



November 24, 2025

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Patrick Penn
Deputy Under Secretary & Acting Administrator
Food and Nutrition Service
1320 Braddock Place
Alexandria, VA 22314

Re: Proposed Rule on Updated Staple Food Stocking Standards for Retailers in the Supplemental Nutrition Assistance Program

Dear Deputy Under Secretary Penn:

The National Association of Convenience Stores (“NACS”), NATSO, Representing America’s Travel Centers and Truck Stops, and SIGMA: America’s Leading Fuel Marketers (together, the “Associations”) appreciate this opportunity to provide comments on the U.S. Department of Agriculture’s (“USDA’s” or “the Department’s”) proposed rule on updated staple food stocking standards for retailers in the Supplemental Nutrition Assistance Program (“SNAP”) (the “Proposed Rule”).¹ These comments are intended to ensure the Department is fully aware of the impact this policy would have on American consumers and businesses who depend on SNAP.

We support the Administration’s goal of expanding healthy options for individuals participating in SNAP. In its current form, however, the Proposed Rule will not achieve that outcome because of how narrow the grains and dairy categories are defined. This can be fixed simply by returning to the language of the 2019 proposed rule in the grains and dairy food categories.

By departing from the first Trump Administration’s 2019 proposed rule on this topic,² the Proposed Rule would likely push tens of thousands of stores in our industry out of SNAP, dramatically narrowing the number of stores where SNAP beneficiaries can purchase food. Hundreds of communities throughout the country would become true food deserts, reducing competition and further increasing prices.

SNAP beneficiaries, like other Americans, are experiencing affordability challenges throughout, particularly as it relates to food prices. The Trump Administration recently moved to

¹ Updated Staple Food Stocking Standards for Retailers in the Supplemental Nutrition Assistance Program, 90 Fed. Reg. 46081 (Sept. 25, 2025).

² Providing Flexibility for Retailers in the Supplemental Nutrition Assistance Program, 84 Fed. Reg. 13555 (April 5, 2019).

lower duties on more than one hundred agricultural and food goods to mitigate those price pressures.³ Although SNAP beneficiaries generally do their “primary” food shopping at larger grocery stores, they also frequently *supplement* those purchases throughout the month with additional, “on-the-go” purchases at the Associations’ members’ stores. These supplemental purchases are often made late at night (*e.g.*, when they get off their shift at work) when larger grocery stores are not open. Denying SNAP beneficiaries access to food at the food stores most convenient for them would exacerbate the negative consequences that affordability challenges are causing for lower-income Americans throughout the country.

We welcome the opportunity to work with the Department to address these issues and support a final rule that enhances SNAP consumer choice while ensuring retailers can continue serving their communities effectively.

I. Background on the Associations

NACS is an international trade association representing the convenience store industry with more than 1,300 retail and 1,600 supplier companies as members, the majority of whom are based in the United States.⁴ NATSO currently represents approximately 5,000 travel centers and truck stops nationwide, comprising both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel. Collectively, the Associations represent approximately 90 percent of retail sales of motor fuel in the United States.

The convenience and fuel retailing industry has become a fixture in American society and a critical component of the nation’s economy. In 2024, the industry employed approximately 2.74 million employees and generated \$837.4 billion in total sales, representing approximately 3.2% of U.S. Gross Domestic Product.

The industry, however, is truly an industry of small business. More than 60% of convenience stores are single-store operators. Less than 0.2% of convenience stores that sell gas are owned by a major oil company and about 4% are owned by a refining company. More than 95% of the industry, then, are independent businesses.

Members of the industry process more than 160 million transactions every single day, the equivalent of serving about half of the U.S. population. In fact, 93% of Americans live within 10 minutes of one of our industry’s locations. These businesses are particularly important in urban and rural areas of the country that might not have as many large businesses. In these locations, the

³ “Trump Administration Lifts Some Food Tariffs in Effort to Ease Prices,” by Ana Swanson, New York Times (Nov. 14, 2025) (available at [Trump Administration Lifts Some Food Tariffs in Effort to Ease Prices - The New York Times](#)).

⁴ Background data on NACS comes from the NACS, State of the Industry Annual Report of 2024 Data (available at [NACS State of the Industry Enterprise | NACS](#)).

convenience store not only serves as the place to get fuel but is often the grocery store and center of a community.

Because of their sheer number and close proximity to the communities they serve, convenience stores are essential in SNAP. More than 118,000 convenience stores participate in the program, the largest share of any store format and accounting for nearly half (45%) of all SNAP-authorized stores.⁵ Convenience stores are also one of the only store formats that are primarily open 24 hours and 7 days per week. This is a critical help for families that need access to food during overnight or early morning hours – including for the 16% of full-time workers who have non-standard work schedules outside of the traditional 9-to-5 schedule and have limited time in which to shop.⁶

A NACS survey of its members dramatically demonstrated the key role these stores play in SNAP. Of the stores represented in the survey, 43% were located in rural areas and 36% in urban areas.⁷ Many of the rural areas these stores are located in do not have another store selling food within 10 miles of their store,⁸ and many of the urban locations do not have another food store within 1 mile.⁹ These distances make it difficult for SNAP customers to buy food when they need it, unless they are able to do so at one of our industry's locations.

Customers do not typically do all their food shopping at convenience stores. Instead, these stores serve as convenient places for customers to do fill-in shopping and where customers can quickly pick up the few items they need. Losing their local convenience store from the program would be devastating for SNAP customers, who would then need to travel significantly farther during more restricted hours just to pick up a small number of essential items. We urge the Department to consider the importance of these community stores as critical food access points for SNAP customers when drafting and finalizing its regulations.

II. Background on the Proposed Rule

In the 2014 Farm Bill, the Associations worked with Congress to expand the offerings of staple foods by SNAP retailers. That legislation put in place a new requirement, to be implemented by USDA, that stores must have seven food varieties available in each of the four staple food categories. The Associations strongly supported this requirement to more than double the number of staple food varieties in stores because it struck a careful balance: increasing the amount of nutritious food available on shelves while preserving the critical access to food that our industry provides SNAP customers. Although it may present a challenge to many stores in the industry, the

⁵ Food and Nutrition Service, SNAP Retailer Management Year End Summary FY 2024, *available at* <https://www.fns.usda.gov/data-research/data-visualization/snap-retailer-management-dashboard-fy24>.

⁶ “2024 Statistics on America’s Off-Hour Workforce,” by Anton Konopliov, Redline (June 26, 2024)(available at [Shift Work Statistics & Facts \(2024\) — Redline Digital](#)).

⁷ See the slides attached with this letter for results of the survey (“NACS Survey”), slides 1-2.

⁸ NACS Survey, slide 3.

⁹ NACS Survey, slide 4

Associations still support that increased requirement and have long urged promulgation of a final rule that implements the requirement in a workable way.

Unfortunately, the Obama Administration promulgated a final rule in 2016 following the 2014 Farm Bill that was not workable for convenience retailers because it defined “varieties” of staple foods in a way that departed from common understanding and usage. The 2016 rule would have disqualified tens of thousands of stores from SNAP, severely undermining SNAP customers’ access to food.

Congress’s decision in the 2014 Farm Bill to increase the stocking requirement was intended to both improve access to nutritious food and minimize fraud, and the language was grounded in common-sense understandings about what constitutes different staple food varieties. Lawmakers understood that stronger standards would improve choice and strengthen program integrity, but they intentionally did not implement more burdensome requirements because doing so would have undermined access to food. Any proposal that disrupts that compromise risks excluding an entire retail channel that millions of SNAP customers rely on. USDA’s role is to faithfully implement Congress’s intent, not rewrite it.¹⁰

In response to the Obama Administration’s final rule, and reflecting strong bipartisan support, every appropriations bill since the Consolidated Appropriations Act of 2017 has explicitly directed that the Department cannot move forward with increased stocking requirements for SNAP until it amends the definition of the term “variety” to “increase the number of items that qualify as acceptable varieties in each staple food category so that the total number of such items in each staple food category exceeds the number of such items in each staple food category included in the final rule as published on December 15, 2016.”¹¹

In 2019, the first Trump Administration’s Department of Agriculture proposed a reasonable rule that would have implemented the staple food requirements from the 2014 Farm Bill in a workable manner. It would have more than doubled the amount of staple foods available in stores, as required by the 2014 Farm Bill, but provided enough flexibility in how to distinguish one staple food from another so that businesses in our industry could comply. While the Associations advocated for the 2019 proposed rule to be finalized, it never was.

This year, the Associations again advocated for the 2019 proposed rule to be finalized. Instead, on September 25th, the Proposed Rule was published. This Proposed Rule departs from the 2019 proposed rule in ways that make it complex and unworkable for most stores in our industry, particularly for the small single-store operators that predominate in the industry. The Proposed Rule does not meet the requirement set forth in the language of appropriations bills that require an increase in the number of items that qualify as acceptable varieties of staple foods “in each staple food category” beyond that which were acceptable in the Obama-era 2016 rule.

¹⁰ Courts no longer defer to agency interpretation of statutes and instead apply their own reasoning in order to ensure that agency actions remain faithful to congressional intent. *Loper Bright Enterprises, et al. v. Gina Raimondo*, 603 US 369 (2024); *see also West Virginia v. EPA*, 597 U.S. ____ (2022), 142 S. Ct. 2587 (2022) (holding that on “major questions,” agencies need clear congressional authorization for actions of vast economic and political significance).

¹¹ Pub.L. 115-31, section 765 (2017).

Specifically, the Proposed Rule dramatically narrows the staple food varieties available in the grains category and significantly narrows the staple food varieties available in the dairy category. In its current form, the Proposed Rule is unworkable for most stores in our industry, would hurt small businesses, and risks pushing tens of thousands of stores out of SNAP.

The Proposed Rule does not advance the “Make America Healthy Again” agenda because it undermines the most basic prerequisite for healthier outcomes: consistent access to food. A rule that may force tens of thousands of small-format retailers out of SNAP will leave families with fewer places to redeem benefits, not more opportunities to choose nutritious options. USDA’s proposal adds unnecessary complexity and costly stocking mandates without meaningfully improving nutritional offerings and, by driving retailers out of the program, could actively reduce the availability of healthy foods for SNAP customers. Ultimately, you can’t improve the program if retailers cannot participate.

