BILLING CODE: 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2019-0004]

Gestamp West Virginia; Application for Permanent Variance and Interim Order; Grant of Interim Order; Request for Comments

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Gestamp West Virginia (Gestamp) for a permanent variance and interim order from the provision of OSHA standards that regulate the control of hazardous energy (lockout/tagout) and presents the agency's preliminary finding to grant the permanent variance. OSHA also announces its grant of an interim order in this notice. OSHA invites the public to submit comments on the variance application to assist the agency in determining whether to grant the applicant a permanent variance based on the conditions specified in this notice of the application.

DATES: Submit comments, information, documents in response to this notice, and requests for a hearing on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The interim order described in this notice became effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], and shall remain in effect until it is modified or revoked, whichever occurs first.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2019-0004, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3653, 200 Constitution Avenue, NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA-2019-0004). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *https://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security Numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this *Federal Register* notice) are listed in the *https://www.regulations.gov* index; however, some information (e.g., copyrighted

material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-3653, Washington, DC 20210, or by fax to (202) 693-1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693-1999; email: *meilinger.francis2@dol.gov*.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693-2110 or email: *robinson.kevin@dol.gov*.

I. Notice of Application

On July 30, 2018, Gestamp West Virginia, LLC (hereafter, "Gestamp" or "the applicant"), 3100 MacCorkle Avenue, SW, Building 307, South Charleston, WV 25303, submitted under Section 6(d) of the Occupational Safety and Health Act of 1970 ("OSH

Act"; 29 U.S.C. 655) and 29 CFR 1905.11 ("Variances and other relief under section 6(d)") an application for a permanent variance from the provision of the OSHA standard that regulates the control of hazardous energy ("lockout/tagout" or "LOTO"), as well as a request for an interim order pending OSHA's decision on the application for variance (OSHA-2019-0004-0001) at the South Charleston, WV facility. Specifically, Gestamp seeks a variance from the provision of the standard that requires: all energy isolating devices needed to control the energy to the machine or equipment shall be physically located and operated in a manner as to isolate the machine or equipment from the energy source(s) (29 CFR 1910.147(d)(3)). Gestamp also requested an interim order pending OSHA's decision on the variance application.

According to the application, Gestamp makes parts for the automotive industry. Gestamp uses a Trumpf laser cell to trim excess metal from automotive parts and burn holes into those parts. The laser operates using a stream of monochromatic coherent light to emit very high levels of energy to cut metal parts. The laser trimming process occurs within a full enclosed machine (cell), which contains the laser that is mounted to a multi-axis transport to allow the laser to cut at a variety of angles; a turntable to load the rough parts to be cut using the laser; a water chilling system used to cool the laser; and numerous engineering controls that prevent unauthorized access to the interior of the cell. When actuated, the turntable rotates to the inside of the machine and presents the parts to the laser. The laser system functions in a robotic manner, with fewer axes of motion to cut the metal parts. The laser is managed by a Human Machine Interface (HMI), an interface by which the operator inputs commands to and receives information from the laser cell machine.

The laser trimming process creates a byproduct of chaff, dust, dirt, chips, and slugs that must be cleaned from the machine enclosure cell frequently to enable the laser to function properly. The cleaning is performed by operators and/or maintenance personnel inside the cell and involves sweeping up the byproducts and debris left on the floor of the cell during the operation. These cleaning activities occur at the end of each shift and typically require about 15 minutes to complete.

Gestamp asserts that without frequent cleaning, the laser system would not function properly. Further, the applicant asserts that while the laser has the capability of being de-energized and isolated as required by OSHA and ANSI standards, frequent powering down and locking out of the laser greatly reduces the performance and overall life of the laser because it takes anywhere from 30 minutes to several hours to power back up after being completely shut down, which reduces the efficiency of the laser. The applicant notes that powering down the laser to perform cleaning activities requires the addition of auxiliary lighting, which would introduce extension cords and portable lights, potentially creating tripping hazards in the cell as well as shock hazards. Additionally, the applicant notes that the primary electrical disconnects are not designed or intended for frequent cycling and would increase the risk of arc flash hazards to the employees.

OSHA initiated a preliminary technical review of Gestamp's variance application and developed a set of follow-up questions regarding the assertion that the alternative measures provide equivalent worker protection. On March 15, 2019, Gestamp provided supplemental materials to support the variance application including: a side by side analysis of the requirement of the standard and the proposed alternative (OSHA-2019-0004-0002), a safety work instruction outlining their proposed alternative (OSHA-2019-

0004-0003) and a description of Gestamp's Lockout/Tagout Program (OSHA-2019-0004-0004). In reviewing the application, OSHA evaluated the alternative work practices identified in the variance application, and the supplemental materials provided by Gestamp.

