

# HOUSE BILL No. 1394

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-8-2; IC 14-28-3; IC 14-28-3.2.

**Synopsis:** DNR best available flood hazard data. Defines "DNR best available data" as: (1) flood hazard mapping data that were created by the department of natural resources (department) and are available on January 1, 2024, on the Indiana Floodplain Information Portal; or (2) any other mapping data created by the department after October 2018 at least in part through the use of techniques other than direct observation and measurement by individuals physically present on the land that is the subject of the mapping data. Amends the law under which a person applying to a county or municipality for a permit authorizing a structure or construction activity in or near a floodplain must be allowed to make an election as to the mapping data to be used by the local floodplain administrator when reviewing the person's permit application to provide that the person may elect to have the local floodplain administrator use the applicable flood insurance rate map (FIRM) if the county or municipality participates in the National Flood Insurance Program. Amends the law giving the holder of an interest in a parcel of property the right to obtain, at no cost, a detailed hydraulic modeling method review by the department of the DNR best available data applying to the parcel to provide that, if a review results in a revision of the DNR best available data applying to the parcel, the department: (1) shall incorporate the revised data applying to the parcel into the DNR best available data accessible on the Indiana Floodplain Information Portal; and (2) shall ensure that the revised DNR best available data is used in the preparation by the department of any new preliminary FIRM. Provides that, after March 31, 2024, when the department makes public any new DNR best available data, the  
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**Effective:** Upon passage.

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## Abbott, Baird, Barrett

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January 11, 2024, read first time and referred to Committee on Natural Resources.

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department shall provide a written notice about the new DNR best available data by first class mail to the owners of parcels of property that were not previously included in a floodway or flood hazard area under the applicable FIRM or other mapping data but may be so included under the new DNR best available data, or that were previously included in a floodway or flood hazard area under the applicable FIRM or other mapping data but may not be so included under the new DNR best available data. Provides that, after March 31, 2024, the department may not participate in an action to prepare a new FIRM for a county or municipality participating in the National Flood Insurance Program based on DNR best available data unless the department has: (1) provided a written notice by first class mail to an owner of each parcel that was not previously included in a floodway or flood hazard area under the existing FIRM but may be so included under the new FIRM based on the DNR best available data, or was previously included in a floodway or flood hazard area under the existing FIRM but may not be so included under the new FIRM based on the DNR best available data; and (2) held a public meeting about the DNR best available data. Provides that a parcel owner who is provided a written notice from the department about the potential preparation of a new FIRM based on the DNR best available data may request a department review of the DNR best available data applying to the parcel, but must do so not more than 120 days after the department holds the public meeting about the DNR best available data. Provides that if a review by the department of the DNR best available data applying to a parcel is requested, the department may not prepare a new FIRM based on the DNR best available data applying to the parcel until the review is concluded.



Introduced

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

# HOUSE BILL No. 1394

A BILL FOR AN ACT to amend the Indiana Code concerning natural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 14-8-2-68.4 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
3 **UPON PASSAGE]: Sec. 68.4. "Detailed hydraulic modeling**  
4 **method", for purposes of IC 14-28-3 and IC 14-28-3.2, means a**  
5 **flood modeling method in which:**  
6 **(1) data about an area's topography, hydrology, meteorology,**  
7 **land use, and other variables are gathered;**  
8 **(2) the data undergo hydrologic analysis to identify flow**  
9 **characteristics of the area's rivers and streams;**  
10 **(3) the findings of the hydrologic analysis undergo hydraulic**  
11 **analysis to predict water movement in the area during a**  
12 **potential flood occurrence of a certain magnitude; and**  
13 **(4) a map is made based upon the findings of the hydraulic**  
14 **analysis to depict the extent of potential property inundation**  
15 **in the area during the potential flood occurrence.**



1 SECTION 2. IC 14-8-2-77.6 IS ADDED TO THE INDIANA CODE  
 2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 3 UPON PASSAGE]: **Sec. 77.6. "DNR best available data" means:**

4 **(1) flood hazard mapping data that:**

5 **(A) were created by the department; and**

6 **(B) are available on January 1, 2024, on the Indiana  
 7 Floodplain Information Portal; or**

8 **(2) any other mapping data that are created by the  
 9 department after October 2018 at least in part through the  
 10 use of techniques other than direct observation and  
 11 measurement by individuals physically present on the land  
 12 that is the subject of the mapping.**

13 SECTION 3. IC 14-8-2-87.8 IS ADDED TO THE INDIANA CODE  
 14 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 15 UPON PASSAGE]: **Sec. 87.8. "FEMA", for purposes of this  
 16 chapter, IC 14-28-3, and IC 14-28-3.2, refers to the Federal  
 17 Emergency Management Agency.**