This is unfortunate and unnecessary. We believe this can be resolved by making several changes. By restoring elements of the grains and dairy provisions from the 2019 proposed rule, the Department could make a final version of this rule workable and maintain a healthy, functioning standard for SNAP retailers. Unless changes are made to address these two categories of staple foods, the regulation could be devastating to SNAP customers, as most stores would be forced to leave the program – seriously restricting the places where those customers can shop, especially in rural and urban areas where food access is already constrained.

III. Issues to Address in the Proposed Rule

A. Inappropriate Food Groupings in the Grains Category

The Proposed Rule defines varieties of staple foods within the grains category in a way that departs from common understandings of what constitute different foods and restricts potential offerings in ways that are unworkable for smaller format food stores.

When Congress passed the 2014 Farm Bill, the Department did not have a definition for different staple foods. Instead, Congress legislated based on the common understanding of what constituted different foods. That outcome was purposefully designed to accommodate smaller format food stores that redeem SNAP benefits. Congressional intent must guide rulemaking in this area. Overly restrictive definitions that do not match the differences in the way consumers buy, cook, and eat foods should be avoided. A final rule should recognize that foods that are made differently or have different primary ingredients are also different “varieties” of foods. The Proposed Rule currently creates broad, diversified groupings of foods within the grains category that ignores meaningful differences among products, making compliance by many food stores difficult or impossible to achieve.

For example, the Proposed Rule groups a wide variety of very different foods under the catch-all heading of “Breakfast Cereals/Foods” and declares that those foods all constitute a single staple food variety for purposes of compliance with the requirements for a retail food store in SNAP. These different foods, which would not count as different varieties under the Proposed Rule, include all grain-based breakfast cereals, many different combinations of sandwiches with

sausage, bacon, egg or cheese on them (if a grain is the primary ingredient), frozen waffles, pancake mix, and other items that the Proposed Rule deems as being eaten at breakfast. It contravenes common sense and congressional intent to squeeze obviously different food items into a single “variety” category.

The foods in this newly created single staple food variety are very different. These foods have different primary ingredients (i.e., different grains such as wheat, rice, oats, and corn). These foods have different secondary ingredients (with some including very significant amounts of meat, eggs, or cheese and some not including those items at all). These foods are also made very differently with some being ingredients for cooking a finished food (pancake mix), others being baked products that require heating to be served (frozen waffles), and others able to be eaten straight from the package (though often combined with milk in the case of cereals).

There is no rational basis for tying these foods together as though they are all the same staple food. In fact, the assumption that these foods are eaten in the morning as part of the first meal of the day (“breakfast”) is far from universal. Many of these foods are eaten or served at all hours of the day and night. A 2021 Harris poll, for example, found that 79% of people eat foods that are often considered “breakfast” foods outside of the traditional daypart associated with breakfast.¹²

Even if these foods were only eaten in the morning, this would not justify grouping them together as a single staple food. A grouping of distinct foods such as a turkey and a ham into a single staple food, for example, similarly would not make sense even though those foods are often eaten at dinner.

The 2014 Farm Bill was never intended to, and cannot be read to, group staple foods into categories according to the daily meal at which they are typically eaten, and to make all foods for that meal count as a single staple food variety. Indeed, if that were the intent, the 2014 Farm Bill’s requirement that stores carry seven staple foods in each food group would create mathematically impossible requirements.

Another example that dramatically narrows the different staple foods that stores can offer in order to qualify for SNAP is the “Bread” category. This category, which was newly created by the Proposed Rule and counts as a single staple food, includes food items as different as bagels, tortillas, loaves of bread, English muffins, and several other foods that have a grain as a primary ingredient. These foods are deemed to be counted as a single staple food even though they often have a different primary ingredient – whether the food in question has wheat, rice, oats, or corn as the primary ingredient does not matter under the Proposed Rule. They are also made very differently, as bagels are boiled while most of the other foods in this category are baked.

These products are also used very differently by consumers. Tortillas, for example, are often used to make burritos or tacos – foods that would be much more challenging to make (and eat) with a bagel.

¹² “Explore the Endless Opportunities of All Day Breakfast,” National Restaurant News (Nov. 7, 2023) (available at [Explore the Endless Opportunities of All-Day Breakfast](#)).

The “Pasta/Noodles” category created by the Proposed Rule has similar infirmities. It does not recognize that many pastas are made from different grains (typically wheat or rice), and it does not take into account that many pastas today are not made from grains at all but instead are made from lentils or chickpeas.

What is clear about the “Breakfast,” “Bread,” and “Pasta” categories is that staple foods that consumers recognize as different, use differently, and do not see as interchangeable, are seen and treated as though they are a single, interchangeable staple food. That violates the letter and the spirit of the 2014 Farm Bill and subsequent appropriations language, and it makes the Proposed Rule unworkable.

These problems were not present in the grains category in the 2019 proposed rule. That proposal recognized that more flexibility should be granted in this category and expanded upon the Obama-era 2016 final rule. While the 2016 final rule subdivided five discrete varieties in the breads/cereals staple food category, the first Trump Administration provided even more flexibility for stores to meet their stocking requirements, allowing for stores to count additional products as different as loaves of bread, bagels, English muffins, crescent bread, flatbread, and many other such products as distinct staple food varieties. That approach recognized that these foods were made differently, had different ingredients, and were used differently by consumers. It aligned with widespread consumer understanding and shopping habits that treat them as different foods and recognized that these foods are not seen as interchangeable by consumers.

The 2019 proposed rule went even further, recognizing that 100% whole-grain products and their less-than-100% whole-grain counterparts are meaningfully different foods with different consumer uses. Accordingly, the 2019 proposal allowed these products to count as two separate varieties, effectively doubling the number of viable options within the grains category and giving retailers the flexibility needed to meet the increased stocking requirements. This balanced approach expanded nutritious choices for SNAP customers while keeping compliance achievable for stores.

The Department should amend the Proposed Rule by eliminating the Breakfast, Bread, and Pasta subcategories of foods, while offering more flexibility to count whole-grain and non-whole-grain products as separate varieties. The final rule should return to a framework that recognizes that different staple foods are, in fact, different. SNAP stocking requirements already group staple foods into four categories (meat, dairy, grains, and fruits/vegetables). Further subdividing these categories only limits a store’s ability to count products that consumers know and recognize as distinct foods.

B. Customer Demand Challenges in the Grains Category

The Proposed Rule creates six staple food sub-categories in the broader grains category, even though food retailers must carry at least seven varieties of foods in the grains category to qualify for SNAP. The only narrow pathway, then, for stores to qualify within these six sub-categories is by counting multiple raw grains and multiple raw flours as separate staple foods.

Counting different raw grains and raw flours as different staple foods arbitrarily conflicts with the Proposed Rule's treatment of those grains once they are made into other food products. Cereals, breads, tortillas, pastas and other products, for example, are grouped into the same single staple food even when they are made from different grains. Those foods should be treated as different when they are made from different grains just like raw grains and flours are treated.

Setting aside the contradictions in the Proposed Rule, requiring stores to stock multiple raw grains and flours would create substantial operational burdens for convenience retailers, and particularly for small retailers.

NACS surveyed its members on the Proposed Rule in October and November and received feedback from more than 14,000 stores – including stores in every region of the country. Their responses are instructive. Overall, 62.6% of stores said that they currently do not stock raw grains.¹³ Of those stores that do not stock raw grains, 85.4% of them said it was because there was not enough consumer demand for raw grains.¹⁴ Another combined 52.5% said either that these products did not sell or that they took up too much shelf space.¹⁵ And 15.9% said they could not even get these products from their distributor.¹⁶

The picture was similar for raw grain-based flours. Nearly half (49.6%) of stores said they do not stock any type of raw flour.¹⁷ Of those that do stock flour, more than 90% said they stock wheat flour.¹⁸ Another 36.4% stock corn flour, but other types of flour are very rare for any convenience stores to stock.¹⁹ Of those that don't stock any flour, large numbers simply cannot acquire those products from their suppliers. Even wheat flour – the easiest variety to source – was only available to 44.6% of the stores that do not currently stock flour.²⁰ And more than 83% of stores explained that they don't stock any flour because there is not enough customer demand for it.²¹

There is simply no benefit to SNAP customers or stores in requiring retailers to stock items that customers do not want or will not buy. The average convenience store is 3,694 square feet – approximately 11 times smaller than the average supermarket.²² With minimal shelf and cooler space, these small-format stores must rely heavily on products that sell consistently, or they risk losing money on items that take up space and go unsold. Retailers cannot simply force new products into the market. They must sell what their customers actually want to buy or risk going out of business. Requiring SNAP retailers to stock multiple types of raw grains and grain-based flours would place a disproportionate burden on small-format stores and, in turn, harm the SNAP

¹³ NACS Survey, slide 5.

¹⁴ NACS Survey, slide 6.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ NACS Survey, slide 7.

¹⁸ NACS Survey, slide 8.

¹⁹ *Id.*

²⁰ NACS Survey, slide 9.

²¹ NACS Survey, slide 10.

²² NACS, State of the Industry Report 2024; *see also* <https://www.fmi.org/our-research/supermarket-facts> (noting that the average supermarket is 42,453 square feet).

customers who depend on them for reliable access to food. Small-format stores cannot afford to lose money carrying raw grains and flours that their customers will not buy.

The grains category in the Proposed Rule may present the greatest threat to small-format stores' ability to remain in SNAP. Although USDA's own analysis noted in the Proposed Rule showed that 81% of small stores already stocked enough grain varieties to meet the higher standards required by the 2014 Farm Bill, the new grains requirements fundamentally change the analysis and render it moot. This is why retailers desperately need flexibility within the grains category to use their limited shelf space to sell items that are both popular and nutritious such as cereals made of different grains, different types of bread products, and pastas. Unless the grain varieties are revised to align with the workable framework proposed by the Trump Administration in 2019, thousands of locations risk falling out of the program, ultimately leaving SNAP customers with fewer convenient locations to purchase food.

