

WHAT FARMERS NEED TO KNOW ABOUT “PREVENTED PLANTING” THIS SEASON



By
[Richard M. Blau, Esq.](#)
Chair, [Alcohol Beverage & Food Law Department](#)

GRAY | ROBINSON
ATTORNEYS AT LAW

Extraordinary catastrophic weather has afflicted several of America’s most important agricultural states. Since March of this year, heavy snow and rain have brought record flooding to the Midwest, stalling farmers' fieldwork and slowing shipments across a wide swath of the Farm Belt From Iowa and Iowa through Kansas and Nebraska to Minnesota and South Dakota. Florida and the Southeastern growing states are still working to recover from the devastation of Hurricane Michael, even as Hurricane Season has resumed for 2019.

With more flooding expected, damages are expected to escalate. Early estimates of lost crops and livestock are in the tens of billions of dollars. All of which is why farmers need to be aware of current developments in the Prevented Planning programs administered by the U.S. Department of Agriculture and its relevant agencies.

What is “Prevented Planning”

Prevented Planting is defined by the federal government as a failure to plant an insured crop with the proper equipment by the final planting date designated in an agricultural 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. In order to qualify for coverage of crop losses, an insured farmer must be prevented from planting by an insured cause of loss that is general to the surrounding area and that prevents other producers from planting acreage with similar characteristics.

Prevented planting coverage is available for most crops and covers floods, hurricanes, or excess precipitation that occurs during the insurance period and prevents other producers from planting acreage with similar characteristics. Because conditions vary significantly between geographic areas, loss determinations are based on each producer’s circumstances.

Especially relevant for Gulf Coast farmers, prevented planting coverage also is available if planting is obstructed because of residual salt in the soil or in the irrigation water supply due to an insured cause of loss (such as hurricane or flood), as long as the event occurred during the prevented planting insurance period.

Because prevented planting resources are insurance-based, timely notice of a prevented planting is critical to assuring effective coverage. Generally, If a farmer is prevented from planting acreage, a notice of loss must be provided to the insurance agent within 72 hours after (i) the final planting date, if you do not intend to plant the insured crop during the late planting period or if a late planting period is not available; or (ii) the date on which you determine you will not be able to plant the insured crop within an available late planting period.

Relevant Federal Agencies and Resources

Federal agencies involved in prevented planting programs include:

- the Farm Service Agency (FSA),
- the Natural Resources Conservation Service (NRCS) and
- the Risk Management Agency (RMA).

All of these agencies are offering options to farmers who are unable to plant their intended crop.

For example, producers can hay, graze or chop a cover crop planted with NRCS assistance, while still remaining eligible for a prevented planting payment. This is an extremely important benefit for weather-ravaged farmland because acreage left fallow without a planned cover crop can suffer from loss of soil structure and organisms; cover crops can help reestablish soil health and create pathways for air and water to move through the soil. RMA announced in June of this year that the agency has adjusted the haying and grazing date to allow farmers who planted cover crops on prevented plant acres to cut those fields for silage, haylage, or baleage earlier in 2019, moving the date from November 1st to September 1st.

Similarly, the **Environmental Quality Incentives Program (EQIP)** is a voluntary conservation program that offers farmers and ranchers financial cost-share and technical assistance to implement conservation practices on working agricultural land. EQIP assistance is available through a general pool, and also through special initiatives. To be eligible to apply for EQIP funding, an applicant must be the owner or operator of eligible land engaged in agricultural, forestry, or livestock production. Eligible land includes cropland, rangeland, pasture, nonindustrial private forest land, and other farm or ranch lands. In June of 2019, EQIP announced that eight states will be eligible for special program signups targeting producers who were not able to get their crops planted this season due to extraordinary flooding.

More information about federal prevented planting programs is available at RMA's prevented planting website, which is accessible online at: www.rma.usda.gov/topics/prevented-planting.

More information about the NRCS-administered EQIP program is accessible online at: <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/eqip/>