

1 Department of Housing, Buildings and Construction

2 Division of Building Code Enforcement

3 (New Administrative Regulation)

4 815 KAR 7:130. Kentucky Industrialized Building Systems.

5 RELATES TO: KRS 198B.030; KRS 198B.062; KRS 318.134

6 STATUTORY AUTHORITY: KRS 198B.040(10); KRS 198B.050(5); KRS  
7 198B.060(18)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.050(5) requires the  
9 Department of Housing, Buildings and Construction to promulgate administrative regulations  
10 which are necessary to implement the Uniform State Building Code or to carry out any other  
11 responsibility assigned to the department by KRS Chapter 198B. KRS 198B.040(10) requires the  
12 department to promulgate administrative regulations for the safe installation and operation of  
13 plumbing and plumbing fixtures. KRS 198B.060(18) authorizes the department to establish a  
14 schedule of fees for the functions performed under KRS Chapter 198B. KRS 198B.062 requires  
15 all buildings to be constructed according to the construction documents approved by the building  
16 official having jurisdiction of the building in accordance with KRS 198B.060. This administrative  
17 regulation establishes the plan review and out-of-state inspection processes and requirements for  
18 industrialized building systems.

19 Section 1. Definitions. (1) "Certificate of acceptability" means the certificate provided to  
20 the manufacturer by the department signifying the manufacturer's ability to manufacture, import,  
21 and sell industrialized building systems within the state.

1 (2) "Department" means Department of Housing, Buildings and Construction

2 (3) "Industrialized building system" is defined by KRS 198B.010(18).

3 (4) "KIBS" means the Kentucky Industrialized Building System program.

4 (5) "M-Seal" means a unique serialized seal applied by a third-party inspector in the factory  
5 indicating that the building was constructed in substantial compliance with the Kentucky Building  
6 Code, incorporated by reference at 815 KAR 7:120 or the Kentucky Residential Code,  
7 incorporated by reference at 815 KAR 7:125.

8 (6) "Third-party inspection agency" means a business entity that employs Kentucky certified  
9 building inspectors and is approved to conduct out-of-state inspections for substantial compliance  
10 with the Uniform State Building Code "Third-Party Inspector" means a building inspector certified  
11 by the department in accordance with 815 KAR 7:070 that is not employed by a local government  
12 or by the department and is authorized to conduct inspections on industrialized building systems  
13 at an out-of-state manufacturing facility.

14 (7) "Third-party inspector" means a building inspector certified by the department in  
15 accordance with 815 KAR 7:070 that is not employed by a local government or by the department  
16 and is authorized to conduct inspections on industrialized building systems at an out-of-state  
17 manufacturing facility.

18 (8) "Quality Assurance Manual" means a document that describes a business entities'  
19 construction practices, quality assurance measures, and dispute resolution procedures.

20 Section 2. Certificate of Acceptability.

21 (1) Any manufacturer who wishes to sell an industrialized building system for placement in  
22 Kentucky shall obtain a Certificate of Acceptability.

(2) An applicant for a manufacturer of industrialized building systems' Certificate of Acceptability shall submit to the department:

(a) A completed Form HBC KIBS-1, Application for Certificate of Acceptability for Industrialized Building Systems;

(b) Quality Assurance Manual;

(c) Proof of insurance for general liability coverage in the amount of at least:

1. \$300,000 bodily injury or death for each person;

2. \$400,000 bodily injury or death for each accident; and

3. \$100,000 for damage to property; and

(d) A prorated certificate of acceptability fee of \$500.

### Section 3. Plan submission.

(1) Prior to manufacturing an industrialized building system for placement in Kentucky, a manufacturer shall submit model plans to the department for approval. Model plans are required once per model and approval shall remain in effect for the duration of the currently adopted Kentucky Building Code or Kentucky Residential Code.

(a) Applicants seeking model plan approval shall submit to the department:

(i) A completed KIBS Model Application Form, Form HBC KIBS-2;

(ii) Construction documents; and

(iii) Plan review fee as established by 815 KAR 7:120 Section 3.

(2) Prior to placement of every industrialized building system, except those classified as one- and two- family dwellings, site placement plans shall be submitted to the department for approval.

(a) Applicants seeking site placement plan approval shall submit to the department:

(i) A completed KIBS Site Placement Application Form, Form HBC KIBS-3;

1 (ii) Site placement plans; and

2 (iii) Plan review fee as established by 815 KAR 7:120 Section 3.

3 Section 4. Out-of-state inspections. Prior to shipment of every industrialized building system,  
4 the structure shall be inspected for substantial code compliance by a third-party inspector, and an  
5 M-Seal shall be applied if the structure is in substantial compliance with the Kentucky Building  
6 Code or Kentucky Residential Code.