C. Limited Choices within the Dairy Category

The Proposed Rule also further restricts the number of staple foods that count in the dairy category, reducing the flexibility that was afforded in the 2019 proposed rule. For example, while the 2019 proposed rule sensibly treated full fat and reduced fat cow's milk as separate staple food varieties, the Proposed Rule abolishes this distinction. The same is true for full fat and reduced fat yogurt and cheeses. The 2019 proposed rule gave retailers multiple workable pathways to meet the dairy requirement, but the new Proposed Rule strips away that flexibility and would make compliance challenging for small-format stores.

Full fat and reduced fat products are clearly considered to be different by consumers, stores, and dairy producers. For example, with respect to cow's milk, these products are clearly marked with different colored packaging (red for full-fat and blue for reduced fat). Yogurts and cheeses are clearly labeled indicating whether they are full or reduced fat as well. These products are also made differently, with reduced fat products requiring additional processing in order to remove fat content. And the American Academy of Pediatrics recommends full fat milk for children under the age of two, but reduced fat milk for children older than two.²³ Taken together, these distinctions make clear that full-fat and reduced fat dairy products are fundamentally different products with distinct nutrition profiles, and they serve different needs for consumers and their families. Families on SNAP with children under two years old, as well as older children, should have access to the full array of dairy items that meet their nutritional needs. If the final rule does not allow small-format stores to count these offerings as different staple foods for SNAP eligibility, however, it will dramatically reduce both the incentive and ability for stores to stock them. Full-fat and reduced fat dairy products are not the same food and, therefore, should not be treated as a single staple food product under the Proposed Rule.

²³ [Recommended Drinks for Children Age 5 & Younger - HealthyChildren.org](https://www.healthychildren.org/Parents/Food%20and%20Drinks/Pages/Recommended-Drinks-for-Children-Age-5-and-Younger.aspx)

By limiting options and eliminating the distinction between full and reduced fat dairy products, the Proposed Rule leaves stores with only a very narrow pathway to compliance. A store would need to carry cow's milk, yogurt, cheese, butter, cream, shelf-stable milk, and a cultured dairy beverage in order to reach seven staple foods in the dairy category. Other options including plant-based products, infant formula, and dried milk are not realistic for convenience stores. In fact, in the NACS survey, only 18.3% of stores carried infant formula²⁴ and of those that didn't stock it, only 33.6% could obtain it from their suppliers.²⁵ Only 7.6% of respondents report stocking dried milk,²⁶ and less than half (41.9%) can obtain it from their suppliers.²⁷ While the addition of a shelf-stable option is noted, it's simply not a realistic option to stock because the majority of retailers are unable to source it.

That makes the list of seven products noted above a virtual mandate for stores to qualify for SNAP. Not only does this contradict appropriations language calling for more staple food variety options, but it would also create new supply chain challenges as thousands of stores would suddenly begin competing for the same exact lineup of products to remain in the program. The result, of course, would be that smaller businesses would likely be unable to obtain those products and would get forced out of SNAP.

D. Customer Demand Problems within the Dairy Category

Some of the alternatives noted in the Proposed Rule to replace the full fat/reduced fat dairy alternatives are not realistic. Dairy products from mammals other than cows simply are not purchased, nor are they stocked, in convenience stores. Similarly, plant-based dairy alternatives are not purchased often in convenience stores. In the NACS survey, 78.6% of respondents indicated that they do not carry any plant-based dairy products.²⁸ Only a little more than half of stores that don't stock plant-based milk could even acquire those products from their suppliers (55%).²⁹ And only about one-quarter of those stores could acquire a plant-based yogurt – with even fewer able to acquire a plant-based cheese.³⁰

Convenience stores can reliably acquire and sell traditional dairy products from cows. Other dairy alternatives do not offer any realistic path for these stores to meet the dairy category requirements.

E. Cumulative Problems

The cumulative effect of the Proposed Rule's new requirements in the grains and dairy categories is staggering. In all, 92.4% of stores indicated that they would face serious customer

²⁴ NACS Survey, slide 11.

²⁵ NACS Survey, slide 12.

²⁶ NACS Survey, slide 13.

²⁷ NACS Survey, slide 14.

²⁸ NACS Survey, slide 15.

²⁹ NACS Survey, slide 16.

³⁰ *Id.*

demand problems if products such as plant-based dairy and raw grains and flours – now given disproportionate importance under the Proposed Rule – were required,³¹ and 68.7% noted that these products would likely spoil because customers simply would not buy them.³² If finalized as written, the Proposed Rule will hurt stores' bottom lines while doing nothing to help SNAP customers, because these products will sit untouched in refrigerators and on store shelves.

If 92.4% of stores were to leave SNAP, more than 100,000 stores would disappear from the program. And even if the 68.7% with spoilage problems were to leave SNAP, the loss would still exceed 80,000 stores. Either outcome would devastate food access for SNAP customers.

Note that in the survey, more than 40% of stores located in urban and suburban areas reported no other food retailers within 1 mile of their location.³³ In rural areas, more than 30% of stores said there were no other food retailers within 10 miles.³⁴ The Proposed Rule risks turning these communities into new food deserts. Reduced competition will lead to increased prices, further exacerbating the affordability challenges SNAP customers already face.

F. Considerations in the Protein Category

The Associations support the Department's proposal to move nuts/seeds, beans, peas, and lentils into the protein category. This is a welcome change that provides small-format retailers with greater flexibility to meet the protein requirement, which, as USDA notes in the Proposed Rule, has been historically difficult for retailers to meet. Convenience stores already carry a wide range of these items, such as almonds, sunflower seeds, chickpeas, and canned or packaged beans, because they are popular with customers seeking quick, high-protein options. Recognizing these items as protein aligns with how consumers use these foods, and it is consistent with the Dietary Guidelines for Americans, which identify both animal- and plant-sources as part of the protein foods group. This change will make compliance more achievable while supporting healthier choices for SNAP customers.

We encourage the Department to consider full range of change that small format stores may be required to make when finalizing the Proposed Rule. For example, in the protein category, many stores today carry jerky products as a high-protein food that customers can purchase on the go as a healthier alternative to many snack items. Making these products accessory foods will impact how these stores qualify for the program and will require adjustments.

G. Support for Clarification in Fruits and Vegetables Category

The Associations support the Department's clarification in the fruits and vegetables category allowing retailers to count cold pre-cut fruits and vegetables intended for at home consumption as staple foods toward their stocking requirements. This is a common-sense

³¹ NACS Survey, slide 17.

³² *Id.*

³³ NACS Survey, slide 4.

³⁴ NACS Survey, slide 3.

improvement that reflects the realities of today’s marketplace and the ways in which customers purchase and consume fresh produce. Retailers have previously been barred from counting pre-cut produce, such as sliced apples, broccoli florets, or cut melon, as staple fruits and vegetables because they were deemed “prepared foods,” even though these products contained no other added ingredients. This restriction created unnecessary confusion and prevented retailers from receiving credit for offering products that clearly align with SNAP’s goals of improving nutrition and access.

Convenience stores already stock a wide range of pre-cut fruits and vegetables because these items have grown in popularity among customers who are on the go. The Proposed Rule acknowledges this reality and gives retailers appropriate credit for offering nutritious, fresh foods that customers want and rely on. This improvement will encourage more small-format stores to continue stocking these products and help ensure that SNAP customers have convenient access to fresh fruits and vegetables.

IV. Small Business Considerations

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act (“SBREFA”), requires agencies like the Department to determine, to the extent feasible, a rule’s economic impact on small entities, explore regulatory options for reducing any significant economic impacts on a substantial number of such entities, and explain its ultimate choice of regulatory approach. The Proposed Rule includes little to no information on potential impacts on these small businesses. There is no formal or informal analysis of the adverse economic impacts to small businesses, no SBREFA screening analysis, and no recommendation from a Small Business Advocacy Review (“SBAR”) Panel. As noted throughout these comments, the impacts to businesses in our industry, the vast majority of which are small businesses, are far from inconsequential. Thus, we urge the Department to further engage a thorough review of adverse effects to small businesses like our members consistent with their charge under the SBREFA prior to finalizing any rule on this topic.

* * *

We appreciate this opportunity to comment on the Proposed Rule and welcome the opportunity to work with the Department to refine the grains and dairy food categories. By building on the workable and thoughtful framework reflected in the Trump Administration’s 2019 proposed rule, we can help ensure a final rule that strengthens SNAP and supports both retailers and the customers they serve.

