§ 218.2 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to § 216.106 of this chapter and § 218.7, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 218.1(b), provided the activity is in compliance with all terms, conditions, and requirements of this subpart and the appropriate Letter of Authorization.

(b) The activities identified in § 218.1(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 218.1(c) is limited to the following species, by the indicated method of take and the indicated number of times:

(1) Level B Harassment:
   (i) Mysticetes:
      (A) Humpback whale (Megaptera novaeangliae)—10 (an average of 2 annually); and
      (B) Fin whale (Balaenoptera physalus)—10 (an average of 2 annually).
   (ii) Odontocetes:
      (A) Sperm whale (Physeter macrocephalus)—10 (an average of 2 annually);
      (B) Pygmy or dwarf sperm whales (Kogia sp.)—15 (an average of 3 annually);
      (C) Rough-toothed dolphin (Steno bredanensis)—5 (an average of 1 annually);
      (D) Bottlenose dolphin (Tursiops truncatus)—145 (an average of 29 annually);
      (E) Pantropical spotted dolphin (Stenella attenuata)—350 (an average of 70 annually);
      (F) Striped dolphin (S. coeruleoalba)—340 (an average of 68 annually);
      (G) Clymene dolphin (S. clymene)—165 (an average of 33 annually);
      (H) Atlantic spotted dolphin (S. frontalis)—215 (an average of 43 annually);
      (I) Common dolphin (Delphinus delphis)—10,965 (an average of 2,193 annually);
      (J) Risso’s dolphin (Grampus griseus)—80 (an average of 16 annually); and
      (K) Pilot whales (Globicephala sp.)—50 (an average of 10 annually).

(2) Level A Harassment (injury):
   (i) Atlantic spotted dolphin—5 (an average of 1 annually);
   (ii) Common dolphin—100 (an average of 20 annually);
   (iii) Pantropical spotted dolphin—5 (an average of 1 annually); and
   (iv) Striped dolphin—15 (an average of 3 annually).

§ 218.3 Prohibitions.

Notwithstanding takings contemplated in § 218.2 and authorized by a Letter of Authorization issued under § 216.106 of this chapter and § 218.7, no person in connection with the activities described in § 218.1 may:

(a) Take any marine mammal not specified in § 218.2(c);

(b) Take any marine mammal specified in § 218.2(c) other than by incidental take as specified in § 218.2(c)(1) and (2); and

(c) Take a marine mammal specified in § 218.2(c) if such taking results in more than a negligible impact on the