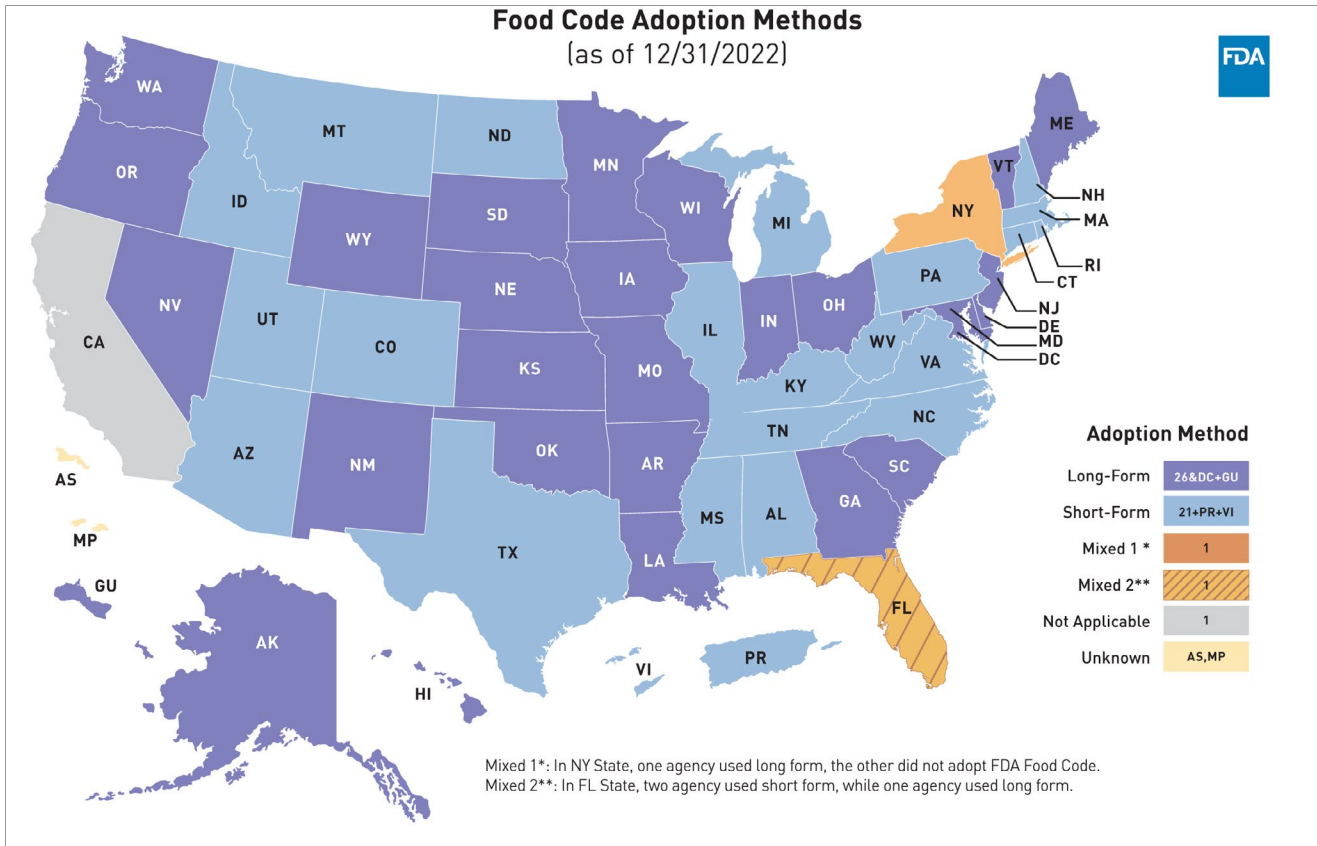


Figure 2: The adoption method: 27 States (including DC) and Guam used long-form format, 21 States, Puerto Rico and Virgin Islands used short-form format, two States used mixed format, and one State didn't adopt FDA Food Code.

Summary States 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 2 shows the total population in 2020 and the percentage of the U.S. population broken down by the versions of the Food Code that were adopted in each State.

Table 2: FDA Food Code adoption by population (source of population: 2020 US Census)

Food Code version	State(s)	Population in 2020	% of U.S.
2022	2: MS, PA	15,963,979	4.82
2017	16: AZ, DE, FL, GA, IA, IL, NC, NE, NH, NM, OK, RI, SC, TX, VA, WA	127,947,701	38.60
2013	16: AAL, AR, CO, CT, HI, ID, KY, MA, MN, MT, ND, OH, UT, WI, WV, WY	63,150,753	19.05

Food Code version	State(s)	Population in 2020	% of U.S.
2009	<u>9</u> : DC, KS, MD, ME, MI, MO, NV, OR, TN	41,651,962	12.57
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

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 three most recent versions (2022, 2017, and 2013 version); and **43.42%** of the population lives in a State that adopted the two most recent versions (2022, and 2017 version).

