

DISCLAIMER

NOTE: The document you are about to access is a sample conservation instrument. Although the terms and conditions contained within serve as the baseline terms and conditions for acceptance by the United States Army Corps of Engineers when used in conjunction with an application for authorization to use the Pennsylvania State Programmatic General Permit- Number 3 (PASPGP-3) for development properties under certain conditions, the availability of this instrument does not constitute legal, accounting, or tax advice. It may or may not serve the needs of any particular potential applicant for a Section 404 permit in Pennsylvania. Not all easements or deed restrictions, especially those for historic, agricultural, or other conservation purposes, necessarily follow the same format, nor contain the same provisions; these should be tailored for their particular purposes. Formally completed conservation instruments are intended to be recorded, enforceable legal instruments. All persons considering the use of this instrument, even for submission with an application for authorization under the PASPGP-3, are strongly encouraged to obtain the services of an attorney licensed to practice law in the Commonwealth of Pennsylvania.



**US Army Corps
of Engineers**

INSTRUCTIONS
FOR
MODEL CONSERVATION INSTRUMENTS
FOR THE PENNSYLVANIA STATE PROGRAMMATIC GENERAL PERMIT-3
(PASPGP-3)

Proposed activities/projects for construction or expansion of residential, commercial, or institutional subdivisions or developments that include greater than 0.25 acre of wetlands, in addition to the total wetland area directly impacted by the proposed project, located within the property boundary are potentially eligible for authorization under PASPGP-3 Category I or II Activities (no U.S. Army Corps of Engineers (Corps) review required), provided the submitted application includes a proposed deed restriction or conservation easement which protects such wetlands from activities such as filling, draining, mowing, placement of structures, cutting of vegetation, clearing, or plowing of natural vegetation. Additional information concerning this activity can be obtained by contacting the Corps or the Pennsylvania Department of Environmental Protection (PADEP). The Model Conservation templates are available on the Corps Web site at:
http://www.nab.usace.army.mil/Deed_Restriction/

1. An attorney licensed in the Commonwealth of Pennsylvania shall prepare the instrument.
2. A licensed Pennsylvania attorney **must** sign the instrument prior to recording. This is **mandatory** and indicates that the instrument as prepared is in full compliance with Pennsylvania law.
3. For the draft or executed instrument:
 - a. Under **NO** circumstances will the final page showing recordation be complete;
 - b. All other blanks in the instrument **must** be filled in;
 - c. Citation of the applicable legal authority **must** be made in Section 1 as needed;
 - d. The ***[BRACKETED]*** information should be replaced as necessary with appropriate language;
 - e. All of the necessary names of parties and signatories (except for the notary public) **must** be visible on the instrument; and
 - f. The necessary exhibit(s) **must** be attached.
4. **For PADEP/County Conservation District (CCD) reviewers:** The instrument must not yet be recorded when submitted, but the draft or executed instrument must be otherwise complete and ready for execution and recording (or recording only).

5. Provided the attached model instrument is submitted with the application, the PADEP or CCD reviewer may issue the PASPGP-3 for Category I and II Activities. A copy of the authorization, with third party enforcement rights acceptance language, shall be attached to the conservation instrument and the permittee shall ensure that the instrument, with authorization letter affixed, is recorded in the appropriate County land records.

6. **Final Step:** The Corps and PADEP **must** receive a copy of the recorded instrument prior to the initiation of the permitted work.

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