

**Comments on the EPA Office of Inspector General's
1/27/03 interim report titled:
"EPA's Response to the World Trade Center Towers Collapse"**

A DOCUMENTARY BASIS FOR LITIGATION



July 4, 2003

Prepared by Cate Jenkins, Ph.D.*
Environmental Scientist, Waste Identification Branch
Hazardous Waste Identification Division
Mail Code 5304W
Office of Solid Waste
Office of Solid Waste and Emergency Response
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

jenkins.cate@epa.gov

* The conclusions and opinions are those of the author and do not necessarily reflect those of the U.S. Environmental Protection Agency.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

DATE: July 4, 2003

MEMORANDUM

**SUBJECT: EPA Office of Inspector General's 1/27/03 report:
"EPA's Response to the World Trade Center Towers Collapse"
— a documentary basis for litigation**

TO: WTC Team, EPA Inspector General's Office: Jim Hatfield, Chris Dunlap,
Geoff Pierce, Dana Gilmore, Sarah Fabirkiewicz, Steve Schanamann
Nikki Tinsley, EPA Inspector General
Mary Boyer, EPA Ombudsman

FROM: Cate Jenkins, Ph.D., Environmental Scientist*
Hazardous Waste Identification Division, OSW
jenkins.cate@epa.gov

A handwritten signature in green ink that reads "C Jenkins".

The attached report is in response to the 1/27/03 interim report from the EPA IG titled "EPA's Response to the World Trade Center Towers Collapse." The attached report provides additional detailed documentation to support some of the conclusions of the IG WTC Team, as well as documentation of some erroneous conclusions made by the IG WTC Team.

In addition to the issues addressed by the EPA IG report of 1/27/03, the attached report addresses two additional issues that I believe should be subject to the IG investigation.

The first concerns EPA's convening of a new forum with the expressed purpose of ensuring consistency in analytical methods throughout the EPA. The problem of the disparity between test methods after the WTC and the Libby, MT Superfund site is explicitly named as a precipitating factor for the formation of this new forum. As explained in greater detail in Section M of the attached report, the formation of this new forum is inappropriate and suspect, and should instead be a matter for active investigation by the IG.

The second concerns violations by EPA of the Federal Advisory Committee Act, which has

* The conclusions and opinions in this memorandum are those of the author and do not necessarily reflect those of the U.S. Environmental Protection Agency.

resulted in a subversion of the principles of the Administrative Procedures Act upon which it was based, as well as violations of ethics regulations and presidential directives requiring federal employees to conduct the country's business in an impartial manner, preventing real or apparent conflicts of interest. As a result of the WTC collapse, EPA's Office of Solid Waste and Emergency Response initiated a re-evaluation of the Agency's risk and carcinogenicity classifications for asbestos. EPA's Office of Research and Development is currently conducting this reassessment. Insufficient notice to the public was provided for participation in the process, experts drafting the reassessment have apparent conflicts of interest, and key research appearing in peer reviewed publications have been omitted and ignored in the reassessment. See Section U of the attached report.

Please do not hesitate to contact me for any additional information or for electronic versions of any of the documents cited in the attached report.

cc: Affected parties and other responsible officials