

Table 1.1.6.2 summarizes Contract Compliance changes associated with the two **FHWA 1273** versions. The version of **FHWA 1273** contained in the prime’s contract with FHWA determines which version applies. **Table 1.1.6.3** compares the provisions of the two versions.

Table 1.1.6.2
Compliance Changes: FHWA 1273 March 10, 1994 vs May 1, 2012

What is required in Subordinate Agreements:	Prime’s contract includes	
	March 10, 1994 FHWA 1273	May 1, 2012 FHWA 1273
Subcontracts and lower tier subcontracts	Include FHWA 1273 in its entirety	Include FHWA 1273 in its entirety
Purchase Orders	Include FHWA 1273, in its entirety	Include a Reference to FHWA 1273
Rental Agreements		
Material supply contracts		
Engineering or architectural contracts		
Design services		
Other agreements for supplies & services		
Emergency contracts solely intended for debris removal		
Certifications:	Prime retains certification from prime, subs & material suppliers (\$10,000+)	Certification not specified
Certification of Non Segregated Facilities (form 274-030-13)		
Certification of Compliance with EEO Provisions on Federal Aid Contracts (form 700-011-13)	Submission of form required	Certification not specified
Poster on Job Site Bulletin Board:		
“Important” Poster	Required on Job Site Bulletin boards	Discontinued; no longer required
Employee Rights; Davis Bacon	NA	Required

Table 1.1.6.3 Summary & Comparison of FHWA 1273 Provisions-

FHWA 1273, Section II- Nondiscrimination		
Topic	FHWA 1273- Mar. 10, 1994	FHWA 1273 May 1, 2012
Applicability of FHWA 1273 in Material Supply Contracts	FHWA 1273 was required in material supply contracts.	Title 23 CFR 230.107(a) excludes material supply contract from requiring insertion of FHWA 1273. Additional text was added to clarify that the requirements of Part 230 (EEO on Federal & Federal Aid construction Contracts) apply to construction contracts and not material supply, engineering, or architectural service contracts.
Executive Order 11246,USDOL, Equal Opportunity	Executive 11246, Equal Employment Opportunity was not addressed	Clarification of USDOL's exclusive compliance authority for 11246 per FHWA Order 4710.8 dated February 1, 1999
29 CFR 1625-Age Discrimination in Employment	This version addressed age discrimination in employment.	Additional regulatory requirements were incorporated including 49 CFR 27 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefits from Federal Financial Assistance).
Federally Assisted contracts, Equal Opportunity Clause (41 CFR 60-1.4(b))	Included provisions on Section II- Nondiscrimination.	Additional regulatory references on the applicability of the Federally Assisted Contracts Equal Opportunity Clause (41 CFR 60-1.4(b) and Construction Contractors Affirmative Action Requirements (41 CFR 60-4.3).
Terminology change: Contracting agency versus State Highway Agency	State Highway Agency was used throughout the document.	"Contracting Agency" replaces 'State Highway Agency'
Terminology change: Minorities and Women versus Minority Groups	Minority groups were used throughout the document.	"Minorities and women" replaces "minority groups".
Bargaining Agreement: Recruitment	Section II.4 (b) discriminatory hiring hall practices cited as violation of 11246.	Bargaining agreements providing for exclusive hiring of referrals which have the effect of discrimination against minorities or women violates federal nondiscrimination provisions.
Apprentices or Trainees	Where feasible, 25% of trainees and apprentices shall be in	The 25% first year provision was deleted. Agencies may reserve training positions for welfare

	their first year of training	recipients.
Nondiscrimination Provisions	Section 11.7 cites authority of DOL for contractor to comply with nondiscrimination provisions.	The reference to DOL was removed; however the provision requiring the contractor to comply with nondiscrimination is intact.
Accommodations for Disabled Persons	Addressed nondiscrimination on the basis of race, color, religion, sex, or disability.	Reasonable accommodation for individuals with disabilities added.
49 CFR 26 Participation by DBE's	Did not directly address 49 CFR 26.	New Section II.10 citing this CFR and requiring the contractor to carry out the requirements contained therein.
Certification for non segregated facilities	Required certification of non segregation by contractor, subcontractors, material supplier or vendors.	Certification requirement removed but responsibility for ensuring non segregated facilities remains.

Section III- Nonsegregated Facilities

Required certification of non segregated facilities.	Paragraphs have been combined into one paragraph and certification of non segregated facilities has been removed.	
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Section IV- Davis-Bacon and Related Act Provisions

Topic	FHWA 1273- Mar. 10, 1994	FHWA 1273 May 1, 2012
Terminology change- Davis-Bacon vs. Minimum Wage	Titled "Payment of Predetermined Minimum Wage"	Davis Bacon and Related Act Contract Provisions including 29 CFR 5.5(a) (1) through (10) (Contract provisions, Enforcement, Reports, Liquidated Damages, Suspension, Restitution)
Job Site bulletin board	Required posting of "Important Wage Rate Information Poster" (FHWA form 1495)	"Important" poster replaced with "Employee Rights Under the Davis-Bacon Act" poster.

Section V- Contract Work Hours and Safety Standards

Terminology change- Contract Work Hours and Safety Standards vs. Statements and Payrolls	Titled "Statements and Payrolls"	Re-titled to "Contract Work Hours and Safety Standards Act Provisions".
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Section VI- Subletting or Assigning the Contract		
Contractor's statement of Materials and Labor	Required completion of Form FHWA-47 (Statement of Materials and Labor used by contractors On Highway Construction involving Federal Funds)	Submission of form removed; requirements for subletting or assigning the contract described.
Section VII- Accident Prevention		
Accident Prevention	Scope not specified	States the section applies to all Federal Aid construction contracts and related subcontracts.
Section VIII- False Statements Concerning Highway Projects		
False Statements	Scope not specified	States the section applies to all Federal Aid construction contracts and related subcontracts.
Section IX- Implementation of Clean Air Act and Federal Water Pollution		
Implementation of Clean Water Act and Clean Air Act	Contained in Section X	Contained in Section IX References cited for Federal Clean Water and the Clean Air Act as recommended by the EPA.
Section X- Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion		
Provision applies to whom	Not specified	All Federal aid construction contracts, design-build, subcontracts, lower tier subcontracts, purchase orders, lease agreements, consultant contracts or other transactions.
Terminology Change Attachment A title	Titled 'Employment Preference to Appalachian Contracts'	Re-titled as Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts.