Navigating the 2026 FDA Food Code

Key changes, regulatory impacts, and practical compliance

Dr. Ben Miller
COO & EVP of Regulatory & Scientific Affairs,
The Acheson Group



FSMA FRIDAY

Monthly Industry News, Updates & Trends for Food, Beverage, & CPG Manufacturers

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- ✔ Monthly FSMA Related News
- ✔ Regulation Changes & Updates
- ✔ Industry Trends
- ✔ Q&A with TAG



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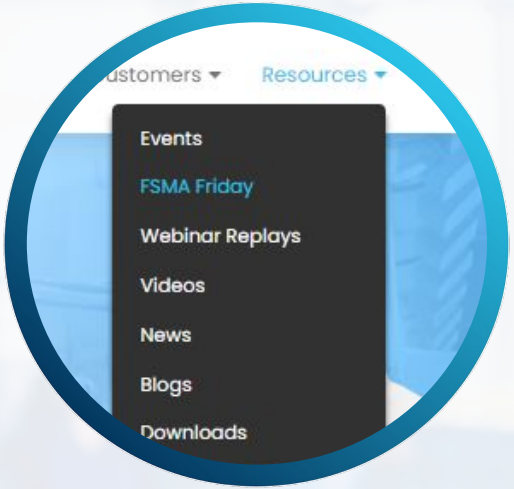
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Before We Get Started...

- ✔ Only panelist microphones are on
- ✔ Ask questions! (Q&A at end)
- ✔ Recording link will be shared
- ✔ Audio issues: use call-in number



Watch prior FSMA Friday recordings at
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Meet Your FSMA Friday Speakers

Dr. Ben Miller

COO & EVP of Regulatory & Scientific Affairs



Dr. Miller has twenty-five years of experience in food safety, public health, epidemiology, and infectious disease outbreak investigations. Ben earned his Ph.D. in Environmental Health with a background in infectious diseases and his Master of Public Health in Epidemiology.

He currently serves as the Executive Vice President of Regulatory and Scientific Affairs at the Acheson Group where he works across multiple sectors advising on food safety, food safety culture, traceability, public health, outbreak-related and regulatory issues.

Dr. Miller also has extensive food regulatory experience and, as previous Division Director at the Minnesota Department of Agriculture, led the State of Minnesota's Human and Animal Food regulatory work. In his role as a state regulator, Dr. Miller developed experience implementing legislative reforms on topics related to food safety and is an expert in FDA traceability requirements. He is currently a member of the International Association of Food Protection Program Committee.

Recent Regulatory Updates Overview

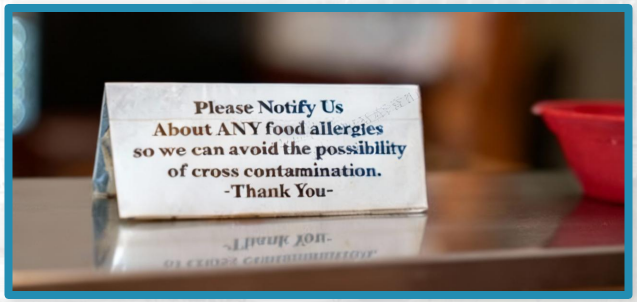
FDA Updates

- Draft of Chapter 12 - PCHF - Preventive Controls for Chemical Hazards
- Action Levels for Cadmium in Processed Foods for Babies and Young Children: Draft Guidance
- FSMA 204 - Enforcement Policy for Certain Retail Food Establishments and Restaurants

USDA Updates

- Notice 43-26 - added two FCS and two nFSC swabs for RTE swabbing programs





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Key Changes, Regulatory Impact and Practical Compliance

