

available information regarding manatee use of this area. The final rule designates the portion of the Caloosahatchee River navigation channel from the Seaboard Coastline Railroad trestle downstream to Channel Marker "25" to be slow speed in the channel from November 15 to March 31, and not more than 25 mph in the remainder of the year.

Aerial survey data indicate that manatees do occur throughout this portion of the river throughout the year. However, the analysis of available data by FMRI (FWCC 2002) indicates that manatees are less likely to occur near the navigation channel downstream of the general area of Marker "25". This generally coincides with the change in the physiography of the river in this area. The river narrows upstream of channel Marker "25," and Beautiful Island and other smaller islands act to further constrict the river. This constriction explains the change in manatee distribution at this point in the river. Manatees are more likely to be found in and near the navigation channel upstream of Marker "25" than downstream. This fact, combined with the above-referenced lower level of boat traffic in this portion of the river relative to areas further downstream, led us to conclude that the existing regulations downstream of Marker "25" were sufficient, whereas increased protection is warranted between Marker "25" and the railroad trestle.

*Comment 24:* With reference to the portion of the Caloosahatchee River from the Edison Bridge to the Caloosahatchee Bridge, one peer reviewer noted that manatee sightings are lower in this area than in other portions of the river and may not warrant the proposed slow speed (channel included) designation. However, a year-round slow speed zone in this area may be warranted for other reasons, such as travel through a constrained area and/or boater safety. Another peer reviewer stated that the proposed rule seems appropriate for this area, noting that the current slow speed restrictions are along the southern shore only, creating a situation where many boats "short-cut" the area by running on plane along the north shore. The FWCC stated that telemetry data, boat traffic patterns, and the physical configuration of the downtown area may combine to make that area higher risk for manatees.

*Response 24:* We have carefully reviewed the above comments and other public comments and concluded that the proposed action is warranted in this area due to the reasons cited in our proposed rule and comments received from the FWCC and peer review.

*Comment 25:* With reference to the portion of the Caloosahatchee River from the Caloosahatchee Bridge to the Cape Coral Bridge, one peer reviewer noted that distribution and travel data suggest that manatees remain close to the shoreline and away from the channel. Requiring slow speed within the 6-foot contour line would encompass most of the aerial survey sightings and is the depth at which manatees most frequently occur. This depth also provides manatees the opportunity to escape from passing watercraft. In the Caloosahatchee River, most of the manatee sightings as well as the 6-foot contour line appears to fall within 500 meters (1,640 feet) from the shore. From a scientific perspective, it may be feasible to allow a 25-mph corridor from major access points to the channel in waters deeper than 6 feet. Another peer reviewer indicated that the proposed designations seem appropriate based on boating activity in the area. The FWCC stated that data do not support expansion of the shoreline buffer beyond the existing 0.25-mile width, but designation of the waters between the existing buffer zones as 25-mph maximum speed would provide some potential reduction of risks to manatees.

*Response 25:* We generally agree with the reviewers' interpretation that manatee use data in this portion of the river indicate that manatees travel along the shoreline. We conducted a more detailed review of the recent special study of the Caloosahatchee River by the Florida Marine Research Institute (FWCC 2002), and it appears that the majority of manatee use in this area occurs within the current 0.25-mile (402 meters) shoreline buffer, a conclusion that is very similar to the peer reviewer's conclusions. Therefore, this final rule adopts a 0.25-mile minimum shoreline buffer, as marked. Between the shoreline buffers, the maximum allowable speed will be 25 mph, including the channel, except where the channel occurs within 0.25 mile from the shoreline and watercraft are restricted to slow speed.

While we agree that water depths of 6 feet or greater afford manatees greater opportunity to avoid collisions with watercraft, it does not appear that the 6-foot contour line approximates manatee distribution in this portion of the river, as this contour extends a great distance from shore in this area (particularly from the western shoreline), whereas manatee aerial survey data show manatee use concentrated closer (generally within 0.25 mile) to shore.

*Comment 26:* With reference to the portion of the Caloosahatchee River

northwest and southeast of the Cape Coral Bridge, as with the Edison/Caloosahatchee Bridges area, peer reviewers noted that manatee sightings are lower in this area than in other portions of the river and may not warrant the proposed slow speed (channel included) designation. However, a year-round slow speed zone in this area may be warranted for other reasons, such as travel through a constrained area and/or boater safety. The FWCC and others stated that further speed restrictions were not warranted in the vicinity of this bridge.

*Response 26:* Even though manatees have not been sighted as frequently near the bridge as in other portions of the river, because this portion of the river is used primarily as a travel corridor it is reasonable to conclude that manatees sighted upstream and downstream of this bridge regularly travel under the bridge. Therefore, it is logical to conclude that manatees regularly occur in this area. We believe that, due to the presence of causeways and pilings, many bridges, including the Cape Coral Bridge, create a funneling effect for both watercraft traffic and manatees. Therefore, we believe additional protection measures are warranted in the vicinity of such bridges. Further, we believe that the river beneath the Cape Coral Bridge is sufficiently wide to allow for the higher speed operation in the navigation channel. As such, we have modified our proposal for this area from a shoreline-to-shoreline slow speed zone. We will allow watercraft to proceed at not more than 25 mph in the channel and slow speed outside the channel from 500 feet upstream and 500 feet downstream of the Cape Coral Bridge.

*Comment 27:* With reference to the portion of the Caloosahatchee River southeast of the Cape Coral Bridge to Channel Marker "72," comments received were essentially the same as those addressed in comment 25 due to the similarity of the proposed designations.

*Response 27:* See the response to comment 25.

*Comment 28:* With reference to the portion of the Caloosahatchee River from Channel Marker "72" to Channel Marker "82," one peer reviewer stated data indicate that manatees occur along the shoreline as well as toward the channel in this portion of the river, with telemetry data indicating that animals may be crossing the channel to get from one side of the river to the other at Redfish Point (a relatively narrow portion of the river). Therefore, the proposed rule for this portion of the river appears to be justified. Another