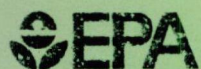


United States
Environmental Protection
Agency

Region 8
1860 Lincoln Street
Denver, Colorado 80295

Office of
Analysis and Evaluation
January 1980



208 Plan Certification and Approval

Analysis and Status of Pending Plans

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Final

208 PLAN CERTIFICATION AND APPROVAL:

STATUS AND ANALYSIS OF
PENDING PLANS
REGION VIII

U.S. EPA Region 8 Library
Denver Colorado

Prepared by

Planning and Management Branch

Water Division

Office of Analysis and Evaluation

Management Division

January 1980

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SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Of twenty-eight (28) plans within Region VIII there are ten (10) that have not been certified to EPA and five (5) others awaiting EPA approval. The most significant reasons that these plans have not been approved are due to delays resulting 1) from changes in 208 staff or 2) deficient draft 208 plans which required many months to revise.

All of the outstanding plans though are expected to be conditionally approved by EPA once they are completed and certified. Those 208 agencies that have had a poor record in 208 planning are either voluntarily relinquishing their 208 responsibilities or funding constraints are forcing them to reduce or eliminate their involvement in 208 planning. Prior to fiscal year 1979, there were no direct consequences of not having a certified or an approved 208 plan. Today, the lack of certification and approval results in the withholding or loss of 201 and/or 208 funds. Specific recommendations for those plans lacking certification or approval are:

1. A firm schedule should be developed in cooperation with each state as to when 208 plans will be certified to EPA. This schedule should provide the basis for formulating future regional positions in respect to 208 funds.
2. Region VIII should continue to implement the April 2, 1979 regional policy which requires a 208 agency to have a certified plan in order to expend FY 1979 funds.
3. Region VIII should implement the FY 1980 funding policies and May 23, 1979 regulations as they affect the award and expenditure of future 208/201 funds. No 201 grants should be awarded to applicants not covered by an approved 208 plan and no FY 1980 208 funds should be awarded to 208 agencies lacking an approved 208 plan unless the criteria for exceptions are satisfied.
4. EPA should take no longer than 30 days to approve 208 plans once they are certified.
5. The Governor of Wyoming needs to be contacted and the implications of not having plan certification and approval need to be explained to him.

The only aspect of the 208 certification and approval process for which EPA has complete responsibility is approval of plans. As of January 1, 1980, EPA had approved thirteen (13) plans. The average approval time per plan has been 183 days. The 1975 regulations allowed EPA 120 days to approve a certified plan once it was received by EPA. The 1979 regulations which superseded the 1975 regulations allows EPA and the State 120 days to concurrently review and certify the final plan. EPA has an additional 30 days beyond the 120 days to complete its approval of the 208 plan.

The most common reasons cited to explain the length of time taken to approve a 208 plan are as follows:

1. Lack of familiarity with a 208 plan within EPA after receiving a certified plan.
2. Approval of 208 plans were given lower priority than other activities.
3. The individuals responsible to prepare approval letters experienced a significant increase in workload about the time the plans were being submitted to EPA for approval.
4. Prior to Spring of 1979, no serious consequences resulted from not having either a certified or an approved plan.

Due to the May 23, 1979 regulations, the following recommendations are made in an attempt to comply with the 30 day period in which to approve a 208 plan once it is certified to EPA.

1. The approval letter should be typed and ready to be routed for the Regional Administrator's signature the day the certified plan is received by EPA.
2. Concurrences on the "final" approved letter should be restricted to the program office, Division Director, Office of Legal Counsel, and Regional Administrator's Office. All other concurrences should be obtained on the "draft" approval letter.
3. Once a plan is being considered for certification, the program office (Planning and Management Branch) should establish a schedule to prepare the necessary approval letter and other concurrent activities should be given lower priority.
4. The Planning and Management Branch should revise its commitment to review 201 facility plans and place more responsibility for these reviews on 208 agencies that have approved 208 plans.

I. Introduction

The 208 program is nearing completion of its first phase; that is, developing plans which are certified by the State and approved by EPA. It has been five and a half years since the first 208 agency received its initial grant to develop a water quality management plan. Since its beginning, the 208 program has experienced numerous difficulties which tended to complicate the implementation of the 208 program. This report focuses on those problems associated with certification and approval of 208 plans.

II. Background

The first 208 plan to be certified and approved within Region VIII was Pikes Peak's plan which was certified on February 10, 1977, and approved on June 10, 1977. At the Regional 208 conference held in Salt Lake City during February, 1977 plan certification and approval was discussed as a major agenda topic. At this meeting, each of the states were encouraged to develop a process to follow when certifying plans. At the time of the February meeting all the states except Colorado had not given much thought to what is required before the Governor could certify a plan. Also at the time, EPA was also formulating its requirements for plan approval. The first program guidance memorandum on review and approval of Water Quality Management Plans was issued by Headquarters on August 8, 1977. The Region saw the need for each state to formalize its certification process so in April/May 1977, a letter was sent to each state requesting that such a process be formally established and submitted to EPA for concurrence. By December 1978, all the states had complied with this request. In March/April 1979, another letter was sent to the states, this time pointing out EPA's concern that the statutory and regulatory dates for certifying numerous plans had been exceeded. The 1972 FWPCA Amendments contemplated that plans would be certified to EPA within two years after initiating plan development and that EPA would take action on these plans within 120 days after receiving the certified plan. If strict adherence to the Statute had been achieved, the last plan to be approved within Region VIII would have occurred November 14, 1978. It was not until the May 23, 1979 regulations were published that there was any incentive to certify or approve 208 plans. Rather it was not until a plan was approved that other programs (i.e., 201 and NPDES) would be affected by a 208 plan.

As of January 1, 1980, out of 28 plans in Region VIII, ten (10) have not been certified by the State and five (5) others have not been approved by EPA. The status of plan approvals and certification compare to the national average is indicated below.

PLAN CERTIFICATION AND APPROVAL (As of December 31, 1979)

<u>Region VIII</u>	<u>Nationally</u>	
Total Plans	28	226
Number Certified	18	155
Percent	64	68
Number Approved	13	116
Percent	46	51

This report discusses the status of these plans and identifies some of the problems contributing to their lack of approval. The implications of not having a certified or approved plan are also discussed in terms of its effect on future 208 grant awards to these agencies. No detailed analysis was made in this report regarding the success or failure of the plans or determining the adequacy of planning agencies to continue 208 planning.

Another aspect of plan certification and approval discussed in this report is the time required by the States and EPA to take action on 208 plans. Both the States and EPA have taken more time to certify and approve plans than was contemplated in the Statute and its subsequent regulations. This section of the report discusses the problems frequently cited by project officers as to why it has taken so long to approve a 208 plan, and recommendations for correcting these problems are presented.

As Table 1 shows, EPA has invested \$25.2 million in 208 planning within Region VIII compared to a national investment of \$366.5 million. Although this report does not attempt to evaluate the effectiveness of the 208 program in terms of its successes and failures, it does address a significant problem that presently confronts the management of the 208 program within Region VIII as well as nationally. That problem is the current lack of certified and approved 208 plans and the time required to get through the certification and approval process.