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Agenda

01. How the Food Code gets adopted

Model code, state adoption, and which edition applies where

02. What changed in the 2026 edition

Food safety management systems, employee illness policy, food defense

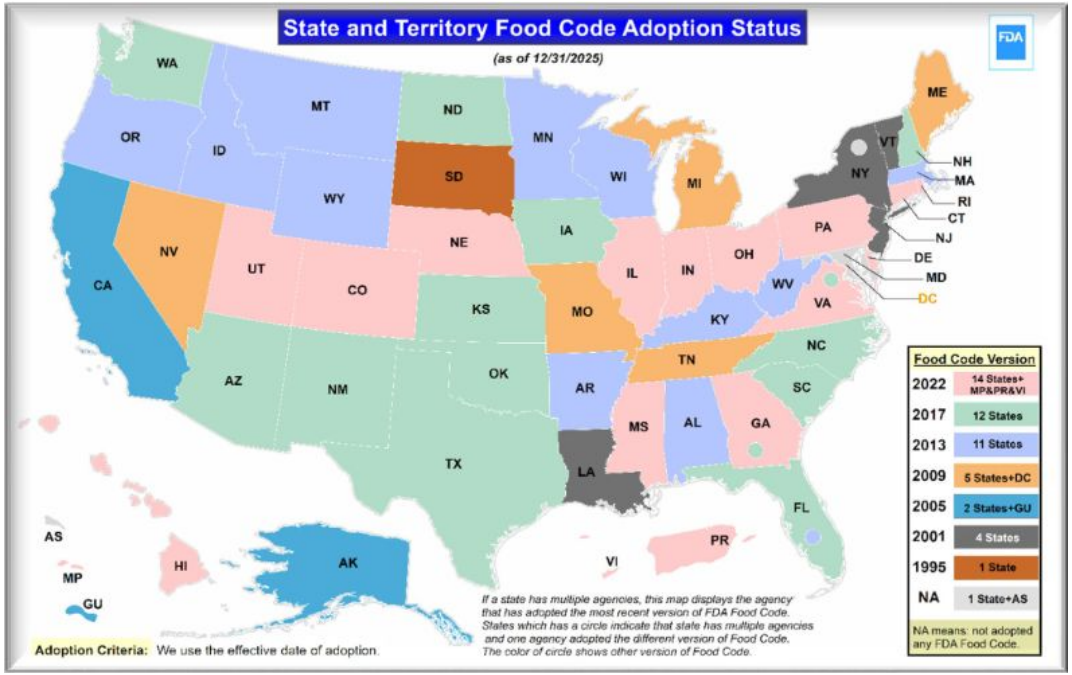
03. Planning for compliance

What to adopt now and what to track by location

How does the Food Code get adopted by state and local agencies?

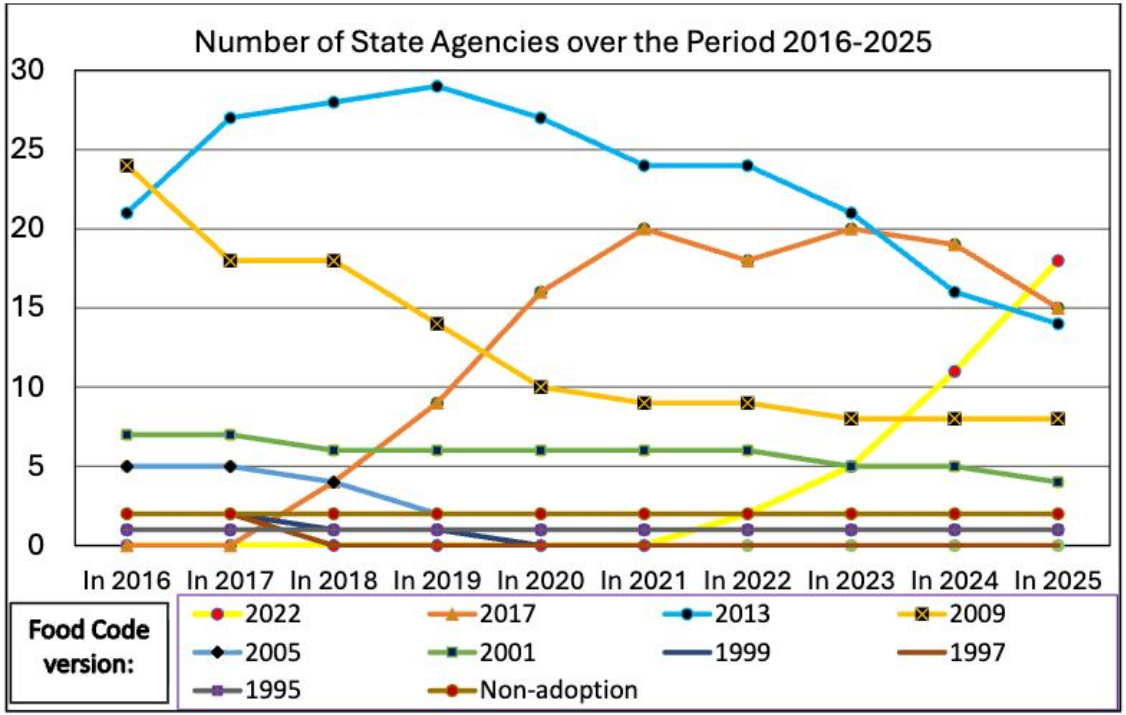
- The Food Code is a model code developed by the Conference for Food Protection and published by the FDA.
- It has no effect until a state or local jurisdiction adopts it, usually with changes.
- At the end of 2025, 14 states had adopted the 2022 edition, covering about 26% of the U.S. population.
- A multi-state operator works under 3 or 4 editions at once.
- FDA briefed the states on the 2026 edition on October 8, 2026, and adoption has started in some jurisdictions.

