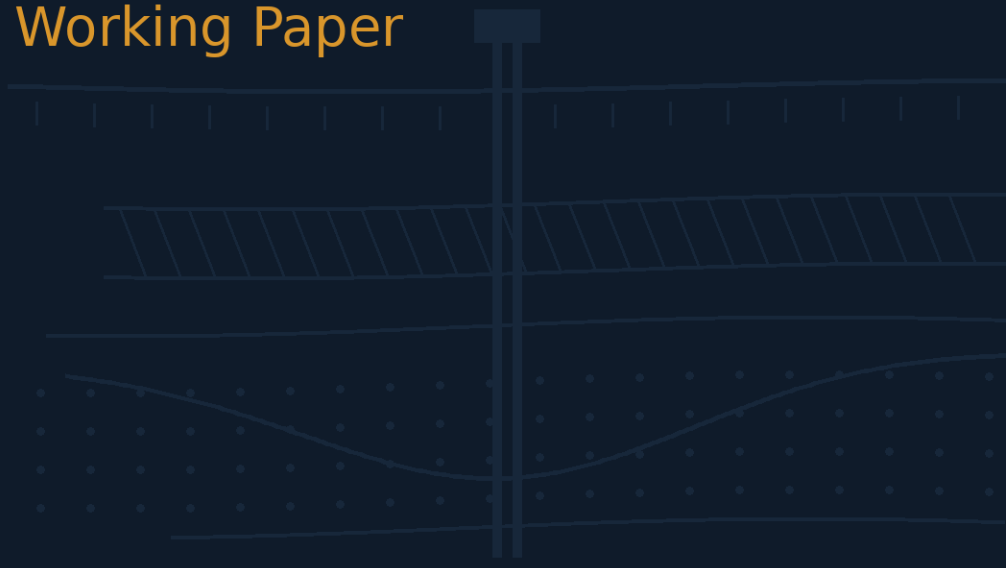
INDEPENDENT ANALYSIS

Declared, Not Measured

Volumetric Permit Triggers and Sub-Threshold Industrial Water Demand in Georgia

An Independent Working Paper



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Evidence snapshot September 1, 2026. Rules of Ga. Comp. R. & Regs. Department 391 are read as compiled through rules filed August 14, 2026; statutory text is quoted as the 2025 codification. Section 3 is accompanied by a claim-and-source table deposited in the same archive record as a separate file. The author serves on the advisory board of a Sloan Foundation-funded study at Emory University; the study had no role in this article, and the About the Author section at the end states the role in full.

Abstract

What an allocation regime can know about the withdrawals it does not permit is a question of institutional design. This article examines it through Georgia's Ground Water Use Act, which requires a permit of any person withdrawing more than 100,000 gallons of groundwater per day, and the 16 rules adopted under it, read provision by provision. Three features of the trigger are established from the text. It runs per person, and no rule in the Act as read combines withdrawal volumes among separately titled persons for threshold purposes. It carries no averaging qualifier for non-farm use, where Georgia's surface-water trigger is averaged monthly by statute. And every recurring duty in the rule subject to measure or report withdrawals attaches to an applicant or a permittee. Permit status therefore turns on a quantity that, before a permit issues, exists only as the withdrawer's declaration. The regime, on the Act and rules as read, routinely produces no measurement of the quantity its own trigger depends on, a limiting case of the reporting-threshold truncation Bennear (2008) measured. The figure is the one the Regulated Riparian Model Water Code later recommended. The Code pairs it with an express aggregation rule, which Georgia's Act as read lacks, and a registration channel, for whose Georgia counterpart no instrument was located in the codified rules as searched. Data center filings declaring sub-threshold demand, and the advocacy responses to them, show the instrument recording declarations rather than allocating.

Keywords: water withdrawal permitting; regulatory thresholds; self-reported compliance; regulated riparianism; data centers; Georgia (United States)

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1. Introduction

An allocation regime that requires a permit only above a stated volume must learn, for each withdrawer, which side of that volume the withdrawal falls on. In some regimes the regulator holds data on both sides of the line, generated by an obligation independent of it. In others the volume that triggers regulation is also the volume that triggers measurement. This article shows, from the text of Georgia's Ground Water Use Act and the 16 rules adopted under it, that the rule subject requires recurring actual-withdrawal reporting only of permittees. It also shows that permit status turns on a withdrawal quantity which, before a permit issues, exists only as a declaration. Three features of the trigger produce that result, and § 3 traces each to instrument text. In the Act as read the trigger runs per person, with no rule combining or attributing withdrawal volumes among separately titled persons for threshold purposes. It carries no averaging qualifier for non-farm use, where Georgia's surface-water trigger is averaged monthly by statute. And every recurring duty in the rule subject to measure or report quantities actively withdrawn attaches to an applicant or a permittee. The statute's one directly imposed filing duty reaches persons required to secure a permit and presupposes Division forms and regulations. Every routine route by which the Division receives a figure for a withdrawal runs through the permit status the figure would settle. The finding holds whichever way Rule 391-3-2-.04(4) is read. That rule directs the intended user of a newly constructed well to apply for a permit before any use and carries no threshold qualifier of its own. Section 6.1 shows that on its widest reading it brings the Division a declaration earlier and not a measurement.

The problem is one of institutional design rather than of hydrology, and statutory text is the evidence for it. A permit instrument built this way routinely produces no measurement of the quantity its own trigger depends on. What remains to the agency produces no periodic measure. That is case-specific authority it must invoke, including compulsory metering against a permit-required person who has not applied, and a rulemaking authority for which § 3.4 located no instrument in the codified rules as searched. Data centers are the occasion, because Georgia's planning review asks each of them to declare a water figure and 16 did so in the first 7 months of 2026. The American Society of Civil Engineers' Regulated Riparian Model Water Code later recommended the same figure and paired it with an express aggregation rule and a registration channel for exempt withdrawals. Georgia's Act as read has no express aggregation rule, and for its comparable authority to require reporting by non-permittees § 3.4 located no instrument in the codified rules as searched. The Code's own aggregation rule, in the edition read here, reaches only a single person, so the national model is likewise unequipped for fragmentation across affiliated persons.

Georgia's Ground Water Use Act, enacted in 1972 and codified at O.C.G.A. §§ 12-5-90 through 12-5-108, requires a permit from the Environmental Protection Division, the state environmental agency, before any person withdraws more than 100,000 gallons of groundwater per day. The figure is not unusual: § 2.1 records that Naseri and Marston (2025) list it as a reporting threshold in four other states, and no claim about the prevalence of permit triggers at this figure is made here.

Sixteen data center applications for Development of Regional Impact review were filed with the Georgia Department of Community Affairs between January 6 and July 22, 2026 [P]. The review runs once, before construction, and its own rule provides that "[t]he materials presented in the DRI report are purely advisory and under no circumstances should be considered as binding" (Ga. Comp. R. & Regs. r. 110-12-3-.02(5)) [P]. Its thresholds are stated in square footage and acreage [P], and it nonetheless asks every applicant for a water number and an electrical number. In April 2026 Premier Data Center Development, LLC, filed such an application for a project in Irwin County called Project Arrowhead, giving estimated peak connected electrical load as "1250 MW (1.25 GW)" [P]. In the water supply section it entered "Floridian Aquifer" [sic] as the provider and answered "No" to whether a water line extension is required. It gave estimated water supply demand as ".05" in a field denominated in millions of gallons per day [P]. Naming an aquifer where the form asks for a provider, and reporting that no line extension is required, marks the withdrawal as self-supplied, which is the first thing § 3's user class requires.