TABLE I

FISCAL YEARS 1974-1980: SUMMARY OF 208 FUNDS
(1000's Dollars Unless Noted Otherwise)

	<u>FY '74 & '75</u>	<u>FY '76</u>	<u>FY '77</u>	<u>FY '78</u>	<u>FY '79</u>	<u>FY '80</u>	<u>TOTAL FY 74-80</u>
National Appropriation	\$163M	\$53M	\$14M	\$69M	\$30M	\$37.5M	\$366.5M
Basis of Allocation to Region	a	75/25 (Net)	85/15 (Gross)	70/30 (Gross) ^c	Needs	Nonpoint Source Needs	
Regional Allocation	12,939 (7.7%)	2,590 (4.7%)	659 (4.7%)	4,447 (6.44%)	2,889	1,756 ^d	25,280 (6.9%)
Basis of Distribution to States	a	a	b	70/30 (Gross)	Needs	Nonpoint Source Needs	
Colorado	4,212 (33.6%)	415 (16.5%)	280 (42.5%)	1,427 (32%)	762 (26.4%)	469 (26.7%)	7,565 (31.3%)
Montana	2,245 (17.9%)	600 (24.0%)	144 (21.9%)	718 (16%)	403 (13.9%)	302 (17.2%)	4,412 (18.1%)
North Dakota	400 (3.2%)	565 (22.6%)	20 (3.0%)	532 (12%)	225 (7.8%)	124 (7.0%)	1,866 (7.5%)
South Dakota	750 (6.0%)	466.6 (18.6%)	27 (4.2%)	577 (13%)	390 (13.5%)	376 (21.4%)	2,586 (10.7%)
Utah	4,097 (32.7%)	197 (7.8%)	148 (22.5%)	757 (17%)	668 (23.1%)	359 (20.4%)	6,226 (25.6%)
Wyoming	1,235 (9.8%)	347 (13.8%)	39 (5.9%)	401 (9%)	233 (8.0%)	- - -	2,255 (9.3%)
Indians				35 (1%)	208 (7.2%)	71 (4.0%)	314 (1.2%) 55 (undistributed '80 Funds)

a. Funds were allocated on a first come first serve basis.

b. Funds were distributed based on needs to maintain staff.

c. All but \$11 million was distributed based on 70/30 formula.

d. Proposed distribution awaiting approval from Headquarters. \$54,750 of total has not been distributed.

NOTE: Totals may not add up due to rounding and do not include State/local contribution for FY '76 and following years (approx. \$4.1 million).

III. Procedures

This report is based on an extensive data gathering effort and numerous interviews with staff in the Planning and Management Branch. The approach followed in this analysis is twofold.

First, a chronology was compiled for each 208 project which documented key decisions from the time the plan was drafted until it was approved. These chronologies were prepared based on a complete search of the 208 files and supplemented by information provided directly by each project officer. The chronologies were used to document the length of time between key decision points and to identify where possible delays occurred during the plan certification and approval process. The chronologies can be found in Appendix I and served as a significant data base for completing the analysis under Chapter IV, "Detailed Analysis of the 208 Plan Approval Process."

A second part of the analysis involved numerous interviews with EPA Region VIII's 208 staff and the use of a questionnaire on 208 plan approvals. Both the questionnaire, which was completed by the 208 staff, and the interviews provided the basis for the discussion found in Chapter III, "208 Plans State Certification or EPA Approval," as well as Chapter IV.

As a result of the data gathering and analytical activities, several recommendations were presented to and discussed with the Planning and Management Branch. The recommendations presented in this report have been endorsed by both the Planning and Management Branch and the Office of Analysis and Evaluation.

IV. 208 Plans Lacking State Certification or EPA Approval

A. Background:

There are fifteen (15) 208 state and areawide plans as of January 1, 1980 which lack either State certification or EPA approval. In addition, there are nine (9) plans for Indian Tribes which have not been approved by EPA. Table 2 lists each of the agencies falling into this category and when each agency received its initial 208 grant. The following discussion focuses on the areawide and statewide plans since they are the nearest to completion. A subsequent report will discuss the Indian 208's in more detail. The May 23, 1979 regulations require EPA to approve the Indian 208 Plans. To date, no Indian Plans have been submitted to EPA for approval. The upcoming report will address what EPA approval of a Indian 208 means legally and what procedures should be followed when approving such a plan.

Of the fifteen (15) areawide and statewide plans remaining to be approved, five are in some stage of plan development. These five are the Colorado Statewide; the Mid-Yellowstone Areawide; the Utah Statewide; the Southeast Utah Areawide; and the Wyoming Statewide. All the others have been submitted to the Governors for certification, except for Northwest Colorado, which has been submitted to EPA for approval.

TABLE 2
208 PLANS LACKING STATE CERTIFICATION
OR EPA APPROVAL

<u>Agency</u>	<u>Date of Initial Grant</u>	<u>State Certification</u>	<u>EPA Approval</u>
Areawide/Statewide			
Colorado Statewide	6/03/76	No	No
NW Colorado COG	6/04/75	Yes	No
Colorado West Area COG	6/06/75	No	No
Montana Statewide	5/28/76	No	No
Mid Yellowstone	6/04/75	No	No
SECOG, SD	6/06/75	Yes	No
ND Statewide	6/04/76	Yes	No
Lewis & Clark, ND	6/06/75	Yes	No
Utah Statewide	6/04/76	No	No
SE Utah AOG	5/21/75	No	No
Five County, UT	6/04/75	Yes	No
Wyoming Statewide	6/04/76	No	No
Powder River APO	6/06/75	No	No
SW Wyoming WQPA	6/06/75	No	No
Teton, CO 208	6/12/75	No	No
Indians			
Three Affiliates Tribes, ND	9/28/79	N/A	No
Turtle Mountain, ND	9/27/79	N/A	No
Ft. Belknap, MT	1/23/77	N/A	No
Assiniboine, Sioux, MT	4/17/78	N/A	No
Northern Cheyenne, MT	9/28/78	N/A	No
Blackfeet, MT	1/23/77	N/A	No
Utes, Utah	9/16/79	N/A	No
Chippewa Cree, Rocky Boy, MT	1/23/77	N/A	No
Shoshone and Arapahoe, WY	9/28/79	N/A	No

Three Wyoming areawide projects (Powder River, Southwest Wyoming, and Teton Areawides) have been in the certification and approval process longer than any of the other 208 plans. It has been 12 to 15 months since these plans were submitted to the Governor for certification.

Several of the 208 planning agencies that were responsible for preparing 208 plans which are still awaiting state certification no longer are in the business of 208 planning or have disbanded. The agencies that fall into this category are Powder River and Southwest Wyoming; and Middle Yellowstone, Montana. In addition to these agencies, the Colorado West Area COG and West Desert AOG in Utah are scheduled to discontinue their 208 activities within another year.

