

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 327F.13, the Department of Transportation hereby gives Notice of Intended Action to adopt Chapter 813, “Close-Clearance Warning Signs Along Railroad Tracks,” Iowa Administrative Code.

Iowa Code section 327F.13 requires the Department of Transportation to adopt rules concerning close-clearance warning signs along railroad tracks where the clearance between the tracks and an obstruction along the tracks physically impedes a person who is lawfully riding on the side of a train from clearing the obstruction. New Chapter 813 implements this rule-making requirement.

This chapter does not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed rules on or before July 21, 2009. Comments on the proposed rules should be directed to Tracy George, Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).

Additionally, a public hearing to receive comments on the proposed rules will be held on Thursday, July 23, 2009, at 10 a.m. in the Materials Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The proposed rules may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by August 3, 2009.

These rules are intended to implement Iowa Code section 327F.13.

Proposed rule-making action:

Adopt the following **new** 761—Chapter 813:

CHAPTER 813

CLOSE-CLEARANCE WARNING SIGNS ALONG RAILROAD TRACKS

**761—813.1(327F) Purpose and scope.** This chapter implements Iowa Code section 327F.13. This statute requires the Iowa department of transportation (department) to implement the placement of close-clearance warning signs along railroad tracks where the close clearance between the tracks and an obstruction physically impedes a person who is lawfully riding the side of a train from clearing the obstruction. This chapter only applies when funds are available from the department to reimburse the owner for the cost of the close-clearance warning sign and installation.

**761—813.2(327F) Applicability.** This chapter applies to railroad companies as well as industries, agricultural cooperatives or other entities that are owners of a railroad track, and it applies to individuals who are owners of a railroad track. This chapter does not apply to any railroad locations where locomotives are powered by overhead or suspended electric power.

**761—813.3(327F) Information.** Information regarding this chapter is available from the Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140.

**761—813.4(327F) Definitions.**

“*Close clearance*” means a permanent or temporary situation where an obstruction near a railroad track physically impedes a person who is lawfully riding the side of a train from clearing the obstruction.

Rule 761—813.5(327F) provides further detail on the dimensions that identify a close-clearance situation.

“Obstruction” means a building, machinery, tree, brush or other object.

“Owner” means the railroad company, industry, agricultural cooperative, other entity, or individual that holds a fee simple title, easement, leasehold, contract to purchase, license, or other legal or equitable interest or right in the railroad track, and is in primary possession and control of the railroad track.

“Tangent track” means a track segment without any curves.

**761—813.5(327F) Close-clearance dimensions.**

**813.5(1)** Close clearance for tangent track is a location along the railroad track where there is an obstruction that falls within the following dimensions: starting at the centerline of track at top of rail and extending 5 feet both sides horizontally and level therewith, thence upward vertically 15 inches, thence upward diagonally to a point 4 feet above top of rail and 8 feet laterally from centerline of track, thence vertically to a point 20 feet above top of rail, thence diagonally to a point 6 feet from centerline of track and 22 feet above top of rail, thence horizontally to centerline of track. Vertical clearance shall be 18 feet above top of rail at the entrance to and inside buildings. On curved track, clearances on each side of the track centerline shall be increased 1½ inches per degree of curvature. (See Figure 1.)