Following this review, OSHA determined that Gestamp proposed an alternative that will provide a workplace as safe and healthful as that provided by OSHA's existing standard. As a result, OSHA is granting Gestamp an interim order to permit the company to continue work while OSHA continues to consider the application for a permanent variance.

II. The Variance Application

A. Background

Gestamp's variance application and the responses to OSHA's follow-up questions include the following: Detailed descriptions of the laser cutting process; the equipment used in the laser cutting process; the proposed alternative to completely isolating the laser during cleaning activities; and technical evidence supporting Gestamp's assertions that the alternative methods provide equivalent worker protection.

According to the information included in the application, Gestamp's laser is considered a Class 4 operation. Class 4 operations are defined by the American National Standards Institute (ANSI) as "very dangerous to the eyes and skin, with a risk of fire and explosion.[1] No workers are allowed inside the laser cell while the laser is being used. Instead, the operator's station is located outside of the laser cell and the operator uses

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[1] ANSI B11.21 and ANSI Z136.1

hand controls to activate the laser turntable. The laser cutting system is a fully enclosed structure, with the laser operating similar to a robot. The laser is affixed to the end of an arm tooling within this fixed structure. Stamped parts are loaded into the cell and unloaded from the cell structure via a turntable from outside of the laser cell. When actuated, the turntable rotates to the inside of the machine and presents the parts to the laser. The turntable cannot rotate until the operator clears the light curtain, which is used as a safeguard blocking access between the turntable and the operator's station.

As noted above, the laser trimming process creates a byproduct of chaff, dust, direct, chips, slugs and debris, and the laser system must be cleaned to enable the laser to function properly. The laser cell has access doors to enable cleaning and certain other necessary tasks to be performed inside the cell. The access doors utilize interlocked switches that disable hazardous motion of the turntable and laser energy when opened.

The machine enclosure of the Trumpf Laser Cell is protected by two entry/exit points: a far access door and a near access door. Each access door has an interlock switch that is integrated into the laser and machinery motions. When the door to the laser cell is opened, the release of laser energy is inhibited and the machine axes cannot move. Further, Gestamp added red mechanical latches (hasps) to the external side of each entry door that allow a lock or a group lockout hasp or lock to be affixed, thus locking the hatch in its location.

In addition, Gestamp has implemented procedures to prevent the door from closing during laser cell cleaning activities, which could actuate the system. Gestamp requires all personnel entering the laser cell to individually lockout by placing their individual lock on the slide bar. Each associate entering the laser cell must remove their own personal

key from their individual lock or hasp, take the key into the cell, and keep the key in their possession the entire time they are in the laser cell. If more than one associate enters the cell, one of the associates shall be designated the LEADER of the cleaning crew. The LEADER can only remove their lock, once they have verified that everyone else in the cleaning crew has left the laser cell.

Gestamp contends that the alternative safety measures included in the application provide the workers with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions of OSHA's control of hazardous energy (lockout/tagout) standard. Gestamp certifies that it provided employee representatives of affected workers with a copy of the variance application. Gestamp also certifies that it notified the workers of the variance application by posting, at prominent locations where it normally posts workplace notices, a summary of the application and information specifying where the workers can examine a copy of the application. In addition, the applicant informed the workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance application.

B. Variance from 29 CFR 1910.147(d)(3)

As an alternative means of complying with the requirements of 1910.147(d)(3), Gestamp is proposing to use a comprehensive engineered system and appropriate administrative procedures. The applicant references the co-authored standard as written by ANSI and the American Society of Safety Engineers (ASSE) Z244.1-2016, clause 8, which states that "Lockout or tagout shall be used unless the user can demonstrate an alternative method will provide effective protection by persons. When lockout or tagout

is not used, then alternative methods shall be used only after the hazards have been assessed and risks documented" as the basis for their alternative lockout method. Gestamp asserts in the Variance application that the cleaning task within the Trumpf laser cell is one that requires access to the machine in a manner that renders full lockout infeasible. Because the Trumpf laser cell is a Class 4 operation, no one is allowed inside the machine enclosure during laser operations. Because the cleaning task occurs on a frequent basis, Gestamp asserts in the Variance application that regular powering down and locking out of the laser to perform the routine cleaning operations could damage the laser over time. Further, full lockout of the laser cell requires the use of auxiliary lighting sources, which could introduce fall and shock hazards into the cleaning operation. Additionally, the design of the Trumpf laser cell includes advanced control systems that prevent engagement of the laser while the laser cell is occupied. As an alternative lockout method, Gestamp has developed an engineered system that uses red mechanical latches attached to the external side of each door of the laser cell. The latches are secured to the frame of the machine with two metal screws and have a locking capacity that allows a lock or a group lockout hasp to be affixed; this latch prevents the door from closing and the laser from being able to be energized during laser cell cleaning operations.