Table 3 presents a complete history of how much and when 208 funds were awarded to the 208 planning agencies lacking EPA approval of their plans. All the grant awards made in June 1979 were done to obligate FY 1979 208 funds prior to the end of June 1979. It is Region VIII's policy not to allow a 208 agency to use the FY 1979 208 dollars until that agency has a certified plan. For the agencies listed in Table 3, Northwest Colorado COG is the only one which has been authorized to be reimbursed for 208 activities using FY 1979 funds. This policy and its implications are discussed further later in this report.

TABLE 3
SUMMARY OF 208 GRANT AWARDS
MADE TO STATEWIDE AND AREAWIDE PLANNING AGENCIES
LACKING A CERTIFIED OR APPROVED PLAN

<u>Agency</u>	<u>Date</u>	<u>Grant Award</u>	<u>Amount</u>
COLORADO			
Colorado Statewide	06-03-76		\$414,600
	03-10-77		\$20,000
	02-22-78		\$15,600
	12-14-78		\$215,500
	01-19-79		\$326,109
	06-29-79		\$227,492**
			<u>\$1,219,301</u>
Northwest Colorado	06-04-75		\$530,000
	03-08-78		\$14,644
	07-24-78		\$81,437
	03-15-79		\$39,563
	06-29-79		\$55,153
			<u>\$720,797</u>
Colorado West	06-06-75		\$362,000
	03-28-78		\$14,200
	09-28-78		\$60,000
	06-29-79		\$42,150*
			<u>\$478,350</u>
MONTANA			
Montana Statewide	05-28-76		\$600,000
	02-11-77		\$59,900
	01-16-79		\$592,871
	06-28-79		\$200,250**
	09-13-79		\$24,750**
			<u>\$1,477,771</u>
Middle-Yellowstone	06-04-75		\$735,000
	01-16-79		\$16,125
			<u>\$751,125</u>
NORTH DAKOTA			
ND Statewide	06-04-76		\$564,000
	02-11-77		\$42,000
	12-29-77		\$20,000
	12-22-78		\$533,427
	06-29-79		\$168,750
			<u>\$1,244,577</u>
Lewis & Clark	06-06-75		\$400,000

TABLE 3 (Cont'd)

<u>Agency</u>	<u>Date</u>	<u>Grant Award</u> <u>Amount</u>
SOUTH DAKOTA SECOG	06-06-75	\$375,000
UTAH		
Utah Statewide	06-04-76	\$189,300
	01-19-79	\$70,000
	02-27-79	\$52,400
	05-25-79	\$71,900
	06-29-79	\$259,108**
		\$642,708
Southeastern Utah	05-21-75	\$380,000
	08-22-78	\$9,000
	05-25-79	\$41,998
	06-29-79	\$75,000*
		\$505,998
Five County	06-04-75	\$380,000
	11-29-78	\$30,742
	03-13-79	\$18,258
	06-29-79	\$29,900*
		\$455,900
WYOMING		
Powder River	06-06-75	\$415,000
	01-13-78	\$15,250
	06-26-78	\$2,850
	09-24-79	- \$9,287
		\$423,813
Southwestern	06-06-75	\$450,000
	05-23-78	\$5,000
		\$455,000
Teton Co.	06-12-75	\$370,000
	03-22-78	\$3,330
	08-21-78	\$1,450
		\$374,780
Wyoming Statewide	06-04-76	\$346,899
	11-17-78	\$160,800
	06-11-79	\$236,140
	06-29-79	\$174,750**
		\$918,589

* Grant award conditioned to require that plan must be certified.

** Statewide 208 agency must have certified all areawide plans plus submitted to EPA statewide plan for approval.

B. Unresolved Issues and Problems which are Resulting in Delays to Plan Certification and Approval:

The issues and problems surrounding each of the plans lacking EPA approval or state certification are discussed separately below:

1. Colorado Statewide - The statewide plan in Colorado is being prepared in several segments. Separate technical plans are being prepared for each that were not included under designated areawide plans. In total, there will be ten (10) sub-plans comprising the technical portion of the statewide plan. In addition to the technical plans, there is a state framework plan which encompasses all the 208 planning areas, including areawides. All ten (10) of the technical plans have been prepared in draft and the majority have been revised. Public hearings have been held on all ten (10) plans and six (6) of the ten (10) are presently being considered for certification by the Water Quality Control Commission. The state projects that the statewide plan will be completed and certified to EPA in March of 1980. This differs from an earlier projected date of June 1979. Based on a review of the draft technical plans and the statewide framework plan, the 208 project officers do not have any serious problems with the plans and believe they can be conditionally approved. The length of time required to develop and submit a certified statewide plan to EPA is a result of a combination of factors most of which can be attributed to a lack of staff and funds to develop ten (10) separate plans and oversee the development and certification of six (6) areawide plans. Some of the plans are fairly general and lack specificity. However, it is the opinion of the regional 208 staff, that the nature of the problems and the areas covered by these plans do not warrant a lot of detail. As Table 3 shows, \$227,492 of FY 1979 funds are being held awaiting plan certification.
2. Northwest Colorado COG - This plan has been certified and a final approval letter has been routed to the Regional Administrator for signature. EPA's approval is being held in abeyance pending the resolution of a procedural question about the State's certification of the plan. The State Court has ruled that the plan was certified improperly and not in accordance with the State's Procedures Act. The parties to the suit have requested clarification of the judge's ruling, but clarification has not been provided. If the court's position stands, EPA will not have a certified plan upon which to take action. The Region's position at the present time is to keep the plan and await a final resolution of the procedures issue. There is no good estimate of when this issue will be resolved in that the state is likely to appeal the case if the present ruling is not changed. Another major issue regarding plan certification is the designation of only general purpose governments as management agencies. To date, EPA has accepted the Governor's designation of general purpose governments as management agencies and have supported the State's position on this issue. This issue is being re-evaluated

by the Office of Regional Counsel with the purpose of deciding whether or not the Region should continue to support the State. EPA's approval of the plan is likely to trigger some lawsuits on this issue. The extent of local authority in regard to regulating transbasin diversion projects is also an issue. It is the opinion of legal counsel this issue ultimately will be litigated as well.

