§ 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(c), provided that 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:

(A) Humpback whale (Megaptera novaeangliae)–10 (an average of 2 annually); and

(B) Fin whale (Balaenoptera physalus)–10 (an average of 2 annually).

(2) Level A Harassment (injury):

(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).

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

50 CFR Ch. II (10–1–12 Edition)