Gestamp maintains that use of the proposed latch system provides a level of safety equivalent to what can be achieved by strict compliance with the standard at 1910.147(d)(3). According to Gestamp's variance application, equivalent safety is achieved by prohibiting the release of laser energy during cleaning operations utilizing a modified door latch that prevents unintentional re-energization of the laser.

Process to Enter Trumpf Laser Cell to perform cleaning activities:

1. Communicate to the Operator and Co-Workers in the area that cleaning will take place. At the Human Machine Interface (HMI) screen, change the Series Production from "Continuous Job" to "Single Job." Once the turntable has come to a complete stop, open one of the doors on the side of the laser cell by using the handle.
2. After the door is open, communicate the lockout to co-workers and move the red slide bar to prevent the door from being shut while inside. All personnel entering the laser cell must individually lockout, by placing their individual lock on the slide bar or hasp. If more than one person is to enter on either side, a lockout hasp must be used.
3. After locking out on the laser cell, verify that "Feed Hold Through Safety Device Error" is displayed on the HMI screen.
4. To verify that the turntable will not move while working inside of the laser cell, hit the green activation button. **Associates can enter the Laser Cell only after these four (4) steps are completed**.
5. When work is completed inside the laser cell, all associates who entered the cell, except the LEADER when more than one associate entered, shall exit and remove their individual locks. Once all other associates are outside of the laser cell, the LEADER must verify their location and hit the Danger Zone Acknowledge Button, on the inside of the cell door. The Leader must immediately exit the cell, remove their lock, move the slide bar back to allow the door to shut, and shut the door.

6. Once cleaning of the laser cell is complete and all employees are clear of the restricted area, place the laser HMI back into production by placing the Series Production from “Single Job” to “Continuous Job.”
7. After the HMI has been released to production, put a part on the fixture and reset the light curtains by pressing the green button.

Process to Restart Trumpf Laser Cell after Door is Opened:

1. Remove all padlocks from mechanical latch from the far access door.
2. Open the mechanical latch.
3. Visually inspect area for the presence of persons or tools.
4. Close the far machine enclosure door.
5. Walk to near access door.
6. Remove all padlocks from mechanical latch from the near access door.
7. Open the mechanical latch.
8. Visually inspect area for the presence of persons or tools.
9. Press the reset switch on inside of machine enclosure.
10. Close door within 3-4 seconds of pressing reset switch.
11. Turn key switch on the HMI to enable operations.
12. Engage HMI to activate laser.
13. Enable continuous mode operation (push button) within HMI.

The proposed door latch system cannot be easily tampered with or defeated. Gestamp asserts that this alternative meets the requirements for control reliability as stated in ANSI B11.0 and ANSI Z244.1, in that no single fault of a component, wire,

device or other element will result in the loss of the safety function.[2] According to the Variance application, in the event of a fault, the laser will achieve a safe state by inhibiting lasing, machine motions, and the release of hazardous energy. In addition, the system includes system fault monitoring, tamper resistance, and exclusive employee control over lockout devices. The Trumpf laser machine enclosure has a door interlock switch that is integrated to the laser and machinery motions. When the door to the laser cell is open, the release of laser energy is inhibited and the machine axes cannot move, therefore the laser will not operate.

To enhance the lockout functions of the Trumpf laser cell, Gestamp added red mechanical latches to the external side of each entry door to the laser cell. The lockable interface switches, used with the mechanical latches are designed to be used as lockable devices. The circuitry of the lockable interlock switches inhibit both machinery motions and laser energy release with the Trumpf enclosure door switches and will not operate when disengaged.

C. Technical Review

OSHA conducted a review of Gestamp's application and the supporting technical documentation. After completing that review, OSHA concludes that Gestamp:

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[2] ANSI B11.0 defines control reliability as the capability of the [machine] control system, the engineering control devices, other control components and related interfacing to achieve a safe state in the event of a failure within the safety-related parts of the control system.
ANSI 244 defines control reliability as the capability of the machine, equipment or process control system, the safeguarding, other control components and related interfacing to achieve a safe state in the event of a failure within their safety-related functions.

