

STANDARD PUBLIC REQUEST FORM FOR REPLACEMENT PAGES

Chapter/Part Tra 311

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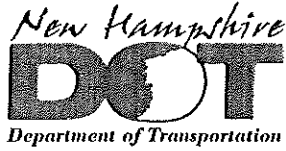
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THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

August 30, 2012

Jill K. Sieveking, Acting Director
Office of Legislative Services
Administrative Rules
25 Capitol Street
State House Annex, Room 219
Concord, N.H. 03301-6312

Reference Doc. #10165

Rule Number Tra 311

Dear Director Sieveking:

Pursuant to RSA 541-A:15, I-a, I hereby certify that the enclosed rules are the same in substance as the rules originally filed with the Office of Legislative Services, Administrative Rules.

I further certify that the enclosed rules, as edited for format by the Office of Legislative Service, Administrative Rules, is the official version of these rules which this agency is required to publish in an 8 1/2 X 11 inch loose-leaf format as part of the New Hampshire Code of Administrative Rules, under Chapter 5 of the *New Hampshire Drafting and Procedure Manual for Administrative Rules* and RSA 541-A:15, I.

Sincerely,

Christopher D. Clement, Sr.
Commissioner, NHDOT

Enclosure: As stated.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- Section Tra 309.10 Liability
- Section Tra 309.11 Length of Agreement and Renewal
- Section Tra 309.12 Termination
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NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Tra 300 PERMITS

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PART Tra 302 DRIVEWAY PERMITS - RESERVED

Source. #5497, eff 1-1-93, EXPIRED: 1-1-99

PART Tra 303 REASONABLE ACCESS FOR TWIN TRAILERS

Source. #5825, eff 5-19-94, EXPIRED: 5-19-00

PART Tra 304 OVERWEIGHT AND OVERDIMENSION VEHICLE PERMITS

Statutory Authority: RSA 21-L:12-a, V; RSA 260:5; RSA 266:24

Tra 304.01 - 304.07

Source. #4129, eff 9-10-86, EXPIRED: 9-10-92

New. #5621, eff 5-4-93; ss by #6992, INTERIM, eff 5-5-99, EXPIRED: 9-2-99

New. #7193, eff 1-26-00, EXPIRED: 1-26-08

Tra 304.08 - 304.09

Source. #5621, eff 5-4-93; ss by #6992, INTERIM, eff 5-5-99, EXPIRED: 9-2-99

New. #7193, eff 1-26-00, EXPIRED: 1-26-08

Tra 304.10

Source. #5621, eff 5-4-93; ss by EMERGENCY #5678, eff 7-30-93, EXPIRED: 11-27-93

New. #5831, eff 5-26-94; ss by #6992, INTERIM, eff 5-5-99, EXPIRED: 9-2-99

New. #7193, eff 1-26-00, EXPIRED: 1-26-08

Tra 304.11 - 304.12

Source. #5621, eff 5-4-93; ss by #6992, INTERIM, eff 5-5-99, EXPIRED: 9-2-99

New. #7193, eff 1-26-00, EXPIRED: 1-26-08

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PART Tra 305 RESERVED

PART Tra 306 NOTIFICATION OF HIGHWAY INSUFFICIENCY

Statutory Authority: RSA 230:80

Tra 306.01 - 306.07

Source. #5620, eff 5-4-93; ss by #6989, INTERIM, eff 5-5-99, EXPIRED: 9-2-99

New. #7114, eff 9-25-99, EXPIRED: 9-25-07

PART Tra 307 MOTORIST SERVICE SIGNING

Statutory Authority: RSA 230:49; RSA 236:84; 23 CFR Sections 109(d); 131(f);315

Tra 307.01

Source. #5741, eff 1-1-94; ss by #6236, eff 4-30-96, EXPIRED: 4-30-04

Tra 307.02

Source. #5741, eff 1-1-94, EXPIRED: 1-1-00

Tra 307.03

Source. #5741, eff 1-1-94; amd by #6236, eff 4-30-96, (a)-(h) EXPIRED: 1-1-00, paragraph (i) - (n) EXPIRED: 4-30-04