On the instruments read for this study, Arrowhead's water figure cannot be tested against the one that would give it legal meaning. A declared facility demand is not a person's withdrawal, the statutory sentence stating the permit requirement names no averaging convention, and the Act as read contains no rule combining or attributing volumes among separately titled persons for threshold purposes. So 0.05 million gallons per day is a declaration rather than a position relative to the permit line. The only review of the project examined here, the regional commission's advisory review, did not determine which side of the line it falls on. The application drew comments from three organizations. The two advocacy letters, from the Georgia Water Coalition and WWALS Watershed Coalition, also known as Suwannee Riverkeeper, both ask the regional commission to secure conditions on a withdrawal permit from the Division. On a full-text search of both letters, neither raises the 100,000 gallons per day threshold in connection with this project, and neither asks whether a permit would be required [P, negative].

This article does not establish four things. It does not show that any declarant understated its demand. It does not place any project's withdrawal above or below the trigger, since the features that leave that question unresolved on the Division's routine record leave it unresolved here. It makes no claim about behavioral response to the threshold. And it does not claim that no figure exists in Georgia's administrative record, which § 6.2 examines. The two negatives on which the finding rests, on aggregation and on recurring duties, were established against the 19 sections of the Act and the 16 rules of the subject as compiled at August 14, 2026. Neither reaches beyond them or reaches any county instrument.

Sources and method. Rules of Department 391 are quoted from the Secretary of State's compilation of rules filed through August 14, 2026, and nothing filed after that date was searched. Rules of other departments, including the Development of Regional Impact rules cited above, carry no compilation date here. Statutory text is quoted as the 2025 codification, from free commercial publishers rather than from the official Code. Sources were retrieved between August 5 and September 1, 2026. The 16 rules of Subject 391-3-2 were compared across three renderings from two publishing pipelines, with no substantive differences, which establishes agreement across two pipelines and no more. Promulgated typographic errors are quoted as promulgated and flagged, never repaired. Evidence

grades appear inline: [P] primary, [S] corroborated secondary, [S[1]] single source, [I] author inference; [P, negative] marks a primary-source search that found nothing, with the search stated beside it, and [NOT FOUND] a record not located. A claim-and-source table for § 3 is deposited in the same archive record as a separate file; §§ 1, 2 and 4 to 7 rest on citation at the point of claim and carry no separate apparatus.

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2. Two literatures

2.1 Disclosure and self-reported compliance

de Marchi and Hamilton (2006) find reported emission declines under the United States Toxics Release Inventory unmatched by ambient monitor concentrations. Duflo et al. (2013) show experimentally that auditors paid by the audited plant report emissions just below the standard when true emissions are higher. Each had an instrument generating a figure independently of the disclosure tested, and § 6.2 shows that neither has a Georgia equivalent.

Bennear (2008) is the nearest prior treatment, and her method matters as much as her result. Massachusetts reporting under the Toxics Use Reduction Act gave her three things. The first is a panel of 3,758 reporting spells that end. The second is an optional form question asking why, answered on 1,271 of them and attributing 844 to use below the threshold but above zero. The third is use-quantity data giving each reporter's distance from the line. She estimates bounds rather than the missing quantity, and reports that the size of the non-reported quantity cannot be known, precisely because it goes unreported. Non-reported releases may account for roughly 40 percent of the observed decline in reported on-site releases from 1990 to 1999, and 52 percent of facilities change quartile rank between her bounds. Georgia's withdrawal-permitting regime routinely generating no number below the line is a limiting case of the same truncation mechanism, not a different phenomenon, and this article does not rest on a distinction between them. What this article adds is doctrinal. Bennear's leverage came entirely from facilities once inside the regime that left it, and a declarant who files no application generates no reporting record of the kind her method requires: no exit form, and no reported quantity.

Richardson (2012) indicates the absence is not peculiar to Georgia. Across the 16 states whose exempt-well provisions he surveys, none requires measurement of actual withdrawal below its threshold. Registration, present in five of those states, is thin, requiring a permit application in Wyoming and notification of location and capacity in North Dakota [S[1]]. Naseri and Marston (2025) compile self-supplied withdrawal reporting at user level across 42 states. They record thresholds above which users must report "ranging from 10,000 gallons per day (such as Pennsylvania and Tennessee) to 100,000 gallons per day (such as Florida, Georgia, Nevada, Indiana, and Massachusetts)." They caution that the criteria are more involved in some states, "making these thresholds not directly comparable across states." That warning travels with every use of their figures here. Their paper does not test self-report accuracy against independent measurement, and names that as future work not performed. Absence of a meter is not absence of discipline.

Bennear and Olmstead (2008) find that disclosure alone reduced drinking water violations by more than a third, and Short and Toffel (2008) find corporate self-disclosure of violations rising with the perceived probability and severity of enforcement.

2.2 Regulated riparianism and eastern water allocation

Georgia is a regulated riparian state. A withdrawal permit conveys a usufructuary right to reasonable use and no property right in the water, and Dellapenna (2002) surveys the doctrine and its statutory implementations. He states that both Georgia statutes at core require a user withdrawing more than 100,000 gallons per day to obtain a permit, and that the two statutes are separate, separately administered, and not identical in all respects. Barmeyer (2005) states the trigger, cites both sections, and observes that below-threshold withdrawals fall back to common law riparian rights.

The ASCE Regulated Riparian Model Water Code recommends the same figure at § 6R-1-02(1). In Wald's (2005) reproduction it reads: "No permit shall be required for withdrawal of less than 100,000 gallons per day from the waters from the State," the doubled preposition being Wald's and probably a slip for "waters of the State." Section 6R-3-03 is headed "Aggregation of Multiple Withdrawals." It directs that in calculating a withdrawal "qualifying for an exemption from the permit requirement of this Code, the State Agency shall include all separate withdrawals by a single person for a single use or for related uses." Section 6R-1-06 provides that the agency "may, by regulation, require some or all persons whose withdrawal is exempt from allocation or from the permit requirement to register their withdrawal of the waters of the State periodically." All three provisions are quoted from Wald's reproduction of the 1997 edition (Dellapenna, 1997) rather than from the Code [S[1]]; whether the later standards, ASCE/EWRI 40-03 (2003) and 40-18 (2018), altered them is not established here. The Model Code's figure carries no averaging qualifier, which corroborates the drafting asymmetry established in § 3.3.

Wald (2005) compared Georgia's surface water code with the Model Code and published the aggregation gap in terms: the Model Code deals with the issue of multiple withdrawals, while this issue is not addressed directly in the Georgia Code. His comparison covers surface water and O.C.G.A. § 12-5-31 only and does not reach the Ground Water Use Act or Rule 391-3-2-.03.

This article adds a correction and an extension. Dellapenna (2002) does not say how the two statutes differ. Barmeyer (2005) imports the surface rule's averaging qualifier onto the groundwater trigger, footnoting § 12-5-96(a)(1) alongside § 12-5-31(a)(1). Section 3.3 shows that the qualifier is written into the surface-water statute and not into the groundwater statute. The works read for this study are the retrieved full texts of Dellapenna (2002), Barmeyer (2005), Wald (2005) and Ruhl (2005), an account of interstate allocation in the Apalachicola-Chattahoochee-Flint basin. They were supplemented by statute-cite and rule-number searches of Georgia repositories (searched August 29, 2026). Among those works, none analyzes § 12-5-96(a)(1) as a threshold-design problem, none notes the surface-groundwater averaging asymmetry, and none discusses aggregation of affiliated withdrawers under Georgia law [P, negative, searched]. Rogers et al. (2026), the nearest recent policy work on Georgia's data center expansion, does not

treat the instrument analyzed here; a full-text search for “100,000,” “12-5-96” and “Ground Water Use Act” returned zero hits (searched August 29, 2026). The extension is the groundwater side of Wald’s comparison, which none of those works makes.

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3. The regime and the trigger

Georgia regulates surface water withdrawal under O.C.G.A. § 12-5-31 and groundwater withdrawal under the Ground Water Use Act, Part 2 of Article 3 of the state’s water title, and the Environmental Protection Division administers both. Each turns on a figure of 100,000 gallons per day, framed differently in the two statutes, and § 3.3 turns on the difference. The Water Well Standards Act, Part 3 of the same article, governs well construction.