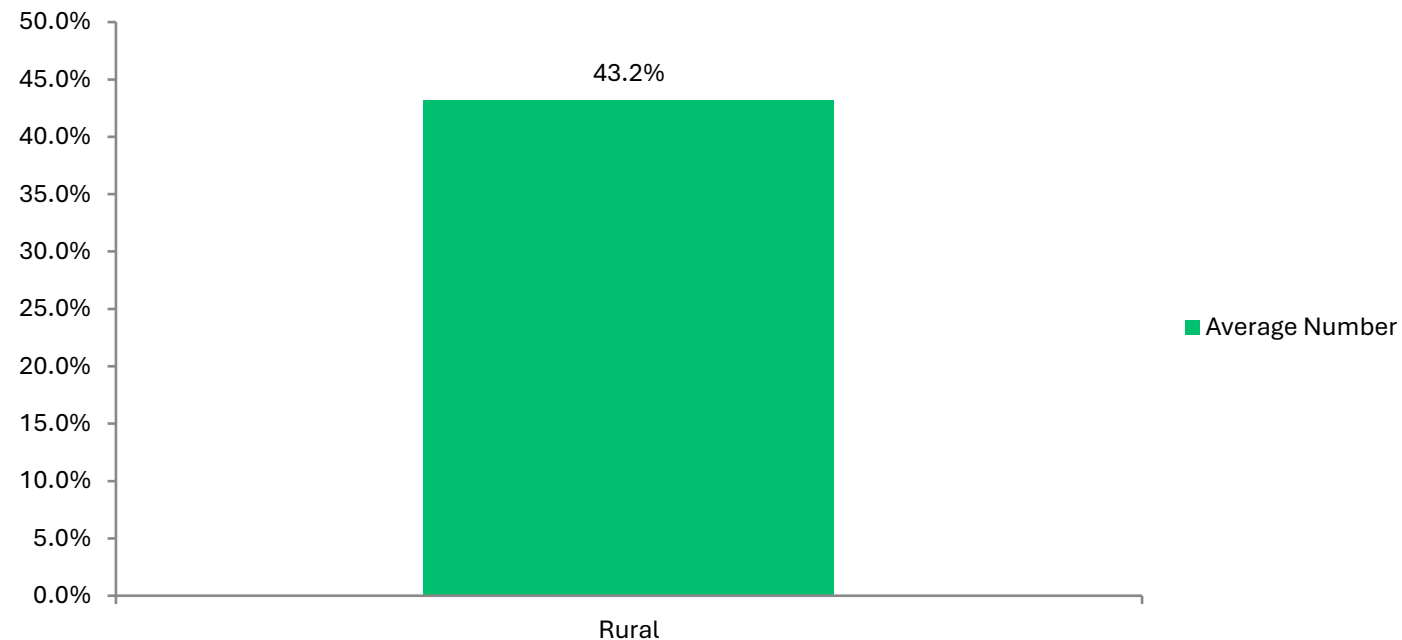
Sincerely,

National Association of Convenience Stores (NACS)
NATSO, Representing America’s Travel Centers and Truck Stops
SIGMA: America’s Leading Fuel Marketers

NACS Survey: Updated Staple Food Stocking Standards for Retailers in SNAP

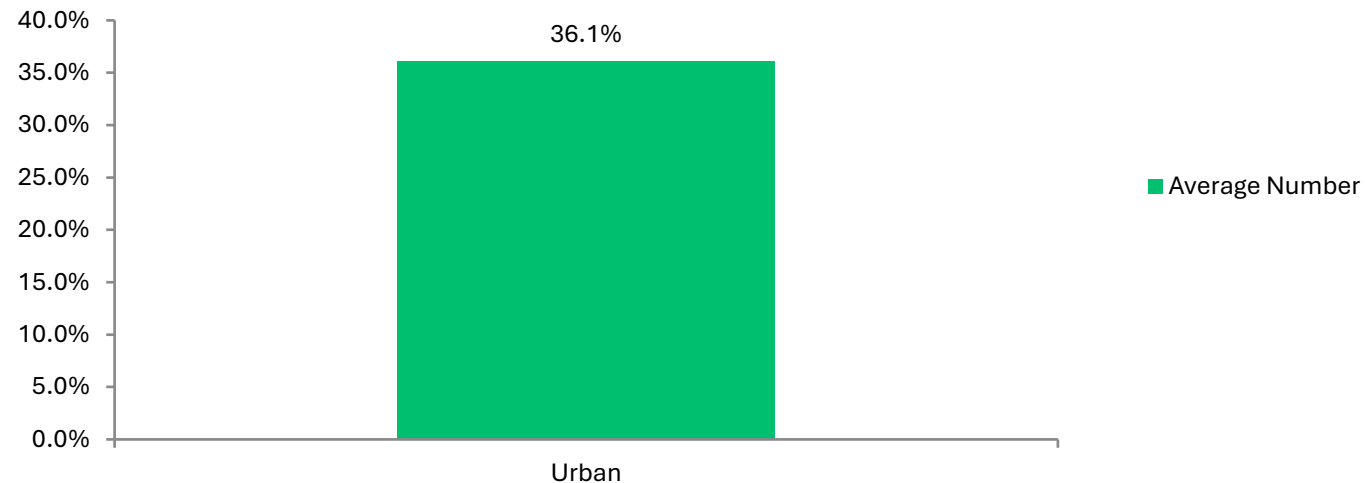
Rural Location

Approximately what percentage of your sites are located in a rural area?(i.e., a geographic area that is located outside towns and cities, which generally contains substantially fewer than 50,000 people)



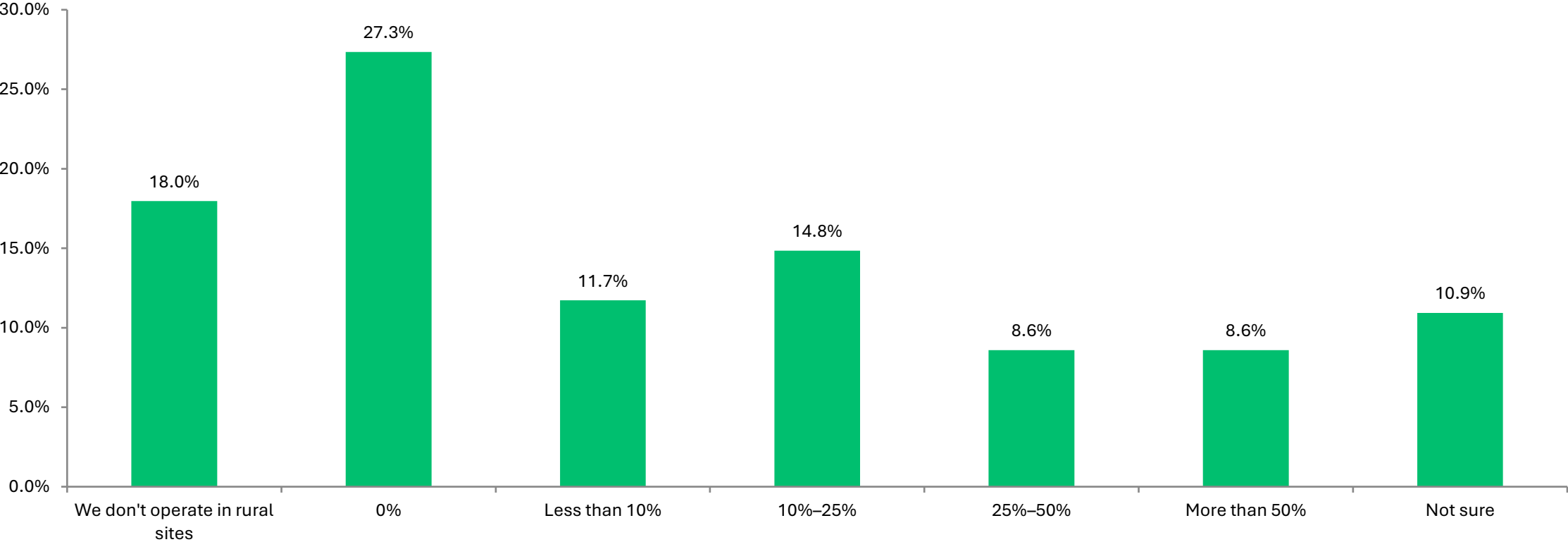
Urban Location

Approximately what percentage of your sites are located in an urban area?(i.e., a geographic area within a city or town that generally contains more than 50,000 people)



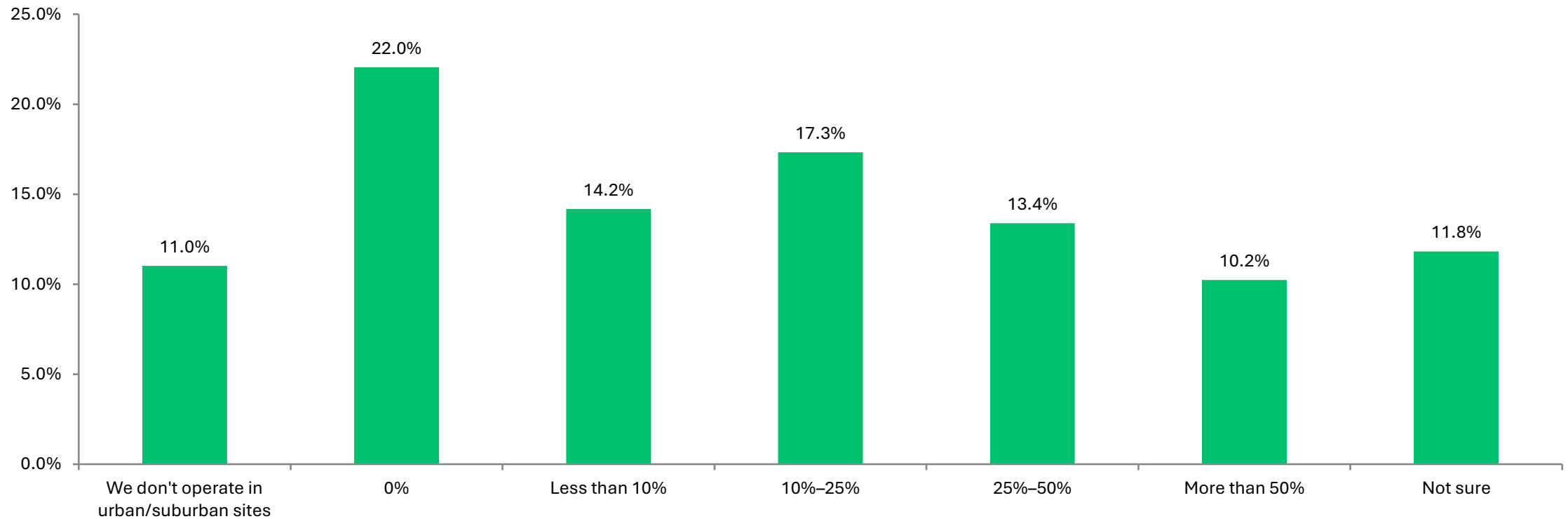
Rural Retail Food Location: 10 Miles

For your rural sites: Approximately what percentage of your company's sites do not have a retail food location (e.g., supermarket, farmers' market, or other convenience store) within 10 miles of them?



