



**OREGON DEPARTMENT OF AGRICULTURE**

**HB 2183 – Arrundo Donax**

**Presented to  
House Agriculture and Natural Resources Committee  
March 3, 2015**

<b>ODA Administrative Rule</b>	<b>HB 2183</b>
<p><b>Purpose</b> Giant reed, <i>Arundo donax</i>, is a promising bio-energy crop because of its high biomass yield. It is also grown as an ornamental and as a source of reeds for woodwind instruments. Giant reed is highly invasive in riparian areas in some regions of the United States such as California, Texas, and Florida. It is the intent and purpose of OAR 603-052-1206 to 603-052-1211 to balance goals to develop new agricultural crops and support renewable energy development from agricultural feedstocks while protecting natural resources and preventing the establishment of giant reed in riparian areas where it could cause major negative impacts to the natural resources of the State of Oregon.</p>	n/a
<p><b>Control Area</b> (1) As authorized by ORS 570.405, a <b>statewide control area</b> is established to reduce the risk of uncontrolled spread of giant reed into the environment in order to protect the horticultural, agricultural or forest industries of the state. (2) <b>Extent of Control Area:</b> All of the State of Oregon. (3) <b>Commodities Covered:</b> All life stages of giant reed, <i>Arundo donax</i>. (4) <b>Prohibited Acts:</b> (a) Giant reed is prohibited from being imported, planted, propagated, or grown except as allowed in this rule in sections (5) through (7) below. (b) Giant reed shall not be planted, grown, or stored in riparian areas, wetlands, or special flood hazard areas (100-year flood plains) or in a 100 ft. buffer beyond the edge of riparian areas, wetlands, or flood hazard areas.</p>	n/a
<p>(5) <b>Permit Requirements:</b> (a) Except as specified in OAR 603-053-1211(7)(b), giant reed shall not be planted or grown in Oregon without a permit from the Oregon Department of Agriculture (ODA). (b) Applications for permit must be in writing to ODA and include specific locations, detailed maps of the field locations, and any water bodies in the vicinity of all proposed field locations. Applications for a permit to produce giant reed must be sent to: Plant Program Area Director, Oregon Department of Agriculture, 635 Capitol St. NE,</p>	n/a

Salem, OR 97304 or emailed to: <hrogg@oda.state.or.us>.

(c) ODA will review the application upon its receipt and share the application information with noxious weed control officials in the county(ies) where production of giant reed is grown or proposed to be grown.

(d) ODA may deny an application or may issue a permit with any conditions as may be necessary to prevent the uncontrolled spread of giant reed or as necessary to protect the horticultural, agricultural or forest industries of the state. Conditions that ODA may require include, but are not limited to, conditions requiring notification to ODA of the dates when giant reed fields are planted and are taken out of production, annual updates on field locations, or any other precautions related to site-specific risk factors presented by a proposed growing location.

(e) Permit holders will be assessed an annual fee of \$2.00 per acre payable to ODA before planting and every twelve months thereafter, to cover the **cost of monitoring fields** where giant reed is produced and the cost of surveys for feral giant reed in the environment. Monitoring and surveys are necessary to ensure that giant reed has not escaped outside of contracted production areas and is necessary for enforcing the terms of the control area established in this rule.

(f) Any equipment used in giant reed production fields must be cleaned free of soil and plant debris prior to leaving production fields.

(g) Planting stock collected from the wild outside of Oregon must be washed free of soil and must be accompanied by a phytosanitary certificate indicating that the stock has been inspected and found free of soil and harmful pests, diseases, and weeds.

(h) In vitro and container-grown giant reed planting stock imported for biofuel production must meet plant health requirements for nursery stock entering Oregon from the state of origin.

(i) In-state producers of biofuel planting stock are subject to the same requirements as biofuel producers if plants are field grown. In vitro and containerized production of biofuel planting stock in Oregon does not require a bond or a permit, but containerized giant reed planting stock shall not be planted, grown, or stored in riparian areas, wetlands, or special flood hazard areas (100-year flood plains) or in a 100 ft. buffer beyond the edge of riparian areas, wetlands, or flood hazard areas.