Summary States Food Code Adoption Changes

Table 3 summarizes the changes since CFSAN published first Food Code adoption annual report for 2016. Figure 3 visualizes the changes in a chart.

Both Table 3 and Figure 3 provide five facts: (1) adoption of 2017 Food Code increased every year since it was published in February of 2018 and before the 2022 Food Code was published; (2) adoption of 2013 Food Code was increased before the 2017 Food Code was published, and decreased after we published the 2017 Food Code; (3) adoption of the 2009 Food Code decreased from 22 States to 9 States between 2016-2022; (4) adoption of the 2005 Food Code decreased from 5 States to 2 States between 2016-2022; (5) starting from 2020, no State adopted the 1999 or the 1997 Food Codes.

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

Table 3: Food Code adoption status from 2016 to 2022

Food Code version	#States in 2016	#States in 2017	#States in 2018	#States in 2019	#States in 2020	#States in 2021	#States in 2022
2022	--	--	--	--	--	--	2
2017	--	--	4	8	15	18	16
2013	15	20	21	20	18	16	16
2009	22	17	15	14	10	9	9
2005	5	5	4	2	2	2	2
2001	4	4	4	4	4	4	4
1999	2	2	1	1	0	0	0
1997	1	1	0	0	0	0	0
1995	1	1	1	1	1	1	1
Not adopted	1	1	1	1	1	1	1

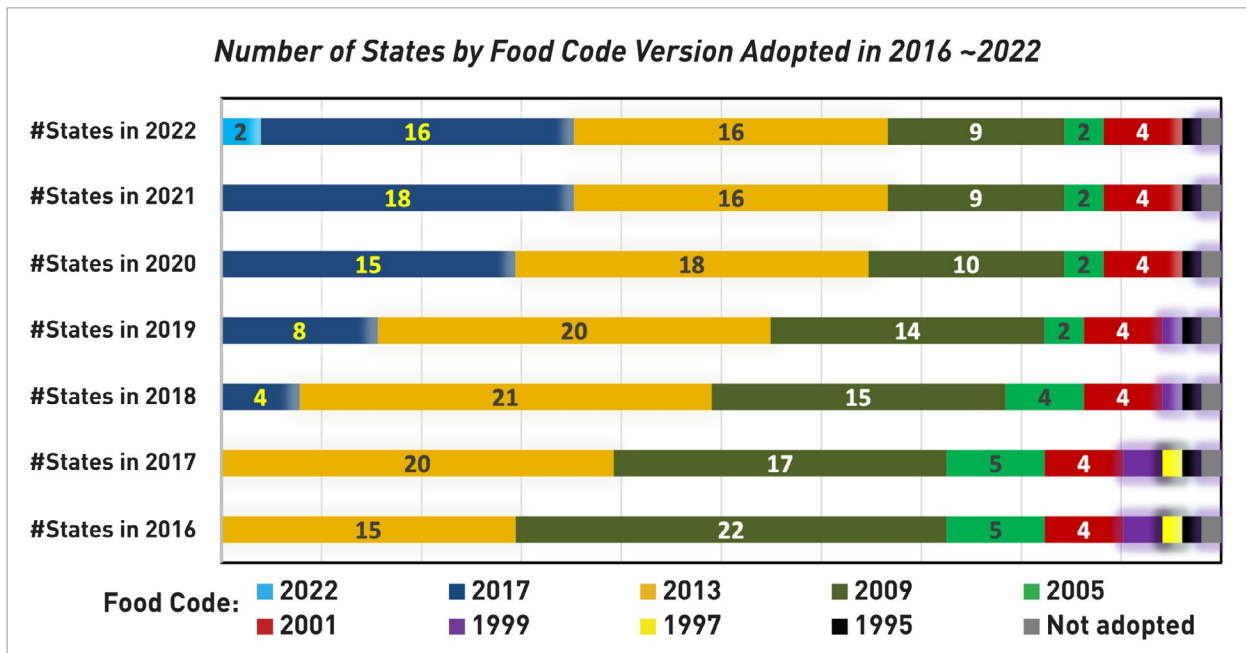


Figure 3: Number of States by Food Code version adopted in 2016, 2017, 2018, 2019, 2020, 2021, and 2022

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:

- 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.
- 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.
- There are **10** agencies responsible for retail food stores but not restaurants; all 10 agencies have adopted the FDA Food Code.
- There are **42** health agencies; 40 out of these 42 have adopted the FDA Food Code, except California Department of Public Health and New York State Department of Health.
- There are **17** agriculture agencies; all 17 agencies have adopted the FDA Food Code.
- There are **5** other type (e.g.: Department of Business and Professional Regulations) agencies; all 5 agencies have adopted the FDA Food Code.

