

## BI-PARTISAN EFFORT UNDERWAY TO RELAX RESTRICTIONS ON "PREVENTED PLANTING" INSURANCE DUE TO UNPRECEDENTED DROUGHT



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By: Regulated Products Section Chair [Richard M. Blau](#)

### THE LEGISLATION

Federal legislation has been drafted and introduced in the United States Senate to change the current requirement that farmers plant and harvest a crop at least once in four years to maintain so-called "Prevented Planting" insurance coverage. The "**Protecting Farmers from Drought Act**" would change the current "1-in-4" requirement imposed by the U.S. Department of Agriculture's Risk Management Agency (RMA) to "1-in-5" for Prevented Planting insurance in counties and contiguous jurisdictions experiencing three continuous years of extreme drought (D3 level) in any area of the county at any time during the typical planting period.

The 2023 Farm Bill is still mired in debate before both houses of Congress. However, two members of the U.S. Senate Agriculture Committee, U.S. Senators Ben Ray Lujan (D-NM) and Roger Marshall (R-Kansas), have drafted a much-needed but non-controversial bill to expand access to Prevented Planting insurance for drought-stricken farmlands. We are hearing the Senators plan to tack their proposal onto the U.S. Senate Agriculture Committee's version of the 2023 Farm Bill.

### THE NEED

The extreme heat conditions occurring this spring and into the summer forced many crop producers across America to reexamine their timeline for planting. In normal weather conditions, planting a crop at peak planting times provides the best chance for optimum yields. However, due to this year's severe heat and drought conditions, many farmers were unable to undertake tillage and planting on the desired timeline. These are the conditions when Prevented Planting insurance becomes so important.

## PREVENTED PLANTING

Prevented planting refers to a farmer's inability to plant an insured crop with the proper equipment by the final planting date designated in the insurance policy's Special Provisions or during the late planting period, if applicable. Final planting dates and late planting periods vary by crop and by area.

Prevented planting coverage is available for most crops and covers insurable causes of loss, such as drought, floods, hurricanes, or excess precipitation that occurs during the insurance period and prevents other producers from planting. Prevented planting provisions in ag-insurance policies can provide valuable coverage when extreme weather conditions prevent expected plantings.

## THE SOLUTION

Because of the extraordinary weather patterns resulting from accelerated climate change, U.S. Secretary of Agriculture Tom Vilsack directed the Federal Crop Insurance Corporation (FCIC) to issue a temporary waiver for certain western states from the "1-in-4" rule in Fall 2022. If adopted, the 1-in-5 extension of coverage proposed by U.S. Senators Lujan and Marshall would make that waiver permanent and allow producers in areas facing extreme drought conditions another year for precipitation or water conditions to improve without losing crop insurance coverage.

Access a [summary](#) of the 1-in-5 bill and the [full text](#) of the legislation.

To learn more about prevented planting, contact the GrayRobinson national [Food Law Team](#) at 866.382.5132 or [foodlaw@gray-robinson.com](mailto:foodlaw@gray-robinson.com).

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