This section concerns one class of user. It is a facility that supplies its own groundwater and is not a public water system or a farm. It withdraws for processing and cooling rather than for drinking, draws from newly constructed wells, and withdraws at or below 100,000 gallons per day. The question is not whether the Division can obtain information about such a withdrawal. It is whether current law routinely causes facility-level data on actual withdrawal to be generated and delivered to the agency without a case-specific intervention, a condition called here administrative visibility.

The corpus is Part 2 at §§ 12-5-90 through 12-5-108, Part 3 at §§ 12-5-120 through 12-5-138, the 16 rules of Ga. Comp. R. & Regs. Subject 391-3-2, and the 31 rules of Department 770. Those are the Water Well Standards Advisory Council’s own regulations. To those are added the forms published by the Division and by the Council, and the Division’s Lower Flint permitting materials of October 2024. Every finding below about a rule is current through Rules and Regulations filed through August 14, 2026, the compilation date printed on the cover of the Secretary of State’s Department 391 volume and on its per-rule pages. Nothing filed after that date was searched. Statutory text is quoted as the 2025 codification, from free publishers rather than from the official Code. Named provisions of Subject 391-3-5 are cited for comparison at § 3.6; that subject was not read in full, and no claim is made about what it contains beyond the provisions cited. Statements below that a provision or document was not located refer to the corpus just described, which contains no county instrument.[1]

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[1] Every source named above was retrieved between August 19 and August 31, 2026, and where a finding rests on an earlier reading the sentence stating it says so. The 16 rules of Subject 391-3-2 and the 31 rules of Department 770 were read provision by provision against the official compilation. Negatives below that are limited to “Part 2 as read” reach the provisions of Part 2 quoted in this section, together with a term search across the full text of all 19 sections. No other provision of Part 2 was read. Negatives that reach the whole of Department 391 rest on string searches of that compilation and report the absence of a search term. Reported Georgia decisions were searched by free full-text query only, without a citator, so statements about judicial construction reach the decisions located and no further. The Office of State Administrative Hearings is structurally unreachable: its

3.1 The trigger runs per person

O.C.G.A. § 12-5-96(a)(1) provides in full: “No person shall withdraw, obtain, or utilize ground waters in excess of 100,000 gallons per day for any purpose unless such person shall first obtain a permit therefor from the division.”

The trigger runs per person, for any purpose, and states no averaging period, no aggregation clause, and no reference to wells. A user at or below 100,000 gallons per day is not exempted from the permit requirement. The requirement does not reach that user at all. Subject 391-3-2 uses “exempt” in the ordinary sense, for carve-outs from a requirement that would otherwise apply.[2] What this section describes is non-coverage rather than exemption.

3.2 Aggregation

Section 12-5-96(a)(1) addresses the person rather than the well, which supports combining withdrawals attributable to one person without an aggregation clause. Its only aggregating language is “for any purpose,” which runs across one person’s uses; § 12-5-96(d)(1) speaks of withdrawers’ “respective withdrawals,” and § 12-5-97(e) sums “his pumps.” No per-well, per-site or per-facility qualifier is tied to the threshold anywhere in Part 2 as read. What Part 2 as read does not supply is the unit over which withdrawals combine.

The words “aggregate,” “combined,” “affiliate,” and their variants appear nowhere in the 16 rules of Subject 391-3-2; the nearest term, “combination” at Rule .03(3), classifies any mix of farm and non-farm use as non-farm use and combines no volumes. Across all 19 sections of Part 2, 24 terms of affiliation, common control and aggregation return no hits. Part 2 as read does contain one rule of attribution between legal persons. Section 12-5-105(b.1)(9), in the subsection governing farm-use metering, exposes a permittee to enforcement action where the permittee’s “employees, tenants, licensees, or agents” have dismantled or removed a water-measuring device. It attributes conduct rather than volumes, and it runs only inward to the permittee. The negative that survives is the one the present question needs: Part 2 as read contains no rule combining or attributing withdrawal volumes among separately titled persons for threshold purposes.

O.C.G.A. § 12-5-92(8) defines “person” broadly and supplies no rule of attribution. The Division has construed “person” in a farm-use program, letting commonly owned entities be treated as one for consolidating existing permits and transferring acreage, a flexibility for permittees. The document stating it is a farm-use permitting strategy confined to 17 counties and addresses no industrial user. Neither it nor its response to comments states

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decisions page requires a docket number and the non-agency party’s ZIP code, and nothing issued on or before June 30, 2016 is online. Textual analysis establishes what the rules require, not what the Division does.

[2] Rule .03(1)’s saving clause and Rule .13’s exemption of Division-drilled test wells are the only two occurrences of the term in the subject. Rule .09 excludes certain above-threshold construction dewatering, in the vocabulary of exclusion rather than exemption.

that withdrawals by separately titled affiliates are summed for the purpose of crossing the threshold.[3]

None of the decisions located construes the threshold, "person," or aggregation. Whether volumes combine across one person's wells and whether they combine across affiliated entities are two questions, and a third sits beneath both: who withdraws when title and operation diverge. Nothing located in Part 2 as read or in the 16 rules of Subject 391-3-2 supplies a test of operation or control, and the Division's beneficial-owner construction addresses common ownership rather than operation.

3.3 The non-farm trigger carries no averaging qualifier

The second sentence of Rule 391-3-2-.03(1) provides that "[f]or farm use, no person shall after July 1, 1991 withdraw, obtain, or utilize ground water in excess of 100,000 gallons per day on a monthly average" without a permit. The phrase qualifies farm use and does not appear in the first sentence, which governs every other use.

Subject 391-3-2 defines "Monthly average withdrawal," "Annual average withdrawal," and "Maximum day withdrawal" at Rule .02(n) to (p), and none of the three appears in the operative text of any of the 16 rules: they are defined and never used. The farm sentence says "on a monthly average," which is not the defined phrase. The non-farm sentence names no convention at all, so it selects no measurement window, and the text does not resolve whether the governing day is a calendar day or a rolling period.

The point cuts symmetrically. The absence of "monthly average" from the non-farm sentence cannot show that the sentence selects a maximum-day measure, because Rule .02(p) defines "Maximum day withdrawal" and that sentence does not use the defined term either.

The comparison that carries runs statute to statute rather than rule to rule. O.C.G.A. § 12-5-31(b)(1)(A) provides that no surface-water permit is required for "[a]ny such withdrawal which does not involve more than 100,000 gallons per day on a monthly average." Section 12-5-96(a)(1) sets the groundwater trigger at the same figure with no averaging convention. The legislature wrote the qualifier into one trigger sentence and not into the other. The convention was available to it inside the Ground Water Use Act: § 12-5-105(a) measures grandfathered farm-use capacity "in gallons per day on a monthly average for a calendar year," for a different purpose and a closed class of applications. The two provisions are not symmetrical in form, because the surface-water figure marks an exemption from a permit requirement while the groundwater figure states an affirmative prohibition, and the contrast does not rest on their form. It rests on the presence of an averaging convention in one statutory sentence and its absence from the other.

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[3] The Division's October 2024 permitting strategy for the Lower Flint River Basin provides that, for permit corrections and modifications, "EPD considers the entities the same if both entities have the same Beneficial Owner" (Georgia EPD, 2024: 12). The reading of that document reported here was made on an earlier pass of this study and was not repeated in the retrieval that fixed the compilation date given above.

A projected monthly average below 100,000 gallons per day does not establish that a non-farm groundwater withdrawal falls outside the trigger, because the sentence governing that withdrawal contains no averaging qualifier to satisfy.

3.4 What the permitting regime produces below the threshold

Every recurring duty in Subject 391-3-2 to measure or report quantities actively withdrawn attaches to an applicant or a permittee. Rule .08(1) requires certified statements from "every person who has obtained a permit to use ground water (except a permit for farm use)," and reports volume by aquifer rather than by well. Rule .04(7) provides that a person who submits a permit application, who is withdrawing at the time of application, and who is unable to furnish accurate information about the amounts withdrawn "shall be required" to meter. Its three conditions are cumulative, and all are application-bound. Rules .08(3) and .04(8) permit the Division to estimate quantities, and both reach applicants or permittees.