1. Modified the access door with red mechanical latches with a slide bar to prevent the door from being closed while cleaning activities are performed within the laser cell;
2. Installed a personal lock control system and implemented administrative energy control procedures that prevent employee exposure to hazards associated with energy while performing cleaning activities within the laser cell;
3. Performed a job hazard analysis for tasks associated with cleaning the laser cell and conducted and documented an electrical isolation analysis, system and functional safety reviews, and control reliability analysis to verify that the use of the latch system and administrative energy control procedures prevent the closure of the doors to the laser cell; prevent mistaken or intentional re-energization, and maintain immobility in the event of fault conditions;
4. Developed detailed administrative energy control procedures for entering the laser cell to perform cleaning functions and distinguished these work procedures from other tasks that require full lockout;
5. Implemented detailed administrative energy control procedures designed to ensure that each authorized employee applies a personal lock to the secondary group lock box;
6. Made the administrative energy control policies and procedures available to employees;
7. Trained authorized and affected employees on the application of the proposed alternative work practice and associated administrative energy control policies and procedures; and

8. Developed a LOTO procedure which includes administrative controls to minimize the potential for authorized and affected employees to enter the laser cell when harm could occur.

After the technical review identified above, OSHA concludes that Gestamp has established an alternative work practice that provides workers protection equivalent to that required of the standard. Specifically, the LOTO process for the Trumpf laser cell identified in the Variance application, regulates the control of hazardous energy from the laser during cleaning and maintenance activities.

III. Description of the Conditions Specified by the Interim Order and the Application for a Permanent Variance

This section describes the alternative means of compliance with 29 CFR 1910.147. These conditions form the basis of the interim order and Gestamp's application for a permanent variance.[3]

Proposed Condition A: Scope

The scope of the interim order/proposed permanent variance would limit coverage to the work conditions specified under this proposed condition. Clearly defining the scope of the proposed permanent variance provides Gestamp, Gestamp's employees, potential future applicants, other stakeholders, the public, and OSHA with necessary information regarding the work situations in which the proposed permanent variance would apply. To the extent that Gestamp exceeds the defined scope of this variance, it would be required to comply with OSHA's standards.

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[3] In these conditions, the present tense form of the verb (e.g., "must") pertains to the interim order, while the future conditional form of the verb (e.g., "would") pertains to the application for a permanent variance (designated as "permanent variance").

Pursuant to 29 CFR 1905.11, an employer (or class or group of employers)[4] may request a permanent variance for a specific workplace or workplaces. If OSHA approves a permanent variance, it would apply only to the specific employer(s) that submitted the application and only to the specific workplace or workplaces designated as part of the project. In this instance, if OSHA were to grant a permanent variance, it would only apply to the applicant, Gestamp, and only at the South Charleston, WV plant and no other employers or any other Gestamp plant locations.

Proposed Condition B: Duration

The interim order is only intended as a temporary measure pending OSHA's decision on the permanent variance, so this condition specifies the duration of the Order. If OSHA approves a permanent variance, it would specify the duration of the permanent variance.

Proposed Condition C: List of Abbreviations

Proposed Condition C defines a number of abbreviations used in the proposed permanent variance. OSHA believes that defining these abbreviations serves to clarify and standardize their usage, thereby enhancing the applicant's and the employees' understanding of the conditions specified by the proposed permanent variance.

Proposed Condition D: List of Definitions

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[4]A class or group of employers (such as members of a trade alliance or association) may apply jointly for a variance provided an authorized representative for each employer signs the application and the application identifies each employer's affected facilities.

The proposed permanent variance includes definitions for a series of terms. Defining these terms serves to enhance the applicant's and the employees' understanding of the conditions specified by the proposed permanent variance.

Proposed Condition E: Safety and Health Practices

This proposed condition requires the applicant to: (1) modify certain controls at the entry door to the laser cell by ensuring that exclusive control is provided by each employee involved in cleaning activities within the machine; (2) utilize a latch with a slide bar, designed to prevent the door from closing; and (3) ensure that the opening to the door to the laser cell shuts down the machinery in the cell.

Proposed Condition F: Steps Required to De-energize the System

This proposed condition requires the applicant to develop and implement a detailed procedure for de-energizing the laser cell in order to perform cleaning and maintenance activities within the laser cell. The procedure for de-energizing the laser cell includes a series of steps to ensure that all authorized and affected employees would be notified that cleaning, service or maintenance would be performed in the laser cell.

