§ 1980.434 Flood or mudslide hazard area. Refer to sub-
part B of part 1806 of this chapter [FmHA or its successor agency under Public Law 103-
354 Instruction 426.2].

§ 1980.434 Equal opportunity and non-
discrimination requirements.

(See subpart A §1980.41.)

Administrative

The State Director will assure that equal opportunity and nondiscrimination require-
ments are met. If there is indication of non-
compliance with these requirements, such
facts will be reported by the Compliance Re-
viewing Officer or FmHA or its successor
agency under Public Law 103–354 Official in
writing to the Administrator, ATTN: Equal
Opportunity Officer.


§ 1980.441 Borrower equity require-
ments.

(a) A minimum of 10 percent tangible
balance sheet equity will be required
for existing businesses at loan closing.
A minimum of 20 percent tangible bal-
ance sheet equity will be required for
new businesses at loan closing. For en-
ergy projects, the minimum tangible
balance sheet equity requirement
range will be between 25 percent and 40
percent. Criteria for considering the
minimum equity required for an indi-
vidual application will be based on: ex-
sting businesses with successful finan-
cial and management history vs. start-
up businesses; personal/corporate guar-
antees offered; contractual relation-
ships with suppliers and buyers; credit
rating; and strength of the business
plan/feasibility study. Where the appli-
cation is a request to refinance out-
standing Federal direct or guaranteed
loans, without any new financing, the
equity requirement may be determined
using adjusted tangible net worth. An
application that combines a refi-
nancing loan or guarantee request with
a new loan or guarantee request is sub-
ject to the standard, unadjusted, eq-
uity requirement except as provided in
paragraphs (a)(1) or (a)(2) of this sec-
tion. Increases or decreases in the eq-
uity requirements may be imposed or
granted as follows:

(i) Collateralized personal and cor-
porate guarantees, including any par-
et, subsidiary, or affiliated company,
when feasible and legally permissible,
and

(ii) Pro forma and historical finan-
cial statements that indicate the busi-
ness to be financed meets or exceeds
the median quartile (as identified in
the Risk Management Association’s
Annual Statement Studies or similar
publication) for the current ratio,
quick ratio, debt-to-worth ratio, debt
coverage ratio, and working capital.

(2) The approval official may require
more than the minimum equity re-
quirements provided in this paragraph
if the official makes a written deter-
mination that special circumstances
necessitate this course of action.

(b) The equity requirement must be
met in the form of either cash or tan-
gible earning assets contributed to the
business and reflected on the balance
sheet.

(c) The equity requirement must be
determined using balance sheets pre-
pared in accordance with GAAP and
met upon giving effect to the entirety
of the loan in the calculation, whether
or not the loan itself is fully advanced,
as of the date the loan is closed; a cer-
tification to this effect is required of
all guaranteed lenders.

(d) The modified formula for deter-
miming whether the equity require-
ment is met, “adjusted tangible net
worth,” may be used only in cases
where the guarantee requested is for a
loan, the proceeds of which are to be
used entirely to refinance a debt owed
to the Federal government or Feder-
ally guaranteed debt. In all other situ-
ations, the equity requirement must be
determined using tangible net worth.

[71 FR 33187, June 8, 2006]

§ 1980.442 Feasibility studies.

A feasibility study by a recognized
independent consultant will be re-
quired for all loans, except as provided
in this paragraph. The cost of the study
will be borne by the borrower and may
be paid from funds included in the loan.

The loan approval official may make
an exception to the requirement of a
feasibility study for loans to existing

7 CFR Ch. XVIII (1–1–11 Edition)
§ 1980.443 Collateral, personal and corporate guarantees and other requirements.

(a) Collateral. (1) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA or its successor agency under Public Law 103–354.

(2) Collateral must be of such a nature that repayment of the loan is reasonably assured when considered with the integrity and ability of project management, soundness of the project, and applicant’s prospective earnings. Collateral may include, but is not limited to the following: Land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, marketable securities and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.