The statute is broader than the rules adopted under it. Section 12-5-97(e) reaches "any person who is required to secure a permit under this part," so compulsory metering is available against permit-required users whether or not they have applied, on one of the subsection's three grounds.[4] No express metering authority reaching users below the threshold was located in Part 2 as read or in the 16 rules of Subject 391-3-2.

Other instruments reach beyond the permitted population. Sorting them by what stands between the Division and their use separates two kinds, with one provision falling outside both. Table 1, in § 3.5, sets them out together with the well construction instruments taken up there.

The first kind is presently available and needs no implementing regulation. Section 12-5-98(a) authorizes the Division to enter "any property, public or private," at reasonable times, to investigate "the condition, withdrawal, or use of any waters" and "the installation or operation of any well." The same sentence empowers the Division "to require written statements or the filing of reports under oath," a power narrower than the entry right beside it. It runs to "pertinent questions relating to the installation or operation of any well," where the entry right names "the condition, withdrawal, or use of any waters"; whether "operation" reaches the quantity withdrawn is open on the text. Both are subject to a proviso protecting trade secrets and confidential business information. Rules .10 and .11 direct that the Division "shall require the user" to act against salt water intrusion or adverse effects, and neither operative sentence carries a permittee or threshold limitation. Compulsory metering under § 12-5-97(e)'s first sentence, discussed above, is of the same kind. Each of these instruments operates case by case on a Division decision, and none produces a periodic measure.

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[4] Of the first sentence's three grounds, only inability to furnish accurate information is available against a person required to secure a permit who has not applied; the other two presuppose a filed certified statement or an existing authorization. The subsection's second sentence, governing estimation methods, reaches only "a permit holder or applicant."

The second kind depends on an instrument the statute does not itself supply. Section 12-5-95(a) directs the Board of Natural Resources to prepare proposed regulations containing such of four listed provisions as it finds appropriate, adopted under § 12-5-95(b) after hearings. The first of the four is provisions requiring "water users within the area" to submit reports "not more frequently than at 30 day intervals." The reports cover the quantity of water used or withdrawn, sources of water, and the nature of the use. Its subjects are water users rather than permittees. Section 12-5-97(d) requires water users "not required to secure a permit" to comply with procedures established after public hearing, excepting individual domestic use, a carve-out confirming that the non-permittee category is broader than households. Section 12-5-97(d)'s first sentence fits neither kind exactly. It imposes a filing duty directly by statute, on "every person who is required by this part to secure a permit," a class broader than permittees. So far as that class holds no permit, it consists of persons not yet withdrawing or withdrawing in violation of § 12-5-96(a)(1). The statement is a certified statement of the quantities of water used and withdrawn, the sources of water, and the nature of the use, filed "not more frequently than at 30 day intervals." The duty is statutory, but the sentence defers its manner to the Division, and the next sentence provides that statements are filed on forms the Division furnishes "within 90 days after the issuance of regulations." Whether that clause is a first-filing deadline or a standing condition is not settled by the text. Rule .08(1) implements the duty for permittees, and the next paragraph records that no other rule in the compilation cites § 12-5-97.

No codified instrument applying § 12-5-97(d) to water users not required to secure a permit was located in the Georgia Administrative Code as compiled at August 14, 2026. On the Secretary of State's all-agency search of that compilation, Rule 391-3-2-.08 is the only rule in the Code that cites § 12-5-97, and it runs to persons who have obtained a permit. That search reaches the codified rules at that compilation date, and no further. Whether procedures within the meaning of § 12-5-97(d) were adopted outside the codified rules was not determined, and nothing here should be read as asserting that the Board has not acted. No archive of the Board's rulemaking was searched. The one partial view available without charge, the Division's own table of proposed rules, showed on August 31, 2026 an earliest entry from 2021 and a 60-day retention period. The reservation therefore holds for the record before 2021, for chapters of Department 391 the Division does not administer, and for any package the retention period may have removed.

Subject 391-3-2 contains three reporting instruments whose duty arises on the issuance of a permit rather than on a Division decision, and each names a permittee or a permit holder as its subject. Rule .08(1) requires the certified statement of quantities withdrawn quoted above, semiannually unless the Division designates otherwise. Rule .08(2) requires the permit holder to have a specific conductance analysis performed and submitted annually, which measures water quality rather than use. Rule .04(11)(i) requires permittees to submit to the Director "an annual water use data report that includes information on unaccounted for water for the past 12 months," beginning 12 months after issuance of a new or modified permit. Three limits belong with these three instruments. The verb in Rule .04(11)(i) is "includes," which is not exhaustive, so its text can be said neither to require a withdrawal volume as a reported element nor to exclude one. Rules .08(1) and .08(2) each

set their cadence “unless otherwise designated by the Division,” so the duty in each arises without a Division decision while the cadence remains adjustable by one. How far Rule .04(11)(i) reaches is unresolved on the text. The opening clause of Rule .04(11) confines the paragraph to applications for a new permit or for a modification increasing permitted use, while subparagraph (i) says “Permittees” without repeating that limit.

No rule of Subject 391-3-2 imposes registration, metering, or periodic reporting of withdrawal volume merely because an active industrial withdrawal remains at or below 100,000 gallons per day. One rule qualifies that account at the point of application rather than at the point of reporting. Rule .04(4) provides that “[u]pon completion of the construction of the well or wells and prior to any ground water use, the intended user shall submit an application for a ground water use permit to the Division.” It cites Rules 391-3-2-.05 and 391-3-2-.06. Paragraphs (1) through (3) of the same rule each carry the qualifier “and who is required under Rule 391-3-2-.03 of this Chapter to obtain a permit,” and paragraph (4) does not. The paragraph otherwise describes a planning-stage conference and a letter of concurrence the Division may issue, both addressed to “the intended user.” Read on its own terms, paragraph (4) states an application duty triggered by the construction of a well rather than by crossing the threshold. Its cross-reference runs to Rules .05 and .06, which govern the Division’s consideration of applications and its granting of permits. Neither imposes a permit requirement on anyone and neither contains the threshold, so the cross-reference does not route the duty back to the permit-requirement rule at .03, as the three preceding paragraphs do expressly. Whether a threshold limitation arrives by chapter context is a question this study does not resolve. It is a question about who must apply, and not about what a person who has filed no application must report.[5]

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[5] Paragraph (4) has six sentences. Four are not mandatory: two say what “the intended user” should do, one says what the Division may issue, and one states that the user proceeds at his own risk without a letter of concurrence. They describe a planning-stage conference with the Division on “the amount of intended ground water use,” documented evidence before construction, and “a letter of concurrence” the Division may issue setting terms and conditions. Two are mandatory: the conference “shall be granted within thirty (30) days after request,” and the application sentence quoted in the text. The rule numbers in its application sentence, .05 and .06, were read from the Secretary of State’s Department 391 compilation in PDF form, current through rules filed through August 14, 2026 and retrieved August 31, 2026. That compilation prints those two numbers and never mentions .03. Cornell Legal Information Institute’s rendering resolves the same cross-references to .05 and .06. The Secretary of State’s per-rule web rendering of paragraph (4), which requires JavaScript, was not retrieved for this study. No construction of Rule .04(4) by a court, by the Office of State Administrative Hearings, by the Attorney General, by Division guidance, or by a Board document was located, and none appears in the secondary literature read here. That negative reaches free full-text sources searched on September 1, 2026 and no further, under the limits footnote 1 states. In addition, a free case-law search returned empty document bodies, a tooling failure rather than a confirmed absence, and one commercial full-text service is blocked to this study’s retrieval. How the Division applies paragraph (4) to users believed to be below the threshold is left open here.