18 SECTION 4. IC 14-8-2-91.6 IS ADDED TO THE INDIANA CODE  
 19 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 20 UPON PASSAGE]: **Sec. 91.6. "FIRM", for purposes of IC 14-28-3  
 21 and IC 14-28-3.2, refers to a FEMA flood insurance rate map.**

22 SECTION 5. IC 14-8-2-97.9 IS ADDED TO THE INDIANA CODE  
 23 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
 24 UPON PASSAGE]: **Sec. 97.9. "Flood hazard area", for purposes of  
 25 IC 14-28-3.2, has the meaning set forth in IC 14-28-3.2-2.**

26 SECTION 6. IC 14-8-2-102 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 102. "Floodway",  
 28 for purposes of IC 14-28-1, IC 14-28-3, IC 14-28-3.2, and IC 14-34,  
 29 means:**

30 **(1) the channel of a river or stream; and**

31 **(2) the parts of the flood plain adjoining the channel that are  
 32 reasonably required to efficiently carry and discharge the flood  
 33 water or flood flow of a river or stream.**

34 SECTION 7. IC 14-8-2-186.7 IS ADDED TO THE INDIANA  
 35 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
 36 [EFFECTIVE UPON PASSAGE]: **Sec. 186.7. "Onsite ground  
 37 truthed verification", for purposes of IC 14-28-3 and IC 14-28-3.2,  
 38 means the verification of flood hazard mapping data applying to a  
 39 particular location through direct observation of the location by an  
 40 individual physically present at the location.**

41 SECTION 8. IC 14-8-2-197.7 IS ADDED TO THE INDIANA  
 42 CODE AS A **NEW SECTION** TO READ AS FOLLOWS



1 [EFFECTIVE UPON PASSAGE]: **Sec. 197.7. "Parcel", for purposes**  
 2 **of IC 14-28-3.2, has the meaning set forth in IC 14-28-3.2-3.**

3 SECTION 9. IC 14-8-2-197.9 IS ADDED TO THE INDIANA  
 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 5 [EFFECTIVE UPON PASSAGE]: **Sec. 197.9. "Participating**  
 6 **community", for purposes of IC 14-28-3.2, has the meaning set**  
 7 **forth in IC 14-28-3.2-4.**

8 SECTION 10. IC 14-28-3-7, AS ADDED BY P.L.175-2023,  
 9 SECTION 2, AND BY P.L.191-2023, SECTION 14, IS AMENDED  
 10 TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.

11 (a) As used in this section, "unit" has the meaning set forth in  
 12 IC 36-1-29.5-6.

13 (b) After June 30, 2023, a unit may not issue a permit:

14 (1) authorized by ordinance or resolution; and

15 (2) for construction of a structure or other construction activity in  
 16 or near a floodplain;

17 unless the unit complies with this section.

18 (c) A person who applies to a local floodplain administrator for a  
 19 permit authorizing a structure or construction activity in or near a  
 20 floodplain may elect ~~that:~~ **which of the following will be used by the**  
 21 **local floodplain administrator when reviewing the person's permit**  
 22 **application:**

23 (1) The **DNR** best available data. ~~as provided by the department;~~  
 24 ~~or~~

25 **(2) If the unit participates in the National Flood Insurance**  
 26 **Program, the applicable flood insurance rate map.**

27 ~~(2) (3) An engineering study that is provided by the applicant that~~  
 28 **and** is reviewed and approved according to the unit's ordinance  
 29 for flood hazard areas.

30 ~~will be used by the local floodplain administrator when reviewing the~~  
 31 ~~person's permit application.~~

32 (d) A local floodplain administrator shall not issue a permit  
 33 authorizing a structure or construction activity in or near a floodplain  
 34 if **issuing the permit's authorization permit** will result in a **the** unit  
 35 violating its obligations to a **condition of the unit's participation in**  
 36 the National Flood Insurance Program.

37 SECTION 11. IC 14-28-3-7.4, AS ADDED BY P.L.175-2023,  
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 UPON PASSAGE]: Sec. 7.4. (a) ~~As used in this section, "department~~  
 40 ~~mapping data" means the mapping data provided by the department~~  
 41 ~~and located on the Indiana Floodplain Information Portal.~~

42 ~~(b)~~ **(a) Except as provided in IC 14-28-3.2-6(b), a person that has:**



- 1 (1) a possessory or nonpossessory ownership interest;  
 2 (2) a leasehold interest; or  
 3 (3) a security interest;

4 in a parcel of real property may at any time request a review by the  
 5 department of the ~~department mapping~~ **DNR best available** data  
 6 applying to the parcel of real property.

7 ~~(c)~~ **(b)** A review requested under subsection ~~(b)~~ **(a)** shall be  
 8 provided by the department at no cost to the person requesting the  
 9 review.

