



U.S. DEPARTMENT OF
ENERGY



ISM Workshop on Activity-level Work Planning and Control (WP&C)

Regulatory Aspects of ISM

Patricia Worthington, PhD
Director Office of Health and Safety
Office of Health Safety and Security

May 15-16, 2013



Task 2.d Evaluating current ISM clause in DOE Contracts

- Objective: evaluate the clarity of DOE expectations associated with activity-level WP&C
- Co-Leads: EM, NNSA, and SC (HQ Chief Operating Officers) with support from MA and HSS
- Expected Completion Date: April 2013



DEAR Clauses

- **Department of Energy Acquisition Regulations**
- 48 Code of Federal Regulations (48 CFR)
- Rules developed using the Administrative Procedures Act
 - Formal Process for the Development of Federal Regulations, Requires
 - Internal DOE Review, Secretarial and Program Office Concurrence
 - Notice of Proposed Rule Publication in the Federal Register
 - Public Comment and Resolution
 - Final Rule Publication



DEAR Clauses

Objectives, Principles and Functions included in the following DEAR Clauses:

- 48 CFR 970.5223.1, *Integration of ES&H into Work Planning and Execution*
- 48 CFR 970.5204-2, *Laws, Regulations and DOE Directives*
- 48 CFR 970.1100-1, *Performance-based Contracting*



48 CFR 970.5223-1

Integration of Environment, Safety and Health into Work Planning and Execution

- Guiding Principles
- Core Functions
- Effectiveness measures
- System review and approvals
- Requires 48 CFR 970.5204-2 (Law, Regulation)
- Flow down to Sub-Contractors



48 CFR 970.5204-2

Laws, Regulations and DOE Directives

- 'A' - List
 - Laws and Regulations
- 'B' – List
 - Departmental Directives
 - Based on Hazards Associated with the Work
- Sub-Contractor flow down



48 CFR 970.1100-1

Performance-based Contracting

- Performance requirements- results rather than methods of accomplishing the work
- Measurable performance standards and objectives and quality assurance surveillance plans



Additional DEAR Clauses

- **970.1504-1-2 Fee policy.**
 - “Performance requirements relating to ES&H will be set forth in the contract’s ES&H terms and conditions, including a DOE approved Integrated Safety Management System (ISMS), or similar document.”
- **970.5215-3 Conditional payment of fee, profit, or incentives.**
 - “The payment of earned fee, fixed fee, profit, or share of cost savings... is dependent upon compliance ... including performance under an approved Integrated Safety Management System (ISMS)”
 - “...Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the ISMS...”