



Schulich School of Law

Dalhousie University

Marine and Environmental Law Institute

The Canadian Offshore: Regulatory
Challenges

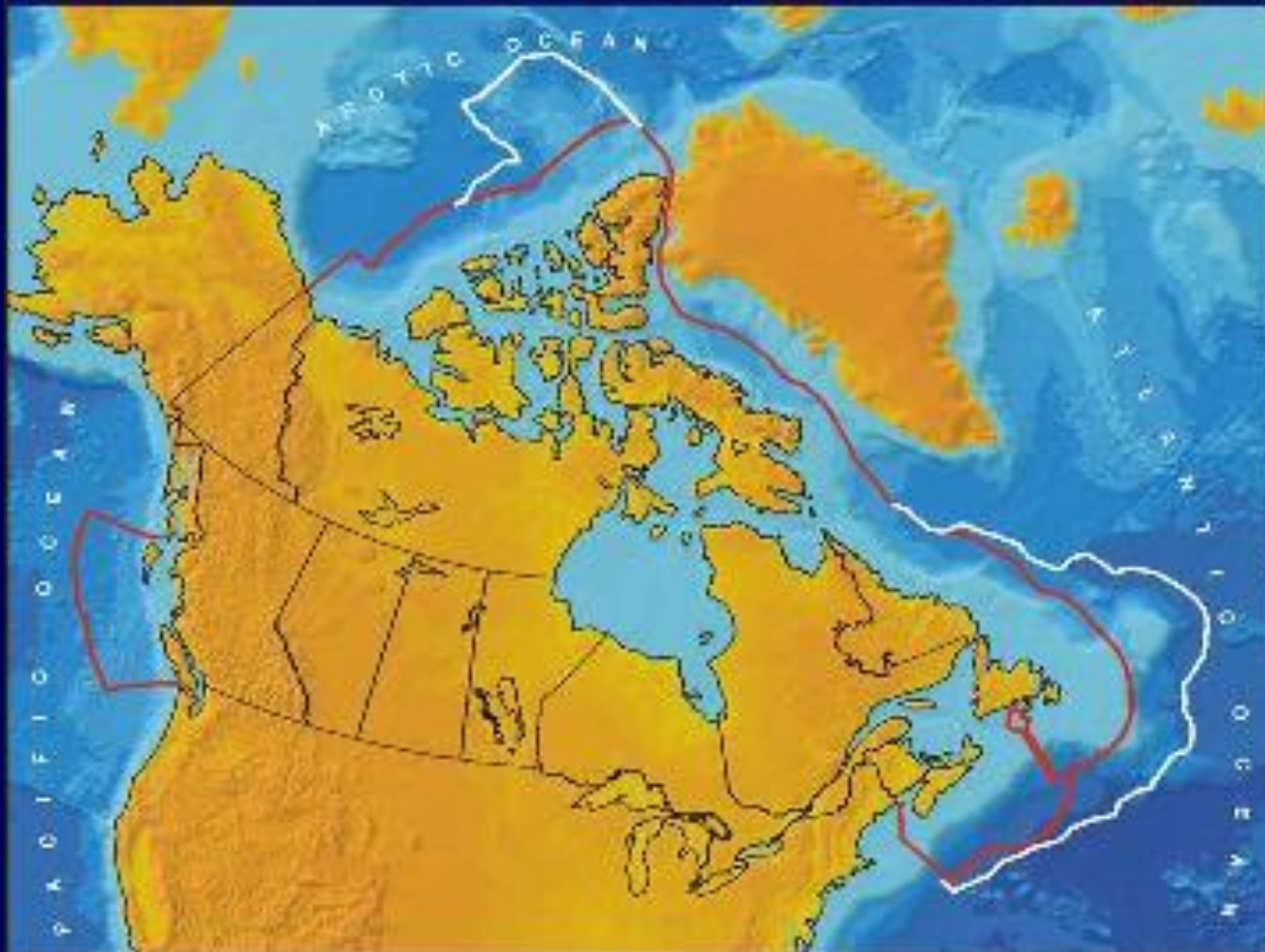
Phillip Saunders

University of Calgary

Faculty of Law - Feb. 10, 2011