10 ~~(d)~~ **(c)** In conducting a review requested under subsection ~~(b)~~ **(a)**,  
 11 the department shall use a detailed ~~hydrologic~~ **hydraulic** modeling  
 12 method **and, if needed, onsite ground truthed verification.**

13 ~~(e)~~ **(d)** If: ~~(1) the person requesting the review of the department~~  
 14 ~~mapping data applying to a parcel of real property has applied to a local~~  
 15 ~~floodplain administrator for a permit authorizing the construction of a~~  
 16 ~~structure or other construction activity on the parcel of real property;~~  
 17 **and (2) The department does not shall:**

18 **(1) complete the review of the ~~department mapping~~ **DNR best****  
 19 **available** data; and

20 **(2) communicate the results of the review to the person who**  
 21 **requested the review;**

22 not more than one hundred twenty (120) days after the day on which  
 23 the person requested the review. ~~the person that requested the review~~  
 24 ~~of the department mapping data and applied to the local floodplain~~  
 25 ~~administrator for a permit may elect whether the local floodplain~~  
 26 ~~administrator, in reviewing the person's permit application, will use the~~  
 27 ~~department mapping data or an engineering study provided by the~~  
 28 ~~person.~~

29 **(e) If a review by the department of the DNR best available data**  
 30 **applying to a parcel of real property results in a revision of the**  
 31 **DNR best available data applying to the parcel, the department**  
 32 **shall incorporate the revised data applying to the parcel into the**  
 33 **DNR best available data that is available on the Indiana Floodplain**  
 34 **Information Portal. If the DNR best available data applying to the**  
 35 **parcel is later used in the preparation of a FEMA preliminary**  
 36 **FIRM, the department shall ensure that the DNR best available**  
 37 **data used in the preparation of the FEMA preliminary FIRM is the**  
 38 **DNR best available data as revised as the result of the review**  
 39 **under this section.**

40 SECTION 12. IC 14-28-3.2 IS ADDED TO THE INDIANA CODE  
 41 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 42 UPON PASSAGE]:



1           **Chapter 3.2. DNR Best Available Data**

2           **Sec. 1. As used in this chapter, "DNR best available data" has**  
3 **the meaning set forth in IC 14-8-2-77.6.**

4           **Sec. 2. As used in this chapter, "flood hazard area" means an**  
5 **area described in IC 14-8-2-98. The term includes a special flood**  
6 **hazard area shown on a FIRM.**

7           **Sec. 3. As used in this chapter, "parcel" refers to a parcel of real**  
8 **property.**

9           **Sec. 4. As used in this chapter, "participating community"**  
10 **means:**

11           **(1) a municipality; or**

12           **(2) a county;**

13 **that is participating in the National Flood Insurance Program.**

14           **Sec. 5. (a) After March 31, 2024, when the department makes**  
15 **public any new DNR best available data, the department shall**  
16 **provide a written notice by first class mail to at least one (1) owner**  
17 **of each parcel that:**

18           **(1) was not previously included in a flood hazard area under**  
19 **the applicable FIRM or other mapping data but, according to**  
20 **the new DNR best available data, may be in a flood hazard**  
21 **area;**

22           **(2) was previously included in a flood hazard area under the**  
23 **applicable FIRM or other mapping data but, according to the**  
24 **new DNR best available data, may no longer be in a flood**  
25 **hazard area;**

26           **(3) was not previously included in a floodway under the**  
27 **applicable FIRM or other mapping data but, according to the**  
28 **new DNR best available data, may be in a floodway; or**

29           **(4) was previously included in a floodway under the**  
30 **applicable FIRM or other mapping data but, according to the**  
31 **new DNR best available data, may no longer be in a floodway.**

32           **(b) The written notice provided under subsection (a) must**  
33 **inform the owner of the parcel of the effect of the new DNR best**  
34 **available data on the parcel, as described in subsection (a)(1),**  
35 **(a)(2), (a)(3), or (a)(4).**

36           **(c) The written notice provided under subsection (a):**

37           **(1) must be mailed to the parcel owner in an envelope that**  
38 **bears on its front side, in bold type at least 18 point font size,**  
39 **the message, "Notice of potential change in flood hazard**  
40 **determination. This may affect the value and use of your**  
41 **property, may affect your ability to build on or modify a**  
42 **building on your property, and may require the purchase of**



1 flood insurance at additional cost."; and

2 (2) must inform the parcel owner of the parcel owner's right  
3 under IC 14-28-3-7.4 to obtain, at no cost to the parcel owner,  
4 a review by the department of the DNR best available data  
5 applying to the parcel by use of a detailed hydraulic modeling  
6 method and, if needed, onsite ground truthed verification.