Tra 307.04

Source. #5741, eff 1-1-94; amd by #6236, eff 4-30-96; amd by #6399, eff 12-16-96, paragraphs (a), (e), (f), (h)-(l) EXPIRED: 1-1-00, paragraphs (b), (c), (d), (g) & (m) EXPIRED: 4-30-04

Tra 307.05

Source. #5741, eff 1-1-94, EXPIRED: 1-1-00

Tra 307.06

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Tra 307.07

Source. #5741, eff 1-1-94; amd by #6236, eff 4-30-96, paragraphs (a)-(c) & (e) EXPIRED: 1-1-00, paragraph (d) EXPIRED: 4-30-04

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Tra 307.08 – 307.16

Source. #5741, eff 1-1-94, EXPIRED: 1-1-00

Tra 307.17

Source. #5741, eff 1-1-94; amd by #6236, eff 4-30-96, paragraphs (a), (b) & (d) EXPIRED: 1-1-00, paragraph (c) EXPIRED: 4-30-04

Tra 307.18 - 307.22

Source. #5741, eff 1-1-94, EXPIRED: 1-1-00

Tra 307.23

Source. #5741, eff 1-1-94; ss by #6236, eff 4-30-96, EXPIRED: 4-30-04

Tra 307.24

Source. #5741, eff 1-1-94; amd by #6236, eff 4-30-96, paragraphs (a) & (b)(2)-(4) EXPIRED: 1-1-00, paragraph (b)(1) EXPIRED: 4-30-04

Tra 307.25

Source. #5741, eff 1-1-94; amd by #6236, eff 4-30-96, paragraphs (a) & (b) EXPIRED: 1-1-00, paragraph (c) EXPIRED: 4-30-04

Tra 307.26

Source. #5741, eff 1-1-94, EXPIRED: 1-1-00

Tra 307.27

Source. #5741, eff 1-1-94; amd by #6236, eff 4-30-96, paragraphs (b)-(d) EXPIRED: 1-1-00, paragraph (a) EXPIRED: 4-30-04

Tra 307.28

Source. #5741, eff 1-1-94; amd by #6236, eff 4-30-96, paragraph (e) EXPIRED: 1-1-00; paragraphs (a)-(d) EXPIRED: 4-30-04

Tra 307.29

Source. #5741, eff 1-1-94, EXPIRED: 1-1-00

Tra 307.30

Source. #5741, eff 1-1-94, EXPIRED: 1-1-00

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PART Tra 308 ADOPT-A-HIGHWAY

Statutory Authority: RSA 230:83

Tra 308.01 – 308.11

Source. #5796, eff 4-1-94; ss by #7217, eff 3-30-00, EXPIRED: 3-30-08

Tra 308.12

Source. #7217, eff 3-30-00, EXPIRED: 3-30-08

PART Tra 309 USES WITHIN STATE RIGHTS-OF-WAY - EXPIRED

Statutory Authority: RSA 236:9, 236:10 and 236:18 23 CFR 1.23

Tra 309.01 - 309.13

Source. #6203, eff 3-15-96, EXPIRED: 3-15-04

PART Tra 311 DRIVING WHILE IMPAIRED (DWI) VICTIM FATALITY SIGN PROGRAM

Tra 311.01 Purpose. The purpose of this part is to implement the statutory requirements set forth in RSA 236:48-a regarding the erection and maintenance of a DWI victim fatality sign memorializing individual(s) fatally injured in a traffic accident occurring after July 1, 2006 in which there is substantial evidence gathered by law enforcement that another driver caused the accident and was driving in violation of RSA 265-A:2 or RSA 265-A:3.

Source. #10165, eff 7-27-12

Tra 311.02 Scope. DWI victim fatality signs may be erected upon state highways under the jurisdiction of the department other than limited access divided highways or the ramps and access roadways used to access or exit such highways.

Source. #10165, eff 7-27-12

Tra 311.03 Definitions.