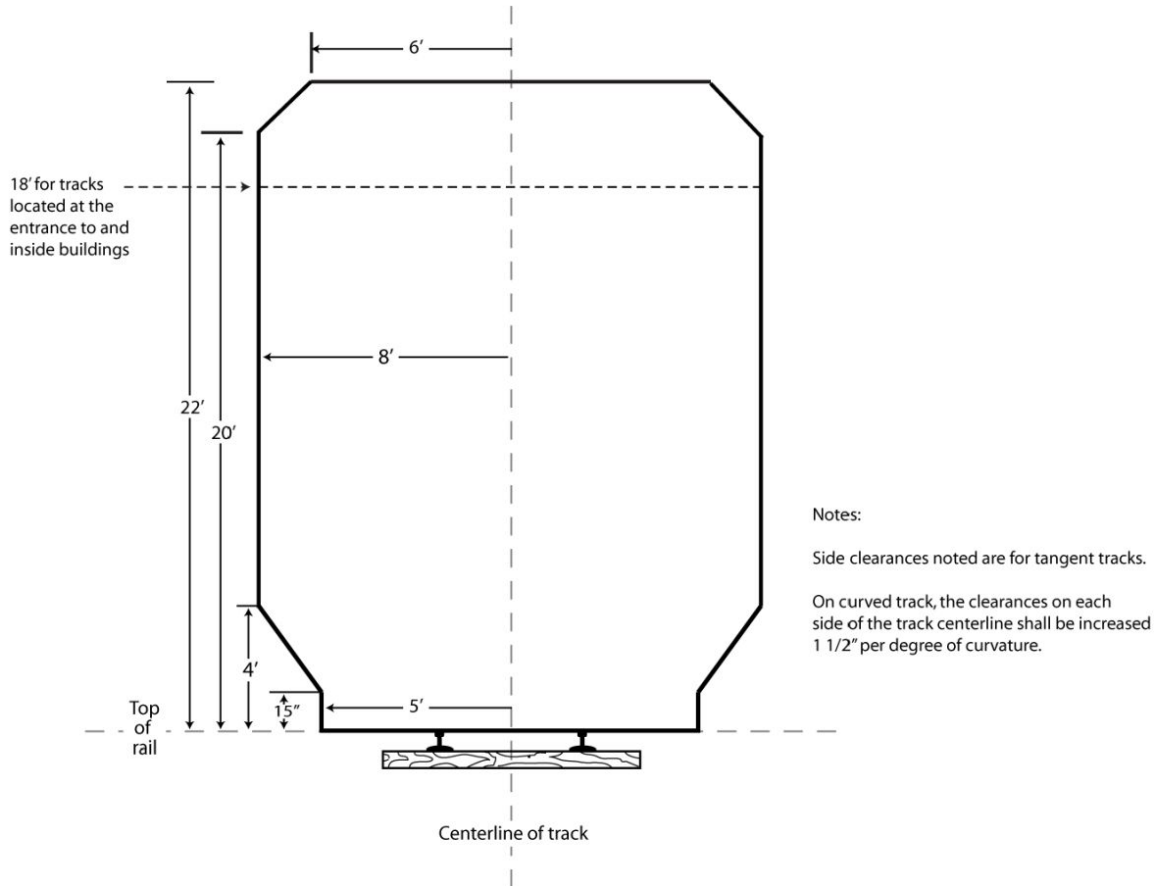


Figure 1

**813.5(2)** Reserved.

**761—813.6(327F) Signing requirements.**

**813.6(1)** A close-clearance warning sign or signs are required at all locations where there is close clearance. It is the responsibility of the owner to ensure that all close-clearance locations have warning signs.

**813.6(2)** If an obstruction creating a close-clearance situation is a temporary or nonpermanent obstruction, in lieu of signing the owner may meet the requirements of this rule by opting to remove the obstruction or remove the track from service until the obstruction is removed.

**813.6(3)** A close-clearance warning sign shall be placed in a location that provides adequate notice to a person who is lawfully riding the side of a train so that the person may prepare for the close clearance.

**813.6(4)** A close-clearance warning sign shall comply with the following requirements. A warning sign shall:

*a.* Include the words “no clearance.” The letters must be black on a white reflective background and be a minimum of 3 inches high.

*b.* Be a vertical sign not less than 42 inches in height and 4 inches in width.

*c.* Be placed at least 1 foot off the ground or on the obstruction and within 3 feet of the close-clearance location or on the obstruction. Signs shall be located on both sides of the obstruction so as to be visible from both directions.