3.5 What well construction produces, and on what authority

O.C.G.A. § 12-5-122(20) defines an "[i]ndustrial well" as one "constructed for the purpose of withdrawing 100,000 gallons of ground water or less on any one day for processing or cooling water or for purposes other than drinking water." The definition classifies a well by the purpose for which it is constructed, while § 12-5-96(a)(1) runs to a person and to that person's withdrawal for any purpose. A well answering the definition may therefore belong to a person whose total withdrawal exceeds the threshold. In the four sections read in full for this study, §§ 12-5-122, 12-5-124, 12-5-130 and 12-5-134, the Water Well Standards Act regulates construction rather than ongoing use; the remaining 15 sections were read by title only.

Whether the information duties in the sections read reach industrial wells is not settled by the statute. Section 12-5-134(4) provides only that industrial wells "shall be constructed in accordance with the standards established for individual and nonpublic wells." The notice of intent to drill at § 12-5-134(1)(A)(i) and the completion record at (1)(L) sit within a paragraph introduced by "In the case of individual and nonpublic water wells." The notice has the stronger route into paragraph (4): it operates "prior to actual construction" and governs siting, and § 12-5-122(6) defines "construction" to include "locating." The completion record's route is weaker, because a records duty discharged 30 days after the well is finished is not a construction standard, though the opening clause of § 12-5-134 applies its standards to "all wells and boreholes."

The Council's notice form lists "Industrial Well" among the purposes a contractor may check, on both its March 2017 and January 2026 versions. It routes the notice to a county health department and collects identity, start date and location but no capacity, yield, depth or volume. Section 12-5-124 confines the Council's rulemaking to contractor licensing, its own proceedings and powers assigned under Part 3. The form therefore evidences how the administering body reads the provision without establishing that industrial wells fall within paragraph (1) as a matter of law.

Capacity and yield figures, where they exist at all, sit in the completion record rather than in the notice. Section 12-5-134(1)(L) requires the drilling contractor to maintain well construction data and furnish the owner a copy within 30 days. Two of its fields are conditional: "size of pump installed if pump is installed by the drilling contractor" and "yield if test pumped." Two located forms bear on it. The first is the 2017 notice form, which instructed the contractor to send construction data to the owner and the local health department under (1)(L), an instruction the January 2026 form does not carry. The second is the Well Completion Data Form of November 2014 that the Division's water well program page links, which lists "Industrial" among its well classes. Both indicate that the agencies have at times treated the completion record as reaching industrial wells. Neither establishes a present duty or custodian, and none of the 31 rules of Department 770 imposes a filing requirement for completion records for any class of well. Whether such forms are received or retained by any county or state body is not established by the statute, by any located Council rule, or by the forms themselves. None of the four sections read in full requires a periodic report of withdrawal.

Table 1 collects the instruments discussed in §§ 3.4 and 3.5 that generate or compel information about a withdrawal or a well. It adds two provisions of Subject 391-3-2 that do the same, Rule .06(6) on notice of a change in use or an increased withdrawal and Rule .14(3) on the sealing of an abandoned well.

Table 1. Instruments that generate or compel information about a withdrawal or a well, by triggering event, recurrence, and what must happen before the instrument operates. The last column states that last matter: *automatic* where the duty arises on its own trigger, *case-specific* where it awaits a Division decision, and *implementation-dependent* where it awaits an instrument not located in this corpus. Activation describes what stands between the Division and the instrument's use. Whether an instrument reaches the user this section describes is a separate matter, taken up in the text of §§ 3.4 and 3.5 for the instruments discussed there. Where the governing text leaves that question open, the column reads *unresolved* rather than classifying the activation. A dash marks a matter the governing text leaves unspecified; where a cell rests on an agency form rather than on statute or rule, it says so. Omitted from the table are the estimation provisions at Rules .08(3) and .04(8) and the second sentence of § 12-5-97(e), which reach applicants and permittees only. Also omitted are Rule .04(4); the public water system duties of Subject 391-3-5 at § 3.6; and § 12-5-134(5)(D)(vii), a duty to inspect rather than to report. The remaining omissions are three provisions that operate at application and bind only applicants, Rules .04(5)(f), .04(9) and .12(2), and Rule .04(11)(h), whose progress report is a single event 5 years after issuance rather than a cycle. The first two sentences of Rule .13 are also omitted; they use "should" rather than "shall."

Instrument	Triggering event	Information produced	Recipient	Recurrence	Activation
Rule .08(1)	Permit issued, other than for farm use	Volume withdrawn, by aquifer	Division	Semiannual, unless the Division designates otherwise	Automatic
Rule .08(2)	Permit issued; no farm-use exclusion	Specific conductance analysis: water quality, not use	Division	Annual, unless the Division designates otherwise	Automatic
Rule .04(11)(i)	Permit issuance or modification, 12 months on	Annual water use data report "that includes information on unaccounted for water"; the text names no withdrawal volume and excludes none	The Director	Annual	Unresolved
Rule .06(6)	Change in beneficial use, or a greater amount to be withdrawn	Notice by registered letter	—	Per event	Automatic, for permit holders
Rule .14(3)	Sealing of an abandoned well	Certified statement that the well was sealed, within 30 days	Division, from the contractor	Per sealing	Automatic on the sealing
Rule .04(7)	Applicant already withdrawing who cannot furnish accurate information	Measured use	—	Metering, once installed	Case-specific

Instrument	Triggering event	Information produced	Recipient	Recurrence	Activation
§ 12-5-97(e) sent. 1	Inability to furnish accurate information, suspect certified statement, or excessive withdrawal	Measured use	—	Metering, once installed	Case-specific; reaches permit-required non-applicants on the first ground
§ 12-5-98(a)	Division decision to investigate	Written or sworn statements on pertinent questions relating to the installation or operation of a well, subject to a trade-secret proviso	Division	Case-specific	Case-specific
Rules .10, .11	Division determination of intrusion or adverse effect	Control measures the Division requires; the rules state no reporting duty	—	Case-specific	Case-specific
§ 12-5-97(d) sent. 1	Requirement to secure a permit under Part 2	Certified statement of quantities used and withdrawn, sources of water, and the nature of the use	Division, on its forms	Not more frequently than at 30 day intervals	Automatic in terms, for persons required to secure a permit; Division forms and regulations presupposed
§ 12-5-95(a)(1)	Regulations prepared under § 12-5-95(a) and adopted under (b), for water users “within the area”	Quantity of water used or withdrawn, sources of water, and the nature of the use thereof	—	Not more frequently than at 30 day intervals	Implementation-dependent

Instrument	Triggering event	Information produced	Recipient	Recurrence	Activation
§ 12-5-97(d), procedures sentences	Procedures established after public hearing, for water users not required to secure a permit; individual domestic use excepted	—	—	—	Implementation-dependent
§ 12-5-134(1)(A)(i)	Intent to drill	Per the Council's form: identity, start date and location, and, on the January 2026 version only, two nominal casing diameters	A county health department, entered by the contractor in a blank on the same form	Once	Unresolved
§ 12-5-134(1)(L)	Well completion	Construction data; pump size and test yield, conditionally	Owner, by statute	Once	Unresolved

The regime differs above and below the threshold on four dimensions: record generation, custody, informational content, and periodicity. Above it, the Division receives a recurring series of declared withdrawals. Below it, the records that construction may generate are decentralized and one-time, they are concerned with capacity rather than use, and whether the completion record's duty reaches an industrial well is unresolved on the statute's text. Capacity is not use. Section 12-5-134(1)(L) does not draw that distinction in terms, but it disclaims the reliability of the yield figure the record may carry. Any estimate of gallons per minute that the well is expected to produce "shall not be considered under any circumstances to be a guarantee of the quantity of the water produced by the well." Pump size and test yield are recorded once, carry no duty to update in the four sections of Part 3 read in full, and measure capacity.

