DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0079; 4500030113]

RIN 1018–AZ12

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Ivesia webberi

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for *Ivesia webberi* (Webber's ivesia), a plant species from five counties in California and Nevada along the transition zone between the eastern edge of the northern Sierra Nevada and the northwestern edge of the Great Basin. The effect of this regulation will be to add this species to the Federal List of Endangered and Threatened Plants.

DATES: This rule is effective July 3, 2014.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* (Docket No. FWS–R8–ES–2013–0079). Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; or facsimile 775–861–6301.

FOR FURTHER INFORMATION CONTACT: Edward D. Koch, State Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; or facsimile 775–861–6301. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Previous Federal Action

Please refer to the proposed listing rule for *Ivesia webberi* (78 FR 46889; August 2, 2013) for a detailed description of previous Federal actions concerning this species.

Elsewhere in today's **Federal Register**, we published a final rule to designate critical habitat for *Ivesia webberi* under the Act (16 U.S.C. 1531 *et seq.*).

Background

Ivesia webberi is a low, spreading perennial forb in the Rose family (Rosaceae) with grayish-green foliage; dark-red, wiry stems; and headlike clusters of small, yellow flowers. This species occupies vernally moist, rocky, clay soils with an argillic horizon that shrink and swell upon drying and wetting in open to sparsely vegetated areas associated with an *Artemisia arbuscula* (low sagebrush)—perennial bunchgrass—forb community. The specialized soils are well developed, a process estimated to take 1,000 years. Limited seed dispersal and apparent limited recruitment further restrict the occupied range and distribution of *I. webberi* (Service 2014, pp. 4–7).

Ivesia webberi is currently known to occupy a total of approximately 165 acres (66.8 hectares) within five counties in California and Nevada along the transition zone between the eastern edge of the northern Sierra Nevada and the northwestern edge of the Great Basin (Service 2014, p. 8). The species is known historically from a total of 17 populations, but 1 has been extirpated and a portion of another (1 of 4 subpopulations) is possibly extirpated. Of the remaining 16 populations, the status of 2 are unknown, and we currently are uncertain whether the species still persists at these locations (Service 2014, pp. 14–21). For the remaining 14 populations where the species' status is better understood, 10 occur on areas that are less than 5 ac (2 ha) each. Reliable estimation of population sizes or trends in *I. webberi* is complicated because past population estimates have usually been obtained by different observers employing a variety of methodologies and varying levels of survey effort (Service 2014, p. 12).

Please refer to the proposed listing rule for *Ivesia webberi* (78 FR 46889; August 2, 2013) and the updated Species Report (Service 2014, entire), available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0079, for a summary of additional species information.

Summary of Biological Status and Threats

Due to the restricted range, specialized habitat requirements, and limited recruitment and dispersal of *Ivesia webberi,* populations of this species are vulnerable to ongoing and future threats that affect both individual plants and their habitat. The primary threat to *I. webberi* is the combined and synergistic effect from the encroachment of nonnative, invasive plant species into the *I. webberi* plant community and the modified fire regime resulting from this encroachment (Service 2014, pp. 23–26). Nonnative, invasive plant species, such as *Bromus tectorum* (cheatgrass), *Poa bulbosa* (bulbous bluegrass), and *Taeniatherum caput-medusae* (medusahead), have become established and are part of the associated plant community at 12 of the 16 extant populations of *I. webberi.* Nonnative, invasive plant species negatively affect *I. webberi* through competition, displacement, and degradation of the quality and composition of the *Artemisia arbuscula*—perennial bunchgrass—forb community in which *I. webberi* occurs. In addition to these effects, these nonnative, invasive plant species, once established, contribute fuels that increase the frequency and likelihood of wildfire in *I. webberi* habitat.

