

**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 and 307.12 and Iowa Code Supplement section 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 Supplement 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 or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the 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).
5. Be received by the Office of Policy and Legislative Services no later than August 19, 2008.

A meeting to hear requested oral presentations is scheduled for Thursday, August 21, 2008, at 10 a.m. at the Administration Building, Modal Division Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa. The meeting will be canceled without further notice if no oral presentation is requested.

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 September 2, 2008.

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

Proposed rule-making action:

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

CHAPTER 813  
CLOSE-CLEARANCE WARNING SIGNS ALONG RAILROAD TRACKS

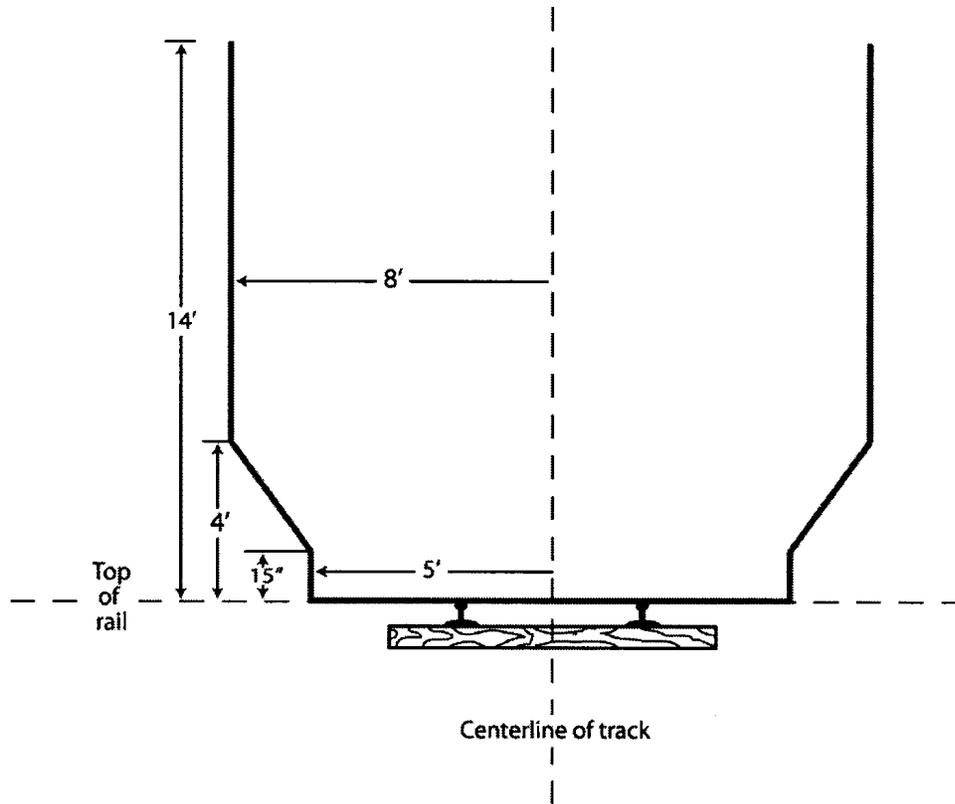
**761—813.1(327F) Purpose and scope.** This chapter implements Iowa Code Supplement section 327F.13. This statute requires the Iowa department of transportation (department) to implement the placement of close-clearance warning signs along railroad tracks where the close clearance between the tracks 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 of the railroad track 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 railroad track. This chapter does not apply to any railroad whose 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 location along railroad tracks 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 14 feet above top of rail.



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

“Owner” means the railroad company, industry, agricultural cooperative, or other entity which 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.

**761—813.5** Reserved.

**761—813.6(327F) Dimensions and placement.**

**813.6(1)** A close-clearance warning sign shall be placed in a location that provides adequate notice to a person riding the side of a train so that the person may prepare for the close clearance. A close-clearance warning sign shall comply with the following:

- 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(2)** In the event that the physical environment prevents the placement of a warning sign in accordance with paragraphs 813.6(1) “*c*” or 813.6(1) “*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(3)** Placement of a warning sign does not relieve the owner of a railroad track 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) Requirements.**

**813.9(1)** A close-clearance warning sign is required at all locations where there is close clearance. It is the responsibility of the owner of the railroad track to ensure that all close-clearance locations have warning signs.

**813.9(2)** If the owner of the railroad track 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 of the railroad track shall investigate and, if warranted, ensure the placement of a warning sign within 30 days of notification. If a close-clearance warning sign is not warranted, the owner of the railroad track shall inform the person who provided notice, in writing within 30 days, that a sign is not warranted and shall explain why the location does not need a close-clearance warning sign.

**813.9(3)** If the owner of the railroad track fails to respond to a notice by an employee or another person working on or near the tracks, or if the employee or other person disagrees with the railroad track 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 owner of the railroad track has 14 days to install the proper warning sign. Failure to install the close-clearance warning sign is evidence that the owner of the track is in violation of Iowa Code Supplement section 327F.13.

*b.* The owner of the railroad track or 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.** The owner of the railroad track may request reimbursement of \$200 per sign from the department for the close-clearance warning sign and installation. The owner shall certify the proper placement and location of each warning sign and certify the warning sign meets the requirements in rule 761—813.6(327F).

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