§ 360.304 Denial of an application for a permit to move a noxious weed; cancelation of a permit to move a noxious weed.

(a) The Administrator may deny an application for a permit to move a noxious weed when the Administrator determines that:

(1) No safeguards adequate or appropriate to prevent dissemination of the noxious weed can be implemented; or

(2) The destructive potential of the noxious weed, should it escape despite
Criteria for the approval of heat treatment facilities are contained in part 305 of this chapter.

The movement could impede an APHIS eradication, suppression, control, or regulatory program; or

A State plant regulatory official objects to the issuance of the permit on the grounds that granting the permit will pose a risk of dissemination of the noxious weed into the State.

The Administrator may cancel any outstanding permit when:

1. After the issuance of the permit, information is received that constitutes cause for the denial of an application for permit under paragraph (a) of this section; or

2. The responsible person has not maintained the safeguards or otherwise observed the conditions specified in the permit.

(c) If a permit is orally canceled, APHIS will provide the reasons for the withdrawal of the permit in writing within 10 days. Any person whose permit has been canceled or any person who has been denied a permit may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the cancellation or denial. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully canceled or denied. The Administrator will grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning such a hearing will be adopted by the Administrator.

Seeds of Guizotia abyssinica (niger seed) are commonly contaminated with noxious weed seeds listed in §360.200, including (but not limited to) Cuscuta spp. Therefore, Guizotia abyssinica seeds may be imported into the United States only if:

1. They are treated in accordance with part 305 of this chapter at the time of arrival at the port of first arrival in the United States; or

2. They are treated prior to shipment to the United States at a facility that is approved by APHIS and that operates in compliance with a written agreement between the treatment facility owner and the plant protection service of the exporting country, in which the treatment facility owner agrees to comply with the provisions of §319.37–6 and allow inspectors and representatives of the plant protection service of the exporting country access to the treatment facility as necessary to monitor compliance with the regulations. Treatments must be certified in accordance with the conditions described in §319.37–13(c) of this chapter.

Criteria for the approval of heat treatment facilities are contained in part 305 of this chapter.