Introduction

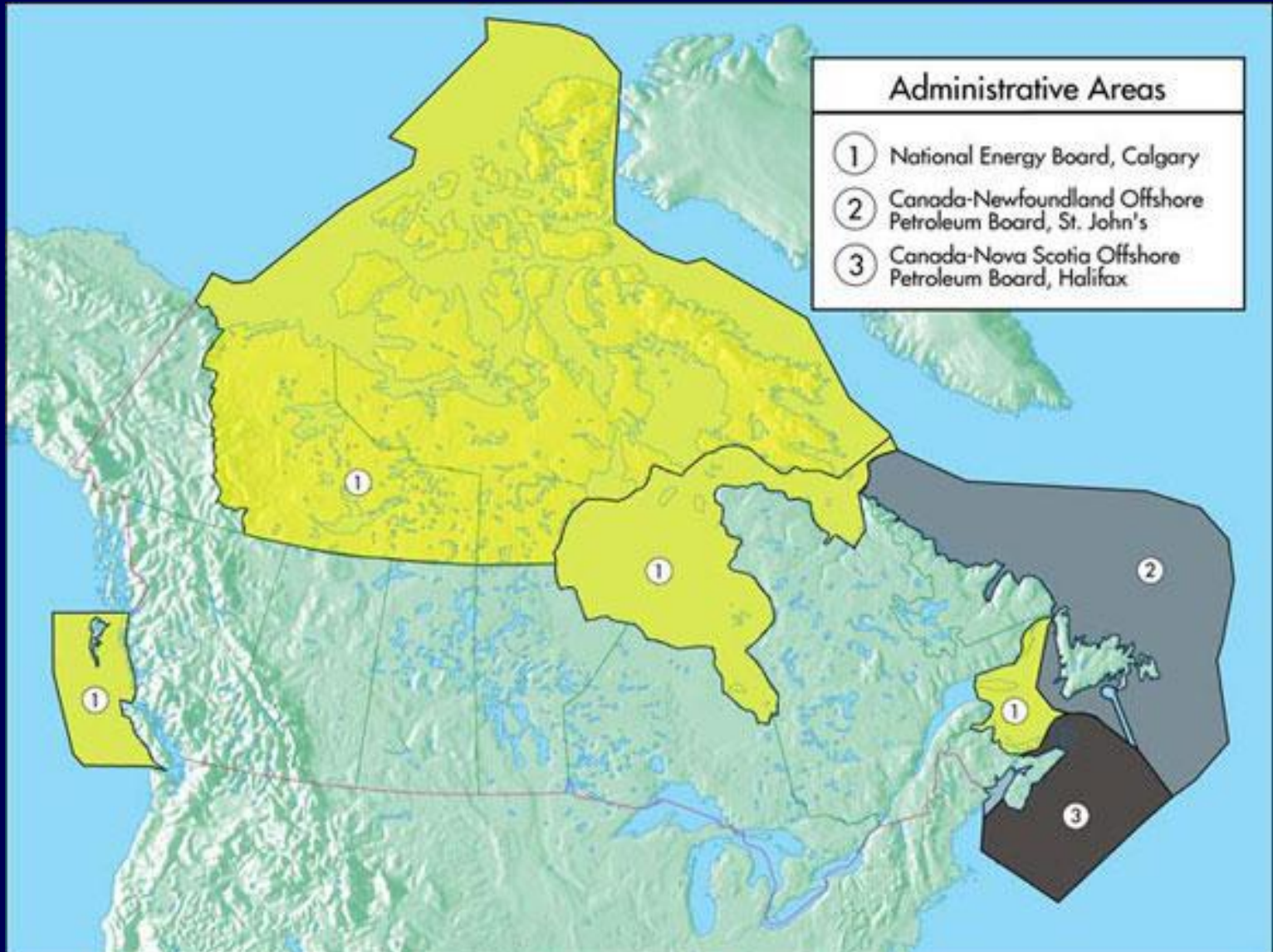
- The Canadian Offshore: Jurisdiction and Agency Roles
- Regulatory Framework(s)
 - Newfoundland and Labrador
 - Nova Scotia
- Prevention and Preparedness
- Environmental Impact Assessment



