

Tony Evers
Governor



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March 19, 2025

SEAN KANE
MILWAUKEE PUBLIC SCHOOLS
1124 N 11TH ST
MILWAUKEE WI 53233-1414

Noncompliance ORDER– Lead

Case No. 137334

Inspector: Sebastian Zoric Martinez
608-893-8870

Dear Sean Kane:

Milwaukee Public Schools (MPS) is a certified lead company with certified lead-safe renovators on staff and also utilizes contracted staff. Beginning in February 2025, pursuant to findings made by the Milwaukee Health Department (MHD)'s investigations into certain MPS schools, MPS undertook a series of lead renovations. The discovery of lead hazards and the investigation into the existence of lead at MPS schools is the responsibility of MHD, under the authority delegated to them by the Wisconsin Department of Health Services (DHS) and under MHD's local authority. DHS retains a distinct role, which includes enforcing DHS administrative rule chapter 163, which outlines requirements for certification as well as the work safety rules certified lead companies are required to follow while conducting lead safe renovations. The rules are to protect the health and safety of workers, occupants, and the environment while lead renovations are being performed.

During a series of inspections of the lead renovation work occurring at MPS schools, DHS and MHD witnessed MPS' noncompliance with several lead rules relating to its performance of renovation work at MPS schools. DHS has communicated many of their concerns to MPS orally as they have been found. Below are the findings of noncompliance.

Description of the violations

On February 6, 2025, DHS started investigating multiple lead renovation projects MPS and Service Painting Corporation was doing at the following schools:

- Albert E Kagel School at 1210 West Mineral Street (Kagel)
- Maryland Avenue Montessori School at 2418 North Maryland Avenue (Maryland)
- Trowbridge School of Great Lake Studies at 1943 East Trowbridge Street (Trowbridge)
- Fernwood Montessori School at 3239 South Pennsylvania Avenue (Fernwood)

These child occupied facilities were all built before 1978. The following are detailed descriptions of the rule violations:

1. Wis. Admin. Code § DHS 163.14 (11)(f)(1), (4), and (5) - Failure to conduct interior lead-safe work practices

On February 17, 2025, MHD was at Trowbridge and observed a MPS worker scraping paint in the gymnasium. The plastic containment in the gymnasium work area did not extend at least 6 feet beyond the perimeter of surfaces undergoing renovation. MHD also observed no methods to decontaminate (tack mat, HEPA vacuum, wet wipes, etc) one's self or tools when leaving the work area. On February 26, 2025, while meeting with MPS and other members of DFMS, you confirmed that MPS was aware of the misstep and that it would not occur again.

On March 11, 2025, at Fernwood, MHD and DHS observed work areas with historical dust in multiple classroom work areas. This indicates that MPS and Service Painting Corporation did not pre-clean the work areas before the work started. During the same visit, in Classroom 22, a significant amount of paint chips and renovation debris were visible within arm's length of a child's desk. It was clear the surface was not covered with plastic during the paint scraping. Personal items that were plugged into the wall also had paint chips on them indicating they were not removed or covered and sealed properly.

2. Wis. Admin. Code § DHS 163.14 (11)(e)(1) - Failure to post signs

During the February 17, 2025 site visit, MHD did not observe any warning signs defining the work area where MPS was scraping paint in the gymnasium at Trowbridge.

3. Wis. Admin. Code § DHS 163.14(11)(j)(1), (2), and (4) - Failure to perform final cleaning

On March 11, 2025, while visiting Fernwood, MHD and DHS observed visible paint chips, renovation debris and historical dust most significantly within the work areas of classrooms 34, 33, 22, 21, K5.

4. Wis. Admin. Code § DHS 163.14(11)(k)(1) and (2) - Failure to perform post renovation visual inspection

During the March 11, 2025, site visit, the paint chips and debris that MHD and DHS observed indicated a visual inspection was not performed after the renovation work was completed.

5. Wis. Admin. Code § DHS 163.14(11)(L) - Failure to perform post renovation cleaning verification

The visible paint chips and debris overserved by MHD and DHS at Fernwood on the floors and window sills indicate a post renovation cleaning verification was not completed in these areas.

