

# Ignorance of US rules is no defence

Companies can break US pollution rules through lack of knowledge

Ignorance about current legislation in the US prevents companies from taking proactive steps to avoid problems, delegates were told at a conference on Maritime Environmental Compliance and the US Perspective held in Italy in June. “The lack of correct information about US environmental regulations in force quite often leads to their breach,” noted Michael Minogue, president and CEO of US-based ECM Maritime Services, which organised the event jointly with the Italian P&I broker PL Ferrari.

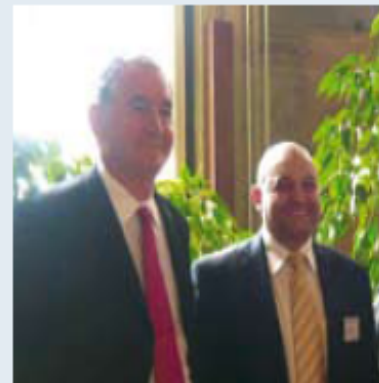
Minogue and his senior vice-

president Nishit Kapoor warned the 50 ship owners and managers attending that penalties could affect a company’s very survival.

They summed up the US approach in three words – investigate, criminalise, prosecute – and reminded delegates that the US is well known for its hardline approach to interpreting MARPOL via the Act to Prevent Pollution from Ships (APPS). Investigations and prosecutions are typically initiated by the US Coast Guard before being handed to the Environmental Crimes Division at the US Department of Justice (DOJ).

Crews and vessels could be detained but operators can face jail sentences and substantial fines, they said, so it is common

**Penalties could affect a company’s very survival**



**Michael Minogue (left) and Nishit Kapoor of US-based ECM Maritime Services** [ Photo:Angelo Scorza ]

for defendants to sign a plea bargain to avoid prosecution, often agreeing to a multi-million dollar monetary fine and up to five years’ probation governed by an Environmental Compliance Plan (ECP).

They advised their audience to take action to avoid such dire consequences at all costs and recommended that they voluntarily adopt and implement an Environmental Management System (EMS) that was in line with typical DOJ ECP requirements.

This could provide relief under the Coast Guard’s Voluntary Disclosure Policy, which is set out in an appendix in the *Maritime Law Enforcement Manual*, if an environmental violation came to light. Companies satisfying the requirements of that appendix would not have their cases recommended by the Coast Guard for prosecution by the DOJ, they said. 