3.6 The same water under two regimes

The public water system boundary stated at the outset does analytical work. Had the same facility drawn the same water from the same aquifer for drinking rather than for cooling, and served 15 service connections or 25 people for the periods the rules specify, it would have become a public water system. It would then have owed a duty, as the Division may require, to maintain daily records including the amount of water treated daily, with a copy going to the Division.[6] Nothing about the aquifer changes across that line; what changes is the purpose the water serves and the population it reaches, and with it whether a facility-level daily quantity reaches the agency at all. Water treated is not water withdrawn, so the quantity differs from the one at issue here, and the contrast runs on two of the four dimensions above, record generation and periodicity.

Beyond the rules, the Ground Water Use Act imposes one filing duty directly, at § 12-5-97(d)'s first sentence. It reaches persons required to secure a permit, so it runs through the permit status it would settle, and it presupposes Division forms and regulations. The Act's other authority over persons holding no permit is of two sorts, neither of which runs on its own. The first is case-specific, each instrument awaiting a Division decision. It comprises a right of entry onto any property, exercisable to investigate the withdrawal or use of any waters, and a power to compel written or sworn statements on a well's installation or operation. It also comprises compulsory metering under § 12-5-97(e) against a permit-required person who has not applied. The second is a rulemaking authority for reporting rules and procedures that could reach users holding no permit, for which no instrument was located in the codified rules as searched.

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[6] Rule 391-3-5-.14(7) provides that "[t]he supplier of water shall maintain daily records of the operation of the water treatment facility and water distribution system as may be required by the Division including the amount of water treated daily." A copy of the record is to be submitted to the Division. Its proviso for "less frequent maintenance of record requirements for small groundwater systems" reaches maintenance and not submission. A public water system is defined at Rule 391-3-5-.02(99). Both rules were read against the compilation current through August 14, 2026.

The Water Well Standards Act contributes two records in the sections read, and whether either duty extends to industrial wells is unresolved on the statute's text. The notice carries no quantity, and for the completion record, where the quantities sit, the located forms establish no present duty or custodian. The gap the threshold opens is therefore not legal inaccessibility but the absence of routine administrative visibility, against retained authority that must be invoked case by case. That holds on the instruments located in this corpus, which is a corpus of state-level instruments containing no county ordinance.

One consequence governs the sections that follow. The legally relevant quantity is one person's withdrawal, measured on a convention the governing text supports, and § 3.3 has shown that the non-farm sentence supplies no such convention. Where the evidence available about a project cannot establish that quantity, the project's permit status is unresolved rather than below threshold. A facility-level estimate does not establish it, because the facility is not the person, and a projected monthly average does not, because the non-farm sentence names no averaging convention.

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4. The declarations, the advocates, and the line

4.1 Six declarations, and what the disclosure record can carry

The Georgia Water Coalition's comment letter of May 11, 2026 on Development of Regional Impact 4689 tabulates declared water demand and nameplate load for five Georgia data center projects, and the Arrowhead filing supplies a sixth. Declared demand per megawatt runs from 2,280 gallons per megawatt per day for QTS Fayetteville, at 570,000 gallons per day against 250 MW, to 16 for Rocky Creek, at 4,000 gallons per day against 250 MW, a ratio of 142.5. Five figures are from the Coalition's table [S] and Arrowhead's from the filing [P]; the calculations are the author's, and megawatts are nameplate rather than served load. Two projects declare an identical 50,000 gallons per day at 324 MW and 1,250 MW. The dispersion is consistent with several data-generating processes, among them cooling design, supply regime and project stage, and discriminates among none; no declaration is described here as low, strategic, or lowest.

Every declared figure is a facility demand rather than a withdrawal by a person. Two of the six exceed the trigger figure on their face. That does not place either project inside the permit requirement, for the same reason that the four smaller figures do not place their projects outside it. A facility's declared demand is not the quantity the trigger measures, and the supply regime of five of the six projects is unestablished here. The regional commission's review of the Arrowhead application describes an on-site well [S[1]], and the application names an aquifer as its provider and reports that no water line extension is required [P]. Arrowhead is therefore the one project among the six for which the record identifies a self-supplied withdrawal. Of the six elements § 3's user class states, the record examined here establishes two for that project, self-supply and non-farm use, and none of the other four, the last of which is position relative to the trigger. Section 3's analysis applies so far as the record establishes those elements and no further, and that the record does not establish the last of them is this article's finding rather than a gap in the filing. No

project named in this article instantiates all six elements of § 3's user class on the record examined here, and none is offered as a demonstration of the mechanism.

The register that collected these figures is not built to test one. Its own rule makes the review advisory, as quoted in § 1. No provision located in the two rule subjects governing the process, as read on August 30, 2026, empowers a regional commission or the Department of Community Affairs to deny or condition a project [P, negative].

4.2 What the advocates asked for

Development of Regional Impact 4689 drew comments from three organizations, all dated May 11, 2026: the Georgia Water Coalition, the Suwannee-Satilla Regional Water Planning Council, and WWALS Watershed Coalition. No comment from the Environmental Protection Division appears in that record [P, negative]. Both advocacy letters are addressed to the regional commission's planning director and ask it to secure action by the Division. The Georgia Water Coalition, in its recommendations:

> The Georgia EPD—when evaluating the water withdrawal permit—must conduct an aquifer drawdown study to assess impacts on surrounding users (i.e. adjacent agricultural withdrawals). EPD has conducted similar studies and evaluations, most recently in conjuncture with groundwater withdrawal permits adjacent to the Bryan County Hyundai Motor Group Metaplant America (HMGMA).

The word "conjuncture" is the original's error, quoted as written. The Coalition also asks the Division to "include specific drought conditions on withdrawal amounts" and to "require a drought contingency plan," and WWALS asks for both in nearly the same words. That near-identity indicates shared drafting, so the letters are not independent evidence of two organizations reaching the same conclusion. Both ask for an aquifer drawdown study, the Coalition writing that the Division "must conduct" one and WWALS that it "should also conduct" one [P].

Both letters presuppose that an application for a groundwater withdrawal permit will reach the Division and be evaluated there. Whether one is required cannot be determined from the filing they respond to, for the three reasons § 3 establishes. The declared figure is a facility estimate rather than a person's withdrawal, the non-farm sentence names no averaging convention, and Part 2 as read supplies no rule fixing the unit over which withdrawals combine. Rule 391-3-2-.04(4) may put an application in front of the Division whether or not the trigger is crossed, and if it does, the letters' premise is met and their request is coherent. It does not follow that the resulting proceeding can test the figure, because the quantity an application carries under Rule .04(5)(f) is "the amount withdrawn or proposed to be withdrawn" as the applicant states it. No application, permit, or Division proceeding for this project was located in the record examined here [NOT FOUND], which is the review binder and the filing and not the Division's permit files, which were not searched for this project.

Neither letter raises the 100,000 gallons per day threshold in connection with this project, and neither states that the project falls below it [P, negative]. That was established by full-text search of both letters for "threshold," "exempt," "no permit," "not require," and "less

than 100,000" (searched August 30, 2026); the single occurrence of "100,000 gallons per day" in the Coalition's letter describes a different project.

4.3 What the Division does above the line

The reach of the trigger is easiest to see beside a withdrawal plainly above it. On October 7, 2024 the Division issued two groundwater withdrawal permits for Floridan aquifer wells serving an industrial site in coastal Georgia [P]. Permit 016-0013 is held by the "Bryan County Board of Commissioners – Bulloch County Operations" and authorizes "3.500 million gallons per day monthly average and 3.500 million gallons per day annual average." Permit 016-0014 is held by the Bulloch County Board of Commissioners and authorizes "3.500 million gallons per day monthly average and 3.125 million gallons per day annual average" [P]. The combined annual average is 6.625 million gallons per day, approximately 66 times the permit trigger (author's calculations: 3.500 + 3.125 = 6.625; 6,625,000 / 100,000 = 66.25); neither figure appears on either permit. Section 3.2 finds no rule in Part 2 as read combining or attributing withdrawal volumes among separately titled persons for threshold purposes, so this sum is an outside calculation rather than a quantity the regime produces.

