

Cause #: 02-43V  
Name: Costco Wholesale  
Administrative Law Judge: William K. Teeguarden  
Date: January 10, 2003  
Commission Action: Affirmed

### **FINDINGS OF FACT**

1. The FPBSC is an agency within the meaning of IC 4-21.5.
2. The FPBSC is both the initial granting authority and the ultimate authority within the meaning of IC 4-21.5 with respect to Variances to the IBC and IFC.
3. IC 4-21.5, IC 22-13, the IBC, and the IFC apply to this proceeding.
4. At all time relevant to this proceeding, Costco was building and occupying a commercial facility and warehouse in Pike Township in Indianapolis, Indiana.
5. After receiving an enforcement order from local authorities, Costco filed for the Variance.
6. The Variance was denied by the FPBSC in October of 2002.
7. Costco filed a timely request for administrative review.
8. The interested parties (those being Costco, the State Fire Marshal (“SFM”) and the Pike Fire Department (“LFO”)) agreed to forego a hearing and have Costco submit all its reasons and technical information for seeking the variance. Subsequent to reviewing this information, the SFM and the LFO could then make relevant comments.
9. At issue is a variance from IBC 309.8 and IFC 8102.7.2.
10. IBC 309.8 requires buildings constructed to store high-piled storage to comply with the Fire Code.
11. IFC 8102.7.2 requires smoke and heat vents to operate automatically by activation of a heat-responsive device between 100 and 200 degrees above the ambient temperature.
12. The Variance seeks to allow a fusible link listed at 360 degrees.
13. The ambient temperature in the warehouse will be in the 72 degree range, therefore, the IFC would require a maximum fusible link of 272 degrees.
14. The fire suppressant system activates at 286 degrees.
15. Costco’s concern is that in the event of fire, a code compliant fusible link would vent prematurely and delay sprinkler activation in sections of the warehouse which need immediate activation.
16. Costco asserts high temperature sprinkler heads are relatively new technology and at the time the uniform code used by Indiana was written, the common activating temperature for the heads was 165 degrees.
17. The 2000 International Code, soon to be law in Indiana, has a similar provision (910.3.1.3) for non-sprinklered buildings.

18. For sprinklered buildings, the requirement is merely for the smoke and heat vents to operate automatically.
19. The design sought to be used here appears to be standard in newly constructed “big box” warehouses and is used in many other locations by Costco.
20. In conjunction with the administrative review, Costco sent information which has been reviewed by the SFM and the Pike Township FD.
21. After reviewing this information, both the marshal’s office and the local Fire Department office and the local Fire Department had no objection to the grant of the variance
22. On the basis of the information available to the administrative law judge, it appears as though there is no danger of persons or property if the Variance is granted and it also appears as though the design would be approved under the 2000 International Code.
23. The Variance should be granted.

**NONFINAL ORDER**

Variance 02-10-9(a) is hereby approved.