- (a) "Abutting landowner" means a person or persons with ownership of the property directly abutting the State owned right-of-way where the DWI victim fatality sign is to be located.
- (b) "Bureau" means the bureau of traffic within the New Hampshire department of transportation.
- (c) "Commissioner" means the commissioner of the department of transportation.
- (d) "Department" means the New Hampshire department of transportation.
- (e) "DWI sign assembly" means the composite of a message panel, memory panel, name plaque(s) and support post or any combination thereof of a DWI victim fatality sign installation.
- (f) "Memory panel" means a sign panel designed by the bureau with the message "In Memory of".
- (g) "Message panel" means a sign panel designed by the bureau with the message "Please Don't Drink and Drive".

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(h) "Name plaque" means a plaque manufactured by the bureau of traffic stating the name of the victim(s) of a traffic accident and attached to a DWI sign assembly.

(i) "Next-of-kin" means the person having the following relationship to the victim, in the following order of priority:

- (1) Spouse;
- (2) Adult son or daughter;
- (3) Parent;
- (4) Adult brother or sister;
- (5) Adult grandchild;
- (6) Adult niece or nephew who is a child of a brother or sister;
- (7) Maternal grandparent;
- (8) Paternal grandparent;
- (9) Adult aunt or uncle; or
- (10) Any other adult legal relative in descending order of relationship.

(j) "Substantial evidence" means a certified copy of conviction for violation of RSA 265-A:2 or RSA 265-A:3.

(k) "Traffic accident" means an event occurring on a public way that results in injury or property damage attributed to the motion of a motor vehicle or its load.

(l) "Victim" means a person fatally injured as a direct result of a motor vehicle traffic accident or whose death occurred within 30 days of the event as a result of physical injuries sustained during a motor vehicle traffic accident. The term does not include an impaired driver or an occupant of the impaired driver's vehicle, but does include pedestrians or bicyclists injured by an impaired driver, as defined under RSA 265-A:2 or RSA 265-A:3.

Source. #10165, eff 7-27-12

Tra 311.04 Request for a DWI Sign Assembly, Name Plaque, or Both.

(a) An applicant requesting a DWI sign assembly, name plaque, or both, shall provide the following information on a form furnished by the bureau of traffic:

- (1) The name, address, and telephone number, or other means of contacting the applicant during regular business hours;
- (2) The applicant's relationship with the victim;
- (3) The date of the traffic accident;
- (4) The location of the traffic accident;

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(5) The name of the motor vehicle driver driving while intoxicated or under the influence of drugs;

(6) A certified copy of a conviction for violation of RSA 265-A:2 or RSA 265-A:3 by one of the drivers involved in the fatal accident, evidencing that the individual(s) to be memorialized was/were fatally injured in the traffic accident to establish that one of the drivers was at fault and impaired by drugs or alcohol.

(7) The name of the individual(s) fatally injured, as it or they should appear on the name plaque(s); and

(8) The required fee of:

a. \$250.00 if a DWI sign assembly for the traffic accident does not exist; or

b. \$200.00 to add a name plaque to an existing DWI sign assembly for a victim of the same traffic accident.

(b) Notwithstanding (a)(6) above, if a certified copy of conviction is not available due to lack of prosecution due to death of the impaired driver or other inability to prosecute unrelated to sufficiency of evidence, then the following documents shall be considered by the department in determining that one of the drivers was at fault and impaired by drugs or alcohol.

(1) Relevant medical records to show the driver in a vehicle collision was impaired by drugs or alcohol;

(2) Investigating officer's accident report that indicates the driver of one of the vehicles was impaired by drugs or alcohol; or

(3) Other reliable records provided by the applicant indicating one of the drivers was impaired due to drugs or alcohol;

Source. #10165, eff 7-27-12

Tra 311.05 Review of Request.

(a) A request for a DWI sign assembly may only be requested by the victim's next-of-kin. A request may include application for the name of an additional victim of the same accident, provided the applicant obtains the written consent of the other victim's next of kin.

