§ 71-0907. Powers and duties of enforcement officers.

1. All officers and employees, designated by the commissioner, and all peace officers, when acting pursuant to their special duties and all police officers, shall enforce all laws of the state relating to fish, wildlife, shellfish, crustacea, protected insects and game. Such officers may include conservation officers, regional and assistant regional conservation officers, special game protectors, inspectors of the office of parks and recreation, bay constables, and forest rangers.

2. All police officers, and all peace officers, when acting pursuant to their special duties, and all officers and employees of the department, as may be designated by the commissioner, shall enforce the provisions of title 21 of article 11 of the Fish and Wildlife Law, and the provisions of article 71 applicable thereto, except that the department and its enforcement officers are not obligated to enforce the provisions of section 11-2113 prohibiting trespass upon lands privately owned, other than licensed game preserves and shooting preserves, unless the trespass committed consists of (a) hunting, fishing or trapping or disturbing wildlife; or (b) cutting, pulling or digging of trees; or (c) the removal of trees.

3. The officers named in subdivision 1 shall enforce the provisions of this chapter listed in section 71-0501 or under titles 5 through 15 inclusive and title 33 of this article or of judgments obtained for violation thereof, and shall have, particularly, the powers stated in subdivision 4. Peace officers shall have the same powers as conservation officers, and state police under the Fish and Wildlife Law, except the power to search without warrant.

4. Officers named in subdivision 1 shall have power:

a. To execute all warrants and search warrants issued for violation of the Fish and Wildlife Law and to serve subpoenas issued for examination, investigation or trial of offenses against any of its provisions;

b. To search without search warrant any boat or vehicle of any kind,

any box, locker, basket, creel, crate, game bag, package or any container of any nature and the contents of any building other than a dwelling whenever they have cause to believe that any provision of this article or of any law for the protection of fish, shellfish, crustacea, wildlife, game or protected insects has been or is being violated, and to use such force as may be necessary for the purpose of examination and search;

c. To search any dwelling and its contents, provided they have a search warrant to do so;

d. To arrest without warrant any person committing in their presence a misdemeanor under the provisions of this chapter listed in section 71-0501 or under titles 5 through 15 inclusive and title 33 of this article and to take such person immediately before a magistrate having jurisdiction for trial;

e. To seize as evidence without warrant any fish, shellfish, crustacea, wildlife, game, or parts thereof, protected insects or plumage as defined in section 11-1729, whenever they have cause to believe it is possessed or transported in violation of law, or it bears evidence of illegal taking, or it is possessed or transported under circumstances making the possession or transportation presumptive evidence of illegal taking;

f. To seize as evidence without warrant

(1) Any net, trap or other device constituting a nuisance as defined in section 71-0915;

(2) Any net, trap or device other than a boat, a vehicle, or aircraft or a firearm when they have cause to believe that its possession or use is in violation of any provision of the Fish and Wildlife Law or regulation pursuant thereto;

(3) Any firearm, when they have cause to believe that it has been used in a violation of the Fish and Wildlife Law constituting a misdemeanor involving the illegal taking or attempting to take wild deer;

(4) Any rakes, tongs, dredges, or device other than a boat or vehicle used, or in possession for purpose of use, for the taking of shellfish

in violation of subdivisions 1 or 2 of section 13-0309. For the purposes of this paragraph "device" includes a bird, dog, or other animal used in or as an aid in taking fish or wildlife, any jack light, spot light or other artificial light other than a headlight attached in proper position to a motor vehicle, any hunting appliance or apparatus and any fishing or netting gear or tackle. This paragraph does not limit any power of seizure pursuant to warrant.

(5) Any boat or vehicle, when they have probable cause to believe it has been used for the taking of shellfish in violation of subdivision 2 or 3 of section 13-0309 of this chapter by a person possessing, at the time of such use, commercial shellfish harvesting gear or shellfish in excess of two pecks. For the purposes of this subparagraph "commercial shellfish harvesting gear" shall mean rakes, tongs, dredges and other devices commonly used to harvest shellfish for commercial purposes.

5. To retain custody of and provide for the safekeeping of any thing seized as provided in paragraph e or f of subdivision 4 of this section, or deposit it for safekeeping with any police officer, as he deems appropriate, subject to regulations of the department, or of the Superintendent of State Police in the case of a member of the state police, and subject to order of any court having jurisdiction, until determination of any prosecution, civil or criminal, arising from the violation or alleged violation with respect to which they are evidence.

6. No officer named in subdivision 1 shall compromise or settle out of court any civil liability for any violation of the Fish and Wildlife Law.

7. No person shall fail or refuse to comply with any lawful order or directive of any conservation officer or other person duly empowered to enforce all laws of the state relating to fish, wildlife, shellfish, crustacea, protected insects and game.

8. Notwithstanding section 13-0334 of this chapter to the contrary, a. where a commercial fishing vessel, lawfully operating under the fishing permits of another state: (1) encounters or is forecasted to encounter unsafe weather conditions defined as high winds thirty-five knots or

greater or waves ten feet or higher or ice or other adverse condition that make the continuation of the voyage unsafe and poses a risk to life and property, or (2) experiences a mechanical problem, that makes the continuation of the voyage unsafe and poses a risk to life and property including compromised hull integrity or pump failures or (3) experiences a significant medical emergency which requires immediate medical attention necessary to protect the health of any person on board, or (4) experiences loss of essential gear such as support systems that renders the vessel unable to remain at sea said commercial fishing vessel may dock at a New York port. A sinking vessel or a vessel leaking oil or fuel may be otherwise directed when the safety of persons is maintained and the vessel poses a significant threat to the waters of New York. The commercial fishing vessel may be required by the department to independently verify the reason for the unscheduled dockage with a mechanic deemed qualified by New York state, the National Weather Service or a medical professional, as appropriate. b. The fishing vessel shall immediately notify the department and the permitting state as soon as the danger is known and communication signals allow. The commercial fishing vessel shall provide the department with: (1) details on the vessel including the vessel captain's name; (2) identity of the permitting state; (3) the nature of the problem; (4) identity of the intended docking location, estimated time of arrival, and quantities and types of fish on board and, (5) a call back phone number or other method of contact. c. The commercial fishing vessel shall not offload cargo without the express authorization of and supervision by department personnel. Authorization to offload fish may be granted where the fish on board the vessel will become unmarketable due to the duration of the unscheduled dockage. Authorization may be limited according to the willingness of the permitting state to accept the fish under that state's fish allocation.