3. Colorado West Area COG - The plan has been submitted to the State to be certified. The State intends to complete the Statewide plan prior to certifying the Colorado West Area 208 plan. It is the opinion of the State that the West Area Plan will not be implemented since the primary emphasis of the plan was to establish an environmental data baseline rather than to make many recommendations which will be implemented in the future. The Council of Governments intends to work on those 208 matters related to plan approval and certification. The Council will terminate the 208 staff within a year and transfer responsibility for 208 planning to the State. Much of the time during the past two years have been idle or spent revising the 208 document. During that time, two new project directors have been hired and during the periods when the Council was without a project officer, no work was accomplished on revising the 208 plan. The draft had several major deficiencies. For example, the draft plan did not include any recommendations for management agencies. The lack of staff combined with the need to make major revisions to the plan has caused the lengthy delays in getting the plan approved. As Table 3 indicates, \$42,150 of FY 1979 funds are being held pending plan certification.
4. Montana Statewide - This plan is complete except for including a section covering the Middle Yellowstone River Basin (see next discussion). The Governor has had a certification letter to sign for at least a month. The Montana Operations Office has prepared a draft approval letter which will be transmitted to the Regional Office for signature once the Statewide plan is certified. There are no significant issues with the statewide plan, except for completing the Middle Yellowstone portion of the plan which is discussed below. As Table 3 shows, \$225,000 dollars of FY 1979 funds are being held pending certification of the plan.
5. Middle Yellowstone - A draft plan was prepared in May/June of 1978. The 208 staff resigned in August 1978 (due in part to EPA's funding policies and associated job insecurity) and very little happened until recently to revise the plan. The certification letter for the Montana Statewide Plan includes an action to de-designate the Middle Yellowstone 208 planning agency in addition to providing a schedule for when it will be revised and submitted to EPA for approval. The plan is currently being revised under contract and is scheduled to be certified in June 1980.
6. North Dakota Statewide - At the time this was being written, an approval letter was being circulated for signature by the Regional Administrator. The 208 Plan was generally good and no major deficiencies were cited in the approval letter.

7. Lewis and Clark - In September 1978, the Lewis and Clark planning effort became part of the Statewide effort and the plan for this area was submitted to EPA in conjunction with the Statewide Plan. EPA is conditionally approving the plan concurrently with the Statewide Plan. While the Lewis and Clark 208 was in business, EPA issued a stop work order due to the problems meeting deadlines, poor quality of work products, and staffing problems. The State provides the Lewis and Clark 1805 Regional Council some pass through funds in order to maintain a minimum support effort in respect to implementing the plan for this area.
8. SECOG, SD - Southeastern Council of Governments in South Dakota became part of the Statewide program in June 1979. The State provides some pass through funds to the Council to conduct a minimum 208 effort in the Sioux Falls area. Of the three plans prepared in South Dakota, the SECOG plan was the weakest. A draft approval letter had been prepared by EPA; and if signed would conditionally approve this plan which is expected prior to the end of January 1980.
9. Utah Statewide - The plan has been drafted and presently is being revised for two out of three areas (i.e., the Six County and West Desert areas). The third area, Bear River, has been submitted for certification which is expected by the end of January 1980. The other two, the State hopes to certify to EPA by April 15, 1980. The plans have been reviewed by EPA and comments provided to the State and the delegated agency preparing the plan. Six County and West Desert had the most deficiencies in the draft plans that were submitted. A lack of water quality data in the West Desert area prevented an in-depth study of the water quality problems in the area. It is the opinion of EPA that the water quality problems are not significant enough to require a detailed analysis. For this reason, the West Desert area would be a low priority to receive future 208 funds. The Bear River Plan has utilized the assistance of the soil conservation districts to develop a non-site specific plan for non-point sources. The lack of site specific information has precluded the plan from containing recommendations for site specific controls. This lack of data resulted in rejection of their application for a rural clean water project. A major issue with the State's effort in these three areas has been the lack of waste load allocations for point sources.
10. Southeastern Utah - Five out of eight subbasin plans are completed and awaiting state certification. The five plans are a vast improvement over the earlier draft and provide a good basis for building and implementing the 208 plan. Numerous problems, such as inadequate staff, have plagued this 208 planning effort prior to the addition of the new project director in May 1978. The completed plan is expected by the end of February and should be certified to EPA during March or April. No significant issues remain with the five subbasin plans since their revision and EPA expects to conditionally approve all eight subbasin plans once they are certified.

11. Five County AOG - The Five County 208 Plan has been certified and is awaiting EPA approval which is due by the end of January 1980. The AOG desires to continue work on a groundwater study. Other areas that still need additional work in the Plan are: population projections, problem assessment, and stream classifications.
12. Wyoming Statewide - A draft 208 Plan has been prepared. The major substantive issues identified in EPA's review will be dealt with in EPA's conditional approval. The State has adopted an approach identical to Colorado's regarding management agency designation. Wyoming will be designating only general purpose governments as 201 management agencies. To date, no opposition has been voiced against the state's proposed designation of management agencies. However, this may become an issue similar in intensity to the management agency issue in Colorado. The Statewide plan will be submitted to the Wyoming Environmental Quality Council on January 20, 1980 for their consideration and subsequently recommended to the governor for certification. However, some problems exist with the level of detail found in the plan. The plan presently lacks technical detail and is process oriented. There is no definitive program of action to correct specific water quality problems. One major recommendation of the plan is to assign responsibility for future 208 planning activities to local/regional units of government. The Wyoming Department of Environmental Quality's 208 staff recently has resigned and members of other programs are being used to fill the void. For the past year, DEQ has not taken a leadership role in getting areawide plans certified.
13. Powder River - In 1975, a planning agency was formed specifically to develop a 208 plan for Northeastern Wyoming. The planning agency disbanded in March 1979 after having completed the task of developing a plan and submitting it to the Governor for certification. The plan has some technical deficiencies and recommends special districts as 201 management agencies for all unincorporated townships. The latter recommendation is in conflict with the recommendation in the Statewide plan. The State is in the process of correcting some of the deficiencies and will not accept the recommendation that special districts be designated as 201 management agencies. Major issues have not been surfaced or directly discussed with the Governor. The State needs to prepare a certification letter and brief the Governor on the issues. With no local or state 208 staff, no one is taking the lead to expedite certification of the plan.
14. Southwest Wyoming - The planning agency was formed in 1975 for the purpose of developing a 208 plan to be submitted to the Governor for certification. The agency dissolved in August 1978 after completing its assignment. The state's review of the plan identified several technical deficiencies in the plan, some of which the state has corrected since the planning agency disbanded. The state's certification is expected to contain numerous conditions especially in the area of salinity control, water quality standards, and stream classifications. Most of the plan's recommendations in these areas

dealt with matters over which the State has jurisdiction and therefore, are being conditioned pending further documentation and/or formal adoption by the appropriate State agency under a separate procedure. The State needs to actively pursue certification of this plan.

15. Teton County - Of the three areawide plans prepared within Wyoming, Teton County's is the best. Unlike the other two areawides, Teton County is maintaining a minimum staff to follow through on implementation of the plan. This position is being supported entirely with local funds. The Wyoming Department of Environmental Quality has completed a detailed evaluation of the plan and is recommending to the Governor that it be certified with conditions. The certification letter needs to be written and significance of the proposed conditions need to be discussed with the Governor. Numerous recommendations in the plan have been implemented, an example of which is developing a self supporting 208 position.

C. Implications for Continued Funding of 208 Agencies Lacking Plan Certification or Approval:

The regulations dealing with plan certification and approval changed under the May 23, 1979 regulations. Prior to publication of the May 23, 1979 Federal Register, the regulations did not specify any timeframe for a state to take action on a plan once the plan was submitted for certification. Neither did the preceding regulations provide EPA with any sanctions it could impose on a state if a state did not certify a plan in a timely fashion. The May 23, 1979 regulations provide EPA with some leverage when dealing with the states about certification and also specify that the states must take action on a plan within 120 days of its submittal for certification. The prior regulations allowed EPA 120 days to approve a plan once a certified plan was received by EPA. Under the new regulations, EPA and the State have 120 days for concurrent review and EPA has 30 additional days to take action on the plan.