(b) The bureau of traffic shall approve a request for a DWI sign assembly unless an office review, comments from a maintenance district, or a field review of the proposed location discloses an issue sufficient to deny the request under Tra 311.05(c), Tra 311.05(d) or Tra 311.07.

(c) The bureau of traffic shall conduct an office review of the request for a DWI sign assembly. In the event of an incomplete application, the bureau shall request that the applicant provide the additional information. If the information is not provided within 90 days, the bureau of traffic shall deny the application.

(d) Once the application and all required documents are complete, the bureau of traffic shall conduct a field review of the proposed location and within 60 days, or as soon as practicable, shall deny the application if the proposed location:

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- (1) Limits a road user's ability to see an existing official traffic control device far enough in advance to act upon the message;
- (2) Would result in unreasonable confusion for the road user due to the presence of multiple official traffic control devices, private signs, driveways, or turning movements;
- (3) Would unreasonably interfere with highway maintenance efforts; or
- (4) An abutting landowner objects to the location and relocation cannot be accommodated.

Source. #10165, eff 7-27-12

Tra 311.06 Manufacture.

- (a) Unless otherwise specified, the specifications for message panels and name plaques, shall conform to the pertinent requirements of signs as set forth in the 2010 edition of the department's "Standard Specifications for Road and Bridge Construction".
- (b) Message panel text shall be limited to the phrase "PLEASE DON'T DRINK AND DRIVE"; and
- (c) Memory panels shall comply with the following:
 - (1) Text shall be limited to the phrase "IN MEMORY OF"; and
 - (2) A DWI sign assembly installed without at least one name plaque shall not include a memory panel.

Source. #10165, eff 7-27-12

Tra 311.07 Location.

- (a) A DWI sign assembly shall be located on the right hand side of the roadway at a location to be determined by the department in compliance with these rules.
- (b) A DWI sign assembly shall be erected no further than one mile in either direction of the traffic accident site except as determined by the department:
 - (1) As necessary to integrate with other official traffic signs; or
 - (2) As necessary to prevent distraction of motorists due to the number of existing official and private signs, traffic control devices, and driveways.
- (c) A DWI sign assembly shall only be erected adjacent to the same roadway as the traffic accident site except in the case of an at-intersection traffic accident, the sign shall be placed adjacent to either of the involved roadways.
- (d) A DWI sign assembly shall not be erected in any area prohibited by law, including the interstate system, turnpike or other limited access divided highway system.

Source. #10165, eff 7-27-12

Tra 311.08 Maintenance of a DWI Sign Assembly, Name Plaque, or Both.

- (a) A DWI sign assembly, name plaque or both, damaged by normal maintenance, vandalism, or weather conditions shall be replaced by the department at no cost to the applicant.

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(b) Any placement of paraphernalia including but not limited to flags, pennants, banners, wreaths, balloons or other object shall not be permitted attached to or near a DWI sign assembly or name plaque and shall be removed by the department without notice.

(c) The department shall not be responsible for damage that occurs to any object occasioned by removal or transport, nor will the department be responsible for storage.

Source. #10165, eff 7-27-12

Tra 311.09 Effects of Construction and Highway Maintenance.

(a) If the approved location of a DWI sign assembly is within a construction or highway maintenance project area:

(1) The bureau shall not install the DWI sign assembly and name plaque(s) until such time as the construction or highway maintenance project has been completed; or

(2) If a DWI sign assembly has been installed the department shall remove the DWI sign assembly and name plaque(s) and store them until such time the project is complete and the DWI sign assembly and name plaques can be re-installed.

(b) The time in which a DWI sign assembly and name plaque are being stored due to Tra 311.09(a)(1) or Tra 311.09(2) shall not be counted toward the 2-year duration established by Tra 311.10(a).

Source. #10165, eff 7-27-12

Tra 311.10 Removal of a DWI Sign Assembly, Name Plaque, or Both.

(a) A name plaque for any victim shall be erected for a period of 2 years from the date of installation, not including time stored per Tra 311.09 (a)(2).