Three Oceans: 7 mill.1 Sq km of jurisdiction
EEZ proclaimed 1977

Source: Govt. of Canada

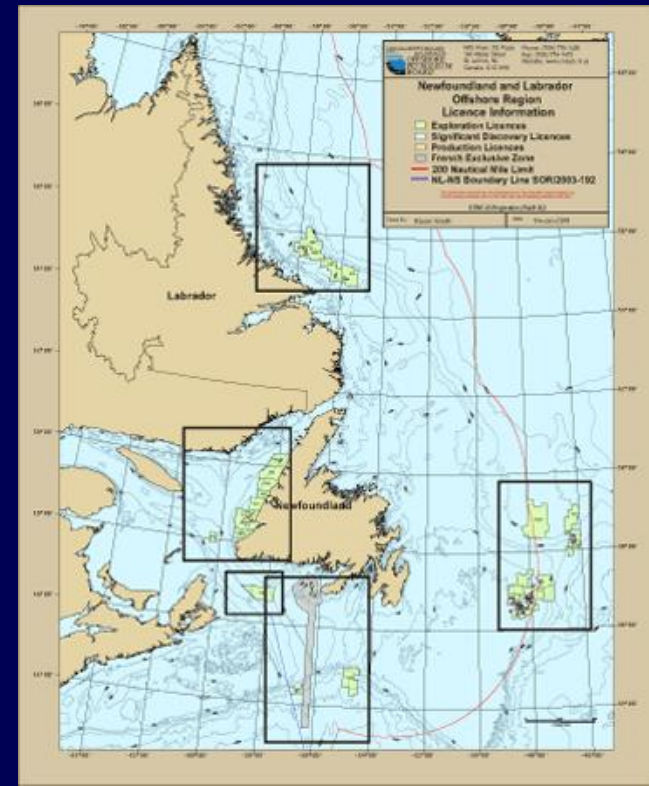
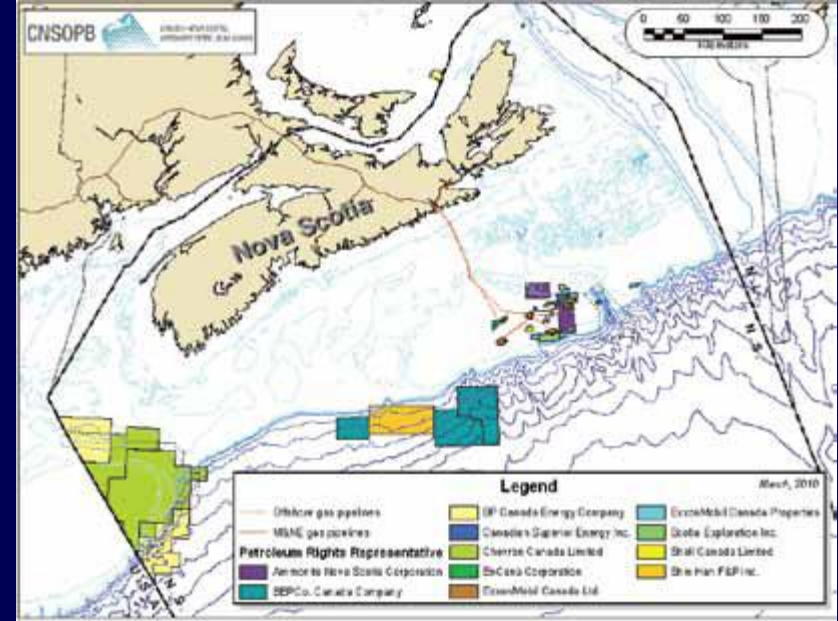
“Jurisdiction”



Source: NEB

Nova Scotia and N. & L. Offshore Boards

- Pursuant to the Accord Legislation
 - Newfoundland & Labrador (1987)
 - Nova Scotia (1988)
- Joint Federal-Provincial Boards
- Compromise on jurisdiction



Mandates

Nova Scotia Board

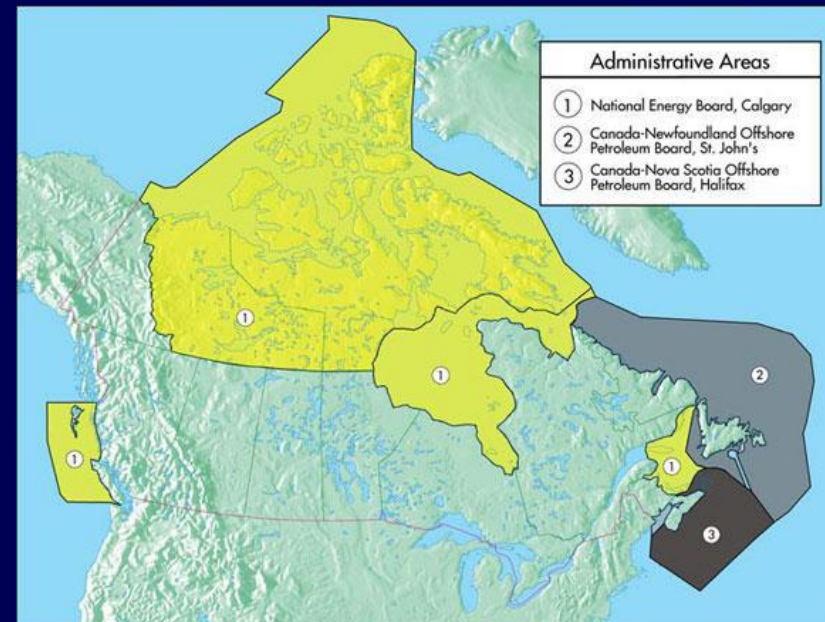
- health and safety
- environment,
- management and conservation
- employment, industrial benefits
- licences for exploration and development, and
- resource evaluation, data collection.