MPS allowed children back into the work areas at Fernwood to attend class on March 11, 2025, while paint chip dust and debris from the previous night's work was present. DHS started the site visit right after school concluded for the day.

6. Wis. Admin. Code § DHS 163.13(3)(c)(6), (7)(a) and (g) - Failure to meet requirement for recordkeeping

During the investigation, DHS reviewed the records submitted for the work done at Kagel, Maryland and Trowbridge. The DHS inspector reviewed the lead safe checklists MPS provided and found the following noncompliance:

- a. Uncertified employees of MPS and Service Painting Corporation (Eric Shams, Troy Lang, Orrin Robinson, Brian Stout, Tom Finley, Todd Rausch, Ben Teichert, Brett Teichert, Adam Deering, Ed Fugate, and Sam Valle), were listed in the records as workers on these projects, but the records do not indicate if they were trained by a certified lead safe renovator or what they were trained on.
- b. The checklist also did not indicate how many wet wipes and dry wipes were used for the post renovation cleaning verification.
- c. MPS did not have documentation that the Renovation Right pamphlet was distributed to parents of the students who attend each school. MPS stated it is posted at the school, but does not have a signed and dated statement recording steps taken to notify occupants of upcoming paint disturbing activities.

On February 26, 2025, while meeting with you and other members of MPS Department of Facilities and Maintenance Services (DFMS), you acknowledged these violations and agreed that MPS would improve on them.

7. Wis. Admin. Code § DHS 163.14(10)(d)(3) and (4) - Failure to distribute Renovate Right to parents and guardians

For all four schools, MPS did not provide documentation showing that it provided parents and guardians of children using the child occupied facility with the Renovate Right pamphlet. MPS also admitted it does not currently provide information describing the general nature and locations of the renovation activities and the anticipated completion date to the parents.

Enforcement Action

MPS' noncompliance with the above has created a condition that is an unreasonable risk to the health and safety of the children and staff attending MPS schools.

Under Wis. Admin. Code § DHS 163.32(1)(d), DHS orders MPS to stop violating provisions under Wis. Admin. Code § DHS 163.13(3), [DHS 163.14\(10\)](#) and [\(11\)](#). Under Wis. Admin. Code § DHS 163.32(1)(f) DHS also orders MPS to immediately implement the following plan of correction:

1. Notification for any regulated lead renovation work in any child occupied school.

This applies to any renovation work done by MPS or MPS's sub-contractor(s). Notify both DHS and City of Milwaukee Health Department (MHD) by email (Jessica.ellner@wi.gov and mamanna@milwaukee.gov) at least two working days prior to beginning renovations. For any renovation that is currently ongoing, you do not need to stop work, but notify us of that work by 10 am on March 20, 2025. The notice shall include:

- Name of the school you will be working at.
- Areas of the school you will be working in.
- Start and end dates.
- Start and end time.
- Name of the certified lead-safe renovator who will be onsite.
- Phone number that the certified lead-safe renovator assigned will be available at during the specified work dates and times.
- Number of workers that will be onsite and supervised by the assigned lead-safe renovator.

If you will be doing work at multiple schools at a time, please create a daily schedule of work and make sure each project on the schedule has all of the above information.

2. Permit DHS and MHD access to the school during renovation work.

The assigned lead-safe renovator must be able to answer their phone and escort DHS and MHD through the school at any time during the renovation work.

3. Follow lead-safe work practices.

You must ensure work practices under Wis. Admin. Code § DHS [163.14\(11\)](#) are followed by both your staff and any company/individuals contracted by you to perform renovation,¹ as defined in DHS 163.03, in your child occupied pre-1978 schools. You must comply with [DHS 163.14\(11\)](#) work practices for each project, including but not limited to:

¹ **Wis. Admin. Code § DHS 163.03 Definitions.** In this chapter.