(b) Upon completion of the 2 years the bureau shall:

(1) Remove the name plaque; and

(2) Notify the applicant at last known address, who may claim the name plaque within 30 days of removal.

(c) The department shall not be responsible for damage to the name plaque occasioned by removal, transport or storage, nor shall the department be responsible for storage over 30 days.

(d) A DWI sign assembly shall be removed upon the removal of the last remaining name plaque on the assembly in accordance with Tra 311.10(a) and shall remain the property of the bureau.

Source. #10165, eff 7-27-12

Tra 311.11 Hearings.

(a) An applicant who disagrees with the decision of the bureau of traffic to deny a request for a DWI fatality sign assembly, name plaque, or both may appeal to the commissioner pursuant to Tra 200 within 30 days after the date of notice of the decision.

(b) Unless an appeal is filed, the denial shall become final 30 days after the date of notice of the decisions.

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(c) The procedure used to conduct hearing on denials shall comply with RSA 541-A and Tra 200, rules of practice and procedure.

(d) The department shall determine eligibility for the victim fatality signs. The applicant's right to appeal shall be limited to the determination of eligibility for the sign in accordance with these rules.

Source. #10165, eff 7-27-12

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APPENDIX I

HIGHWAY DISTRICTS

District 1	District 5:
District Engineer	District Engineer
P.O. Box 379	P.O. Box 16476
Lancaster, NH 03584	Hooksett, N.H. 03016-6476
Tel: (603) 788-4641	Tel: (603) 485-9526
Loc: Rte 3, Lancaster, N.H.	Loc: I-93, Exit 11 Hooksett, N.H.
District 2:	District 6
District Engineer	District Engineer
P.O. Box 232	P.O. Box 740
Lebanon, NH 03766	Durham, NH 03824
Tel: (603) 448-2654	Tel: (603) 868-1133
Loc: I-89, Exit 16	Loc: Old Concord Rd,
Enfield, N.H.	Rte 155A, Durham, N.H.
District 3:	Turnpikes:
District Engineer	Turnpike Administrator
2 Sawmill Road	P.O. Box 16418
Gilford, NH 03246	Hooksett, N.H. 03016-6418
Tel: (603) 524-6667	Tel: (603) 485-3806
Loc: 2 Sawmill Rd	Loc: Hooksett Toll Plaza
Gilford, N.H.	I-93, Exit 11
District 4:	
District Engineer	
19 Base Hill Rd.	
West Swanzey, N.H. 03469	
Tel: (603) 352-2302	
Loc: 19 Base Hill Rd.	
West Swanzey, N.H.	

APPENDIX II

TYPICAL DESIGN STANDARDS

This appendix includes typical design standards for various driveway/access situations. These typical designs are for illustrative purposes. Applicants may wish to use typical designs as guides; however, designs must be adapted to reflect specific circumstances. Requirements of site or safety may dictate different solutions which must receive concurrence from the district engineer.

FIGURE

Residential Drive-Rural/Urban.....I
Common Drive-Rural/Urban.....II
Single Drives-Major Entrance-Rural/Urban.....III
One-Way Drives-Major Entrance-Rural/Urban.....IV
Two-Way Drives-Major Entrance-Rural/Urban.....V
Divided Drive-Major Entrance-Rural/Urban.....VI
Alternate Land Subdivision Plans.....VII
Typical Rural Drives in Cut and Fill Sections.....VIII
Typical Urban Drives in Cut and Fill Sections.....IX
Typical Acceleration-Deceleration Lanes for Right Turns....X
Typical By-Pass Shoulder.....XI
Turning Template, Bus and Trailer Truck.....XII
Turning Template, Single Unit and Passenger.....XIII

APPENDIX III
DRIVEWAY STATUTE

RSA 236:13 Driveways and Other Accesses to the Public Way.

I. It shall be unlawful to construct, or alter in any way that substantially affects the size or grade of, any driveway, entrance, exit, or approach within the limits of the right-of-way of any class I or class III highway or the state maintained portion of a class II highway that does not conform to the terms and specifications of a written permit issued by the commissioner of transportation. (Amended 1985, 402:6, I(b)(7).)