7 Sec. 6. (a) After March 31, 2024, the department, as a  
8 cooperating technical partner of FEMA, may not act or participate  
9 in an action to prepare for FEMA a new preliminary FIRM that is  
10 based at least in part on DNR best available data unless the  
11 department has met all of the following conditions:

12 (1) The department must provide a written notice by first  
13 class mail to at least one (1) owner of each parcel in the  
14 participating community that:

15 (A) was not previously included in a flood hazard area  
16 under the applicable FIRM or other mapping data but,  
17 according to the DNR best available data, may be in a  
18 flood hazard area;

19 (B) was previously included in a flood hazard area under  
20 the applicable FIRM or other mapping data but, according  
21 to the DNR best available data, may no longer be in a flood  
22 hazard area;

23 (C) was not previously included in a floodway under the  
24 applicable FIRM or other mapping data but, according to  
25 the DNR best available data, may be in a floodway; or

26 (D) was previously included in a floodway under the  
27 applicable FIRM or other mapping data but, according to  
28 the new DNR best available data, may no longer be in a  
29 floodway.

30 The written notice provided under this subdivision must  
31 inform the owner of the parcel of the potential effect of the  
32 DNR best available data on the parcel, as described in clause  
33 (A), (B), (C), or (D), and of the potential preparation of a new  
34 FEMA preliminary FIRM based on DNR best available data.

35 (2) The written notice provided under subdivision (1):

36 (A) must be mailed to the parcel owner in an envelope that  
37 bears on its front side, in bold type at least 18 point font  
38 size, the message, "Notice of potential change in flood  
39 hazard determination. This may affect the value and use of  
40 your property, may affect your ability to build on or  
41 modify a building on your property, and may require the  
42 purchase of flood insurance at additional cost."; and





- 1           **(B) must inform the parcel owner of the parcel owner's**  
2           **right under IC 14-28-3-7.4 to obtain, at no cost to the**  
3           **parcel owner, a review by the department of the DNR best**  
4           **available data applying to the parcel by use of a detailed**  
5           **hydraulic modeling method and, if needed, onsite ground**  
6           **truthed verification.**
- 7           **(3) The written notice provided to a parcel owner under**  
8           **subdivision (1) must invite the parcel owner to a public**  
9           **meeting about the DNR best available data.**
- 10           **(4) The department must hold the meeting to which the**  
11           **invitation refers, and the meeting must satisfy the**  
12           **requirements of subsection (c).**
- 13           **(b) An owner of a parcel who receives a written notice provided**  
14           **by the department under subsection (a)(1) concerning the**  
15           **preparation of a new FEMA preliminary FIRM based on DNR best**  
16           **available data applying to the parcel may, under IC 14-28-3-7.4,**  
17           **request a review by the department of the DNR best available data**  
18           **applying to the parcel by use of a detailed hydraulic modeling**  
19           **method and, if needed, onsite ground truthed verification.**  
20           **However, if the owner does not submit the request for the review**  
21           **to the department within one hundred twenty (120) days after the**  
22           **day on which the department holds the meeting required under**  
23           **subsection (a)(4), the owner may not later request a review under**  
24           **IC 14-28-3-7.4 of the DNR best available data applying to the**  
25           **parcel.**
- 26           **(c) A public meeting to which parcel owners are invited under**  
27           **subsection (a)(3) must satisfy all of the following requirements:**
- 28           **(1) The meeting must take place at a location in the**  
29           **participating community suitable to accommodate all parcel**  
30           **owners and other residents of the participating community**  
31           **who may be interested in the DNR best available data.**
- 32           **(2) At the meeting, an officer, employee, or contractor of the**  
33           **department must discuss, provide printed information, and**  
34           **answer questions about the following:**
- 35           **(A) The DNR best available data and the potential**  
36           **preparation of a new FEMA preliminary FIRM based on**  
37           **DNR best available data.**
- 38           **(B) The right of a parcel owner under IC 14-28-3-7.4 to**  
39           **obtain, at no cost to the parcel owner, a review by the**  
40           **department of the DNR best available data applying to the**  
41           **parcel by use of a detailed hydraulic modeling method and,**  
42           **if needed, onsite ground truthed verification.**



1       **Sec. 7. After March 31, 2024, if a person identified in**  
2 **IC 14-28-3-7.4(a) has, under IC 14-28-3-7.4, requested a review by**  
3 **the department of the DNR best available data applying to a**  
4 **parcel, the department, as a cooperating technical partner of**  
5 **FEMA, may not act or participate in an action to prepare for**  
6 **FEMA a new preliminary FIRM based on the DNR best available**  
7 **data applying to the parcel until the department has completed the**  
8 **review of the DNR best available data applying to the parcel and**  
9 **communicated the results of the review to the person who**  
10 **requested the review.**

11       **SECTION 13. An emergency is declared for this act.**