For those applications the Division published drawdown-contour modeling and notices of two public meetings [P]. The permits require a jointly managed fund to address potential impacts to existing Floridan aquifer wells and compliance with the coastal saltwater intrusion plan. They also require full replacement of the groundwater withdrawal by surface water or an alternative source within 25 years of issuance [P]. A demonstration is not a practice: one permit pair establishes that the Division can model cumulative drawdown and write conditions of this reach, not that it does so routinely, and there is no denominator here. The modeling informed a reasonable-use judgment rather than a numerical criterion, because no promulgated ceiling that the model had to clear appears in the 16 rules of Subject 391-3-2 as compiled at August 14, 2026. Rule .06(4) allows a permit to carry a maximum pumping rate or a pumping level as a condition, and § 12-5-95(a)(3) authorizes rules prescribing them, but neither text sets a figure. This is an illustration of what one above-line permitting record contains, and not a controlled comparison, since the two settings differ in location, hydrogeology, declared volume, applicant, and exposure to saltwater intrusion. For Project Arrowhead the only proceeding located here is a planning review whose own rule makes it advisory, and which recommended nothing about the withdrawal.

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5. A contrast in instrument type: a state that wrote a number

Virginia regulates groundwater withdrawal in designated management areas through a permit program whose criteria include a numerical test. Under 9VAC25-610-110 D 3 h, a permit may issue only where:

> [t]he department's technical evaluation demonstrates that the stabilized effects from the proposed withdrawal in combination with the stabilized combined effects of all existing lawful withdrawals will not lower water levels, in any

> confined aquifer that the withdrawal impacts, below a point that represents 80% of the distance between the land surface and the top of the aquifer. Compliance with the 80% drawdown criteria will be determined at the points where the predicted one-foot drawdown contour is predicted for the proposed withdrawal.

The quotation was verified character for character against the Virginia Legislative Information System on August 5, 2026 [P]. Turner (2026) analyzes the same provision to a different end, showing it is written for confined aquifers only; here it serves as a contrasting instrument type.

What the criterion tests is not a sum of volumes but a modeled water level, taking existing lawful withdrawals into account, and no provision of 9VAC25-610-110 sums volumes against a numerical cap. Case-by-case reasonable-use balancing produces no such computation, and no numerical drawdown criterion appears in the 16 rules of Subject 391-3-2 as compiled at August 14, 2026; whether any procedure establishing one was adopted outside those rules was not determined. The permit conditions and rulemaking authority for pumping rates and levels noted at § 4.3 are authorizations rather than criteria, and neither sets a figure.

Virginia's criterion reaches only designated management areas, and Turner (2026) finds 257 of 286 inventoried Virginia data center facilities sitting outside every declared area [S[1]]. The same work establishes that Virginia's statewide reporting regulation attaches at 10,000 gallons per day by rate rather than geography, so it collects figures far below its own permit trigger. Virginia counts statewide while allocating only inside its declared areas, and Georgia allocates while the recurring reporting duties of Subject 391-3-2 name a permittee or a permit holder as their subject. Of the two instrument types compared here, only the modeled criterion obliges the agency to compute a figure of its own.

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6. Discussion

6.1 Measurement-coincident thresholds

The design property can be stated independently of Georgia. Where every obligation to measure a withdrawal is keyed to permit status, the agency holds a measured figure only for parties whose status is already settled. Such a regime routinely produces no measurement of the quantity its own trigger depends on. Subject 391-3-2 is an instrument of that kind, on the findings of § 3.4. The finding is narrower than a claim about what any institution could learn, since the Division retains the case-specific authority § 3.4 describes and § 6.2 examines figures generated elsewhere in the record.

One rule of the subject appears to cut against that account and does not. Rule 391-3-2-.04(4) directs the intended user of a newly constructed well to apply for a permit before any ground water use, and carries no threshold qualifier of its own. Read at its widest, it places every such user in front of the Division before withdrawal begins. That reading is available on the text and unresolved on the located record, and the finding does not turn on which way it goes, because paragraph (4) requires an application. What an application

delivers, under Rule .04(5)(f), is "the amount withdrawn or proposed to be withdrawn with a statement of necessity," a figure the applicant states [P]. Metering enters under Rule .04(7) only against an applicant already withdrawing who cannot furnish accurate information about the amounts withdrawn [P], so it reaches a person inside the application process rather than the sub-threshold user as such. On the widest reading of paragraph (4), the Division receives the declaration earlier. It does not receive a measurement.

The analysis turns on two properties of the instrument, a permit obligation switching on above a stated volume and measurement obligations keyed to permit status, and one of the user, self-supply. Whether the second feature holds elsewhere is not established here, and testing it requires reading each state's measurement provisions rather than its threshold.

6.2 What the rest of the administrative record does and does not supply

A regime is not a state. That the reporting duties of Georgia's withdrawal-permitting subject run to permittees does not mean the state holds no number bearing on a withdrawal beneath the trigger. This article examines three channels outside the subject that generate figures, and a county requirement beside them. None is a benchmark of the kind the studies in § 2.1 relied on, and the three are not an exhaustive account of what Georgia holds.

Discharge permitting. A facility discharging treated wastewater to surface waters requires an individual permit under the National Pollutant Discharge Elimination System, administered in Georgia by the same Division and carrying metered effluent monitoring reports. The Arrowhead filing declares a sewage flow of 0.03 million gallons per day against a water supply demand of 0.05, to be "[t]reated on-site and discharged to surface waters under a state-issued NPDES wastewater discharge permit" [P]. If such a permit issues the Division would hold a measured discharge figure. That figure is a floor under the withdrawal only where the discharge's reporting period matches the withdrawal's measurement period, both are drawn on a common system boundary, and the effluent derives from the withdrawal at issue [I]. Where those conditions fail, the inference is unavailable. Even where it holds, it is not a benchmark. Any withdrawal above 30,000 gallons per day is consistent with the same discharge, so a lower bound beneath the trigger places the withdrawal on neither side of it. No provision in the corpus described at § 3 requires anyone to compare it against a declaration made in a planning review.

Municipal supplier metering. Where a public water system serves a project, the supplier rather than the project is the withdrawer and the mechanism does not reach it. Where the mechanism operates, a self-supplied withdrawal has no supplier and the channel is unavailable.

Ambient aquifer monitoring. The Floridan is intensively monitored by the United States Geological Survey and through the Division's own coastal programs, and the obstacle is attribution rather than absence. Ambient water-level networks measure an aquifer's aggregate response to all stresses, and neither the Survey's Floridan networks nor the Division's coastal programs are designed to resolve one withdrawer's contribution against pumping by every other user, recharge variation, and regional trend.

A county requirement, and what kind of figure it collects. Irwin County Ordinance No. 1 of 2026, passed April 6, 2026, is the county instrument analyzed here and no part of the state-level corpus described at § 3. Two extraction paths agree on its text word for word [P]. A limited sweep of other county instruments, recorded in the claim-and-source table, reached a handful of counties; one is noted here and not analyzed. The Chatham County well ordinance was read in a chapter text whose currency was not verified beyond an internal note reading "(Amended April 24, 2009)." Its § 15-617(3) provides that county well construction permits "issued for wells below the 100,000 gallon per day standard shall be reported to the GEPD." It shows what a county instrument can contain and what a state-level corpus cannot rule out; nothing here states it as current law. Section 27-4(d) permits only closed-loop cooling systems, bars discharge of cooling water "into public sewers or ground without treatment," and provides at subsection (d)(3):

> Before a certificate of occupancy is provided, all data centers shall submit a hydrogeologic study conducted by an independent third-party engineering firm showing estimated annual water usage. Such report should compare estimated water usage to the prior owner/user of the subject property or of that of similar surrounding areas.