II. Pursuant to this section, a written construction permit application must be obtained from and filed with the department of transportation by any abutter affected by the provisions of paragraph I. Before any construction or alteration work is commenced; said permit application shall have been reviewed, and a construction permit issued by said department. Said permit shall:

(a) Describe the location of the driveway, entrance, exit, or approach. The location shall be selected to most adequately protect the safety of the traveling public.

(b) Describe any drainage structures, traffic control devices, and channelization islands to be installed by the abutter.

(c) Establish grades that adequately protect and promote highway drainage and permit a safe and controlled approach to the highway in all seasons of the year.

(d) Include any other terms and specifications necessary for the safety of the traveling public. (Amended 1985, 402:6, I(a)(7).)

III. For access to a proposed commercial or industrial enterprise, or to a subdivision, all of which for the purposes of this section shall be considered a single parcel of land, even though acquired by more than one conveyance or held nominally by more than one owner:

(a) Said permit application shall be accompanied by engineering drawings showing information as set forth in paragraph II.

(b) Unless all season safe sight distance of 400 feet in both directions along the highway can be obtained, the commissioner shall not permit more than one access to a single parcel of land, and this access shall be at that location which the commissioner determines to be safest. The commissioner shall not give final approval for use of any additional access until it has been proven to him that the 400 foot all season safe sight distance has been provided.

(c) For the purposes of this section, all season safe sight distance is defined as a line which encounters no visual obstruction between 2 points, each at a height of 3 feet 9 inches above the pavement, and so located as to represent the critical line of sight between the operator of a vehicle using the access and the operator of a vehicle approaching from either direction.

IV. No construction permit shall allow:

(a) A driveway, entrance, exit, or approach to be constructed more than 50 feet in width, except that a driveway, entrance, exit, or approach may be flared beyond a width of 50 feet at its junction with the highway to accommodate the turning radius of vehicles expected to use the particular driveway, entrance, exit or approach.

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(b) More than 2 driveways, entrances, exits or approaches from any one highway to any one parcel of land unless the frontage along the highway exceeds 500 feet.

V. The same powers concerning highways under their jurisdiction as are conferred upon the commissioner of transportation by paragraphs I, II, III and IV, shall be conferred upon the planning board in cities and towns wherein the planning board has been granted the power to regulate the subdivision of land as provided in RSA 674:35 and, they shall adopt such regulations as are necessary to carry out the provisions of this section. (Amended 1985, 103:4, effective Jan. 1, 1986; 402:6, I(b)(7).)

RSA 236:14 Penalty. Any person who violates any provision of this subdivision or the rules and regulations made under authority thereof shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person; and, in addition, shall be liable for the cost of restoration of the highway to a condition satisfactory to the person empowered to give such written permission.

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APPENDIX

Rule	Statute Implemented
Tra 304.01	RSA 21-L:12-a, RSA 266:24
Tra 304.02	RSA 266:24, RSA 266:24-b
Tra 304.03	RSA 266:24
Tra 304.04	RSA 266:24, RSA 266:22
Tra 304.05	RSA 266:24, RSA 266:22
Tra 304.06	RSA 266:24, RSA 266:45, RSA 266:45-a, RSA 266:46
Tra 304.07	RSA 266:24
Tra 304.08	RSA 266:24
Tra 304.09	RSA 266:24
Tra 304.10	RSA 266:24
Tra 304.11	RSA 266:24
Tra 304.12	RSA 266:16, RSA 266:24, RSA 266:26, RSA 641:3, RSA 641:7, RSA 541-A:30, RSA 541-A:36
Tra 308.01	RSA 230:83
Tra 308.02	RSA 230:83
Tra 308.03	RSA 230:83
Tra 308.04	RSA 230:83
Tra 308.05	RSA 230:83
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Tra 308.09	RSA 230:83
Tra 308.10	RSA 230:83
Tra 308.11	RSA 230:83, 541-A: 30-36
Tra 308.12	RSA 230:83