Proposed Condition G: Steps Required to Re-energize the Laser Cell

This proposed condition requires the applicant to develop and implement a detailed procedure for re-energizing the laser cell in order to resume normal laser cutting operations. The procedure for re-energizing the laser cell would include a series of steps to ensure that all authorized and affected employees would be notified that cleaning activities within the laser cell are complete and that the laser cell is ready for normal use.

Proposed Condition H: Communication

This proposed condition requires the applicant to develop and implement an effective system of information sharing and communication. Effective information sharing and communication are intended to ensure that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. The proposed condition also requires the applicant to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during laser cleaning activities. Availability of such reliable means of communications would enable affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during laser cleaning operations.

Proposed Condition I: Worker Qualification and Training

This proposed condition requires Gestamp to develop and implement an effective hazardous energy control qualification and training program for authorized employees involved in cleaning activities in or around the laser cell. Additionally, proposed condition G requires Gestamp to train each affected employee in the purpose and use of the alternative energy control procedures.

The proposed condition specifies the factors that an affected worker must know to perform maintenance and cleaning operations inside the laser cell, including how to enter, work in, and exit from the laser cell under both normal and emergency conditions. Having well-trained and qualified workers performing laser cleaning activities is intended to ensure that they recognize, and respond appropriately to, electrical safety and health hazards. These qualification and training requirements enable affected workers to cope effectively with emergencies, thereby preventing worker injury, illness, and fatalities.

Proposed Condition J: Inspections, Tests, and Accident Prevention

Proposed condition H requires the applicant to develop, implement, and operate an effective program of frequent and regular inspections of the laser equipment, electrical support systems, and associated work areas. Condition J would help to ensure the safe operation and physical integrity of the equipment and work areas necessary to conduct cleaning operations in laser cells.

This condition also requires the applicant to conduct tests, inspections, corrective actions and repairs involving the use of the energy isolation devices identified in the application for a permanent variance. Further, this requirement provides the applicant with information needed to schedule tests and inspections to ensure the continued safe operation of the equipment and systems and to determine that the actions taken to correct defects are appropriate.

Proposed Condition K: Recordkeeping

Under OSHA's existing recordkeeping requirements in 29 CFR part 1904, Gestamp must maintain a record of any recordable injury, illness, or fatality (as defined by 29 CFR part 1904) resulting from exposure of an employee to electrical conditions by completing OSHA Form 301 Incident Report and OSHA Form 300 Log of Work Related Injuries and Illnesses. The applicant did not seek a variance from this standard and therefore must comply fully with those requirements.

Proposed Condition L: Notifications

Under the proposed condition, the applicant is required, within specified periods of time, to notify OSHA of: (1) any recordable injury, illness, in-patient hospitalization, amputation, loss of an eye, or fatality that occurs as a result of cleaning activities around

the laser cell; (2) provide OSHA a copy of the incident investigation report (using OSHA Form 301 Injury and Illness Incident Report) of these events within 24 hours of the incident; (3) include on OSHA Form 301 Injury and Illness Incident Report information on the conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented; (4) provide the certification that affected workers were informed of the incident and the results of the incident investigation; (5) notify OSHA's Office of Technical Programs and Coordination Activities (OTPCA) and the Charleston, WV OSHA Area Office within 15 working days should the applicant need to revise the procedures to accommodate for any changes in laser cell cleaning or maintenance activities that affect Gestamp's ability to comply with the conditions of the proposed permanent variance; (6) provide OTPCA and the Charleston, WV Area Office within 15 working days should the applicant need to revise the energy isolation procedures to accommodate changes in the application of the door switch that affect/would affect the ability to comply with the conditions of the proposed permanent variance; and (7) provide OTPCA and the Charleston, WV Area Office, by January 31st at the beginning of each calendar year, with a report evaluating the effectiveness of the alternate energy isolation program in the previous calendar year.

Additionally, Gestamp must notify OSHA if it ceases to do business, has a new address or location for the main office, or transfers the operations covered by the proposed permanent variance to a successor company. In addition, the transfer of the permanent variance to a successor company must be approved by OSHA. These requirements allow OSHA to communicate effectively with the applicant regarding the status of the proposed permanent variance and expedite the agency's administration and

enforcement of the permanent variance. Stipulating that an applicant is required to have OSHA's approval to transfer a variance to a successor company provides assurance that the successor company has knowledge of, and will comply with, the conditions specified by proposed permanent variance, thereby ensuring the safety of workers involved in performing the operations covered by the proposed permanent variance.