The May 1979 regulations established a more rigorous set of requirements for plan certification and provided EPA with a set of actions it could take if plans were not certified to EPA within a specified timeframe. Paragraph 35-1523-3(c) of the regulations states: "Where the Regional Administrator determines that the Governor has failed without good cause to meet in a timely manner the certification requirements of paragraph (a), the Regional Administrator shall withhold an appropriate portion of funds otherwise available to the State under this subpart pending compliance with the requirements, and may suspend or terminate current funding in accordance with 30.915 (stop work orders) and 30.920 (terminations) of this chapter."

The May 23, 1979 regulations also require the Regional Administrator to withhold 201 funds (regardless of step) if the applicant requesting 201 funds is not covered by an approved plan. Table 4 shows which 201 grants may be affected by this regulation (about \$2.8 million).

In addition to the regulations, EPA has issued several policy papers which also provide the Regional Office with specific guidance and requirements to deal with states which are delinquent in certifying plans. The FY 79-80 208 Funding Policy developed by EPA, Region VIII and signed by Alan Merson, April 2, 1979, stated that FY 1979 208 "funds will be obligated to Areawide Agencies only if they have a certified plan" and to a State 208 agency only if it has certified all the areawide plans and submitted to EPA a certified Statewide plan for review. An exception is made for agencies having submitted a plan to the State and the State has not provided good reason for not having certified the Plan to EPA. The August 16, 1979 "Policy and Procedure for FY 80 Section 208 Funds, (Information Memo 79-100) states that no agency will be eligible to receive FY 80 208 funds unless it has an approved 208 plan. This is national policy and is reiterated in more recent policy memos as well. A recent policy memo received December 26, 1979, states that the region must obligate all its FY 1980 funds by May 2, 1980, and that all unobligated '80 funds will revert to Headquarters for re-obligation.

The asterisked grant awards found in Table 3 on pages 8 and 9 show what amounts of FY 1979 funds cannot be used agency by agency due to the regional

TABLE 4

CONSTRUCTION GRANT APPLICATIONS PENDING WHICH
MAY BE AFFECTED BY THE LACK OF 208 PLAN APPROVAL
(As of December 31, 1979)

<u>State/Community</u>	<u>Step</u>	<u>Amount Requested</u>	
Colorado			
Durango	2	570,000	
Granby	2	10,275	
Grand Junction	3	3,146,250	
Rifle	2+3	1,152,045	
Salida	2	153,600	
Upper Eagle	3	954,750	
Total		<u>5,986,920</u>	
Montana			
Chester	2		10,500
North Dakota			
19 Step 1's			233,585
South Dakota			
Renner	3		757,500
Utah			
Castle Valley	1		10,500
Wyoming			
Buffalo	1	483,750	
Greybull	1	23,925	
Kaycee	1	18,750	
Yoder	2+3	<u>367,900</u>	
Total			<u>894,175</u>
TOTAL			6,999,005

policy. The total amount of FY 1979 funds unavailable for use by these agencies equals about \$1 million. In addition, there is a potential of \$711,000 of FY 1980 funds which may be affected by these policies (CO - \$291,000; MT - \$285,000; and Utah - \$35,000).

In addition to the above funding constraints, the May 23, 1979 regulations state: "After fiscal year 1979, no funds under section 208 of the Act will be available to any planning agency which developed a certified and approved plan, unless a significant portion of the plan is being implemented." The Planning and Management Branch ranked all the 208 agencies based on the project officers' evaluation of the degree to which agencies had implemented their 208 plans regardless of their certification and approval status. The agencies were ranked into three groups: 1) those agencies having implemented a large number of items in relationship to all other plans, 2) those agencies having implemented an average number of items in relationship to all other plans and 3) those agencies having implemented the fewest number of items in relationship to all other plans. The results of this ranking are shown in Table 5 and represents another factor that must be considered before awarding FY 1980 grants.

In summary, failure of a state to certify a 208 plan can result in a loss of, or a delay in receiving 208 or 201 funds.

D. Conclusions

1. Assuming that Region VIII is allocated its request of \$1,756,000 of FY 1980 208 funds, there are at least \$1.7 million of FY 1979 and 80 funds in jeopardy of being held indefinitely while waiting for the outstanding 208 plans to be certified and approved.

2. The quality of each 208 plan varies from agency to agency and is dependent upon numerous factors. An evaluation of the quality of 208 plans in relationship to these factors may be the subject of a future study but such an evaluation is not within the scope of this report. The major conclusion derived in this study regarding the quality of the outstanding plans is that in the opinion of the responsible project officer, each of these plans can be approved with conditions. The relative quality of each plan is just one factor each project officer considers when determining a planning agency's standing in terms of receiving future 208 funding. However, a good planning product, when combined with implementation, usually results in a higher priority to receive 208 funds.

3. Prior to the May 23, 1979 regulations and recent policy memos, EPA did not have many options when considering what action to take against a state that was delinquent in certifying plans to EPA. These policies and regulations now make it mandatory for EPA to withhold future 208 funds pending certification and approval of a 208 plan. This is currently a

major issue with the Wyoming Department of Environmental Quality which has been negligent in taking the initiative to get areawide 208 plans approved. Little has happened since April 1979 regarding certification of these plans.

4. The major reasons for delays in certifying or approving 208 plans fall into two categories: 1) problems with staff or 2) major deficiencies in the draft plan submitted to EPA for review.

5. Of the ten (10) uncertified plans, four of the agencies responsible for preparing these plans have either disbanded, discontinued their role in 208 planning, or intend to terminate their involvement in the 208 program. Several other local agencies that contributed to the development of Statewide plans also are no longer active in 208 planning.

TABLE 5

RESULTS OF PLANNING AND MANAGEMENT BRANCH'S RANKING
OF 208 AGENCIES' DEGREE OF PLAN IMPLEMENTATION

Agencies Well Above Average in terms of Implementation of 208 Plans:

Northwest Colorado*
Larimer-Weld, CO
Pueblo, CO
Pikes Peak, CO
Montana Statewide - Lewis and Clark SCD**
South Dakota Statewide - DWR
Salt Lake County, UT
Weber River, UT
Mountainland, UT
Teton County, WY**

Agencies Near the Norm in terms of Implementation of 208 Plans

Colorado Statewide - WQCD, SCD, Districts 9 & 10**
DRCOG, CO
Montana Statewide - WQB, DNR**
Blue Ribbons, MT
Flathead, MT
6th District, SD
South Dakota Statewide - SCC
Utah Statewide - Dept. of Ag., Bear River**
Southeastern Utah**
Uintah, UT
Five County, UT*

Agencies Below Average in terms of Implementation of 208 Plan

Colorado Statewide - Districts 8 & 13**
Colorado West, CO**
Middle Yellowstone, MT**
Yellowstone Tongue, MT
North Dakota Statewide - Health Dept. and Conservation Commission*
Lewis and Clark, ND*
SECUG, SD*
Wyoming Statewide - DEQ, Powder, Southwestern Big Horn**
Utah Statewide - Dept. of Health, West Desert, 6 County**

* Plan certified but not approved.