The mandatory verb attaches to submission of the study; the comparison sentence is "should." The discharge prohibition is conditional on treatment and reaches sewers and ground rather than surface water, so on that subsection the ordinance leaves the discharge channel open for this project [I]. Subsection (d)(3) is an instance of the pattern § 6.1 describes rather than a counterexample. What it requires, before occupancy and in advance of any withdrawal, is an estimate produced by a firm the applicant retains: a declaration rather than a measurement, in a unit that § 12-5-96(a)(1) does not state. Neither Municode nor American Legal publishes Irwin County, and county minutes after April 2026 were not searched, so a later amendment or repeal would not have been located here.

None of the three channels produces a measured figure that tests a particular declaration or places it relative to the trigger, and the county requirement produces an estimate rather than a measurement. No instrument in the corpus described at § 3, which contains no county ordinance, obliges anyone to make the comparison.

6.3 What the Model Code paired with the number

The argument does not depend on 100,000 gallons per day being an unusual figure. Section 2.1 records it as a reporting threshold in four other states and § 2.2 as the Model Code's exemption ceiling, and neither supports a claim about how many states use it as a permit trigger. Georgia's Act carries the same figure without the two express provisions the Model Code pairs with it, the aggregation rule at § 6R-3-03 and the registration channel for exempt withdrawals at § 6R-1-06. No aggregation rule appears in the Act as read or in the 16 rules of Subject 391-3-2. The registration channel differs in exercise rather than in kind. Section 6R-1-06 provides that the agency "may, by regulation, require" registration; §§ 12-5-95(a)(1) and 12-5-97(d) confer a comparable authority, on which § 3.4 located no instrument in the codified rules as searched. In the 1997 edition, as Wald reproduces it, the exemption figure, the aggregation rule and the registration channel appear together [S[1]];

why they do is not established here. No drafting history for either instrument was located, and Georgia's 1972 statute predates the Model Code's 1997 edition by 25 years. The Code's provisions therefore function here as a standard of adequacy rather than a source Georgia is alleged to have departed from.

Section 6R-3-03 aggregates separate withdrawals "by a single person." It reaches fragmentation by one withdrawer across wells or related uses, not across distinct legal persons under common control. Two American examples show where the limit falls. Richardson (2012) reports that Washington's Supreme Court, in *Department of Ecology v. Campbell & Gwinn*, held the state's domestic exemption to be "a use exemption regardless of the number of wells," so that a development's wells are aggregated. He reports that Montana defines a combined appropriation by whether wells are physically connected into one system [S[1]]. Neither rule is entity-based: one turns on the development, the other on the plumbing. No regime in Richardson's 16-state survey aggregates by ownership or control. The gap is therefore in the model rather than peculiar to Georgia, and marks where reform would have to operate.

6.4 Georgia's 2026 legislative session

The Georgia General Assembly adjourned sine die on April 3, 2026. Twelve data center bills were introduced across the biennium and none passed: SB 34, HB 559, SB 408, SB 410, SB 421, SB 436, HB 528, HB 1012, HB 1059, HB 1063, HB 1323, and HB 1387 [P]. That is established on a full scan of every legislation record in the 2025-2026 Regular Session and the 2026 Special Session, and it is a statement about those 12 bills rather than about everything the session enacted. Whether the state-wide water management plan amendments ratified by House Resolution 1008, Act 425, which are incorporated by reference and not reproduced, address data centers is not established here [NOT FOUND]. None of the 12 proposes an aggregation rule, a sub-threshold registration requirement, an averaging qualifier, or a numerical withdrawal criterion of the kind § 5 describes [P, negative]. That is a statement about the contents of 12 bills, and no legislative history behind either the 1972 threshold or the 2026 bills was located.

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7. Conclusion

In Georgia's Ground Water Use Act as read the permit trigger runs per person, and no rule there supplies the unit over which withdrawals combine or attributes volumes among separately titled persons for threshold purposes. For non-farm use the trigger carries no averaging qualifier, unlike Georgia's own surface water trigger. Every recurring duty in Subject 391-3-2 to measure or report quantities actively withdrawn attaches to an applicant or a permittee. The statute's one directly imposed filing duty reaches persons required to secure a permit and presupposes Division forms and regulations. Beyond those routine routes the Act supplies case-specific authority the Division must invoke, including compulsory metering against a permit-required person who has not applied. It also supplies a rulemaking authority for which § 3.4 located no instrument in the codified rules as searched.

Those three features produce something narrower, and harder, than an unaudited declaration. Subject 391-3-2 requires recurring actual-withdrawal reporting only of permittees, and permit status turns on a withdrawal quantity that, before a permit issues, exists only as a declaration. That holds whichever way Rule 391-3-2-.04(4) is read, because what the widest reading of that paragraph brings to the Division is the amount "withdrawn or proposed to be withdrawn" as the applicant states it under Rule .04(5)(f). A self-supplied person who declares a volume beneath the trigger is not thereby outside the permit requirement, and such a withdrawal's permit status is unresolved rather than settled beneath the line. Figures generated elsewhere in the administrative record may bound the withdrawal from below, on the conditions § 6.2 states, and do not place it. The number itself is ordinary. Section 6.3 records that the model instrument recommending it pairs it with an express aggregation rule, which Georgia's Act as read lacks, and a registration channel, for whose Georgia counterpart no instrument was located in the codified rules as searched.

The advocates' letters illustrate the opacity more plainly than the declared numbers do. Two water-advocacy organizations read the Arrowhead filing and asked a regional planning commission to have the Division condition a withdrawal permit and study aquifer drawdown. On a full-text search of both letters neither asks whether a permit would be required [P, negative]. Why they did not is not established here. What the review itself establishes is enough: nothing in that proceeding determined whether the instrument applied to the project, and nothing in it obliged anyone to find out. In that proceeding the threshold allocated nothing and recorded a declaration.

Two reforms follow, and neither requires changing the number. An aggregation provision testing eligibility against a person's related withdrawals would supply the unit over which withdrawals combine, which the Act as read does not, and would close fragmentation by a single withdrawer. A registration duty for withdrawals beneath the threshold would add a reporting channel that does not run through permit status, which Subject 391-3-2 does not now contain. Registration of location and capacity, its form in the states Richardson (2012) surveys, records what a well can produce and not what a person withdraws. Both are drafted in the model instrument that recommends the threshold Georgia adopted, and neither answers the affiliated-entity case.

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About the author

Tommy N. Turner is an independent researcher and writer who documents the local-government and energy dimensions of the data center build-out. His series of jurisdiction-level case studies covers the counties and the fall-line corridor where Virginia's data center decisions have been made, refused, or contested, and the analytical volumes extend that work into the systems those decisions run on: the transmission network and the cost-allocation machinery in the first volume, generation in the second, and a federal corporation's siting practice in the third. Like the rest of the series, this paper is assembled from primary records: the Ground Water Use Act and the 16 rules of Ga. Comp. R. & Regs. Subject 391-3-2, the Water Well Standards Act and the 31 rules of Department 770, the forms the Division and the Water Well Standards Advisory Council publish, a Development of Regional Impact filing and the regional commission's review binder, two groundwater withdrawal permits and their drawdown modeling, two advocacy comment letters, a county ordinance, and the 2025-2026 legislative record. His work spans data center fiscal and environmental policy, local public finance, and the governance questions the two raise, and he writes opinion and analysis on Virginia public affairs for outlets including the *Richmond Times-Dispatch*, the *Virginia Mercury*, the *Virginian-Pilot*, the *Roanoke Times*, *Cardinal News*, and *RTO Insider*. Since July 2026 he has served on the advisory board of *Data Centers and the Southern Energy Buildout: Implications for Electricity Costs, Energy Transition, and Energy Justice*, a three-year study at Emory University funded by the Alfred P. Sloan Foundation. The study had no role in this article. The case studies and analytical volumes are published as open, citable editions, each pinned to a deposited evidence archive. He works from Williamsburg and Christiansburg, Virginia.

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