IV. Grant of Interim Order, Proposal for Permanent Variance, and Request for Comment

OSHA hereby announces the preliminary decision to grant an interim order allowing Gestamp to perform cleaning operations in the laser cell, subject to the conditions that follow in this document. This interim order will remain in effect until the agency modifies or revokes the interim order or makes a decision on Gestamp's application for a permanent variance. During the period starting with the publication of this notice until the agency modifies or revokes the interim order or makes a decision on the application for a permanent variance, Gestamp is required to comply fully with the conditions of the interim order as an alternative to complying with the following requirements of 29 CFR 1910.147(d)(3).

In order to avail itself of the interim order, Gestamp must: (1) comply with the conditions listed in the interim order for the period starting with the grant of the interim order and until the agency modifies or revokes the interim order or makes a decision on Gestamp's application for a permanent variance; (2) comply fully with all other applicable provisions of 29 CFR part 1910.147 aside from section 1910.147(d)(3); and (3) provide a copy of this *Federal Register* notice to all employees affected by the

proposed conditions, using the same means it used to inform these employees of the application for a permanent variance.

OSHA is also proposing that the same requirements would apply to a permanent variance if OSHA ultimately issues one for this employer. OSHA requests comment on those conditions as well as OSHA's preliminary determination that the specified alternatives and conditions would provide a workplace as safe and healthful as those required by the standard from which a variance is sought. After reviewing the comments, OSHA will publish in the *Federal Register* the agency's final decision approving or rejecting the request for a permanent variance.

V. Specific Conditions of the Interim Order and the Application for a Permanent Variance

The following conditions apply to the interim order OSHA is granting to Gestamp. These conditions specify the alternative means of compliance with the requirements of paragraph 29 CFR 1910.147(d)(3). To simplify the presentation of the conditions, OSHA generally refers only to the conditions of the proposed permanent variance, but the same conditions apply to the interim order except where otherwise noted.[5]

These conditions would apply with respect to all employees of Gestamp engaged in cleaning activities of this Trumpf laser cell:

A. Scope

[5]In these conditions, OSHA is using the future conditional form of the verb (e.g., "would"), which pertains to the application for a permanent variance (designated as "permanent variance") but the conditions are mandatory for purposes of the interim order.

The interim order applies, and the permanent variance would apply, only to the task of performing cleaning and maintenance activities at Gestamp. The interim order and proposed variance apply only to work:

1. That occurs at Gestamp West Virginia LLC, 3100 MacCorkle Avenue, SW, Building 307, South Charleston, WV 25303; and
2. Is performed in compliance with all other applicable provisions of 29 CFR 1910.147.

Additionally,

1. No other servicing and/or maintenance work, including electrical maintenance (such as troubleshooting or maintenance covered under 29 CFR 1910.333), may be performed using the conditions of this interim order. These activities are to be performed under full lockout as required by 29 CFR 1910.147.
2. Except for the requirements specified by 29 CFR 1910.147(d)(3), Gestamp must comply fully with all other applicable provisions of 29 CFR 1910.147 during cleaning activities of the laser cell.

B. Duration

The Interim Order is only intended as a temporary measure pending OSHA's decision on the Permanent Variance, so this condition specifies the duration of the Order. If OSHA approves a Permanent Variance, it would specify the duration of the Permanent Variance.

C. List of Abbreviations

Abbreviations used throughout this proposed permanent variance would include the following:

1. CFR – Code of Federal Regulations;
2. JHA – Job hazard analysis;
3. HMI – Human Machine Interface;
4. OSHA – Occupational Safety and Health Administration; and
5. OTPCA – Office of Technical Programs and Coordination Activities

D. Definitions

The following definitions would apply to this proposed permanent variance. These definitions would supplement the definitions in Gestamp's application for permanent variance.

1. *Affected employee or worker* – an employee or worker who is affected by the conditions of this proposed permanent variance, or any one of his or her authorized representatives. The term "employee" has the meaning defined and used under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).
2. *Competent person* – an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.
3. *Energy isolating device* – a mechanical device that physically prevents the transmission or release of energy, including but not limited to the following: a manually operated electrical circuit breaker; a disconnect switch; a manually operated switch by which the conductors of a circuit can be disconnected from all ungrounded supply conductors, and, in addition, no pole can be operated independently; a line valve; a block; and any similar device used to block or

isolate energy. Push buttons, selector switches and other control circuit type devices are not energy isolating devices.