** Plan not certified

E. Recommended Actions

General Recommendations:

1. A firm schedule should be developed in cooperation with each state as to when 208 plans will be certified to EPA. Table 6 represents the best available information on when plans will be certified, but these dates should be confirmed with the State. This schedule should provide a basis for formulating future 208 policy within Region VIII.
2. Region VIII should continue to implement the April 2, 1979 funding policy. EPA should exercise its right to withdraw funds from an agency if the status quo in terms of plan certification continues.
3. Region VIII should implement the FY 1980 funding policies and May 23, 1979 regulations as they affect the award and expenditure of FY 1980 funds. The states should be advised that EPA will not accept any new applications for 201 grants or process existing 201 grants for those applicants not included in the approved 208 Plan. EPA should notify each State and areawide agency that after June 30, 1980, FY 1980 funds that have been awarded to 208 agencies and which are conditioned on receiving 208 Plan approval will be withdrawn. The only exception to withdrawing the the FY 1980 208 funds as of June 30, 1980 is if EPA fails to approve a plan within 30 days after receiving the certification. Implementation of this policy requires that states certify plans to EPA by no later than May 31, 1980.
4. EPA should take no longer than 30 days to approve a certified plan once it is received by the Regional Office. The next chapter recommends several changes in EPA's approval process which need to be implemented as part of this recommendation.

Specific Recommendation:

Wyoming - A letter should be prepared and sent to the Governor of Wyoming which informs him of the certification problems in Wyoming and describes the ramification of not having certified and approved 208 plans. The letter should inform the Governor that the EPA/Wyoming IPA agreement will be terminated in June 1980 and suggest that the remainder of the IPA's time in Wyoming could be used to help resolve this problem.

TABLE 6
PROJECTED SCHEDULE FOR PLAN CERTIFICATION

Colorado Statewide	March 1980
Colorado West	March 31, 1980*
Montana Statewide	end of January 1980
Middle Yellowstone	early June 1980**
Utah Statewide	April 15, 1980
SE Utah	March 1980**
Wyoming Statewide (including 3 areawide plans)	May 1, 1980***

- * 120 days from date submitted to state for certification.
- ** These dates are based on the project officer's best judgement as the State was not committed to a firm date.
- *** Commitment date in 1980 State/EPA agreement.

V. Detailed Analysis of the 208 Plan Approval Process

A. Background:

Through January 1, 1980, the average amount of time EPA spent on plan approval was 167 days per project, or about six months. This is also the average amount of time each state spent on plan certification if Wyoming is excluded. Nine (9) out of the thirteen (13) plans approved by EPA as of January 1, 1980 required more than the 120 days allowed by the November 28, 1975 regulations. This amount of time is especially critical in light of the May 23, 1979 regulations which now allow EPA 30 days to take action on a plan after it is certified. Of the five plans in the approval process as of January 1, 1980, four had already exceeded the 120 day requirement and the other one will have been in the office 30 days as of January 11, 1980. Table 7 summarizes the time taken by EPA to approve 208 plans. Table 8 compares EPA's experience with the time taken by the states to certify plans and also the time taken by 208 planning agencies to go from a draft plan to a final plan.

B. Reasons Cited for Delays:

The following reasons were the most common ones provided by project officers to explain the extra time required to approve a 208 plan.

1. Lack of familiarity with the 208 plan at all organizational levels within the Regional Office once the certified plan was received. Changes in project officers of numerous 208 projects during the time the plan was being certified created delays as the newer project officer needed time to become familiar with the plans. In addition, the eighteen (18) month average time to go from a draft plan to certified plan required the 208 review teams and project officers to refamiliarize themselves with the Plan. Supervisors and other senior managers required special briefing sessions to become familiar with a plan even after the approval letter was circulated for concurrence. This is evidenced by the fact that for some plans, up to 40 days were required to get concurrences on the approval letter.
2. Plan approvals were given lower priority than other Branch, Division, or EPA activities. Activities which frequently took precedent over plan approvals were 1) processing and awarding 106/208 grants, 2) developing regional 208 funding policies and plans, 3) 201 facility plan reviews, 4) State/EPA agreements, 5) water quality 5 year needs assessment, 6) approval of population projections, 7) RCWP activities, and 8) National Urban Runoff Projects (NURP). After Zero Based Budgeting for FY 79 and 80, the Enforcement and Surveillance and Analysis Divisions were cut sharply in terms of the resources they could devote to 208 plan review and which was reflected in a five position cut in the Planning and Management Branch's decision unit. Consequently, 208 plan review and approval were given lower priority in these divisions as well as within the Planning and Management branch.

TABLE 7
APPROVAL TIME

<u>Agency</u>	<u>Date Certified Plan Recv'd</u>	<u>Date of EPA Approval</u>	<u>Plan Approval Time</u>
Colo. Statewide			
Pikes Peak	2/10/77	6/10/77	92 ^a
Denver	1/13/78	8/5/78	100 ^b
Larimer/Weld	2/23/79	5/16/79	82
Pueblo Area	11/14/78	1/24/78	71
NW Colorado	6/28/79	In Process	186*
Colorado West			
Montana Statewide			
Flathead Drainage	8/17/79	11/5/79	80
Mid-Yellowstone	to be de-designated		
Yellowstone/ Tongue	8/17/79	12/26/79	132
Blue Ribbons	8/17/79	12/26/79	132
ND Statewide	7/24/79	In Process	160
Lewis & Clark RCD	7/24/79	In Process	160
SD Statewide	11/14/78	8/28/79	216 ^c
6th District	11/14/78	10/18/79	347
SECOG	11/14/78	In Process	421*
Utah Statewide			
Mountainland	8/31/78	3/23/79	204
Weber River	1/20/78	5/11/79	172
Salt Lake County	4/30/79	12/11/79	225
S.E. Utah			
Uintah Basin	11/22/78	10/02/79	314
Five County	12/12/79	In Process	20*
Wyoming Statewide			
Powder River			
SW Wyoming			
Teton Co.			