(100m) "Renovation" means a work activity that disturbs paint in or on target housing or a child-occupied facility. Renovation includes cutting, drilling, planing, sanding, sawing, scraping, stripping or removing painted surfaces or components during demolition, interim controls, maintenance, modification, painting, rehabilitation, remodeling, repair, residing, roofing or restoration activities. Renovation does not include abatement activities as defined under s. [DHS 163.03 \(1\)](#), minor repair and maintenance activities as defined under s. [DHS 163.03 \(85m\)](#), or the razing of an entire building.

- Assign a certified lead-safe renovator, lead abatement worker, or lead abatement supervisor.
- Train and document training of anyone doing renovation work who is not certified.
- Post warning signs to define your work area.
- Pre-clean all dust and debris on all horizontal surfaces in work areas using HEPA vacuums.
- Clean and remove all movable objects from the work area.
- Cover with plastic and seal any objects that you cannot move.
- Close and seal duct openings within the work area.
- Close all doors and windows in the work area. Doors must also be covered by plastic sheeting.
- Cover floor surfaces in work area with taped down plastic at least 6 feet beyond the surface being disturbed or sufficient distance to contain all dust.
- Wet surfaces being disturbed to control distribution of dust and debris (documented methodology).
- Use decontamination methods such as HEPA vacuum, tack mats, and wet wipes to make sure all personnel, tools and other items are free of dust before leaving the work area.
- Contain all waste in the work area or stored in a container that prevents the release of dust or debris.
- At the end of each day (work shift) clean the work area using HEPA vacuums, wetting plastic, folding plastic inward, and sealing in heavy duty waste bags for disposal.
- At the end of each day (work shift) HEPA vacuum and wet clean all objects and horizontal surfaces in the work area and 2 feet outside of the work area.
- The assigned lead-safe renovator must do a post renovation visual inspection.
- Conduct a post renovation cleaning verification or have a third-party clearance done.

4. Follow recordkeeping requirements.

You must ensure required records are created and kept in accordance with Wis. Admin. Code § DHS [163.13\(3\)\(c\)](#). All records shall be maintained for a minimum of 3 years and shall be made available for DHS inspection.

5. Additional requirements.

During the renovation, the assigned lead-safe renovator must remain onsite supervising at all times. The assigned renovator should be overseeing all work areas to make sure work practices are being followed.

This order will remain in effect until DHS and MHD are confident that MPS is following all lead-safe work practices and is protecting the children and staff who attend its schools.

Failure to comply with the order will result in additional enforcement action, which may include forfeitures, suspension, revocation, and or referral to the Environmental Protection Agency.

You have the right to appeal. Submit the appeal in writing to the Division of Hearings and Appeals. You must submit the appeal within 10 working days from the date of this letter. See addendum A for directions.

If you have questions, please call the inspector at the top of this letter or call me at 608-220-5491.

Sincerely,

A handwritten signature in cursive script that reads "Jessica M. Ellner". The signature is written in dark ink and is positioned below the word "Sincerely,".

Jessica Ellner
Field Compliance Unit Supervisor, Lead and Asbestos Section
Bureau of Environmental and Occupational Health

cc: Michael Mannan, City of Milwaukee Health Department
Michael Todd, Environmental Protection Agency

Enclosures: Addendum A: Rights and directions to appeal
Addendum B: Language of the administrative rules violated
Addendum C: DHS authority to initiate enforcement action
Addendum D: March 11, 2025, inspection photos

Addendum A: Rights and directions to appeal

Under Wis. Stat. ch. 227 and Wis. Admin. Code § DHS 163.33, you have the right to appeal this DHS enforcement action by filing a written request for a hearing with the Wisconsin Division of Hearings and Appeals. If you choose to appeal, your request must be received by the Division of Hearings and Appeals no later than 10 working days from the date of this letter. DHS 163.03 (118) defines "Working day" as any day except Saturday, Sunday, and state and federal holidays.

An appeal may be filed with the Division of Hearings and Appeals by fax to 608-264-9885, by mail to P.O. Box 7875, Madison, WI 53707-7875, or in person to 4822 Madison Yards Way, 5th Floor, Madison, WI.

A request for a hearing should contain the following information: your name and address, a description of the DHS action you are contesting, a concise statement of the reasons for objecting to the action, the type of relief you are seeking and a request for hearing.