Wildfire was historically infrequent in the Great Basin because the native plant communities made up of annuals and perennial bunchgrasses did not provide sufficient fine fuels to carry large-scale wildfires. The bare spaces between widely spaced shrubs and the low fuel load of native annuals and perennial bunchgrasses generally prevented fire from spreading, so the fires that did burn were restricted to isolated patches. In *Artemisia arbuscula* communities, such as those that *Ivesia webberi* inhabits, the average fire return interval is greater than 100 years, due to natural lower productivity and fuel accumulations (Service 2014, p. 24). However, beginning in the late 1800s, the widespread invasion of nonnative plant species, particularly annual grasses, has created a bed of continuous fine fuels across the sagebrush landscape in many areas (Service 2014, p. 25). This increase in fine fuels created by nonnative, invasive plants has resulted in more frequent fires that burn larger areas and often burn at higher intensities. Post-fire conditions further facilitate the invasion and establishment of nonnative, invasive plant species, thus creating a positive feedback loop between increased wildfire and the spread of these species (Service 2014, pp. 25–26). Ten of the 16 extant *I. webberi* populations have experienced wildfire since 1984 (Service 2014, p. 25). Because *I. webberi* did not evolve with frequent fire and does not possess adaptations that would help it persist in a frequent-fire fire regime, wildfires are

expected to have adverse population-level impacts on the species. Increased wildfire frequency within the species' range also results in increased wildfire suppression activities, which also may adversely affect *I. webberi* populations (Service 2014, pp. 22, 25–26).

Other threats impacting *Ivesia webberi* populations include off-highway vehicle (OHV) use, roads, development, livestock grazing, and climate change (Service 2014, pp. 26–32). OHV impacts to *I. webberi* populations have increased during the past 20 years as population growth and associated development have increased (Bergstrom 2009, p. 22), especially in the Reno urban area where 6 of the 16 populations occur. Eleven of 16 extant *I. webberi* populations are adjacent to or intersected by dirt roads and have been impacted to some degree by road development and OHV use (Service 2014, pp. 26–27). Roads cause habitat loss and degradation, and when vehicles drive off existing roads and trails, they can crush plants, compact soils, and provide a means for nonnative, invasive plant species to invade otherwise remote, intact habitats. The U.S. Forest Service (Forest Service) concluded that a 2006 travel management plan for Peavine Mountain would benefit rare plant species, including *I. webberi;* however, designated roads open to all vehicles continue to bisect *I. webberi* populations, and unauthorized OHV use remains high within *I. webberi* populations on Forest Service lands in the Reno urban area (Service 2014, p. 27).

Development, which results in direct mortality and in habitat loss, degradation, and fragmentation, has resulted in the extirpation of one *Ivesia webberi* population and the loss of a portion of another population (Service 2014, p. 27). Residential or commercial development is ongoing or planned at each of the four Nevada populations located on private lands. In addition, construction of a 120-kV overhead transmission line may impact two *I. webberi* populations located on Forest Service lands (Service 2014, pp. 27–28). Livestock grazing has the potential to result in negative effects to *I. webberi* due to trampling and substrate disturbance, but this situation is dependent on factors such as stocking rate and season of use. Two *I. webberi* populations occur in areas that are currently grazed by cattle, and another seven populations occur within vacant grazing allotments that could be reopened to grazing to alleviate grazing pressures on nearby allotments (Service 2014, p. 30).

Climate change is likely to affect *Ivesia webberi,* although it is difficult to project specific effects. In the Great Basin, temperatures have risen 0.9 to 2.7 degrees Fahrenheit (°F) (0.5 to 1.5 degrees Celsius (°C)) in the last 100 years and are projected to warm another 3.8 to 10.3 °F (2.1 to 5.7 °C) over the rest of the century (Service 2014, p. 31). Under current climate change projections, we anticipate that future climatic conditions will favor the further spread of nonnative, invasive plants and increase the frequency, spatial extent, and severity of wildfires (Service 2014, p. 31). Alteration of temperature and precipitation patterns as a result of climate change also may result in decreased survivorship of *I. webberi* by causing physiological stress, altering phenology, and reducing reproduction or seedling establishment.

Because most of the habitat where the species is known to occur is located on Federal lands (69 percent of occupied habitat occurs on Forest Service lands, and 3 percent of occupied habitat occurs on Bureau of Land Management (BLM) lands), *Ivesia webberi* receives some conservation protections resulting from Federal laws and the regulations and policies implementing those laws (e.g., the National Forest Management Act, 16 U.S.C. 1600 *et seq.;* Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.;* National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*). *Ivesia webberi* receives special consideration on Federal lands because it is classified as a sensitive species by both the Forest Service and BLM (Service 2014, pp. 3–4). The species also is classified as threatened with extinction and fully protected by the State of Nevada; removing or destroying *I. webberi* and other fully protected plants is prohibited except under special permit issued by the Nevada Division of Forestry (NDF 2013). *Ivesia webberi* is not listed as endangered or threatened under the California Endangered Species Act (CESA), but has a California Native Plant Society (CNPS) rare plant rank of 1B.1 (seriously threatened in California with over 80 percent of occurrences threatened and high degree and immediacy of threat (CNPS 2013)). *Ivesia webberi* and other plants with a CNPS 1B rank must be fully considered during preparation of environmental documents relating to the California Environmental Quality Act (CEQA) (CNPS 2013).