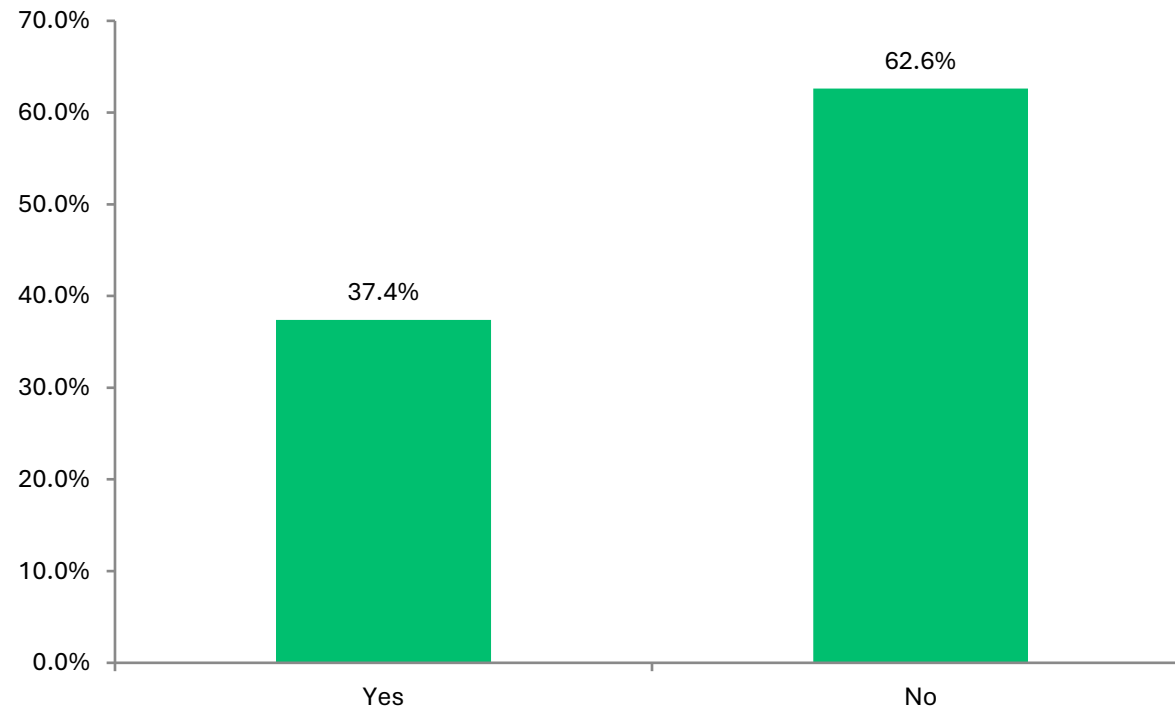
Urban/Suburban Retail Food Location: 1 Mile

For your urban or suburban sites: Approximately what percentage of your company's sites do not have a retail food location (e.g., supermarket, farmers' market, or other sites) within 1 mile of them?



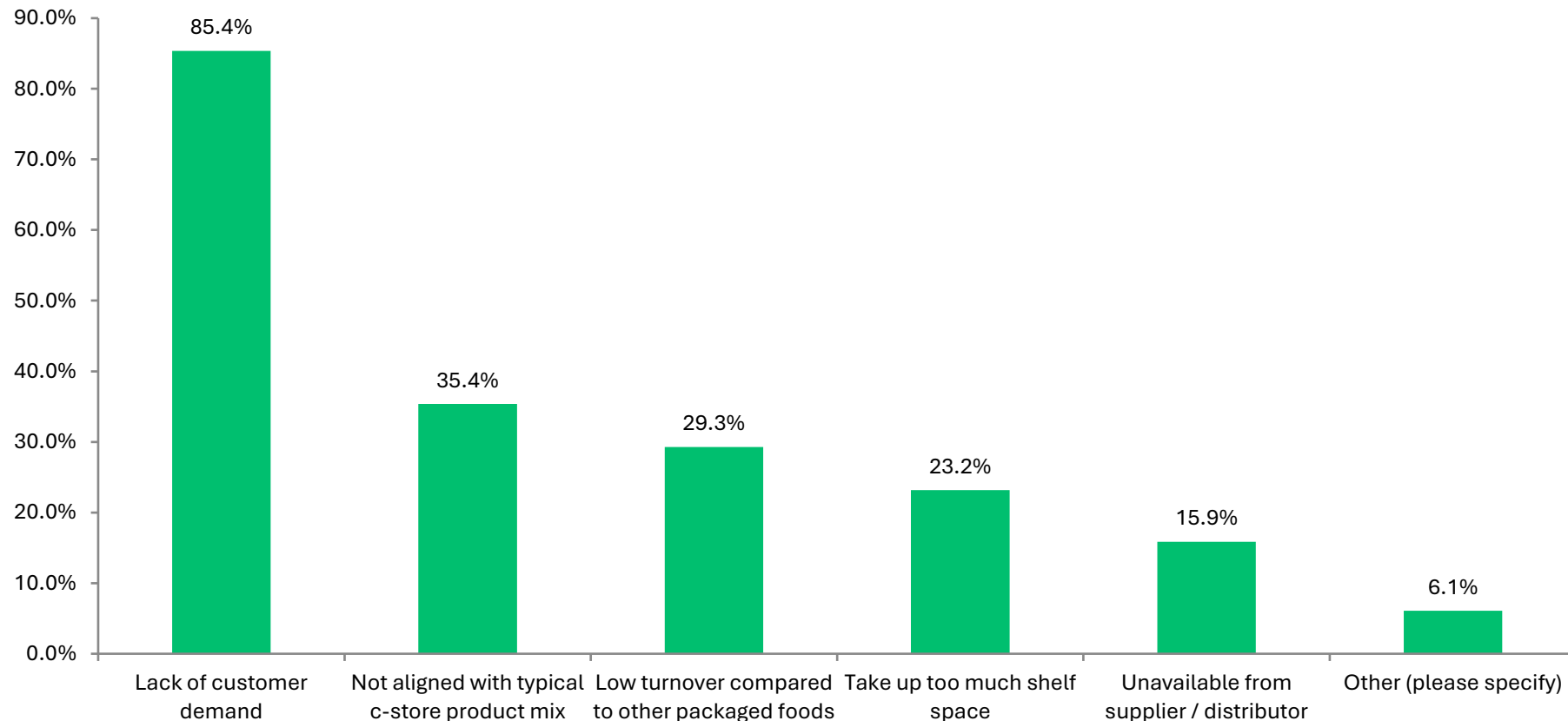
Raw Grain Stock

Do you currently stock raw grains (such as bags of rice, raw rolled oats, quinoa, barley, bulgur, or buckwheat)?



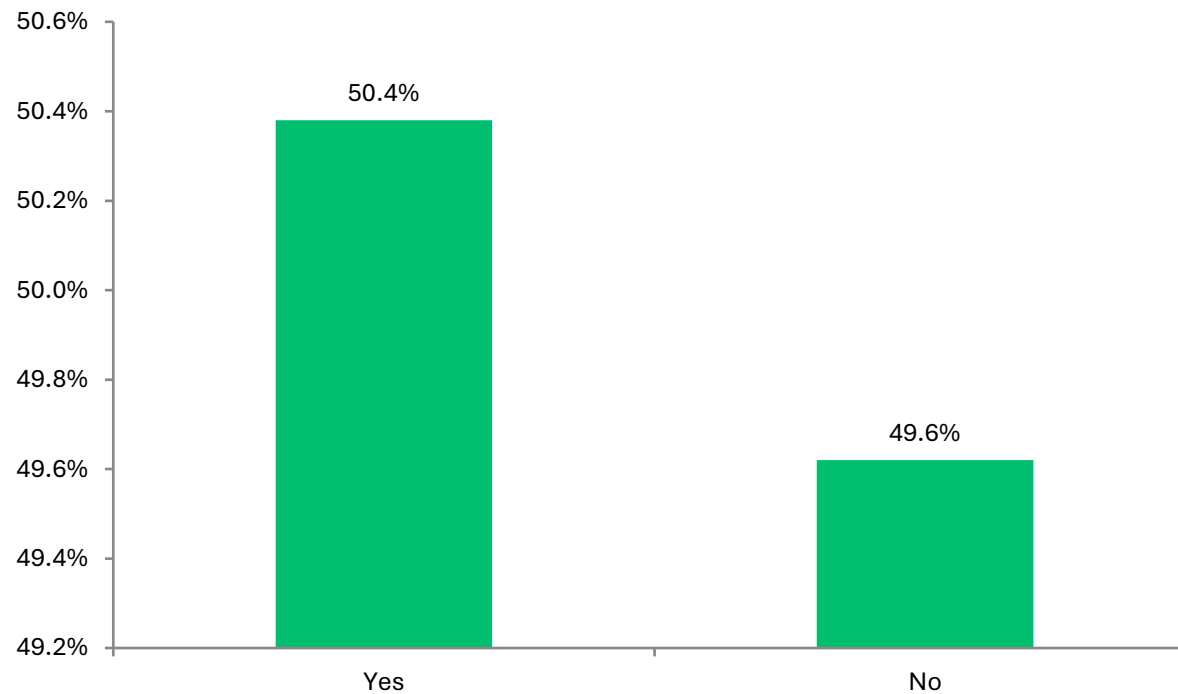
Raw Grains - Do Not Stock

If you do not stock raw grains (such as bags of rice, rolled oats, quinoa, barley, bulgur, or buckwheat), what are the reasons? (select all that apply)