Addendum B: Administrative Rules Violated

Wis. Admin. Code § DHS 163.13 Responsibilities when conducting regulated activity.

(3) REQUIREMENT FOR RECORDKEEPING.

(c) *Renovation activities.* A company shall retain all documentation, reports or contracts required under this subchapter for a minimum of 3 years following completion of a renovation activity regulated under this chapter. The company shall maintain the records at the address provided on the company application or as later changed under sub. (12). Records shall be made available for department inspection on site, by mail, or by other means as requested by the department. Within 10 working days post-renovation, the company performing the renovation shall provide a renovation report that includes a copy of each document created for the renovation under this subsection to the person contracting for the renovation, and to any adult occupant of a dwelling unit or representative of a child-occupied facility affected by the renovation. The company shall retain and provide as required all the following records:

6. A signed and dated statement recording steps taken to notify occupants of upcoming paint disturbing activities in common areas under s. DHS 163.14 (10).

7. For each renovation activity conducted by the company, documentation of compliance with the requirements of s. DHS 163.14, including documentation that a certified lead-safe renovator was assigned to the project, that the certified renovator provided on-the-job training for uncertified workers used on the project, that the certified renovator performed or directed workers who performed the renovation work and that the certified lead-safe renovator either performed the visual inspection and cleaning verification after all paint disturbing work was completed or dust clearance sampling was performed as required under s. DHS 163.14 (5) by an appropriately certified individual. This documentation shall include a copy of the certified renovator's training diploma and a certification signed by the certified renovator assigned to the project and attesting to all of the following:

a. Training was provided to workers, including topics covered for each worker.

g. The certified renovator performed post-renovation cleaning verification, including a brief description of the results and number of wet and dry cloths used.

Wis. Admin. Code § DHS 163.14 Work practice standards.

(10) INFORMATION DISTRIBUTION REQUIREMENTS FOR RENOVATION ACTIVITIES. Except for emergency renovations, for which the pre-renovation information distribution requirements do not apply, the requirements of this subsection shall be met as follows:

(d) *Renovation activities in child-occupied facilities.* No more than 60 days before beginning renovation activities the company performing the renovation activities shall do all of the following:

3. In any child-occupied facility, provide the parents and guardians of children using the child-occupied facility with the pamphlet and information describing the general nature and locations of the renovation activities and the anticipated completion date by complying with one of the following:

- a. Mail or hand-deliver the pamphlet and the renovation activities information to each parent or guardian of a child using the child-occupied facility.
- b. While the renovation activities are ongoing, post informational signs describing the general nature and locations of the renovation activities and the anticipated completion date. These signs shall be posted in areas where they can be seen by the parents and guardians of the children frequenting the child-occupied facility. The signs shall be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the company performing the renovation activities at no cost to the parents or guardians.

4. Prepare, sign and date a statement describing the steps taken to notify all parents and guardians about the intended renovation activities and provide the pamphlet.

(e) *Written acknowledgment.* The written acknowledgments required under pars. (a) 1. and (d) 1. a. and 2. a. of this subsection shall include all of the following:

1. A statement recording the owner's, occupant's or representative's name and acknowledging receipt of the pamphlet prior to the start of the renovation activities, the address of the unit undergoing renovation, the signature of the owner, occupant or representative, as applicable, and the date of signature.
2. Be either a separate sheet or part of a written contract or service agreement for the renovation.
3. Be written in the same language as the text of the contract or service agreement for the renovation activities, or, in the case of non-owner-occupied target housing, in the same language as the lease or rental agreement or the pamphlet.

(11) RENOVATION ACTIVITIES.

