

Control Area For Giant Reed (Cane) Grass *Arundo donax* in Oregon 603-052-1206

Definitions

As used in OAR 603-052-1206 to 603-052-1211 unless the context requires otherwise:

- (1) “Giant reed” or “giant cane grass” means the plant species *Arundo donax* L. For purposes of this rule the term “giant reed” or “giant cane grass” applies to whole plants, plant parts, rhizomes, harvested plant parts, and seeds. For purposes of this rule, “giant reed” or “giant cane grass” does not include variegated varieties of giant reed as defined in subsection (4) of this section.
- (2) “Feral giant reed” means whole plants of the plant species *Arundo donax* growing outside of permitted production areas or as otherwise inconsistent with this rule.
- (3) “Riparian area” means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone’s existing or potential soil-vegetation complex the influence of such surface or subsurface water.
- (4) “Special Flood Hazard Area” means an area inundated during the 1% annual flood (also known as 100-year flood or a base flood) as determined from the January 2011 version of the Flood Insurance Rate Maps of the Federal Emergency Management Agency (FEMA) available through the Department of Land Conservation and Development at:
<http://oregonriskmap.com/index.php?option=com_content&view=category&id=11&Itemid=12>.
- (5) “Variegated varieties of giant reed” means horticultural varieties of *Arundo donax* with striped or spotted leaves. Variegated varieties may include but are not limited to varieties marketed as “Peppermint Stick,” “Variegata,” and “Golden Chain,” or other ornamental varieties that can be visually distinguished from “giant reed” or “giant cane grass.”
- (6) “Wetland” means areas that are naturally inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

603-052-1209

Purpose

Giant reed, *Arundo donax*, 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.

603-052-1211

Control Area

- (1) As authorized by ORS 570.405, a statewide control area 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) Extent of Control Area: All of the State of Oregon.
- (3) Commodities Covered: All life stages of giant reed, *Arundo donax*.
- (4) Prohibited Acts
 - (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.
- (5) Permit Requirements
 - (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, Salem, OR 97304 or emailed to: <dhilburn@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 from outside 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-state producers of biofuel planting stock are subject to the same requirements as biofuel producers.
 - (i) 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).

(6) Bond; Conditions for Ceasing Production of Giant Reed

- (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 \$100/acre up to a maximum of \$1,000,000. 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. The bond/collateral must be in place for the duration of permitted production and remain effective for 3 years after production ceases.
- (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.
- (c) Any holder of a permit issued by ODA must monitor any and all areas upon which giant reed was produced under permit for at least three years after production ceases 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.
- (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.
- (e) Oregon State University Research and Extension Centers are exempt from sections (5)(a) and (6)(a) of this rule for the purpose of allowing research related to giant reed production and control.

(7) Conditions for Ornamental and Woodwind Reed Plantings

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.

- (a) After December 31, 2013, only variegated varieties of giant reed may be sold in Oregon for ornamental or woodwind reed purposes.
- (b) A permit is not required for ornamental or woodwind reed plantings of variegated varieties of giant reed totaling less than ¼ acre.
- (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 $\frac{1}{4}$ acres are subject to the permitting requirements in OAR 603-052-1211(5).
- (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.
- (8) Eradication and Control of Giant Reed
- (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.
- (b) Any person owning or occupying property upon which feral giant reed is detected must contact the ODA within 48 hours of detection.
- (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 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.
- (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.
- (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.
- (9) Review
- (a) ODA will conduct a thorough review of these rules after PGE's test burn (now scheduled for 2014) 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.
- (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.

Stat. Auth.: ORS 570.405

Stats. Implemented: ORS 570.405

Effective 12/12/2012