7 Section 5. M-Seals.

8 (1) A third-party inspector may request M-Seals from the department to place on inspected  
9 industrialized building systems. Requestors shall submit to the department:

10 (a) A completed Application for M-Seals, Form HBC KIBS-4, and

11 (b) A fee of twenty-five dollars (\$25) per M-Seal.

12 (2) Except for the initial request for M-Seals, a third-party inspector requesting M-Seals shall  
13 submit a completed Form HBC KIBS-5 to the department prior to receiving M-Seals.

14 (3) A third-party inspector shall:

15 (a) Affix a M-Seal to a structure that substantially complies with the Kentucky Building Code  
16 or Kentucky Residential Code;

17 (b) Not affix a M-Seal to a structure he or she has not personally inspected; and

18 (c) Not allow M-Seals he or she has received from the department to be used by another.

19 (4) Penalties. A third-party inspector who knowingly engages in activity intended to defraud or  
20 deceive the department shall be subject to certification revocation or suspension pursuant to KRS  
21 198B.060(16)-(17).

1 Section 6. Plumbing. Plumbing Systems shall be inspected and approved by a plumbing  
2 inspector employed by the Kentucky Department of Housing, Buildings and Construction,  
3 Division of Plumbing.

4 Section 7. Incorporation by reference.

5 (1) The following material is incorporated by reference:

6 (a) Form HBC KIBS-1, "Application for Certificate of Acceptability for Industrialized Building  
7 Systems", April 2023;

8 (b) Form HBC KIBS-2, "KIBS Model Application Form", April 2023;

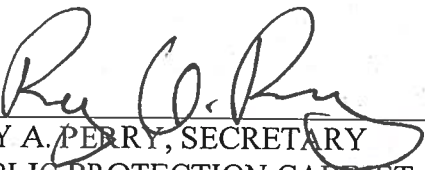
9 (c) Form HBC KIBS-3, "KIBS Site Placement Application Form", April 2023;

10 (d) Form HBC KIBS-4, "Application for M-Seals", April 2023;


11 (e) Form HBC KIBS-5, "M-Seal Verification Form", April 2023.

12 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at  
13 the Department of Housing, Buildings and Construction, Division of Building Code  
14 Enforcement, 500 Mero Street, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m.  
15 to 4:30 p.m. and is available online at <http://dhbc.ky.gov>. 815 KAR 7:130:

815 KAR 7:130:

  
RAY A. PERRY, SECRETARY  
PUBLIC PROTECTION CABINET

4.12.23  
Date

  
RICK W. RAND, COMMISSIONER  
DEPARTMENT OF HOUSING, BUILDINGS  
AND CONSTRUCTION

4-12-23  
Date

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on June 27, 2023 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2023 at 11:59 p.m., eastern time. Send written notification of the intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

Contact Person: Molly B. Cassady, General Counsel  
Department of Housing, Buildings and Construction  
500 Mero St.  
Frankfort, Kentucky 40601  
Telephone: 502-782-5448  
Fax: 502-573-1057  
Email: molly.cassady@ky.gov

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

### Administrative

Regulation: 815 KAR 7:130  
Contact Person: Molly B. Cassady  
Phone Number: (502) 782-5448  
Email: molly.cassady@ky.gov

#### (1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the plan review and out-of-state inspection processes and requirements for industrialized building systems.

(b) The necessity of this administrative regulation: KRS 198B.050(5) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations which are necessary to implement the Uniform State Building Code or to carry out any other responsibility assigned to the department by KRS Chapter 198B. KRS 198B.040(10) requires the department to promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures. KRS 198B.060(18) authorizes the department to establish a schedule of fees for the functions performed under KRS Chapter 198B. KRS 198B.062 requires all buildings to be constructed according to the construction documents approved by the building official having jurisdiction of the building in accordance with KRS 198B.060.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 198B.050(5) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations which are necessary to implement the Uniform State Building Code or to carry out any other responsibility assigned to the department by KRS Chapter 198B. KRS 198B.040(10) requires the department to promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures. KRS 198B.060(18) authorizes the department to establish a schedule of fees for the functions performed under KRS Chapter 198B. KRS 198B.062 requires all buildings to be constructed according to the construction documents approved by the building official having jurisdiction of the building in accordance with KRS 198B.060. This administrative regulation establishes the plan review and out-of-state inspection processes and requirements for industrialized building systems brought into Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the plan review and out-of-state inspection processes and requirements for industrialized building systems in accordance with KRS 198B.050(5); KRS 198B.060; and KRS 198B.062.