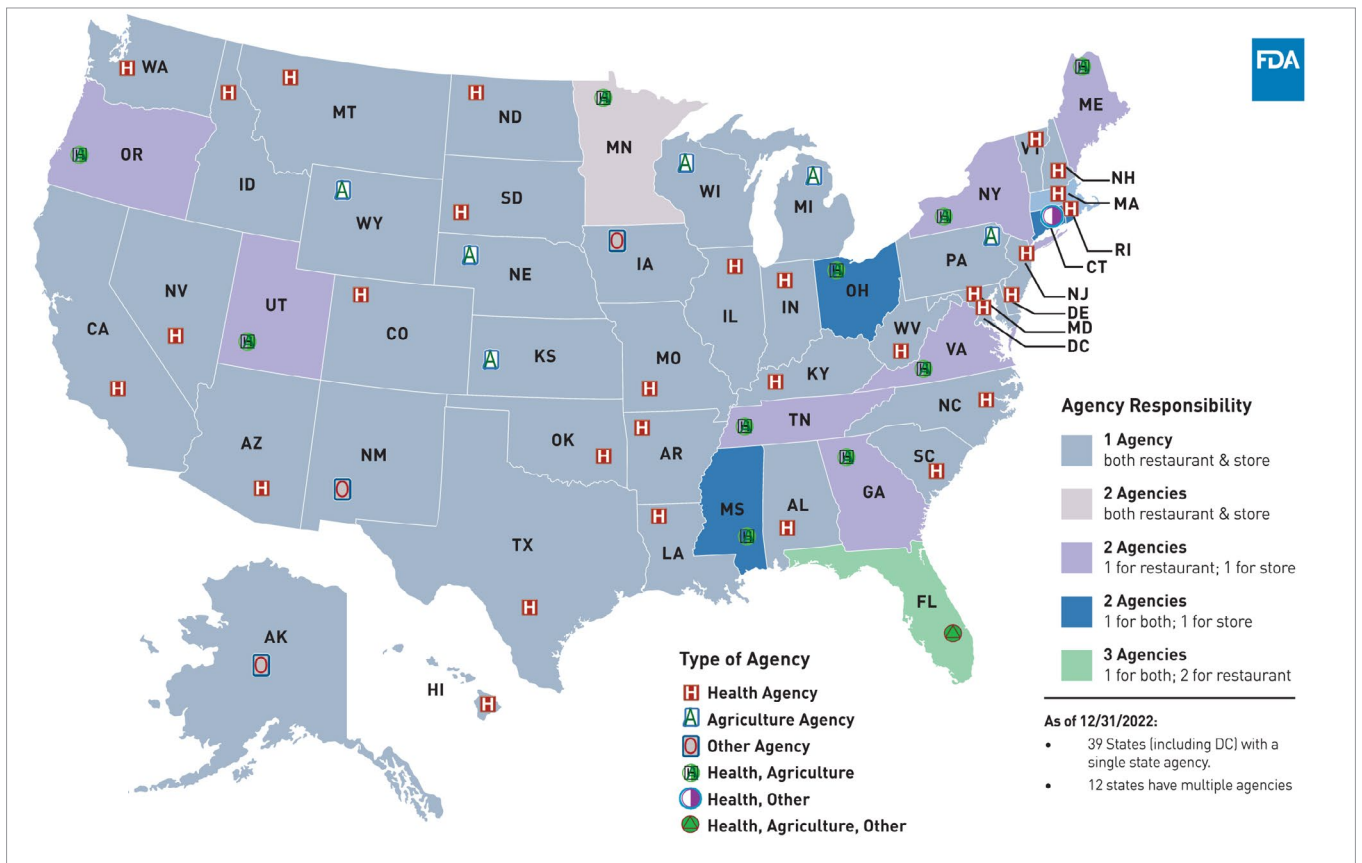


Figure 4: State regulatory agencies have responsibility for oversight of restaurants, and/or retail food stores: 39 States (including DC) with a single State regulatory agency, 11 States with two State regulatory agencies, and one (1) State with three State regulatory agencies.

Figure 4 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.

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 2022, 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 4).

Table 4: 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
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