4. *Job hazard analysis* – an evaluation of tasks or operations to identify potential hazards and to determine the necessary controls.
5. *Lockout* – the placement of a lockout device on an energy isolating device, in accordance with an established procedure, ensuring that the energy isolating device and the equipment being controlled cannot be operated until the lockout device is removed.
6. *Lockout device* – a device that utilizes a positive means such as a lock, either key or combination type, to hold an energy isolating device in the safe position and prevent the energizing of a machine or equipment. Included are blank flanges and bolted slip blinds.
7. *Personal lock and key* – a durable, standardized substantial and uniquely identified device (a lock) that is maintained and controlled by a single authorized employee whose name is attached to the device. The key is unique to the device and is equally maintained and controlled by the authorized employee[6] whose name is attached to the device.
8. *Qualified person* – an individual who, by possession of a recognized degree, certificate, or professional standing, or who, by extensive knowledge, training, and experience, successfully demonstrates an ability to solve or resolve problems relating to the subject matter, the work.

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[6] See 29 CFR part 1910 [Docket No. S-012A], RIN 1218-AA53. Control of Hazardous Energy Sources (Lockout/Tagout), regarding "one person, one lock, one key."

9. *Servicing and/or maintenance* – workplace activities such as constructing, installing, setting up, adjusting, inspecting, modifying, and maintaining and/or servicing machines or equipment. These activities include lubrication, cleaning or unjamming of machines or equipment and making adjustments or tool changes, where the employee may be exposed to the *unexpected* energization or startup of the equipment or release of hazardous energy.
10. *Tagout* - the placement of a tagout device on an energy isolating device, in accordance with an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed.

E. Safety and Health Practices

1. Gestamp will modify the latch doors of the Trumpf laser cell to prevent employee exposure to hazards associated with the cleaning of the laser cell;
2. Gestamp will continue to use a door switch to prevent engagement of the laser while the laser cell door is open;
3. Gestamp will implement the safety and health instructions included in the manufacturer's operations manuals for the Trumpf laser cell, and the safety and health instructions provided by the manufacturer for the operation of laser cutting equipment; and
4. Gestamp will implement a procedure to ensure that no other servicing and/or maintenance will be performed on the laser cutter, unless full lockout is used.

F. Steps Required to De-energize the System

Gestamp will develop and implement a detailed procedure for de-energizing the laser cutting machine that will include the following steps to ensure that the laser cell door is prevented from closing and the machine from starting:

1. The authorized employee entering the laser cell will communicate to the operator and co-workers in that area that cleaning will take place;
2. At the HMI screen, change the Series Production from “Continuous Job” to “Single Job”;
3. Once the turntable has come to a complete stop, open one of the doors on the side of the laser cell by using the handle;
4. After the door is open, communicate the lockout to the co-workers and move the red slide bar to prevent the door to the laser cell from being shut while inside;
5. All personnel entering the laser cell must individually lockout, by placing a lock on the slide bar or hasp. If more than one person is to enter on either side, a lockout hasp must be used;
6. Each employee entering the cell must remove their own personal key from the lock or hasp, take the key into the cell, and keep the key in their possession the entire time they are in the cell;
7. If more than one employee enters the laser cell, one of the employees shall be designated the leader of the cleaning operation;
8. After locking out the laser cell, verify that the “Feed Hold Through Safety Device Error” is displayed on the HMI screen; and

9. To verify that the turntable will not move while working inside of the laser cell, hit the green activation button. If the machine does not start up, then entry can be made.

G. Steps Required to Start Motion Intentionally

Gestamp will develop and implement a detailed procedure for re-energizing and intentionally starting motion in the laser cutter in order to resume normal operations at the conclusion of the cleaning operation. The procedure for re-energizing the laser cell passes will include the following steps:

1. When work is completed inside the laser cell, all associates that entered the cell, except the leader (when more than one employee entered), shall exit and remove their locks;
2. Open the mechanical latch;
3. Visually inspect the area for the presence of persons or tools within the laser cell;
4. Once all other employees are outside of the laser cell, the leader must verify their location and hit the Danger Zone Acknowledge Button on the inside of the cell door;
5. The leader must exit immediately, remove their lock, move the slide bar back to allow the door to shut, and shut the door. The door must shut within 3-4 seconds of hitting the Danger Zone Acknowledge Button;
6. Once the cleaning operation is complete and employees are clear of the restricted area, place the laser HMI back into production by placing the Series Production from “Single Job” to “Continuous Job”; and
7. After the HMI has been released to production, put a part on the turntable and reset the light curtains by pressing the green button.