Food Code adoption by state, December 31, 2025



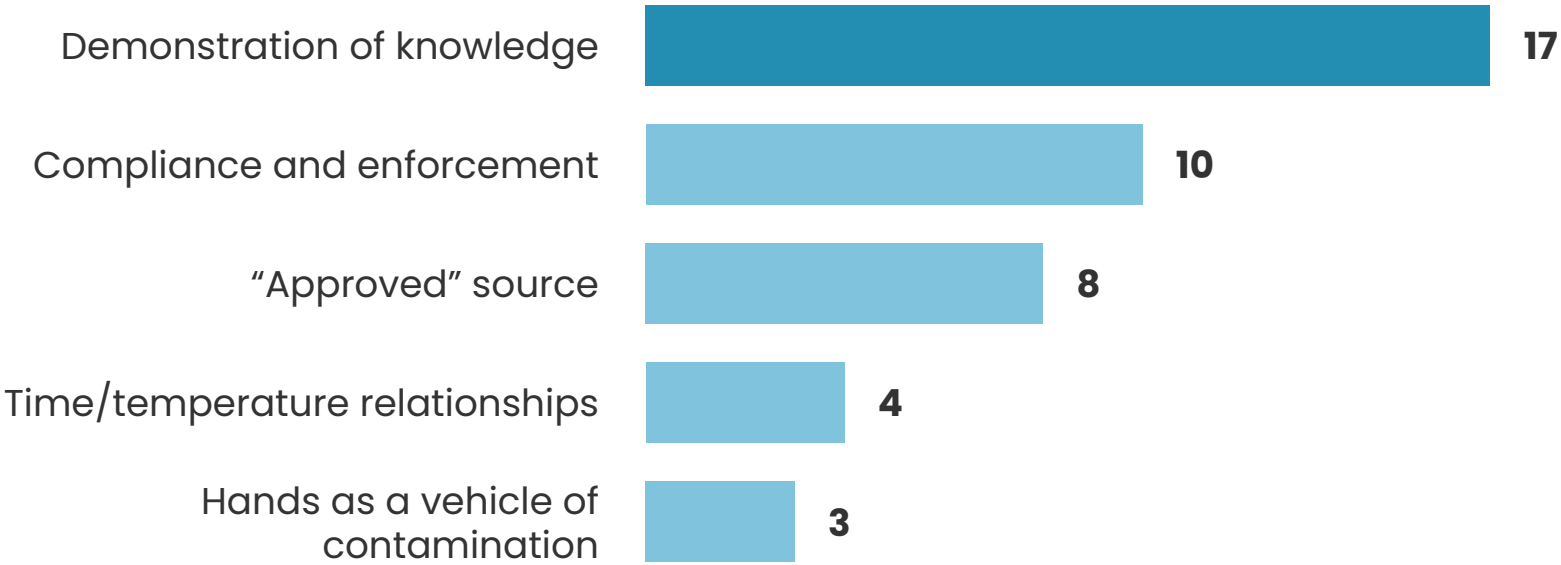
Source: FDA, Report on Adoption of Food Code by State, 2025

State agencies by Food Code edition, 2016 to 2025



Forty-seven percent of states adopt “less stringent” areas compared to the model Food Code

Number of state agencies less stringent than the Food Code, top five areas



Poll 1

Which Food Code edition applies at your locations?