The Forest Service drafted a rangewide conservation strategy for *Ivesia webberi* to guide conservation actions for the species on Forest Service lands (Service 2014, pp. 21–22). The conservation strategy, which was signed in 2010, will result in long-term benefits to *I. webberi* populations located on Forest Service lands (Bergstrom 2009, pp. 1–46). However, we expect that the landscape-level threats of nonnative, invasive plants and increased wildfire will continue to adversely affect *I. webberi* populations across the species' range (Service 2014, p. 22).

Please refer to the proposed listing rule (78 FR 46889; August 2, 2013) and the Species Report (Service 2014), available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0079, for a more detailed discussion of the biological status of *Ivesia webberi* and the impacts affecting the species and its habitat. Our assessment was based upon the best available scientific and commercial data and the expert opinion of the Species Report team members.

Summary of Changes From the Proposed Rule

No significant changes have been made to the information presented in the proposed listing rule. Minor edits have been made to the biological information summarized above in the Background section of this rule based on new information received from the U.S. Forest Service and our survey efforts. New information includes:

(1) A second subpopulation was discovered within population USFWS 9, containing 50 individual plants (C. Schnurrenberger, unpul. Survey 2013).

(2) Two populations (USFWS 14 and 15) previously determined to be extant have been recently confirmed, and survey information provided us baseline information on numbers of individuals and quality of the habitat. Specifically, these populations were found to harbor relatively high population estimates, but also high levels of invasion by *Taeniatherum caput-medusae* (S. Kulpa, E. Bergstrom, and C. Ghiglieri, unpubl. survey 2013; S. Kulpa and E. Hourihan, unpubl. survey 2013).

(3) Two populations (USFWS 3 and 4) were confirmed extant (as opposed to probable extant), and surveys indicated low numbers of individuals over a small occupied area (S. Kulpa and J. Johnson, unpubl. survey 2013a; S. Kulpa and J. Johnson, unpubl. survey 2013b).

Summary of Comments and Recommendations

In the proposed rule published on August 2, 2013 (78 FR 46889), we requested that all interested parties submit written comments on the proposal by October 1, 2013. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested

parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Reno Gazette Journal, and we held a public/informational meeting in Reno on September 10, 2013. We did not receive any requests for a public hearing. All substantive information provided during comment periods has either been incorporated directly into this final determination or is addressed below.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from three knowledgeable individuals with scientific expertise that included familiarity with *Ivesia webberi* and its habitat, biological needs, and threats. We did not receive responses from any of the peer reviewers, nor any responses from State agencies. We reviewed all other comments we received for substantive issues and new information regarding the listing of *Ivesia webberi.*

Federal Agency Comments

Comment 1: The Forest Service commended us for thorough documentation of known occurrences of *Ivesia webberi,* and recommended that we consider the possible relevance of historical and potential habitats for the full recovery of *Ivesia webberi.*

Our Response: We thank the Forest Service for its review. We agree that historical and potential habitats are important considerations for developing conservation and recovery strategies. We expect that these factors will receive focused attention during the preparation of a recovery plan for this species.

Public Comments

Comment 2: One commenter listed several reasons why they support listing *Potentilla basaltica* (Soldier Meadow cinquefoil) under the Act rather than its removal from the candidate list.

Our Response: Although we thank the commenter for their review, we note that our 12-month finding and candidate removal for *Potentilla basaltica* was made final on August 2, 2013 (78 FR 46889). This finding was based upon the best available information, and constitutes our final determination on the subject petition for this species, in accordance with section 4(b)(3)(B)(i) of the Act. Based on our analysis of the five factors identified in section 4(a)(1) of the Act, and as explained further in the published finding, we have concluded that the previously recognized impacts to *P. basaltica* from present or threatened destruction, modification, or curtailment of its habitat or range (recreational use; OHV use; introduction of nonnative, invasive plant species; and trampling by livestock) do not rise to a level of significance such that the species is in danger of extinction now or in the foreseeable future. The status of *P. basaltica* will therefore not be re-evaluated. However, we welcome new information on this and other species at any time, and will consider relevant information in any future evaluations and listing decisions.

