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HEMP INDUSTRY BUOYED BY APPROPS PROVISIONS — The hemp industry is thrilled with a slew of provisions that were included in the Senate’s proposed [appropriations package](#) for the Agriculture Department and FDA.

What’s in the bill? It includes a provision prohibiting the use of federal funds to thwart the transportation, processing or sale of hemp. It also includes language extending the timeline that states can operate under hemp rules that were approved under the 2014 farm bill by another year, through 2022. Many state officials and hemp farmers have chafed at rules issued by the USDA under the 2018 farm bill.

“Those requirements are more stringent and technically flawed,” said Herrick Fox, co-chair of the National Industrial Hemp Council’s government affairs committee and a Vermont hemp farmer.

And what about the accompanying report? It also includes a number of provisions related to CBD and hemp. Perhaps most significantly, it directs the FDA to implement a policy of “enforcement discretion” for CBD products within 90 days of enactment.

FDA’s stance has been that food and beverages containing CBD are illegal, although its enforcement actions have been largely limited to sending out warning letters to companies that make medical claims for their products. Hemp advocates have long complained that the legal uncertainty hanging over the industry has stifled its growth.

“Having that form of enforcement discretion, I think would unleash a significant amount of commerce from some of these ... big interstate companies that are afraid that the FDA is going to make them their first example,” said Jonathan Miller, general counsel for the U.S. Hemp Roundtable.

Another provision would direct federal agencies to study whether there is a scientific basis for the current 0.3 percent THC cap on hemp products. Many farmers and industry officials have argued that the threshold is arbitrary.

Hemp advocates are also elated with a provision that directs the agriculture secretary to designate hemp as a specialty crop so that farmers can access funding for those crops.

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But ... a couple of caveats: First, these are just proposals. The House and Senate will need to reconcile their funding bills, and many provisions might not make the cut. However, hemp advocates point out that the House's funding package includes many similar proposals.

Second, many of the hemp-related provisions aren't in the actual Senate bill, but rather in the accompanying report. If that remains the case, it means they won't have the force of federal law and could simply be ignored by the relevant agencies.

"Generally speaking, when you're dealing with federal agencies, and they want to continue to get appropriated dollars, they're going to follow Congress's direction, but they don't have to," said Jonathan Havens, a cannabis law expert at Saul Ewing Arnstein & Lehr.