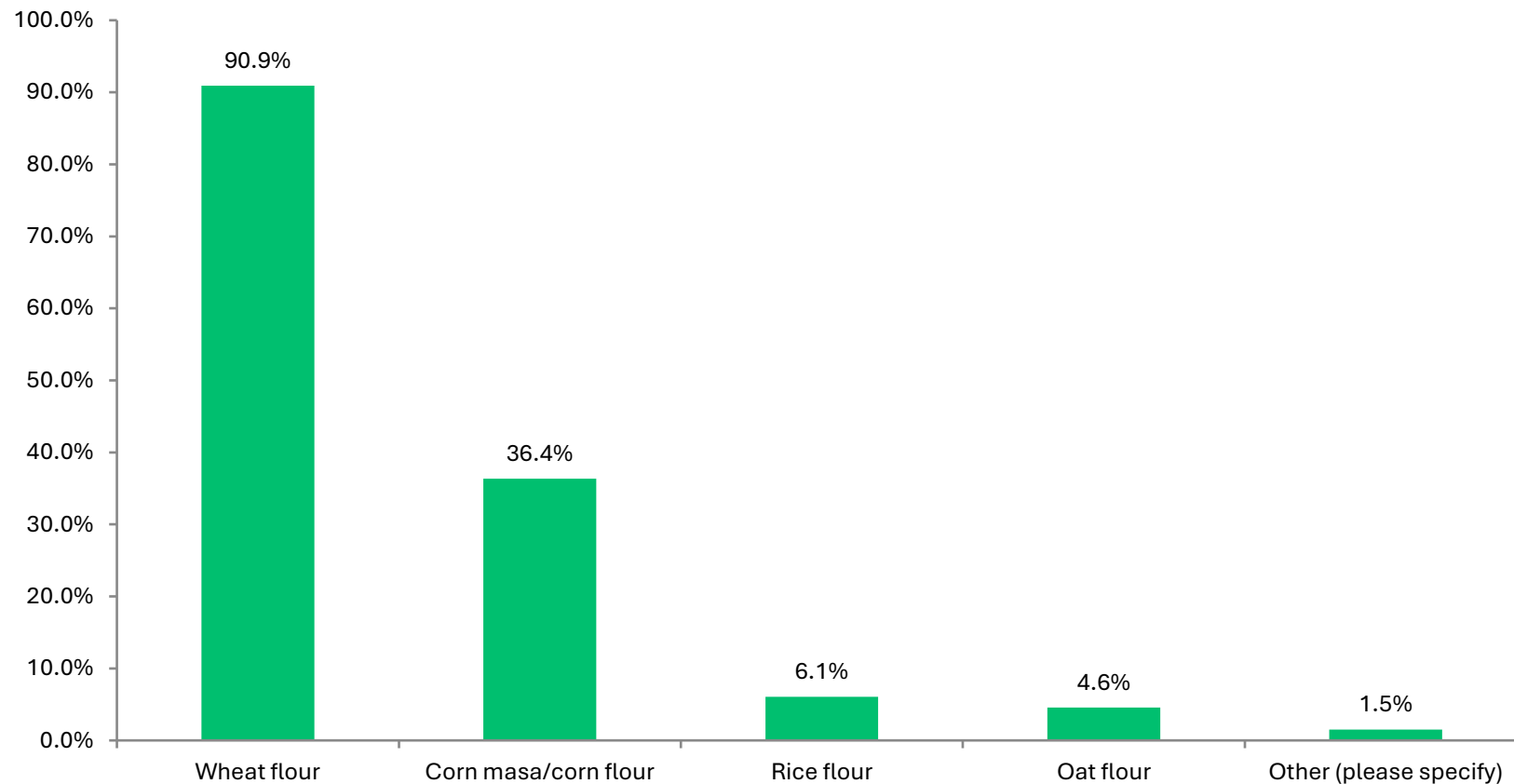
Grain-Based Flour Stock

Do you currently stock grain-based flours
(such as wheat flour, corn masa, rice flour, or
oat flour)?



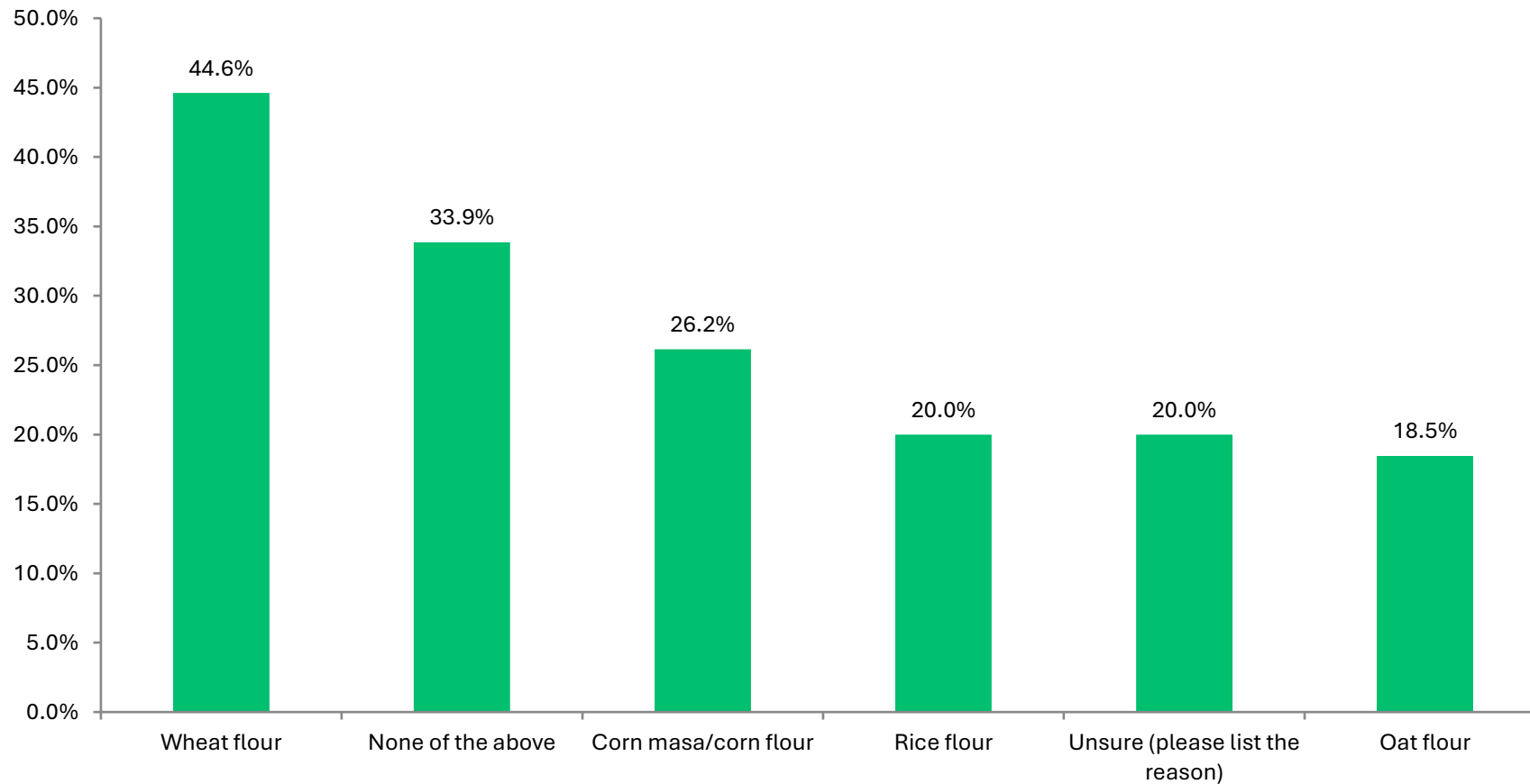
Grain-Based Flour Stock Type

Which of the following types of grain-based flours do you currently stock? (select all that apply)



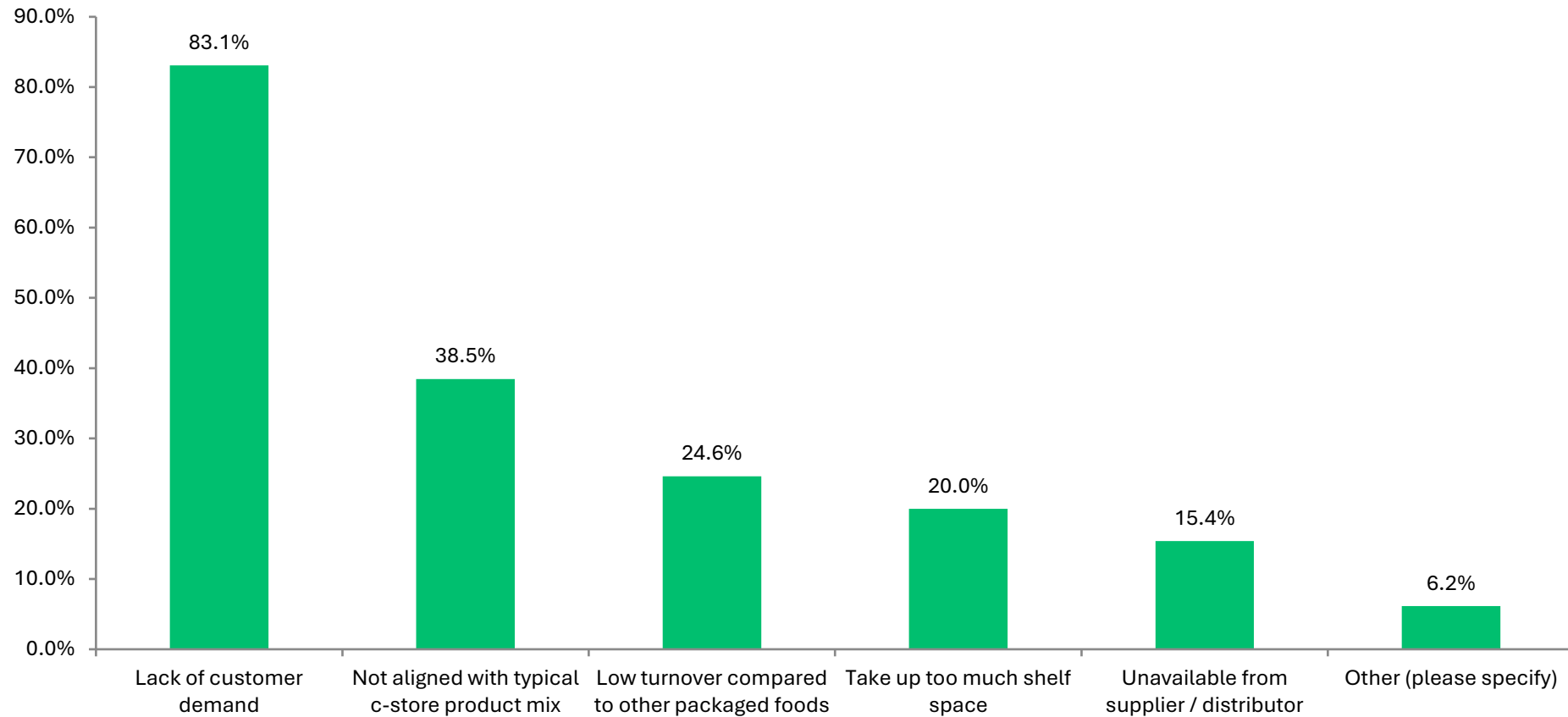
Grain Based Flours - Supplier

Which of these products are you able to acquire from your current suppliers / distributors if you do not currently stock grain-based flours? (select all that apply)

