

Basic Manual Update Series

Countdown to November 1

by Roland Love, TLTA Regulatory Committee Chair

INSTALLMENT 8

NEW COVERAGES – NEW FORMS

On November 1, the Texas title industry and consumers will have access to three new coverages and forms for severable improvements and energy facilities. Think carbon adsorption plants, natural gas electric generating plants, solar arrays and transmission facilities, wind power generation, and other similar and related facilities. These high-risk, high-value projects require extensive and experienced title examination and underwriting. If your title agency receives a request to insure one of these facilities, early contact should be made with both the title plant and the underwriter.

NEW FORMS AND RULES OVERVIEW

The new forms include the T-54, a T-55 series (55 through 55.5) depending on the endorsement to an owner's policy or lender, and the nature of the interest in the land, along with a T-19.4. Procedural Rule 72 has been amended to provide guidelines for issuing both the T-54 (Severable Improvements) and the T-55 (Energy Project Endorsements). While the T-54 and P-72 are not new for severable improvements, the T-54 was previously unavailable due to the absence of a rate rule. Now, with the adoption of the new Rate Rule 37, which specifies 5% of the Basic Premium for the policy, it's possible to issue either the T-54 or one of the T-55 series. The T-19.4 protects improvements or facilities against surface damage, guided by P-50.2. Additionally, the new R-29.2 provides a rate of 5% of the Basic Rate for the policy amount when issuing the endorsement.

[View the revised P-72 »](#)

[View the new R-37 »](#)

[View the new P-50.2 »](#)

[View the new R-29.2 »](#)

SEVERABLE IMPROVEMENTS – THE T-54

As noted, the T-54 is available for severable improvements that are not classified as "energy facilities." The Land may not be residential real property, and the area and boundary amendment must be made pursuant to P-2. The policy amount will include the value of the Severable Improvement. A Severable Improvement is defined as property affixed to the Land on or after the Date of the Policy that does not constitute real property because of its character and manner of attachment to the Land and can be severed from the Land without causing material damage to it or the Land.

In essence, this endorsement allows coverage without the need to assess the value of individual components, recognizing instead the total value of the improvement. The covered loss includes the diminution in value of the insured's interest in the severable improvement and the reasonable cost of removal and relocation within 100 miles, resulting from a covered Defect.

[View Form T-54 »](#)

ENERGY PROJECTS – THE T-55 SERIES

The T-55 series is a bit more complex. While you might expect one endorsement for each of the Owner's Policy and Loan Policy, the already existing ALTA forms utilized by national and international developers, investors and lenders use the 6 slightly different forms, depending on the underlying real property interest. The T-55 and T-55.1 apply to combined leasehold and easement estates, while the T-55.2 and T-55.3 apply solely to a leasehold estate. The T-55.4 and T-55.5 are used for fee simple estates. Slight differences in language reflect the nature of the underlying estates, with T-55.1, T-55.3, and T-55.5 tailored for loan policies due to their additional indebtedness aspects.

The definition of an "electricity facility" is broad, encompassing nearly any structure involved in electricity generation. The Plans help determine the Severable Improvements, and the policy is valued as an integrated project. Coverage extends to the Integrated Project much as it does with the T-54. For completed Electric Facilities, references to Plans may be removed from the endorsement.

[View Form T-55 »](#) [View Form T-55.3 »](#)

[View Form T-55.1 »](#) [View Form T-55.4 »](#)

[View Form T-55.2 »](#) [View Form T-55.5 »](#)

SURFACE DAMAGE PROTECTION – THE T-19.4

The T-19.4 endorsement is adopted to insure against loss due to damage to, enforced removal, or alteration of any Severable Improvements located on the Land. The coverage specifically addresses risks arising from the extraction or development of coal, lignite, oil, gas, or other minerals, or other subsurface substances excepted from coverage. "Severable Improvement" includes electricity facilities within its definition. This endorsement does not protect against losses caused by the exercise of rights excepted from coverage. P-50.2 requires an exception for minerals, simultaneous issuance with a T-54 or T-55 series, and satisfaction of underwriting requirements. Again, R-29.2 provides a premium equal to 5% of the policy amount.

[View Form T-19.4 »](#)

These endorsements have been in demand in Texas for many years. They are typically requested by an insured constructing or purchasing a completed project with severable improvements or an electricity generating facility. There would appear to be no limit on means to generate electricity so these endorsements should find expanded application in the coming years. The title industry should be pleased to be able to provide this protection.