

## **FWC Responses to questions on orange cup coral:**

1) ML collectors are saying it is everywhere and overtaking everything. Is there any info on it being a nuisance species? **Response: It preferentially settles on artificial substrate; it is not taking over all over the place and so far no indication it is displacing native corals.**

2) Is it primarily in state waters or federal waters? If it is in state waters then it would not do any good for the SAFMC to allow its harvest in federal waters. **Response: We are not certain about its distribution in state vs. federal waters. That would likely depend on where you were geographically.**

3) *Does FWC have a position on whether we want to consider allowing its harvest or not?*  
**Response: It would be opening harvest to a scleractinian which would then require LE to be able to differentiate among species. We are concerned about the fact that LE would have to be able to tell the difference between orange cup coral as being allowed for harvest, and all of the other species that aren't allowed. Although the listing of *Acropora* is also going to require that LE can tell the acroporids, there is funding to conduct workshops under our recent training proposal. The orange cup coral is similar to some other stony corals. We can't imagine FKNMS would allow collection. At this point we are hesitant to allow collection in the near future. Once we allow this non-native coral species to be harvested, why not all of the others.**

**With regards to prohibited corals, 68B-42.009, F.A.C. states as follows:**

*68B-42.009 Prohibition on the Taking, Destruction, or Sale of Marine Corals and Sea Fans; Exception.*

*(1) Except as provided in subsection (2), no person shall take, attempt to take, or otherwise destroy, or sell, or attempt to sell, any sea fan of the species *Gorgonia flabellum* or of the species *Gorgonia ventalina*, or any hard or stony coral (Order Scleractinia) or any fire coral (Genus *Millepora*). No person shall possess any such fresh, uncleaned, or uncured sea fan, hard or stony coral, or fire coral.*

*(2) Subsection (1) shall not apply to:*

*(a) Any sea fan, hard or stony coral, or fire coral [but only if it was] legally harvested outside of state waters or federal Exclusive Economic Zone (EEZ) waters adjacent to state waters and entering Florida in interstate or international commerce. The burden shall be upon any person possessing such species to establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and any customs receipts, and to show that such species originated from a point outside the waters of the State of Florida*

*or federal Exclusive Economic Zone (EEZ) adjacent to state waters and entered the state in interstate or international commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute a violation of this rule.*

**This rule prohibits possession of any sea fan, hard, stony or fire coral even if it was harvested in the EEZ adjacent to Florida. In the case of orange cup coral, it would not be allowed even for possession in Florida waters, even if it was legally harvested in the EEZ adjacent to Florida, without a change in the above FWC rule.**

### **FWC Responses to questions on corky sea fingers:**

**1) It seems that corky sea fingers that they might be allowed in our rule. It depends on the interpretation of our rule. However, if the SAFMC does want to change their rules in regards to allowable octocorals then they would need to consider 50CFR 622.3(c) that states as follows:**

*(c) For allowable octocoral, if a state has a catch, landing, or gear regulation that is more restrictive than a catch, landing, or gear regulation in this part, a person landing in such state allowable octocoral taken from the Gulf or South Atlantic EEZ must comply with the more restrictive state regulation.*

**In the case of the allowable octocorals, even if the SAFMC were to allow the harvest of additional species, they would not be allowed to be landed in the State of Florida pursuant to the regulation above. FWC rule 68B-42, F.A.C. does not allow harvest (“catch”) of these species, therefore the species would not be allowed to be landed in Florida pursuant to 50CFR 622.3(c) because it won’t change what is legal to be landed in Florida unless the FWC changes the ML rule to be consistent.**

**Another thing to note: For any species (not just corals and octocorals), in order for regulations to be changed and applied within waters of the Florida Keys National Marine Sanctuary (FKNMS), the rules would have to be approved by the Sanctuary, the FWC, and the GMFMC.**

**In general, enforcement is a very big issue with octocorals and corals, more so than most other fisheries because of the difficulties with training and ID. We would like to avoid conflicting regulations due to the difficulties for enforcement of state rules if they are stricter.**