(e) *Occupant protection.* Documented methodologies and all of the following work practice requirements shall be used to protect occupants when renovation activities are performed:

1. 'Post signs.' Signs clearly defining the work area and warning occupants and other persons not involved in the renovation activities to remain outside the work area. To the extent practicable, these signs shall be in the primary language of the occupants. Signs shall be posted before beginning the work and shall remain in place and readable until the renovation activities and post-work cleaning verification have been completed.
2. 'Contain work areas.' Before starting renovation activities, the work area shall be isolated so that no dust or debris leaves the work area during the activity. Workers shall maintain the integrity of the containment throughout the renovation activities by ensuring that any plastic or other appropriate containment materials are not torn or displaced, and

taking steps necessary to ensure that no dust or debris leaves the containment work area during the renovation. When the building is occupied, containment shall be installed in a manner that provides safe access to restrooms and exits for occupants. Containment may not be constructed in a manner that would interfere with worker egress in an emergency.

(f) *Interior lead-safe work practices.* The company shall ensure that documented methodologies are used for all interior renovation activities and that all personal property in the work area is protected from contamination by dust and debris, including all of the following:

1. Remove all objects from the work area, including furniture, rugs, and window coverings. Pre-clean all horizontal surfaces with a HEPA vacuum to remove any existing paint dust and debris. Objects that cannot be removed shall first be cleaned using a HEPA vacuum, and then be covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

4. Cover floor surfaces in the work area, including installed carpet, with taped down plastic sheeting or other impermeable material at least 6 feet beyond the perimeter of surfaces undergoing renovation, or a sufficient distance to contain all dust, whichever is greater. Floor containment measures may stop at the edge of a vertical containment system consisting of impermeable barriers that extend from the floor to the ceiling and that are completely sealed at joints with the floor, ceiling, and walls.

5. Use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area.

(j) *Cleaning the work area.* 1. Documented methodologies shall be followed to clean all work areas at the end of each work day and when all renovation activities have been completed. After the paint disturbing work has been completed, the work area shall be cleaned until no dust, debris or residue remains.

2. For all interior and exterior work areas do all of the following:

- a. Collect all paint chips and debris and, without dispersing any of it, seal the waste in a heavy-duty waste bag.

- b. Dispose of all sheeting as waste by first misting, then folding inward until as small as possible, taping seams shut or placing in heavy-duty waste bags. Sheeting used to isolate contaminated areas from non-contaminated areas shall remain in place until after final cleaning and removal of all other sheeting.

4. For interior work areas do all of the following:

- a. Clean all objects and horizontal surfaces in the work area and within 2 feet outside the work area starting at the top and working down to the floor.

- b. Clean walls starting at the ceiling and working down to the floor by either HEPA vacuuming or wiping with damp disposable cleaning cloths.

- c. For other interior surfaces, thoroughly HEPA vacuum all remaining surfaces and objects in the work area, including horizontal surfaces, furniture and fixtures. After vacuuming, wipe the same surfaces, objects and fixtures with damp disposable cleaning cloths.

- d. For carpets, use a HEPA vacuum with a beater bar to thoroughly and meticulously vacuum carpets and rugs.

- e. For uncarpeted floors, thoroughly mop the floor using a 2- or 3-bucket mopping system or a wet mopping system using disposable cloths.

Note: For documented methodologies for cleaning, refer to the current edition of the HUD “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing,” available at https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines.

(k) *Post-activity visual inspection.* 1. A visual inspection of the work area or areas shall be conducted by a certified lead-safe renovator or certified lead abatement worker or supervisor who meets the training requirements under s. DHS 163.11 (2) (c) after renovation activities and cleaning have been completed.

2. For interior renovation activities, a visual inspection shall be performed to determine whether dust, debris or residue is still present in or around the work areas. If dust, debris or residue is present, these conditions shall be removed by re-cleaning and another visual inspection shall be performed.

(L) *Post renovation cleaning verification for interior work areas.* Except as allowed under par. (m), after a successful visual inspection, a certified lead-safe renovator or certified lead abatement worker or supervisor who meets the training requirements under s. DHS 163.11 (2) (c) shall verify cleaning of all interior work areas by using all of the following procedures:

1. Verify that each windowsill in the work area has been adequately cleaned by wiping the windowsill with an unused wet disposable cleaning cloth that is damp to the touch and comparing the cleaning cloth to the cleaning verification card.

a. If the cleaning cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

b. If the cleaning cloth is darker than the cleaning verification card, the windowsill has not been adequately cleaned and re-cleaning following the procedures in par. (j) 3. is required. After re-cleaning, either use a new cleaning cloth or fold the used cloth in such a way that an unused surface is exposed and wipe the surface again. If the cleaning cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

c. If the cleaning cloth is still darker than the cleaning verification card, wait one hour or until the surface has dried completely, whichever is longer.

d. After waiting for the windowsill to dry, wipe the sill with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned.