*d.* Not be within 8 feet of the centerline of the tracks.

**813.6(5)** In the event that the placement of the close-clearance warning sign according to paragraph 813.6(4) “*c*” or 813.6(4) “*d*” does not provide adequate notice for a person who is lawfully riding the side of a train to prepare for the close clearance (such as a curve or other sight obstruction), an additional sign reading “no clearance ahead” shall be placed in a location that provides adequate notice to the person who is lawfully riding the side of the train so that the person may prepare for the close clearance. Depending on the particular environment that makes an additional no clearance ahead sign necessary, a no clearance ahead sign may be required on one or on both sides of the obstruction so as to be visible from both directions.

**813.6(6)** In the event that the physical environment prevents the placement of a warning sign in accordance with paragraph 813.6(4) “*c*” or 813.6(4) “*d*,” the sign shall be placed in a highly visible location that is clearly indicative of the point of close clearance. An alternative size and shape of sign may be used if there is no location available where a standard size and shape sign may be used. Any alternative sign must clearly be identifiable as an indicator of the close-clearance situation.

**813.6(7)** In limited situations where multiple instances of insufficient clearance occur within a confined area or over a distance, and where posting of multiple warning signs could on its own be a safety hazard, or where multiple signs would create a confusing environment making it difficult to discern the areas that lack clearance, a sign reading “no clearance ahead” may be posted in lieu of multiple signs.

**813.6(8)** A line or other marker shall be maintained at a distance of 8 feet from the centerline of the track on all platforms, excluding passenger platforms, to indicate the space along the edge of such platform that shall be kept clear of merchandise, material, or other articles that could create a temporary close-clearance situation.

**813.6(9)** Placement of a warning sign does not relieve the owner from any duties required under Iowa Code chapter 317 or Iowa Code section 327F.27.

**761—813.7 and 813.8** Reserved.

**761—813.9(327F) Enforcement.**

**813.9(1)** If the owner is provided written notice by an employee, a person working on or near the tracks, or a railroad inspector that a location is in need of a close-clearance warning sign, the owner shall investigate and, if warranted, ensure the placement of a warning sign or signs within 30 calendar days of notification. If a close-clearance warning sign is not warranted, the owner shall inform the person who provided notice, in writing within 30 calendar days, that a sign is not warranted and shall explain why the location does not need a close-clearance warning sign.

**813.9(2)** If the owner fails to respond to a written notice by an employee or another person working on or near the tracks, or if the employee or other person disagrees with the owner’s determination that a warning sign is not warranted, the employee or other person may notify the department. The department

shall investigate and make a determination if the location warrants the placement of a close-clearance warning sign.

*a.* If the department determines a close-clearance warning sign is warranted, the department shall notify the owner in writing. The owner shall have 14 calendar days from the date of the notification to install the proper warning sign. Failure to install the close-clearance warning sign is evidence that the owner is in violation of Iowa Code section 327F.13.

*b.* The owner, an employee or a person working on or near the tracks may contest the determination. If the determination is contested, 761—Chapter 13 applies.

**761—813.10(327F) Reimbursement.**

**813.10(1)** The owner may request reimbursement from the department for up to \$100 per sign for the cost and installation of the close clearance or no clearance ahead warning sign.

**813.10(2)** To be reimbursed, the owner shall complete Form 291303, “Close-Clearance Warning Sign Certification,” and submit the form to the office of rail transportation. The owner must certify that the warning sign complies with the requirements in rule 761—813.6(327F) and provide proof of purchase.

**813.10(3)** The department may inspect, at any time, the sign installation to confirm that the warning sign meets the minimum requirements in rule 761—813.6(327F).

**813.10(4)** Form 291303 is available on the department’s Internet Web site at <http://www.iowadot.gov/forms/index.htm> or from the office of rail transportation.

These rules are intended to implement Iowa Code section 327F.13.