A 2022

B 2017

C 2013 or older

D A mix across locations

E I'd have to find out

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What changed in the 2026 edition

- Released September 17, 2026.
- 26 substantive changes in Chapters 1 to 8, affecting 63 paragraphs.
- Many changes first appeared in the Supplement, an interim update to the 2022 edition published in December 2024:
  - Food safety management system requirement
  - Food defense knowledge and training
  - Validated tests for reinstating ill employees
- New in the 2026 edition:
  - Written employee illness policy
  - Revised jewelry rule, with an exception for medically necessary devices
- For a state that adopted the 2022 code without the Supplement, all of the updates are new.

Food safety management system: why the change

- FDA's Retail Food Risk Factor Study found the FSMS was the strongest predictor of compliance in restaurants.
- Establishments with documented systems performed best.
- CFP requested the change (Issue 2023-II-043, FSMS Committee) and FDA agreed in concept.

Food safety management system: what changes

- A written FSMS is required within 4 years of adoption (§ 8-201.15).
- It must be in use during all hours of operation and available on request.
- Plan review must show an FSMS is developed or in development (§ 8-201.12(E)).
- Regulators may exempt minimal-risk establishments.

Food safety management system: how this will look different

- One written plan for each establishment, organized by process.
- A brand might have a starting template based on common processes.
- The person in charge on any shift can show the system and current logs.
- Inspectors ask to see the written plan.
- Plan review packets for new and remodeled establishments include the FSMS.

Employee illness policy: why the change

- Ill workers contributed to about 40% of outbreaks with identified contributing factors (CDC NEARS, 2017 to 2019).
- About two-thirds of managers had a written policy. Only 16% of establishments had all four policy components:
  - Workers must notify a manager when ill
  - The policy lists all five symptoms workers must report
  - Ill workers are restricted or excluded from work
  - The policy lists all five symptoms that require restriction or exclusion
- CFP addressed the topic in 2025 (Issues 2025-I-31 and 2025-II-13).

Employee illness policy: what changes

- A written Employee Illness Policy is required and must be available on request (§ 2-501.11).
- It must cover symptoms, diagnoses, exclusion, restriction, and reinstatement.
- Until now, an operator only had to show that employees were told to report illness, usually with a signed form or a training record.
- For Shigella, STEC, and Salmonella, two negative validated laboratory tests replace two negative stool cultures for reinstatement (§ 2-201.13).

Employee illness policy: how this will look different

- The written policy is on site at every establishment, in the languages the crew reads.
- Employees are trained on the policy at hire and annually, with a record kept.
- The person in charge logs each illness report and decision.
- A verbal policy will be marked out of compliance.

Poll 2

Is a written employee illness policy on site at every one of your locations today?



- **A** Yes, and staff are trained on it
- **B** Written, but not at every location
- **C** Verbal only
- **D** I'd have to check

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Food defense: why the change

- The CFP Food Defense Committee recommended the change (Issue 2023-II-039).
- Intentional adulteration is infrequent, and the consequences can be significant.
- Annex 3 lists retail incidents:
  - Oregon, 1984: intentional contamination of 10 restaurant salad bars
  - Michigan, 2002 to 2003: grocery store meat adulterated with nicotine
  - Kansas, 2009: restaurant salsa adulterated with pesticide
  - Michigan, 2016: produce adulterated at local grocery stores
  - California, 2016: food adulterated at South Lake Tahoe restaurants

Food defense: what changes

- Food defense is now a defined term (§ 1-201.10).
- The person in charge must be able to explain how intentional adulteration is prevented (§ 2-102.11(C)(18)).
- Employees must be aware of food defense (§ 2-103.11(R)).
- A written food defense plan is not required at retail.

Food defense: how this will look different

- The practical change is awareness.
- Manager training adds food defense, so the person in charge can explain what the establishment does.
- Crew onboarding covers signs of suspicious activity and who to tell.
- Inspectors may ask the person in charge how intentional adulteration is prevented.
- A short written plan and training records are optional, and they make both easier to demonstrate.

Planning for compliance

- 57 of the 63 changed paragraphs are compatible with earlier editions.
- Adopt now, everywhere: written illness policy, FSMS, food defense training.
- Adopt only where adopted and approved: double gloving, alternative cooling, validated test reinstatement.
- Set one company standard at the 2026 edition, with a register of jurisdictional exceptions.
- Track the edition in force at each location.

Poll 3

Where will you start on the 2026 Food Code?



A	A written food safety management system
B	A written employee illness policy
C	Food defense training for managers and crew
D	We're waiting for our state to adopt
E	Not sure yet

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Questions?

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