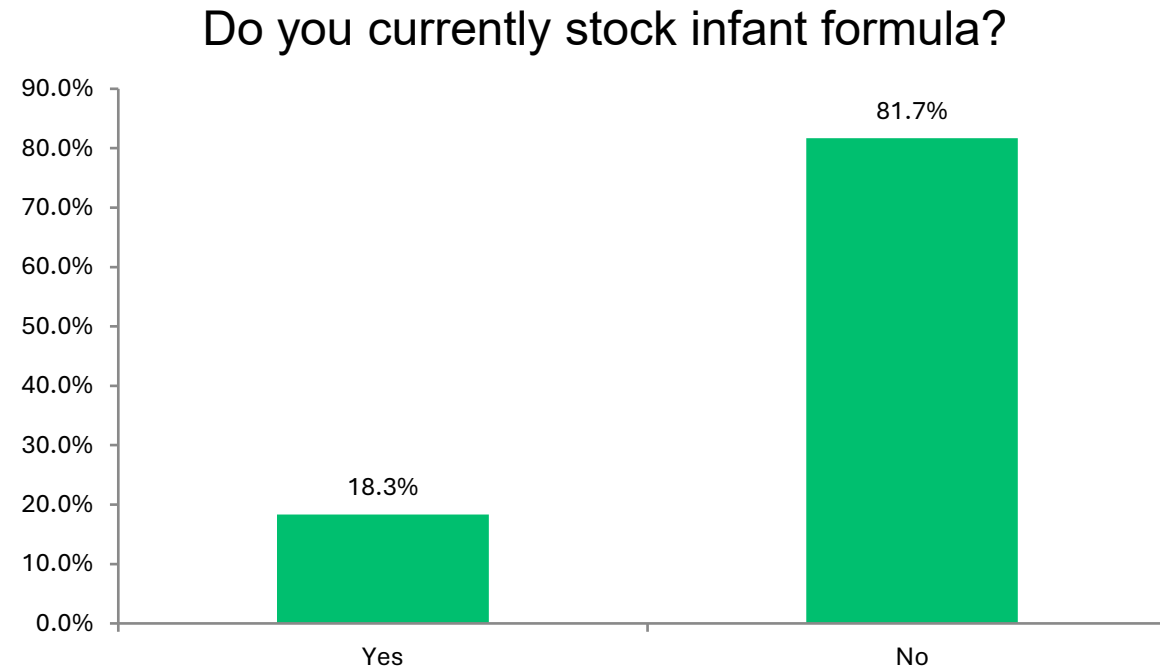


Grain Based – Do Not Stock

If you do not stock grain-based flours (such as wheat flour, corn masa, rice flour, or oat flour), what are the reasons? (select all that apply)

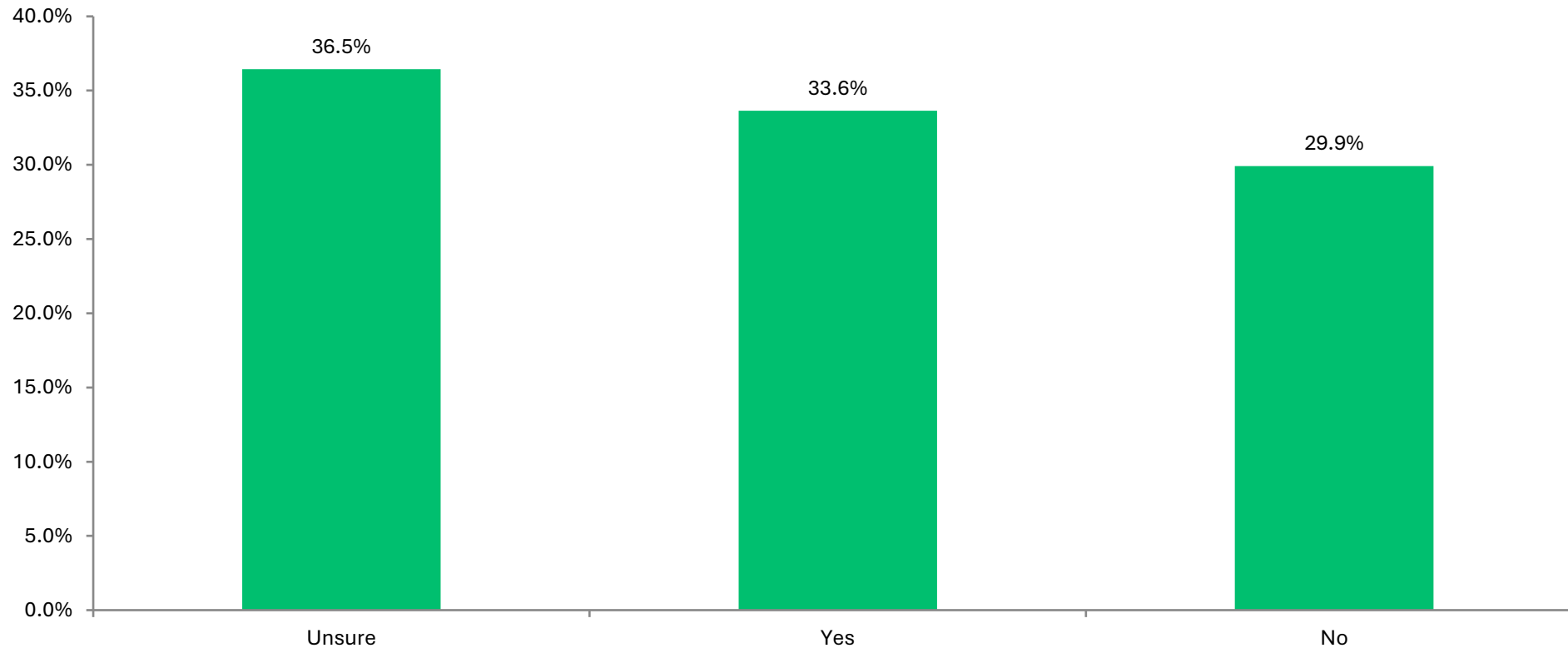


Infant Formula



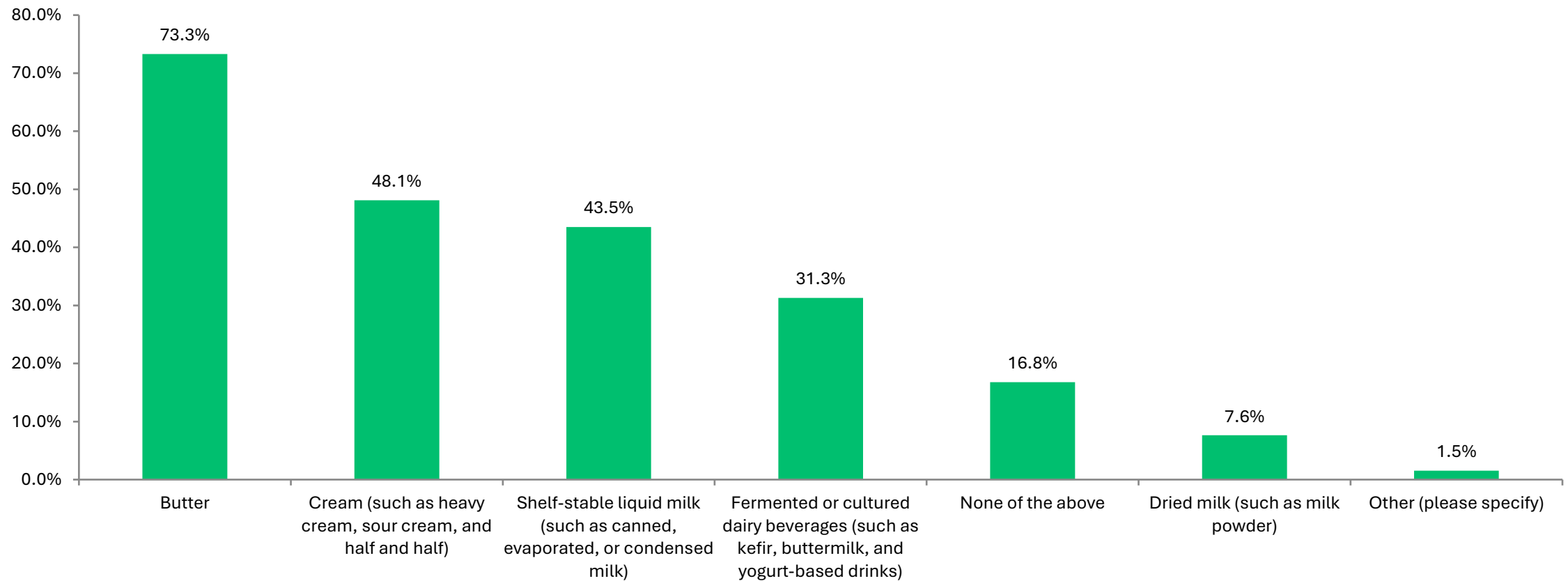
Infant Formula Supplier

If you do not currently stock infant formula, are you able to acquire it from your current suppliers / distributors to stock in your stores?