N& L Board

- worker safety environment
- management of land tenure;
- maximum hydrocarbon recovery
- Employment, industrial benefits

- National Energy Board
 - Quasi-judicial; regulates offshore exploration and development
- INAC – federal lands in North; issuance of licences (in partnership with govts, aboriginal organizations)
 - Drilling operations approval by NEB

Other Areas



Other Agency Roles

- INAC Licensing and lead agency for some facilities
- NRCAN: responsible for NEB; role in Boards
- Fisheries and Oceans & Coast Guard (lead on spill response)
- Environment Canada (Assessment Process, CEPA, Ocean Dumping)
- Regional Environmental Emergency Teams
- Provincial, territorial govts

NS & N&L Regulatory Framework

- Accord Legislation
- Regulations, including:
 - Drilling and Production
 - Diving
 - Geophysical Operations
 - Liability
- Guidelines
 - Drilling and Drilling Operations

Other Applicable Legislation

- Fisheries Act
- Oceans Act (Including MPAs)
- CEAA
- Shipping Act
- Migratory Birds Convention Act
- NOTE – Use of MOUs with other responsible agencies

Prevention and Preparedness

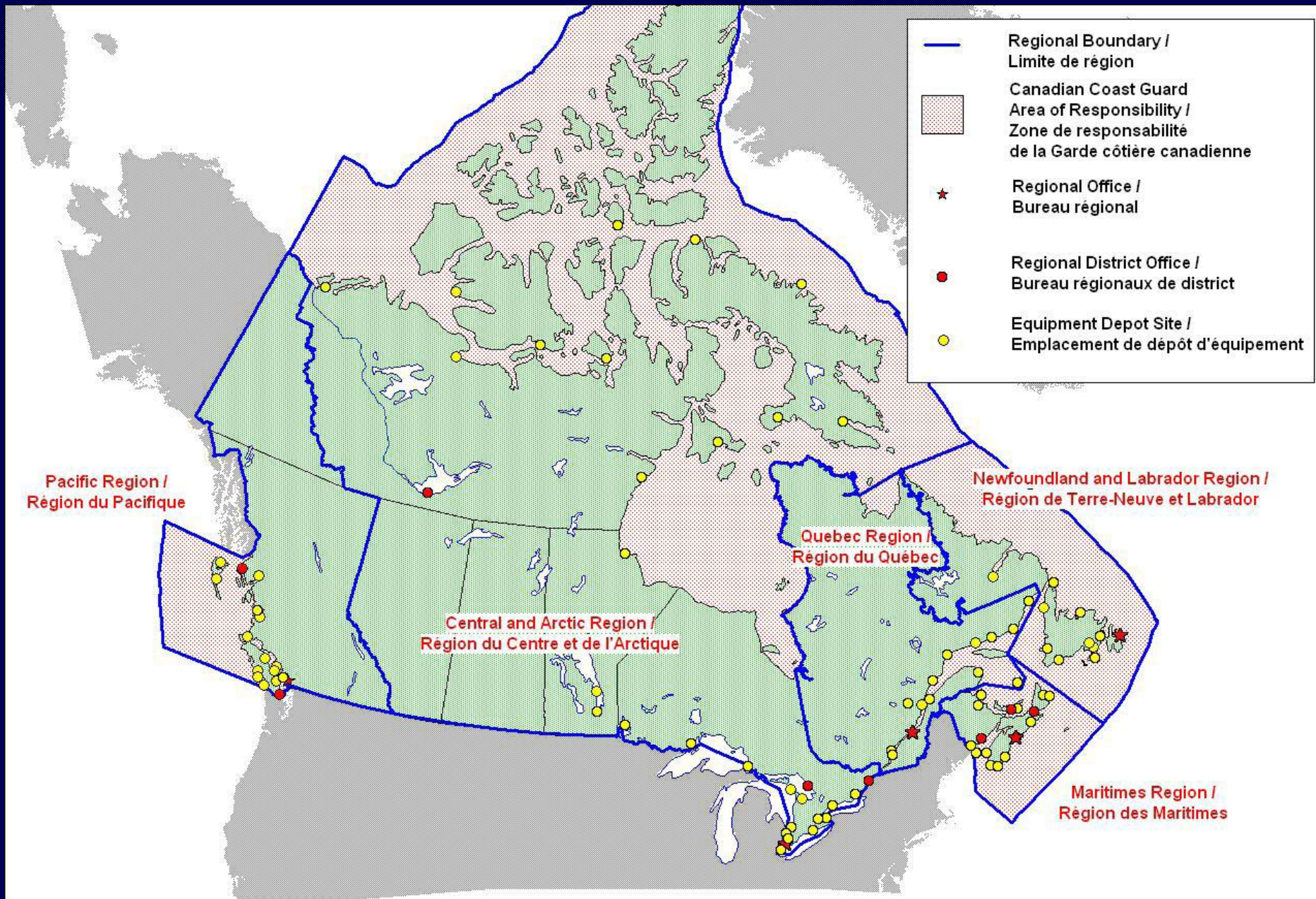
- Regulations generally goal-based, some prescriptive
- NS, N&L Boards have power to approve at each stage of drilling, development
- Power to shut down, refuse work authorization
- Egs – BOPs; relief well “capability”

