

Re-allocating spill liability



All stakeholders called to take a share of liability

The relationship between ship management and rising US liabilities was highlighted at last week's Hellenic-American/Norwegian-American Chambers of Commerce shipping conference in New York.

International Registries managing partner Clay Maitland argued that funnelling all liability to the shipowner is "simply not a viable business model... We've got to face up to the fact that the only way we're going to stay in business is a reasonable and



**Clay Maitland:
New liability
from US
regulations must
be apportioned**

[Photo: Greg Miller]

sensible allocation of these risks" among stakeholders (including ship managers).

"The *Deepwater Horizon* disaster should concentrate our attention – the name of the game is liability," stressed Maitland. "If I'm an investor

in Greenwich, Connecticut, on a ship subcontracted out to a major ship manager in Limassol, I don't want all the liabilities on my end for a casualty that is the result of the human factor," he said, urging owners to reassess contracts and

properly apportion liabilities. Maitland believes the liability issue goes all the way to the root of the shipping business – the investor. He noted that many investors do not possess the expertise to operate ships so they contract out technical management and crewing. Yet they ignore the risk their entire investment can be suddenly "annihilated" by liabilities caused by such contractors. The apportioning of liability between owners and managers was highlighted not just by 2010's *Deepwater Horizon* case, but also in 2007's *Cosco Busan* spill in San Francisco, he added.

Maitland suggested that one option is to bring crewing, training and ship management in-house, but conceded that "this business model is very expensive". ■

Managing a strong dose of US regs



Cost concerns rise over fuel and ballast schemes

Navigating through US regulatory channels in 2011 will require a steady hand as ship managers keep close watch over ballast water and clean fuel schemes that could severely increase costs.

The US Coast Guard is expected to issue a final rule for ballast water performance standards in April or May. The rules follow the IMO Convention in most respects but, unlike the IMO, compliance isn't expected to be dependent on the size of the vessel and it will apply to all newbuildings. The rule proposed requires that all vessels launched that want to discharge ballast in US waters in 2012 will require a ballast water treatment system. What concerns ship managers is that the rules

proposed by the Coast Guard will require those treatment systems to meet a 'phase two' compliance standard in 2016 that is 1,000 times more stringent than the IMO standards.

The Chamber of Shipping of America, whose members include shipowners and ship managers that trade in the US, found solace in a January report by the state of California – one of the toughest states when it comes to environmental laws – that acknowledged ballast water technology beyond the requirements of the IMO does not yet exist.

Ship managers are hoping that the US rule, when released, will have undergone substantial changes from the original proposal. "There's a lot of concern about what the heightened requirements of the ballast water requirements are going to be and whether there will be

equipment to deal with it," said Bruce Fernie, VP of operations for Pennsylvania ship manager Keystone Shipping.

'Regulatory issues we're faced with this year are more significant'

"These regulatory issues we're faced with this year are more significant in terms of increased costs and the time out of service for installation."

Increased operational costs are a concern for Fernie and other ship managers charting another potentially significant change: a proposed requirement in California to extend its low-sulphur fuel requirements around

the Channel Islands near the ports of Los Angeles and Long Beach. Currently, ocean-going vessels switch from residual fuel to distillate fuel once they're within 24 miles of the coastline. The new rule, likely to come into effect sometime this year, would require vessels to re-route further offshore to avoid paying almost twice as much for the cleaner-burning distillate.

"It would be an operational burden on any ship manager bringing ships in and out of Southern California," Pacific Merchant Shipping Association (PMSA) vice-president TL Garrett told *Fairplay*, adding it could be a big enough burden to cause cargo to move to other ports.

The proposed rule, issued by the California Air Research Board, has been appealed by PMSA and others to a US district court. A decision is expected shortly. ■