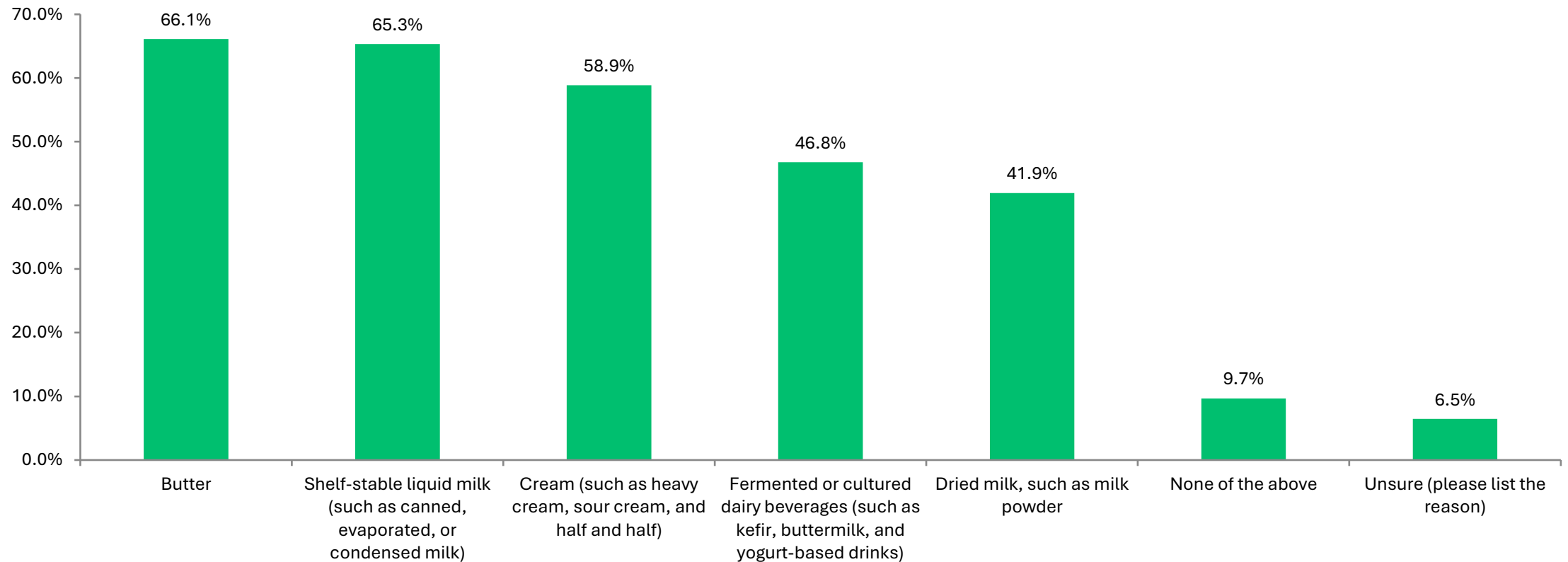
Dairy

Excluding milk, cheese, and yogurt, do you currently stock any of the following dairy products? (select all that apply)



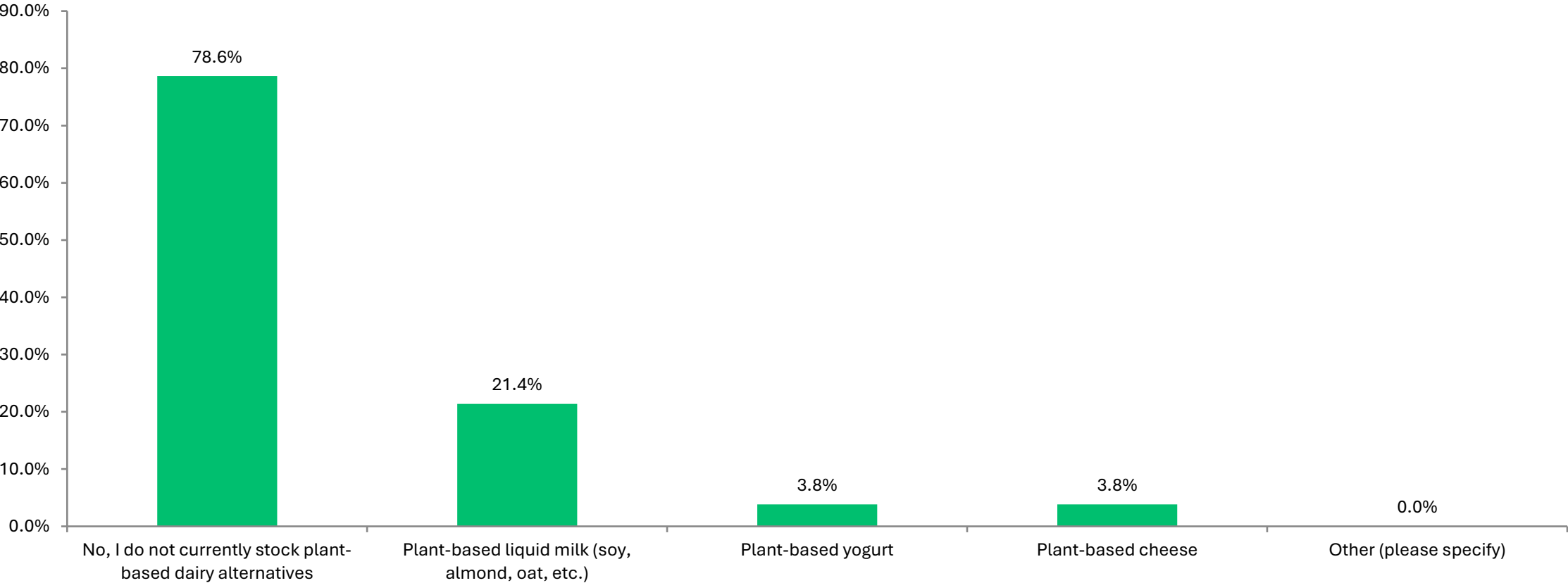
Dairy Supplier

Which of the following products are you able to acquire from your current suppliers / distributors if you do not currently stock them? (select all that apply)



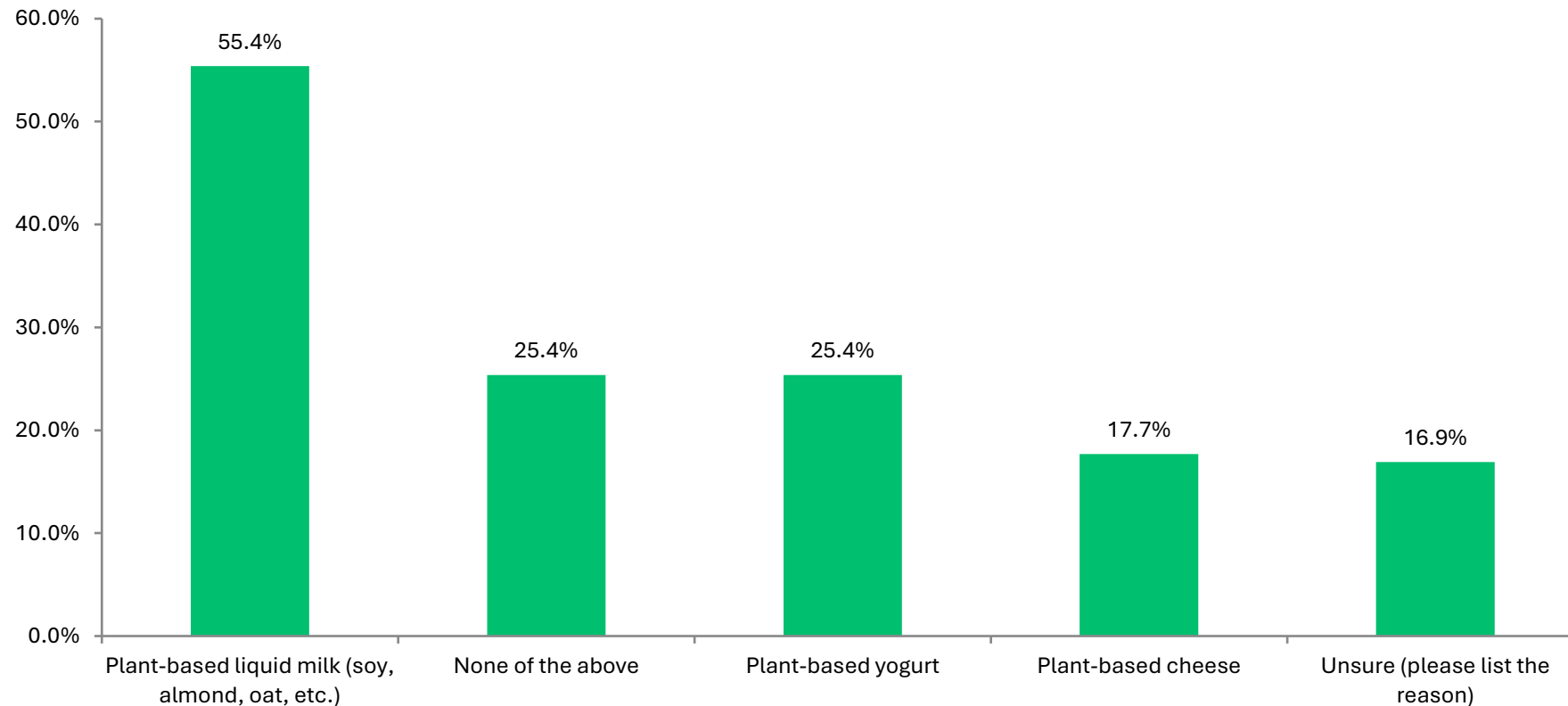
Plant Based Dairy Alt.

Do you currently stock any of the following plant-based dairy alternatives? (select all that apply)



Plant Alt. Milk Supplier

Which of the following products are you able to acquire from your current suppliers / distributors if you do not currently stock them?
(select all that apply)



USDA Challenge

What challenges would you face if USDA required you to stock items not typically found in convenience stores, such as raw grains, flours, tofu/tempeh, or plant-based dairy alternatives? (select all that apply)