* Number of days in process as of January 1, 1980

Average Time Per Plan (excludes those in process) = 167 days

TABLE 7 (Cont'd)
ADJUSTMENTS TO PLAN APPROVAL TIME

Footnotes:

a. DRCOG

- | | | |
|----|--|----------|
| 1. | EIS preparation time (time from certification date to EIS publication date = 88 days)
Minimum estimated increase in processing time to EIS preparation | 44 days |
| 2. | Comment period (60 days)
Estimated increase in processing time due to comment period | 60 days |
| 3. | Time from end of comment period to notice of final EIS action (56 days)
Estimated increase in processing time is accounted for under b. Note: This time would have been required regardless. Its occurrence was shifted from earlier in the process to later in the process | 0 days |
| | Total Estimated Time Savings | 104 days |
| 4. | Adjusted Processing Time 204 - 104 = | 100 days |

b. Pikes Peak

- | | | |
|----|---|---------|
| 1. | EIS preparation time (7 days) | |
| 2. | Comment period (50 days) | |
| 3. | Estimated potential time savings 50% of 57 days = | 28 days |
| 4. | Adjusted Processing Time 120 - 28 = | 92 days |

c. South Dakota Statewide

- | | | |
|----|-------------------------------------|----------|
| 1. | Certification received 11/14/78 | |
| 2. | Plan received 2/2/79 | |
| 3. | Adjusted Processing Time 296 - 80 = | 216 days |

TABLE 8
TIME BETWEEN DECISION POINTS

	<u>Draft Plan To Final Plan</u>	<u>Final Plan To Certified Plan</u>	<u>Certified Plan To Approval Letter</u>	<u>Concurrence Time On Approval Letter</u>
COLORADO				
Colorado Statewide				
Pikes Peak	3 months	6 months	4 months	1 day
Denver	8 months	1 month	6 months	14 days
Larimer/Weld	5 months	5 months	2 months	15 days
Pueblo	11 months	3 months	1 month	31 days
NW Colorado	10 months	4 months	3 months	
Colorado West	17 months	1.5 months ^a		
MONTANA				
Montana Statewide				
Flathead	7.5 months	18 months	2.5 months	
Mid-Yellowstone	21 months ^a	12 months	4 months	41 days
Yellowstone Tongue	5 months			
Blue Ribbons	18 months	1 month	4 months	41 days
NORTH DAKOTA				
ND Statewide		5 months	4.5 months	
Lewis & Clark			4.5 months	
SOUTH DAKOTA				
SD Statewide	2 months	1.5 months	8.5 months	35 days
6th District		7 months	11 months	8 days
SECOG	14 months	11 months		
UTAH				
Utah Statewide				
Mountainland	2 months	5.5 months	8.5 months	25 days
Weber River		14 months	5.5 months	33 days
Salt Lake County	14 months	5 months	6 months	35 days
SE Utah	30 months	.5 month		
Uintah	4 months	1. months	9.5 months	3 days
Five County	15 months	2 months		
WYOMING				
Wyoming Statewide				
Powder River	13 months	12 months ^a		
Sw Wyoming	11 months	15 months ^a		
Teton County	<u>12 months</u>	<u>12 months^a</u>		
Average Time/Project	11 months	7 months	5 months	26 days

a. Time in process as of January 1, 1980

3. Project officers experienced an increase in workload after June/July 1978, thus reducing the amount of time they could devote to plan approvals. The number of project officers for the 208/106 programs was at a high of eleven people during 1977. This number has been recently reduced to six including the Montana Operations Office. The reduction work force in combination with increased responsibility for each project officer has inevitably led to some delays in plan approvals. The increase in responsibility for each project officer resulted when 106 and 208 statewide project officer duties were added to the existing responsibilities of areawide project officers. A typical workload for project officer is attached as Appendix 3. It identifies the major activities which a project officer was involved in during a year and a half period.

Within the last month, two senior staff members have taken other positions within Region VIII. It is anticipated that these vacancies will not be filled with experienced individuals. Time to fill vacancies within the Planning and Management Branch has been a problem in the last two years with some positions being vacant up to six months or longer. In the spring and summer of 1978 both section supervisors left the program to fill other positions within the Regional Office. The change in staff vacancies during recent years combined with the inability to fill vacancies quickly has added to the overall workload problem confronting the Branch. Another project officer is expected to be lost during the next two months, as well.

4. Generally, the consequences of missing mandatory approval dates are slight and slippage did not hinder the operation of other Regional programs. NPDES permits have been issued with or without approved 208 plans. Often, interim outputs sufficed to satisfy agency demands especially in the area of population projections to be used in the preparation of 208 facilities plans. Until recently, the major effect that 208 plans had on the NPDES and 201 programs occurred after plan approval. The exception was the Rural Clean Water Program, which depended upon plan approval before RCWP funds could be used under a RCWP project. In the case of the RCWP, plans have been approved in a timely fashion to allow the expenditure of RCWP funds within Region VIII. Since October 1, 1979, an approved 208 plan has been made a prerequisite to receiving a 201 grant. However, within Region VIII, eleven 201 grants have been awarded to communities which did not have an approved 208 plan (see Table 9). This problem is presently being corrected as the Water Division is notifying each State of this requirement and will not award 201 grants to areas lacking an approved 208 plan unless the criteria for an exception are satisfied. Of the eleven projects awarded without an approved 208 plan, all eleven satisfy the criteria and the Office of Awards and Grants Administration is checking to make sure the reasons for the exceptions are documented.

Table 9

CONSTRUCTION GRANT AWARDS SINCE OCTOBER 1, 1979^a

<u>Community/State</u>	<u>Step</u>	<u>Amount</u>	<u>Date Awarded</u>	<u>208 Plan Apprv'd Prior to Award^b</u>
Idaho Springs, CO	1	37,500		No
Pueblo, CO	3(cont'd)	1,647,000	11/27/79	Yes
Big Timber, MT	2+3(cont'd)	247,800	10/30/79	No
Roman, MT	2+3	418,020	11/20/79	Yes
Shelby, MT	1	9,075	11/26/79	No
Sioux Falls, SD	2(cont'd)	12,900		Yes
Rapid City, SD	3	331,725	11/23/79	Yes
Ravinia, SD	2(cont'd)	12,375	11/27/79	Yes
Spearfish, SD	2(cont'd)	1,800		Yes
Springdale, UT	3(cont'd)	581,820	11/27/79	No
Bryon, WY	1	26,385	11/29/79	No
Evanston, WY	1	30,600		No
Guernsey, WY	1	25,455	11/29/79	No
Lusk, WY	1	18,300		No
Manderson, WY	1	12,000		No
Mills, WY	1	117,600	11/29/79	No
Ranchester, WY	1	27,750		No

^a Grant increases are not included in this list since they do not constitute a new grant award.

^a All the communities receiving grants without being covered by an approved 208 Plan are allowed to do so if the "Regional Administrator determines in writing that the facility related information was not within the scope of the WQM work program or that the award of the 201 grant is necessary to achieve water quality goals." (35.1533-(b)(1)). This determination was not made, in writing, for the above grants.

C. Recommendations for Improving the Plan Approval Process

Several things can be done to improve EPA's performance in reducing the approval time for the ten plans yet to be certified.

1. The approval letter should be typed and ready to be routed for signature the day the certified plan is received by EPA. In order to stay within the existing 30 day limitation set forth in the May 23 regulations, the approval letter must be prepared prior to receiving the certification letter. Project officers should be responsible to prepare this letter by working jointly with the state as the plan is being certified. Where a state will not cooperate with EPA, the plan by itself should serve as a basis for preparing the approval letter. If possible, a draft copy of the certification letter should be obtained from the State by the project officer to minimize the need to make last minute changes in EPA's approval of the plan. If this procedure were followed for example, approval letters could have been written for all the Wyoming designated areawide plans by now with or without the cooperation of Wyoming.

