§ 870-e. Inspections. Before a permit may be issued as provided in section eight hundred seventy-d of this article, an inspection of the amusement device, viewing stand or tent shall be made in compliance with the procedures set by the commissioner. Such inspection shall have been conducted within one year prior to the permit application, unless such period shall have been extended by operation of subdivision four of this section.

1. In the case of a permanent device, viewing stand or tent, the amusement device, viewing stand or tent must be inspected by the commissioner or his authorized representative, or in the city of New York, by the building department, at the time of application for the initial permit. In the case of an amusement device deemed by the commissioner to normally be operated at speeds or with movements creating severe centrifugal forces, the owner or operator making the permit application for such device shall have available for inspection such recommended maintenance and safety schedules or requirements as are supplied by the manufacturer of the device. An initial operating permit shall not be granted in the absence of these documents. Thereafter, the amusement device, viewing stand or tent must be inspected at least annually by a licensed architect, professional engineer, qualified inspector of an insurance underwriter, or an inspector approved by the commissioner as a requirement for the issuance of each subsequent permit. Such inspection shall at minimum comply with the requirements of the commissioner, provided that for amusement devices, at the time of each such annual inspection, the owner or operator of such device shall have available for inspection such recommended maintenance and safety schedules or requirements as are supplied by the manufacturer of the device and shall have available documentation that such maintenance and testing as are called for by the device manufacturer have been performed during the term covered by the previous operating permit. No subsequent operating permit shall be granted in the absence of these documents. An affidavit of the annual inspection shall be filed with the commissioner.

2. In the case of a temporary device, viewing stand or tent, upon first entry into the state, the amusement device, viewing stand or tent must be inspected by the commissioner or his authorized representative

for the permit to be issued. In the case of a temporary amusement device deemed by the commissioner to normally operate at speeds or with movements creating severe centrifugal forces the owner or operator making the permit application for such device shall have available for inspection such recommended maintenance and safety schedules or requirements as are supplied by the manufacturer of the device. An operating permit shall not be granted in the absence of these documents. Thereafter, the amusement device, viewing stand or tent must be inspected at least annually by a licensed architect, professional engineer, qualified inspector of an insurance underwriter, or an inspector approved by the commissioner as a requirement for the issuance of each subsequent permit. Such inspection shall at minimum comply with the requirements of the commissioner, provided that for amusement devices, at the time of each such annual inspection, the owner or operator of such device shall have available for inspection such recommended maintenance and safety schedules or requirements as are supplied by the manufacturer of the device and shall have available documentation that such maintenance and testing as are called for by the device manufacturer have been performed during the term covered by the previous operating permit. No subsequent operating permit shall be granted in the absence of these documents. An affidavit of the annual inspection shall be filed with the commissioner.

2-a. Where such maintenance and safety schedules as are called for in subdivisions one and two of this section do not exist or are not available due to circumstances beyond the control of the owner or operator of an amusement device, the owner or operator shall, within six months of the discovery of the unavailability of such standards, submit to the commissioner a proposed schedule of maintenance for that amusement device consistent with the standards for the testing and maintenance of such devices established in accordance with the rules and regulations promulgated pursuant to subdivision six of this section and shall henceforth be the schedule with which the owner or operator must comply to qualify for annual operating permits.

2-b. None of the provisions contained in subdivision two-a of this section shall be interpreted as to prevent the owner or operator of an

amusement device from receiving an annual permit to operate such device during the proposed maintenance schedule submission process described in such subdivision provided that such owner or operator meets all the requirements for an annual operating permit as they exist prior to the effective date of this subdivision.

2-c. The owner or operator of an amusement device shall conspicuously post a sign containing safety guidelines to be followed by patrons while on or in the amusement device and behavior or activities which are prohibited as threats either to the patrons themselves, other patrons or the general public. Such signs shall contain warnings that there are inherent risks in the participation in or on the amusement device, since it is recognized that participation in or on the device may be hazardous regardless of all feasible safety measures that can be undertaken by the device owner or operator; and that there is a duty for the patrons to become apprised of the warnings and the risks inherent in participation in or on the amusement device if the warnings are not obeyed. Prior to participating in or on such amusement device, patrons shall familiarize themselves with the posted safety warnings so that they may make an informed decision of whether to participate in or on the device notwithstanding the risks.

3. In the case of an amusement device, viewing stand or tent which is substantially rebuilt or substantially modified so as to change the structure, mechanism, or capacity of the device, viewing stand or tent, the owner or lessee shall give written notice to the commissioner who shall cause the device, viewing stand or tent to be inspected prior to the time in which it is put into operation and who shall cause any current permit to be updated so as to include any modifications made to the device, viewing stand or tent.

4. In the event an operator is unable to secure an inspection by his insurance carrier within one year from the date of the previous inspection, such previous inspection shall be deemed valid for purposes of this article for a period of thirty additional days, provided such operator made an inspection request to his insurance carrier at least sixty days prior to the inspection anniversary date.

5. No amusement device, viewing stand or tent which fails to pass an inspection shall be operated for public use until it has passed a subsequent inspection.

6. The commissioner shall, in consultation with the carnival, fair and amusement park safety advisory board as established under section eight hundred seventy-n of this article, as added by a chapter of the laws of two thousand six, establish rules and regulations providing standards for the design, manufacture, testing, inspection, quality assurance and terminology of amusement devices. The rules and regulations established pursuant to this subdivision shall be consistent with the national standards for amusement devices, as established by the American Society of Testing and Materials.