

8.0 APPLICABLE FEDERAL, STATE AND LOCAL PERMITS AND APPROVALS

Several permits, approvals, authorizations and compliance with federal, state and local regulations are required for developing the Project. As the federal lead agency, FRA is mandated to evaluate compliance under numerous federal laws and regulations relevant to the Project. In addition, TCRR is responsible to fulfill all requirements of applicable statutes, regulations and policies associated with Project construction and operation. These permits and authorizations will be obtained in concurrence with the Record of Decision (ROD) or prior to construction. **Table 8-1** provides a summary of the permits, approvals and authorizations; the agency responsible for the permit and/or approval; the permit, compliance or review required; and the relevant laws and regulations.

Table 8-1: Applicable Laws, Permits and Authorizations				
Issue	Action Requiring Permit, Approval or Review	Agency	Permit, License, Compliance, or Review	Relevant Laws and Regulations
Railroad Safety	Review of HSR system to ensure safe operation	FRA	Grant a Rule of Particular Applicability, Waiver or series of Waivers, or other safety approval	49 U.S.C. 20101 et seq.
Section 4(f)	Review project for impacts to parkland, recreational areas, wildlife refuges and significant historic sites	FRA, Department of Interior	Review for compliance with Section 4(f)	49 U.S.C. 3030, Section 4(f) of the U.S. DOT Act of 1966
Section 6(f)	Review projects for impact to permanent conversion of recreational property acquired with Land and Water Conservation Fund (LWCF) monies.	FRA	Review for compliance with Section 6(f)	Section 6(f) of the Land and Conservation Fund (LWCF) Act of 1965
Biological Resources	Protection of threatened and endangered species and their habitat that could be impacted by project construction	USFWS	Section 7 Consultation in compliance with Endangered Species Act (ESA) including the preparation of a Biological Assessment and USFWS issuance of a Biological Opinion	ESA of 1973 as amended (16 U.S.C. 1531 et seq)
	Protection of migratory birds	USFWS	Evaluate for compliance	Migratory Bird Treaty Act of 1918, 16 U.S.C. 703-712; 50 C.F.R. 1
	Protection of bald and golden eagles	USFWS	Evaluate for compliance	Bald and Golden Eagle Protection Act of 1972 (16 U.S.C. 668)

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Ground Disturbance and Water Quality Degradation	Construction sites with greater than five acres of land disturbance	EPA and TCEQ	Section 402 National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Construction Activities; TPDES General Permit	Clean Water Act (33 U.S.C. 1342); Chapter 26 of the Texas Water Code
	Potential pollutant discharge during construction, operation, and maintenance	EPA	Spill Prevention Control and Countermeasure (SPCC) Plan	Oil Pollution Act of 1990 (40 C.F.R. 112)
	Potential discharge into waters of the state (including wetlands)	TCEQ	Section 401 Permit	Clean Water Act (33 U.S.C. 1344)
	Crossing 100-year floodplain	USACE	Floodplain use permits	40 U.S.C. 961
	Construction in or modification of floodplains	FRA	Review for compliance	42 U.S.C. 4321 Executive Order No. 11988 Floodplains
	Construction in or modification of wetlands	FRA	Review for compliance	42 U.S.C. 4321 Executive Order No. 11990 Wetlands
	Construction in or across navigable waters of the US	EPA and USACE	Section 10 permit and/or 404 permit	Rivers and Harbors Act of 1899 (33 U.S.C. 403)
	Discharge of dredge or fill material into Waters of the U.S.	EPA and USACE	404 Permit	Clean Water Act (33 U.S.C. 1344)
	Alteration or occupation or use of a USACE civil works projects	USACE	408 Permission and/or Real Estate Instrument	Section 14 of the Rivers and Harbors Act of 1899; 33 U.S.C. 408
	Construction or modification of a bridge or causeway crossing a navigable waterway of the United States.	USCG	Bridge permit	Section 9 of the Rivers and Harbors Act of 1899; General Bridge Act of 1946 (33 C.F.R, Parts 114 and 115; 33 C.F.R. § 2.36)
Cultural Resources	Disturbance of historic properties	FRA, SHPO/THC, Advisory Council on Historic Preservation	Section 106 Consultation	National Historic Preservation Act of 1966, (16 U.S.C. 470) (36 C.F.R. 800)
	Potential conflicts with freedom to practice traditional American religions	FRA	Consultation with affected American Indians	American Indian Religious Freedom Act (42 U.S.C. 1996)
	Disturbance of graves, associated funerary objects, sacred objects, and items of cultural patrimony	FRA	Consultation with affected American Indians	Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001-3002)

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Air Quality	Project impacts to air quality	EPA, TCEQ	Conformity review Applicable Air Pollution Control Permits	
Transportation	Road crossings; construction within ROW	FHWA, TxDOT, Texas Transportation Commission and/or local jurisdictions	Right-of-Way Use Agreements; Road Crossing Permits	
	Temporary access driveways, construction detours and temporary signage	TxDOT and/or local jurisdictions	Encroachment Permits Traffic Management Plan	
Land Use	Land Use and Zoning Permits/Approvals	Local Jurisdictions	Conditional use permits, zoning waivers	
	Conversion of prime farmland	NRCS	Review and coordination of project, however, no permit is anticipated	

Source: AECOM, 2017

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