Comment 3: One commenter asked how we plan to protect the plant if it is on private property, and also asked how the Act's status of the plant would affect private property owners when the plant is located on privately owned lands.

Our Response: The Act does not prohibit the destruction, damage, or movement of endangered or threatened plants unless such activities occur on lands that are under Federal jurisdiction, or if the action occurs in conjunction with the violation of State laws. Therefore, if a person wishes to develop private land, with no Federal jurisdiction involved and in accordance with State law, then the potential destruction, damage, or movement of endangered or threatened plants does not violate the Act.

Determination

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to *Ivesia webberi.* We considered the five factors identified in section 4(a)(1) of the Act in determining whether *I. webberi* meets the Act's definition of an endangered species (section 3(6)) or a threatened species (section 3(20)). We determined that *I. webberi* is threatened by the present or threatened destruction, modification, or curtailment of its habitat or range (Factor A). The present or threatened destruction, modification, or curtailment of its habitat or range includes habitat loss and degradation due to nonnative, invasive plants; modified fire regime (increased wildfire); OHV use; roads; development; livestock grazing; and climate change. Of these, we consider the combined and synergistic effects of nonnative, invasive plant encroachment and increased wildfire to be the greatest threat to *I. webberi.*

Nonnative, invasive plant species such as *Bromus tectorum* and *Taeniatherum caput-medusae* can outcompete and displace *I. webberi* and result in increased frequency, spatial extent, and severity of wildfires because of the increase in fine fuels they produce. Twelve of the 16 extant populations have already been invaded by nonnative, invasive plant species, and 10 of the 16 extant populations have been impacted by wildfire since 1984. Because there are currently no feasible means for controlling the spread of widespread nonnative, invasive plant species such as *B. tectorum* and *T. caput-medusae,* we expect that wildfires will continue to impact *I. webberi* populations. Increased temperatures and altered precipitation patterns due to climate change are projected to lead to further increases in wildfire and nonnative, invasive plants. OHV use, roads, development, and livestock grazing are having impacts on certain *I. webberi* populations.

We did not identify threats to *Ivesia webberi* due to overutilization for commercial, recreational, scientific, or educational purposes (Factor B); disease or predation (Factor C); or other natural or manmade factors affecting its continued existence (Factor E). Although regulatory mechanisms (Factor D) are in place that provide some protection to *I. webberi* and its habitat, these mechanisms do not completely alleviate all of the threats currently acting on the species.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' Available population information for *Ivesia webberi* is not useful for determining trends because population estimates have been obtained by different observers employing a variety of means and levels of survey effort. Nonnative, invasive plant species; wildfire; and OHV activity are present impacts throughout the range of *I. webberi* and in some cases are found to be increasing for many years with data

in particular related to increased recreational OHV activity over the past 20 years (Service 2014, pp. 26–27) and increased wildfire and suppression activities over the past 30 years (Service 2014, pp. 22, 24–26). Additionally, given current climate change projections, we anticipate that future climatic conditions will favor invasion by nonnative, invasive plant species, which will further contribute to increases in frequency, spatial extent, and severity of wildfires (Service 2014, pp. 30–32). Based on the timeframe associated with the documented increased level of some threats over the past 30 years and the effects of climate change projections on these threats, we estimate the foreseeable future to be at least 30 years (i.e., 2044).

We determined that *Ivesia webberi* is not presently in danger of extinction throughout all of its range, but that it is likely to become endangered throughout all of its range in the foreseeable future. We determined that *I. webberi* is not presently in danger of extinction because the species is characterized by multiple populations spread across northeastern California and northwestern Nevada and that, in total, these populations provide sufficient redundancy (multiple populations distributed across the landscape), resiliency (capacity for a species to recover from periodic disturbance), and representation (range of variation found in a species) such that *I. webberi* is not at immediate risk of extinction. However, because multiple threats (nonnative, invasive plants; increased wildfire; OHV use; roads; development; livestock grazing; and climate change) are impacting many of the *I. webberi* populations and because combined and synergistic effects, due to encroachment of nonnative, invasive plants and increased wildfire, as well as climate change, are likely to continue and increase in the future, we find that *I. webberi* is likely to become an endangered species throughout all of its range in the foreseeable future. Therefore, on the basis of the best available scientific and commercial information, we are listing *I. webberi* as a threatened species.