(j) Green giant reed must not be transported outside the fields where it is grown unless it is in a covered container or the load is tarped. Harvested giant reed that is conditioned (crushing, chipping, chopping, or shredding) and dried in the field need not be transported in closed containers and such loads need not be tarped (e.g. bales of giant reed).

<p><b>(6) Bond; Conditions for Ceasing Production of Giant Reed:</b></p> <p>(a) Contractors (or growers if there is no contractor) for the production of giant reed for other than ornamental or woodwind reed purposes (see (7) below) must supply a bond or another form of acceptable collateral furnished by a surety company authorized to do business in Oregon in favor of the State of Oregon through its Department of Agriculture. The amount of the bond/collateral will be <b>\$100/acre up to a maximum of \$1,000,000</b>. The permit will not be issued until the Department has received the bond/collateral. The purpose of the bond is to cover any and all costs associated with the detection and eradication of giant reed inside or outside of production fields if the Department determines feral giant reed must be eradicated in order to protect the agricultural, horticultural or forest resources of the State. <b>The bond/collateral must be in place for the duration of permitted production and remain effective for 3 years after production ceases.</b></p> <p>(b) The holder of a permit for the production of giant reed that ceases production of giant reed must completely eradicate giant reed in a manner that prevents former giant reed production fields from becoming a source of propagules that could lead to accidental spread of giant reed in the wild.</p> <p>(c) Any holder of a permit issued by ODA must monitor any and all areas upon which giant reed was produced under permit for <b>at least three years after production ceases</b> to ensure that all giant reed plants are killed and any source of propagules are eradicated. ODA may require additional monitoring time as it determines is necessary to assure complete eradication of giant reed from areas under contract for production.</p> <p>(d) Any and all costs associated with eradication of giant reed in production fields and adjacent property owned or controlled by the producer after production has ceased is the responsibility of the permit holder.</p>	<p>SECTION 1. (1) Except as provided in subsection (4) of this section, a person that engages in growing the plant species <i>Arundo donax</i> L., commonly known as Giant Cane or Giant Reed, for commercial purposes must have on file with the <b>Invasive Species Council</b> a valid surety bond with one or more sureties licensed to do business in this state in the amount of:</p> <p>(a) <b>\$1,000,000</b> if the total area on contiguous lots of real property that the person is using or has used <b>within the preceding 12 months</b> for growing <i>Arundo donax</i> L. is <b>400 acres or less</b>; or</p> <p>(b) <b>\$25,000</b> per acre if the total area on contiguous lots of real property that the person is using or has used <b>within the preceding 12 months</b> for growing <i>Arundo donax</i> L. is <b>more than 400 acres</b>.</p>
<p><b>(7) Conditions for Ornamental and Woodwind Reed Plantings:</b></p> <p>Giant reed has been used as an ornamental plant in Oregon for many years. It is also grown as a source for woodwind reeds. Ornamental or woodwind reed plantings could result in feral populations. In order to lower the risk of ornamental or woodwind reed plants becoming feral, giant reed is being phased out of the nursery trade. Variegated varieties such as “Peppermint Stick,” “Variegata,” and “Golden Chain,” may continue to be grown and sold in Oregon unless ODA and State Weed Board list giant reed as a noxious weed.</p> <p>(a) After December 31, 2013, only variegated varieties of giant reed may be sold in Oregon for ornamental or woodwind reed purposes.</p> <p>(b) A permit is not required for ornamental or woodwind reed plantings of variegated varieties of giant reed totaling less than 1/4 acre.</p> <p>(c) Ornamental and woodwind reed plantings of giant reed existing before these rules were adopted will not be considered feral unless they are in Special Flood Hazard Areas or the ODA determines such populations are becoming invasive. Any plantings of giant reed or variegated varieties of giant reed over 1/4 acres are subject to the permitting requirements in OAR 603-052-1211(5).</p> <p>(d) If the ODA and the State Weed Board determine giant reed is a noxious weed, all ornamental uses of giant reed shall terminate and all production will require a permit.</p>	<p>n/a</p>
<p><b>(8) Eradication and Control of Giant Reed:</b></p> <p>(a) Except as stated in (7) above, ODA considers giant reed plants detected outside of contracted production fields as feral plants, which shall be eradicated or controlled.</p> <p>(b) Any person owning or occupying property upon which feral giant reed is detected must contact the ODA within 48 hours of detection.</p> <p>(c) Upon detection of feral giant reed, ODA may develop a survey, eradication, and monitoring plan to control or eradicate detected feral giant reed. Consistent with its authorities, ODA may develop and conduct appropriate</p>	<p>(2) The council may provide grants or loans to agencies, organizations or individuals for eradicating <i>Arundo donax</i> L. that migrates or spreads off of a property where the <i>Arundo donax</i> is or was grown for commercial purposes. A surety bond that a person files under subsection (1) of this section must be conditioned to provide payment to</p>

