Permits may be issued by the Authority under the following circumstances:

(a) The water system is existing and in operation on the date the MCL or treatment technique requirement became effective; and
(b) The water supplier is unable to comply with the maximum contaminant levels or a treatment requirement due to economic or other compelling factors and;
(c) The water system has not been granted a variance.

Permits may be issued only when the following conditions are met:

(a) The system is unable to implement measures to develop an alternative source of water supply; and
(b) The system cannot reasonably make management or restructuring changes that will result in compliance or improve the quality of the drinking water; and
(c) The system cannot meet the standard without capital improvements which cannot be completed prior to the effective date of the standard; and
(d) In the case of a system which needs financial assistance for the necessary improvement, the system has entered into an agreement to obtain such financial assistance through Federal and State funding programs available to the water system; and
(e) If applicable, the system has entered into an enforceable agreement to become a part of a regional public water system, and the system is taking all practicable steps to meet the standard; and
(f) There will be no unreasonable risk to health; and
(g) The water supplier agrees to notify the water users at least once every three months that the water system is out of compliance; and
(h) The water supplier agrees to a compliance schedule prescribed by the Authority which includes interim measures to eliminate the risks to health and which sets a specific time limit for the water supplier to install the water treatment facilities or comply with the maximum contaminant levels. The compliance schedule shall not exceed 3 years from date of issuance. Bottled water, point-of-use devices or point-of-entry devices may be used as interim health protection measures as prescribed in OAR 333-061-0045(8) and (9) and 333-061-0050(4)(d), except that point-of-entry devices are not allowed as a condition for issuing a permit for corrosion control treatment requirements for lead and copper. Point-of-entry devices may be used as a condition for issuing a permit for source water treatment.

The procedures for processing requests for permits shall be the same as indicated for variances in OAR 333-061-0045(3) and (4).

After a permit has been issued, the water supplier shall be subject to the same requirements as those indicated for variances in OAR 333-061-0045(5).
(5) The Authority is not permitted to issue any permits for alternate requirements other than those required by OAR 333-061-0030(3) and (4), as well as the requirements of 333-061-0032, 333-061-0034 and 333-061-0036.

(6) The Authority shall document all findings of determinations and consider the following:

(a) Before finding that management and restructuring changes cannot be made, the Authority shall consider the following measures, and the availability of State Revolving Loan Fund assistance, or any other Federal or State program, that is reasonably likely to be available within the period of the permit to implement these measures:

(A) Consideration of the rate increases, accounting changes, the appointment of a State-certified operator under the State’s Operator Certification program, contractual agreements for joint operation with one or more public water systems;

(B) Activities consistent with the State’s Capacity Development Strategy to help the public water system acquire and maintain technical, financial and managerial capacity to come into compliance with the Safe Drinking Water Act; and

(C) Ownership changes, physical consolidation with another public water system, or other feasible and appropriate means of consolidation which would result in compliance with the Safe Drinking Water Act.

(b) The Authority must consider the availability of an alternative source of water, including the feasibility of partnerships with neighboring public water systems, as identified by the public water system or by the Authority consistent with the Capacity Development Strategy.

(7) In the case of a public water system serving a population of not more than 3,300 persons and which needs financial assistance for the necessary improvements under the initial compliance schedule, a permit granted by the Authority may be renewed for one or more additional 2-year periods, but not to exceed a total of six additional years, only if the Authority establishes that the public water system is taking all practicable steps to meet the requirements and the established compliance schedule to achieve full compliance with the contaminant level or treatment technique for which the permit was granted. The Authority shall document its findings in granting a permit under this rule.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 448.115, 448.145