

Ag 133

Filed February 17, 1976
2:45 pm B. L. Falson

STATE OF WISCONSIN)
) SS
DEPARTMENT OF AGRICULTURE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Claire L. Jackson, Administrator, Trade Division, and custodian of the official records of said Division, do hereby certify that the annexed order adopting rules relating to basement waterproofing unfair trade practices, Wis. Adm. Code Chapter Ag 133, was duly adopted by the department on February 16, 1976.

I further certify that said copy has been compared by me with the original on file in the department and that the same is a true copy thereof, and of the whole of such original.

IN WITNESS WHEREOF, I have hereunto set my hand at Madison, Wisconsin, this 16th day of February, 1976.



Administrator
Trade Division

DOCKET NO. 1201

ORDER OF THE STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE
REPEALING, AMENDING AND ADOPTING RULES

Pursuant to authority vested in the State of Wisconsin Department of Agriculture by section 100.20(2), Wis. Stats., the State of Wisconsin Department of Agriculture hereby repeals, amends and adopts rules as follows:

1. Section Ag 133.02(7) of the Wis. Adm. Code is adopted to read:

Ag 133.02(7) "Guarantee" means any promise, made by or on behalf of the seller in connection with the sale of basement waterproofing services, which provides that the seller's services, materials or workmanship are defect free or will meet a specified level of performance over a specified period of time, or which provides that the seller will correct, repair, service, replace, make refunds for or otherwise remedy any systems, problems, defects or malfunctions that relate to or arise out of basement waterproofing services. The term includes service contracts or agreements made by or on behalf of the seller in connection with a basement waterproofing contract under which the seller provides or agrees to perform, over a fixed or extended period of time, basement waterproofing inspection, maintenance or repair services, whether or not a separate or additional charge is made for such services.

2. Sections Ag 133.03(1) and (4) of the Wis. Adm. Code are amended to read:

Ag 133.03(1) Make or offer to make any guarantee with respect to basement waterproofing services unless the guarantee meets the requirements of section Ag 133.04, and is furnished to the buyer in writing with a seller's analysis prior to final execution of any contract.

(4) Enter into a basement waterproofing contract which provides, in whole or in part, for the performance of services which the seller knows or reasonably ought to know are unnecessary or will not materially serve to correct the buyer's basement water problem, unless such unnecessary or noncorrective services are separately and distinctly identified and enumerated in the seller's analysis, or an amendment thereto, provided to the buyer prior to execution of a basement waterproofing contract.

3. Sections Ag 133.03(9) and (10) of the Wis. Adm. Code are adopted to read:

Ag 133.03(9) Enter into any contract for basement waterproofing services which does not contain all agreements, promises or representations made with respect to such services, and which is not in writing and signed by the buyer and seller.

(10) Fail to provide, in all instances where the seller's basement waterproofing services are not guaranteed, the following disclaimer, which shall be set forth on the face of the contract, separate and apart from all other contract provisions and in bold face type: "THE BASEMENT WATERPROOFING SERVICES PROVIDED BY THIS CONTRACT ARE NOT GUARANTEED."

4. Section Ag 133.05 of the Wis. Adm. Code is repealed and recreated to read:

Ag 133.05 Seller's Analysis. A seller of basement water-

proofing services shall prepare and furnish to the buyer a signed copy of the seller's analysis prior to the final execution of any basement waterproofing contract.

The rules contained herein shall take effect as provided in section 227.026, Wis. Stats.

Dated:

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE

By C. L. Jackson
Claire L. Jackson, Administrator
Trade Division