Significant Portion of the Range

In determining whether a species is endangered or threatened in a significant portion of its range, we first identify any portions of the range of the species that warrant further consideration. The range of a species can theoretically be divided into portions an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be both (1) significant and (2) endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that: (1) The portions may be significant, and (2) the species may be in danger of extinction there or likely to become so within the foreseeable future. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are essentially uniform throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats applies only to portions of the species' range that are not significant, such portions will not warrant further consideration.

If we identify portions that warrant further consideration, we then determine whether the species is endangered or threatened in these portions of its range. Depending on the biology of the species, its range, and the threats it faces, the Service may address either the significance question or the status question first. Thus, if the Service considers significance first and determines that a portion of the range is not significant, the Service need not determine whether the species is endangered or threatened there. Likewise, if the Service considers status first and determines that the species is not endangered or threatened in a portion of its range, the Service need not determine if that portion is significant. However, if the Service determines that both a portion of the range of a species is significant and the species is endangered or threatened there, the Service will specify that portion of the range as endangered or threatened under section 4(c)(1) of the Act.

The primary threats to *Ivesia webberi* occur throughout the species' range and are not restricted to or concentrated in any particular portion of that range. The primary threats of nonnative, invasive plants and increased wildfire are impacting *I. webberi* populations throughout the California and Nevada portions of the species' range. Climate change also is acting on *I. webberi* throughout the species' range. Thus, we conclude that threats impacting *I. webberi* are not concentrated in certain areas, and, thus, there are no significant portions of its range where the species should be classified as an endangered species. Accordingly, this listing of *I. webberi* as a threatened species applies throughout the species' entire range.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control, for example, whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft

recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Based on this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of California and Nevada will be eligible for Federal funds to implement management actions that promote the protection or recovery of *Ivesia webberi.* Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for *Ivesia webberi.* Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include land management actions that could result in impacts to soil characteristics or seedbank viability, pollinators or their habitat, and associated native vegetation community, and any other landscape-altering activities on Federal lands, such as: Reauthorization of grazing permits by the BLM and the U.S. Forest Service, issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers, construction and management of gas pipeline and power line rights-of-way by the Federal Energy Regulatory Commission, and construction and maintenance of roads or highways by the Federal Highway Administration.

Under section 4(d) of the Act, the Secretary of the Interior has discretion to issue such regulations as he deems necessary and advisable to provide for the conservation of threatened species. The Secretary also has the discretion to prohibit by regulation with respect to a threatened plant species any act prohibited by section 9(a)(2) of the Act. Exercising this discretion, which has been delegated to the Service by the Secretary, the Service has developed general prohibitions that are appropriate for most threatened plants at 50 CFR 17.71. Therefore, we are not promulgating a special rule under section 4(d) of the Act, and as a result, all of the applicable section 9 prohibitions, set forth at 50 CFR 17.71, will apply to *Ivesia webberi.*

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of listed species. The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered and threatened plants. The Service codified the Act's prohibitions applicable to endangered plants at 50 CFR 17.61 and by regulation extended the prohibitions to threatened plants at 50 CFR 17.71. Section 9(a)(2) and 50 CFR 17.61(a) make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction, but 50 CFR 17.71(a) contains an exception for the seeds of cultivated specimens, provided that a statement that the seeds are of ''cultivated origin'' accompanies the seeds or their container. Also, 50 CFR 17.71(b) authorizes Service and State conservation agency employees to remove and reduce to possession from Federal lands those threatened plant species covered by cooperative agreements under section 6(c) of the Act. The following activities could potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Import of *Ivesia webberi* into, or export of this species from, the United States without authorization.

(2) Removal and reduction to possession of *I. webberi* from areas under Federal jurisdiction.

(3) Delivery, receipt, carrying, transport, or shipping of *I. webberi* in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity.

(4) Sale, or offer for sale, of *I. webberi* in interstate or foreign commerce.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and

Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Service's Nevada Fish and Wildlife Office and Region 8 Regional Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) by adding an entry for ''*Ivesia webberi''* in alphabetical order under FLOWERING PLANTS to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Ivesia webberi	Webber's ivesia	U.S.A. (CA, NV)	Rosaceae	T	836	17.96(a)	NA
*	*	*	*	*	*		*

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Dated: May 15, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

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