<p>measures to control or eradicate feral giant reed, may enter into a contract for the purpose of controlling or eradicating feral giant reed, or take any measures necessary to control or eradicate feral giant reed consistent with law.</p> <p>(d) Control or eradication of feral giant reed may be implemented at no cost to a person owning or controlling land within this state upon which feral giant reed is detected. However, ODA may request any person owning or controlling land within this state to control, prevent the spread of, or eradicate feral giant reed, subject to supervision of such activities by ODA.</p> <p>(e) If ODA is unable to control or eradicate feral giant reed on private property, then consistent with the provision of ORS 570.405(2), any person owning or controlling land within this state must take measures to eliminate or prevent the possibility of spread of feral giant reed to other lands and ownerships. Control measures for feral giant reed must be implemented in a timely manner as determined by ODA. Treatments must provide sufficient levels of control to make progress toward the goal of eradication.</p>	<p>the council in the amount of any grants or loans made under this subsection due to migration or spreading of <i>Arundo donax</i> L. from the property that is discovered during the bond period. A bond described in this section must be in effect for at least a one-year period or until depleted by payments to the council, unless the surety sooner cancels the bond. At the discretion of the surety, that bond may be continued for an additional period by continuation certificate. The person shall maintain a bond in force until one year after the person ceases to use the property for growing <i>Arundo donax</i> L.</p>
<p><b>(9) Review:</b></p> <p>(a) ODA will conduct a thorough review of these rules after PGE's test burn (was scheduled for 2014, but has not happened yet) and before large acreages of giant reed are planted. The best available science, experience with test plots, survey results, and plans for expansion of giant reed production will be taken into consideration when determining whether these rules should be amended.</p> <p>(b) Before December 31, 2022, the Department will conduct a thorough review of the effectiveness and necessity for this rule. If by that date giant reed has not been declared a noxious weed by ODA and the State Weed Board, the bond/collateral requirement (6)(a) sunsets unless specifically extended via amendment to this rule.</p>	
<p><b>Civil Penalty Authority in ORS</b>  Current control area law ORS 570.410 prohibits violation of an order. ORS 570.990 and 570.995 give ODA authority to impose a civil penalty fine not to exceed \$10,000.</p>	<p>(3) The State Department of Agriculture may impose a civil penalty, not to exceed \$25,000, on a person that fails to comply with a bonding requirement imposed under this section. Each day that a person continues to fail to comply with the bonding requirement is a separate violation subject to a separate civil penalty.</p>
	<p>4) Subsection (1) of this section does not apply to the commercial growing of a plant in a container for use in ornamental landscaping.</p>
<p>A couple of other key issues in administrative rule:</p> <p>Prohibited Acts:</p> <ul style="list-style-type: none"> <li>• Cannot be grown outside control area</li> <li>• Cannot be planted, grown, or stored in riparian areas, wetlands, or certain flood areas.</li> </ul> <p>Permit Requirements:</p> <ul style="list-style-type: none"> <li>• Current rule has a specific set of permit requirements</li> </ul>	

Contact: Lisa Hanson, Deputy Director - 503-986-4632  
Helmuth Rogg, Plant Program Area Director – 503-986-4662