2. Verify that uncarpeted floors and countertops within the work area have been adequately cleaned by wiping the floors and countertops with an unused wet disposable cleaning cloth. Floors shall be wiped using a long-handled mop designed with a head attachment for wet disposable cleaning cloths. The cleaning cloth shall remain damp at all times while it is being used to wipe the surface for post-activity cleaning verification. If the surface within the work area is larger than 40 square feet, the surface within the work area shall be divided into roughly equal sections that are each less than 40 square feet. Wipe each section separately with a new wet disposable cleaning cloth.

a. If the cloth used to wipe that section within the work area matches the cleaning verification card, that section has been adequately cleaned.

b. If the cleaning cloth used to wipe a particular section is darker than the cleaning verification card, that section has not been adequately cleaned and re-cleaning following the procedures in par. (j) 3. is required. After re-cleaning, use a new cleaning cloth and wipe that section again. If the cleaning cloth matches or is lighter than the cleaning verification card, that section of the surface has been adequately cleaned.

- c. If the cleaning cloth used to wipe a particular surface section is still darker than the cleaning verification card after the surface has been re-cleaned, wait for one hour or until the entire section surface has dried completely, whichever is longer.
 - d. After waiting for the entire section surface to dry, wipe the surface with a dry disposable cleaning cloth. After this wipe, that section of the surface has been adequately cleaned.
3. When the work area passes the post-renovation cleaning verification, warning signs may be removed.

Addendum C: DHS Authority to Initiate Enforcement Action

Wis. Statutes § 254.30 Enforcement; penalties.

(2) PENALTIES.

- (a) *Civil penalty.* Any person who violates ss. [254.11](#) to [254.178](#) or rules promulgated, or orders issued, under those sections may be required to forfeit not less than \$100 nor more than \$5,000 per violation. Each day of continued violation constitutes a separate offense.
- (b) *Criminal penalty.* Any person who knowingly violates any provision of ss. [254.11](#) to [254.178](#) or any rule promulgated, or order issued, under those sections shall be fined not less than \$100 nor more than \$5,000 per violation. The court may place the person on probation under s. [973.09](#) for a period not to exceed 2 years.

Wis. Admin. Code § DHS 163.31 Reasons for enforcement actions.

(4) REASONS FOR CERTIFICATION ENFORCEMENT ACTIONS. The department may take an action under s. DHS 163.32 against a person required to be certified under this chapter, whether an individual or a company, if the person has violated any provision of this chapter.

Reasons for certification enforcement actions may include any of the following violations:

- (n)** The person failed or refused to comply with, or to ensure that employed or contracted persons comply with, the work practice standards and protocols under this chapter.
- (o)** The person committed an action or created a condition relating to a regulated activity that in the department's judgment constitutes unreasonable risk to the health, safety, or welfare of any person.
- (s)** The person failed to comply with any federal, state or local government lead-based paint statute, ordinance, rule or regulation.

Wis. Admin. Code § DHS 163.32 Enforcement actions. In addition to issuing letters of inquiry, warning letters and noncompliance statements, which are not appealable, the department may take one or more of the following appealable actions for any reason stated under s. DHS 163.31 against a person performing or offering to perform activities regulated under this chapter:

- (1) ORDER.** If the department provides written notice of the grounds for an order and an explanation of the process for appealing an order imposed under this subsection, the department may order any of the following when a person violates a provision under this chapter or continues to violate or resumes violation of a provision for which notice was previously issued:
 - (d) That the person stop violating any other provision of this chapter.

(f) That within a specified time the person implement and comply with a plan of correction provided by the department or previously submitted by the person and approved by the department.

Addendum D: Inspection Photos

March 11, 2025, inspection of Fernwood

Room # 34



Room # 22