#### (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:



(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All industrialized building systems set in Kentucky, their manufacturers, and third-party inspectors are affected by this administrative regulation. Further, department personnel and local building officials are affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in Question (3) will have to take to comply with this administrative regulation or amendment: Manufacturers will be required to obtain a certificate of acceptability from the department to comply with this administrative regulation. Third-party inspectors will be required to account for seals applied to industrialized building systems to comply with this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Manufacturers will have to pay a prorated \$500 fee for a certificate of acceptability application and a \$500 renewal fee to maintain their certificates of acceptability. Third-party inspectors will have to pay \$25 per M-seal ordered. The fees associated with plan review are currently in effect pursuant to 815 KAR 7:120.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include a clearer, more consistent application of the requirements of the Kentucky Building Code and Kentucky Residential Code to industrialized building systems brought into Kentucky.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Minimal costs to configure software for tracking issuance of certificates of acceptability, M-seals that have been issued to and applied by third-party inspectors.

(b) On a continuing basis: There are no anticipated additional costs to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding for implementation and enforcement of this administrative regulation will be met with existing agency funds initially, and fees affiliated with plan review, model approval, certificates of acceptability, and M-seals on a continuing basis.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation establishes fees to cover operational costs for the implementation and enforcement of the administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes a \$500 prorated application fee for certificates of acceptability and a \$500 annual renewal fee for certificates of acceptability. This administrative regulation also establishes a \$25 fee per M-seal ordered.

(9) TIERING: Is tiering applied? Explain why or why not: Tiering is not applied as all regulated entities are subject to the same amended requirements.

## FISCAL NOTE

### Administrative

Regulation: 815 KAR 7:130  
Contact Person: Molly B. Cassady.  
Phone Number: (502) 782-5448  
Email: molly.cassady@ky.gov

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction as well as building inspection and plan review programs of local governments.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 198B.050(5); KRS 198B.040(10); KRS 198B.060(18).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate \$25 per M-seal issued, \$500, prorated, per certificate of acceptability application, and \$500 per certificate of acceptability renewal. It is estimated that the Department of Housing, Buildings and Construction will issue a total approximately 1226 M-seals to various third-party inspectors, for a total cost of \$30,650 in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate \$25 per M-seal issued, \$500, prorated, per certificate of acceptability application, and \$500 per certificate of acceptability renewal. It is estimated that the Department of Housing, Buildings and Construction will issue a total approximately 1226 M-seals to various third-party inspectors, for a total cost of \$30,650 in subsequent years, depending on construction activity.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this amendment in the first year. Any unforeseen costs will be met with existing agency funds and resources.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this amendment for subsequent years. Any unforeseen costs will be met with existing agency funds and resources.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: Revenues remain neutral as agency resources expended will be offset by application, renewal, plan review, and seal fees.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation is not anticipated to result in cost savings for the regulated entities for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation is not anticipated to result in cost savings for the regulated entities for subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation will cost manufacturers the cost of application fees (\$500, prorated) for the first year. It will also cost third-party inspectors the cost of M-seals (\$25 per seal) they purchase.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation will cost manufacturers the cost of renewal fees (\$500) for subsequent years. It will also cost third-party inspectors the cost of M-seals (\$25 per seal) they purchase.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-): Neutral.

Expenditures (+/-): Increased by the amounts identified in 4(c) and 4(d).

Other Explanation: None.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

This administrative regulation will not have a major economic impact, as defined above.

## SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

Application for Certificate of Acceptability for Industrialized Building Systems, KIBS Model Application Form, KIBS Site Placement Application Form, Application For M-Seals, M-Seal Verification Form

FILED: April 2023

Application for Certificate of Acceptability for Industrialized Building Systems is a four (4) page document capturing information from manufacturers of industrialized building systems who wish to sell units for use in Kentucky. The application captures contact information, quality assurance manuals, and includes a prorated fee chart. KIBS Model Application Form is a one (1) page document that captures manufacturer and model information for specific models of industrialized buildings systems necessary to verify compliance with the Uniform State Building Code. KIBS Site Placement Application Form is a two (2) page document that captures information related to industrialized building systems that will be placed in Kentucky necessary to verify compliance with the Uniform State Building Code. The form includes a checklist for applicants and also provides information related to plumbing plan requirements. Application for M-Seals is a one (1) page document that third-party inspectors will utilize to order M-seals to apply to industrialized building systems that they inspect during production. M-Seal verification form is a one (1) page document that third-party inspectors will utilize to account for the M-seals that they have previously ordered and applied to industrialized building systems.

KRS 198B.050(5) requires the Department of Housing, Buildings and Construction to promulgate administrative regulations which are necessary to implement the Uniform State Building Code or to carry out any other responsibility assigned to the department by KRS Chapter 198B. KRS 198B.040(10) requires the department to promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures. KRS 198B.060(18) authorizes the department to establish a schedule of fees for the functions performed under KRS Chapter 198B. KRS 198B.062 requires all buildings to be constructed according to the construction documents approved by the building official having jurisdiction of the building in accordance with KRS 198B.060.