Response

- All levels – primary responsibility with operator
- CG lead in monitoring – but failure to respond – govt steps in & can recover costs
- Three tier Response (cascading):
 - Local
 - Regional
 - Global

Capacities

- Industry – as regulated
 - Includes contracted capacity – eg. ECRC
 - Can include their global capacities
 - Response time?
- Govt: Coast Guard
 - lead agency and can call on others
 - Sufficiency and location of fleet & equipment?



Coast Guard Fleet

- 2 heavy icebreakers
 - 1969 and 1983
- 4 medium icebreakers
- 7 Light icebreakers
- USCG 8th district: air, sea & auxiliary
- Location issues and time to “cascade”?



CCGS Louis St. Laurent

Scale of operations

- US Gulf: 6,500 producing wells, 130 mobile drilling units
- Nfld: 355 wells total, 15 below 500 m.
- Chevron Lona O55 – 2600 m. 430 km offshore
- NS – 200 total
- Production: 4 in NL, 1 in NS

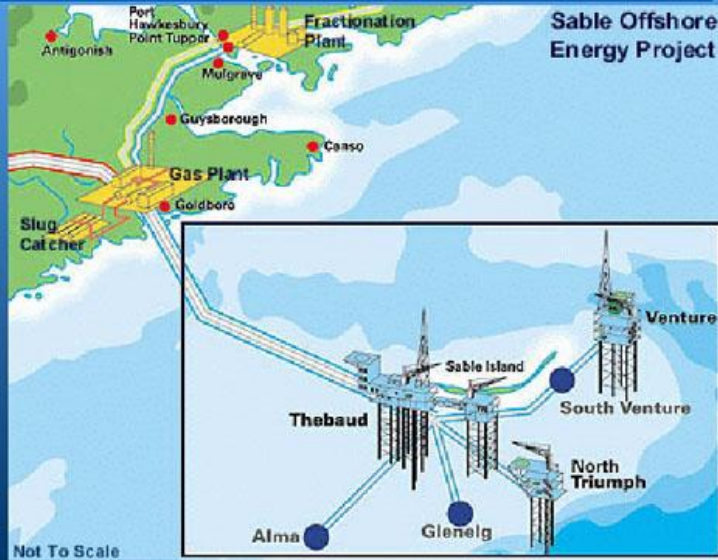


Environmental Assessment

- Issues arising from multi-jurisdictional EIA processes
 - Sable Experience: a mile wide & inch deep?
- Reliance on CEAA process & advance planning
- Strategic Assessments
 - Legitimate tool or avoidance technique

SOEP- Offshore/onshore

This map illustrates the current plants and drilling stations. The blue dots represent future drill stations.



Random Comments

- The problems & opportunities of minimal experience & history
- Scale of operations and reliance on industry
- Goals-based and prescriptive regulation: agency capacity?
- Coherence and continuity in regulation with multiple agencies



Sable Island (Nova Scotia)