This is a presentation about the Commission’s Rule 68D-24.144, Florida Administrative Code (FAC), which delineates boating safety zones in Monroe County. This proposed rule would create a boating safety zone on the Intracoastal Waterway (ICW) at the US-1 bridge over Jewfish Creek in Key Largo.
The FWC has been granted the statutory authority to regulate boating traffic on the Intracoastal Waterway (ICW) for either Manatee Protection or Boating Safety. The Division of Law Enforcement is responsible for creating boating safety zones in accordance with Florida Statutes and Florida Administrative Code (FAC). Florida Statute 327.46(1)(a) authorizes the FWC to create boating restricted areas for the purpose of protecting boating safety. Rule 68D-24.003 Florida Administrative Code, further clarifies that authority by specifying that zones be created to address boating safety issues around bridges, public marine infrastructure such as boat ramps, marinas and fueling facilities. Florida Statute 327.60(2)(c) prohibits local governments from creating boating restricted areas on the ICW. Rule 68D-24.003 FAC requires that a resolution in support of the boating safety zone must be received from the local government prior to the Executive Director approving the boating safety zone. The authority granted to the FWC in Chapter 327 F.S. and 68D-24 F.A.C. excludes the creation of a boating safety zone to address the following issues: property damage (seawalls, docks, shoreline erosion), private marinas that do not contain a fueling facility or noise abatement.
A local boater first brought potential boating safety issues at Jewfish Creek to our attention. The US-1 Bridge over Jewfish Creek was replaced in 2008 with a high clearance, fixed bridge by Florida Department of Transportation. Previously, this bridge was a low clearance drawbridge, which required larger vessels to slow down and wait for a bridge opening. The replacement of the bridge had the effect of allowing larger vessels to transit Jewfish Creek on plane. On the east side of the Creek, Gilbert’s Resort and Marina provides a public fueling facility with direct frontage to the ICW. Both sides of Jewfish Creek are lined with vessel docking facilities, either public or private.

The Boating and Waterways section conducted an online survey to determine if there are boating safety issues at narrow stretches of the ICW in the Upper Keys region. Approximately 1,000 surveys were handed out by FWC Officers and US Coast Guard Auxiliary members to boaters using Jewfish, Dusenberry and Grouper Creeks in the Key Largo area. During the survey period, only four responses were received. Only one negative boating safety experience was reported, and that incident occurred within Jewfish Creek.
Boating and Waterways staff also held a public meeting at the Monroe County Government Center in Key Largo on December 13, 2011. Staff from Monroe County, FWC officers and approximately 7 members of the public attended the meeting. 8 comments from boaters were received electronically through MyFWC.com

Comments received at the public meeting and electronically unanimously supported the proposed regulatory zone. Three people at the public meeting requested that consideration be given to extending the zone 1,000-feet south to provide protection for boats using the area for anchorage.
The zone as proposed is shown on the map. The slow speed minimum wake restriction would be in place all day and year-round.
Staff is currently working with representatives from Monroe County to receive a resolution in support of the proposed rule. Commissioner Sylvia Murphy, representing the Monroe County Board of County Commissioners, has indicated their support for the proposal.

Staff recommends that the Commission approve the publishing of a Notice of Proposed Rule in the Florida Administrative Weekly and, as a result of public support for the proposed rule, requests approval to later file the final rule for adoption, as allowed by law, provided there are no requests for a hearing on the rule.

Rule 68D-24.003(4), Florida Administrative Code, states:

“The executive director may approve for adoption rules establishing boating restricted areas. This delegation of authority is subject to the following criteria:

(a) A local government has passed a resolution requesting or endorsing a request that a boating restricted area be established;

(b) The area is designed to protect public safety;

(c) The requested area is in the vicinity of a bridge, public boat ramp, public dock, public marina, public fueling facility, public sewage pump-out facility, or a specific navigational hazard;

(d) Personnel from the Fish and Wildlife Conservation Commission’s Division of Law Enforcement confirm that the proposed area presents a danger to public safety if it remains unregulated;

(e) The rule regulates the boating restricted area at one of the following levels – “Idle Speed No Wake,” “Slow Speed Minimum Wake,” or “30 miles per hour;”

(f) No written objection to the establishment of the proposed restricted area has been received from the United States Coast Guard, the Army Corps of Engineers, or a Navigation District established under Chapter 374, F.S.

(g) No timely request for a public hearing is received and no timely challenge to the proposed rule is filed;

(h) No correspondence or other written communication is received showing organized public opposition to the proposed rule.”