Both entry doors to the laser cell must be closed before operations can resume. The 3-4 second limitation ensures that no entry or re-entry into the machine enclosure can be made between the visual inspection and restart (no one can inadvertently slip into the machine enclosure during the restart process).

H. Communication

Gestamp would have to:

1. Implement a system that informs workers using energy isolation devices of any hazardous occurrences or conditions that might affect their safety; and
2. Provide a means of communication among affected workers and support personnel in energy isolation where unassisted voice communication is inadequate.

I. Worker Qualifications and Training

Gestamp will develop and implement a detailed worker qualification and training program. Gestamp must:

1. Develop an energy control training program and train each authorized employee on the latch system, and the procedures required under it;
2. Develop and document a training program and train each affected employee in the purpose and use of the alternative energy control procedures using the latch system;
3. Develop a training program and train other employees whose work operations are or may be in an area where energy control procedures may be utilized. These employees will receive training about the procedure and about the prohibition

relating to attempts to restart or reenergize machines or equipment that are locked out.

4. Ensure that each authorized employee, affected employee, and other employees has effective and documented training in the contents and conditions covered by this proposed variance and interim order; and
5. Ensure that only trained and authorized employees perform energy control procedures for the task of performing cleaning of the laser cell at Gestamp's facility.

J. Inspections, Tests, and Accident Prevention

1. Gestamp will develop and implement a detailed program for completing inspections, tests, program evaluations and incident prevention. Gestamp must:
   (a) Ensure that a competent person (authorized employee) conducts daily visual checks and monthly inspections and functionality tests of the laser cell components and configuration or operation and energy control procedures that ensure that the procedure and conditions of this proposed variance and interim order are being followed;
   (b) Ensure that a competent person conducts weekly inspections of the work areas associated with the cleaning of the laser cell; and
   (c) Develop a set of checklists to be used by a competent person in conducting weekly inspections of the energy control procedures used while performing cleaning activities at the laser cell.

2. Remove from service any equipment that constitutes a safety hazard until Gestamp corrects the hazardous condition and has the correction approved by a qualified person.
3. Gestamp would have to maintain records of all tests and inspections of the laser cell, as well as associated corrective actions and repairs, at the job site for the duration of the variance. Where available, the maintenance, servicing, and installation of replacement parts must strictly follow the manufacturer's specifications, instructions, and limitations.

K. Recordkeeping

In addition to completing OSHA's Form 301 Injury and Illness Incident Report and OSHA's Form 300 Log of Work-Related Injuries and Illnesses in the case of injuries that result from cleaning the laser cell, Gestamp would have to maintain records of:

1. All tests and inspections of the energy control procedures, as well as associated hazardous condition corrective actions and repairs.

L. Notifications

To assist OSHA in administering the conditions specified herein, Gestamp would have to:

1) Notify the OTPCA and the Charleston, WV Area Office of any recordable injury, illness, or fatality (by submitting the completed OSHA Form 301 Injuries and Illness Incident Report).[7]
2) Provide certification to the Charleston, WV Area Office within 15 working days of the incident that Gestamp informed affected workers of the incident and the

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[7]See footnote 10.

results of the incident investigation (including the root-cause determination and preventive and corrective actions identified and implemented).

3) Notify OTPCA and the Charleston, WV Area Office within 15 working days and in writing, of any change in the laser cell cleaning operations that affects Gestamp's ability to comply with the proposed conditions specified herein.

4) Obtain OSHA's approval prior to implementing the proposed change in the energy control operations that affects Gestamp's ability to comply with the conditions specified herein.

5) To assist OSHA in administering the proposed conditions specified herein, inform the OTPCA and the Charleston, WV Area Office as soon as possible, but no later than seven (7) days, after it has knowledge that it will:

   (i) Cease doing business;

   (ii) Change the location and address of the main office for managing the tunneling operations specified herein; or

   (iii) Transfer the operations specified herein to a successor company.

6) Notify all affected employees of this proposed Permanent variance by the same means required to inform them of the application for a Variance.

7) OSHA would have to approve the transfer of the proposed Permanent variance to a successor company.

OSHA will publish a copy of this notice in the *Federal Register*.

VI. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1905.11.

Signed at Washington, DC, on July 30, 2020.

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Loren Sweatt,
Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020-17019 Filed: 8/4/2020 8:45 am; Publication Date: 8/5/2020]