Approval of statewide plans is a different matter. It is imperative that the project officer keep abreast of the status of plan preparation and certification. It is advisable that a draft approval letter be initiated shortly after reviewing the draft of the Statewide plan and that EPA's review letter of the draft plan be written in the format used for approval letters.

2. Concurrences on the "final" approval letter should be restricted to the program office, Division Director, Office of Legal Counsel, and RA's Office. All other concurrences should be obtained on the "draft" approval letter following the same process used by the Office of Awards and Grants Administration. The "draft" approval letter should be routed to all program offices, including those offices that the final letter will be routed for concurrence, for the purpose of receiving comments and preliminary concurrence. Once a final approval letter is routed for concurrence, no changes to the letter should be necessary. Clarification of specific points in the letter should be obtained when the "draft" is circulated for review. Only changes suggested during the review of the draft approval should be reflected in the final version and all other comments received after the comment period on the draft closes should be ignored. Those offices that have concurrence only on the draft letter should note appropriate changes on the draft. It is the responsibility of the project officer to incorporate changes into the final and to resolve any differences that may exist between offices.

3. The program office should adopt a schedule for plan approvals which takes priority over all other concurrent activities. Plan approvals are important to the award of 106/201/208 grants, issuing NPDES permits, and awarding RCWP grants. Consequently, priority should be given to approving 208 plans by the Planning and Management Branch. Opportunity should be given to other program offices to provide input to the P & M Branch regarding plan approval. However, the P & M Branch should be under no obligation to consider comments if they are received after the established time frame. The following is a recommended time frame for completing the several steps of approving a plan:

- After a plan is submitted to the state to be certified, solicit a schedule from the state which identifies when the draft and final certification letters will be prepared.
- Circulate final plan internally within EPA for final review and receive comments (allow two weeks).
- Prepare draft approval letter (allow two weeks).
- Circulate the draft approval letter internally within EPA and receive comments and concurrences. A copy of draft approval letter should be sent to State as well (allow two weeks).
- Solicit and obtain a copy of draft certification letter from the state when available.
- Prepare final approval letter (allow one week).
- Receive certification from the state.
- Route approval letter for signature (allow one week).

A specific schedule can be developed based on the schedule adopted by the state. For example, for Teton County the schedule might have been:

2/01/79 -	Final plan circulated and review requested.
2/15/79 -	Comment period on final plan closed.
3/03/79 -	Draft approval letter circulated for comment.
3/17/79 -	Comment period on draft approval letter closed.
4/08/79 -	Received draft certification letter from state.
4/15/79 -	Final approval letter prepared.
5/01/79 -	Certification of plan received by EPA.
5/08/79 -	Approval letter signed.

The supervisor is responsible to work out a schedule with each project officer once a plan is being considered for certification. The supervisor needs to be conscious of this schedule and not make priority time consuming assignments to a project officer during periods when the project officer is assigned to work on approving 208 plans.

The states may not like EPA preparing its approval letter while the state is developing its certification letter. However, EPA has no choice if it is going to comply with the May 23, 1979, regulations and the states must understand that the certification/approval process must be a joint process, or that EPA will be forced to prepare its approval letter without the benefit of state input.

4. Planning and Management Branch needs to revise the commitment to review 201 facility plans. In the past, some 208 project officers have spent as much as 0.4 my of effort working on Step 1 facility plans. Colorado and Utah historically have had the most problems which required input from the Planning and Management Branch to resolve. The implementation of the 205(g) agreements in Montana, South Dakota, and Wyoming, now assign responsibility for facility plan review to these states respectively. EPA still retains responsibility to review each facility plan for compliance with NEPA which is the responsibility of the Environmental Evaluation Branch. In addition, EPA conducts a full review of 20 percent of the facility plans. What this means in terms of workload for the P & M Branch is that for example, out of 25 Step 1's being reviewed in South Dakota only five would require review by EPA. However, these five will generally be the facility plans with the most problems. Consequently, a 80 percent reduction in EPA's workload will not be realized.

Colorado, North Dakota, and Utah are committed to assume responsibility for facility plan review and approval in the first quarter of FY 1981, third or fourth quarter of FY 1980 and the second quarter of FY 1980, respectively. The Planning and Management Plan should entertain the possibility of reviewing only 20 percent of facility plans immediately with these states as well by relying more on the reviews of 208 agencies that have approved 208 plans. Under the regulations agencies that have approved 208 plans also have the responsibility to conduct a review of facilities plans within their jurisdiction to determine if the facility plan conforms to the approved 208 plan.

The way this can be accomplished is by executing agreements with each of the active 208 agencies that have approved 208 plans to transfer some of this responsibility from EPA to the 208 agency. For state agencies having 201 facility plan review and approval responsibility under 205(g), such an agreement is not necessary. Where States refuse to use local 208 agencies to review Step 1 plans for conformance with 208 plans, the States need to understand that they have full responsibility for the 201/208 conformance review.

APPENDIX I

A -- Chronology of Key Events for Plans not yet certified/approved

B -- Chronology of Key Events for Plans which have been approved

COLORADO PLANS NOT YET CERTIFIED/APPROVED

COLORADO STATEWIDE 208 PLAN

04/07/78	Draft plan received by EPA
07/26/78	EPA comments on draft plan provided to Northwest
02/20/79	Final plan received by EPA
06/25/79	Plan certified by State
06/28/79	Certified plan received by EPA
09/17/79	State letter clarifying certain points of certification letter sent to EPA
09/21/79	EPA approval letter circulated for signature
10/01/79	Concurred on by Water Division Letter being held in Office of Regional Counsel pending result of court case

COLORADO WEST 208 PLAN

02/16/77	Preliminary plan received by EPA for comment
05/20/79	EPA comments on preliminary plan sent to COG
05/08/78	Draft 208 plan received by EPA for comment
06/07/79	EPA comments on draft plan sent to COG
10/16/79	Final plan submitted to State for certification
02/13/79	Date by which plan must be certified to EPA (120 days from 10/16/79 assuming this is the date the plan was received by the State)
03/15/79	Date by which EPA must take action on the plan

Appendix 1-A

MONTANA PLANS NOT YET CERTIFIED/APPROVED

MONTANA STATEWIDE

08/16/79	Draft Report printed and distributed for review
11/27/79	Final Report completed
01/31/80	Anticipated certification date
03/03/80	30 days after certification date (date by which EPA needs to take action)

MIDDLE YELLOWSTONE

03/03/78	Draft Report printed and distributed for comment
05/15/78	Internal memo transmitted requesting review of executive summary
8/78	Resignation of 208 staff
12/78-4/79	Series of meetings with State and MYAPU to discuss possibility of resurrecting planning effort at local level
01/31/79	Expected date by which contract to revise Middle Yellowstone plan will be signed
06/01/80	Plan certified and submitted to EPA as an addendum to Statewide Plan.

SOUTH DAKOTA PLANS NOT YET CERTIFIED/APPROVED

SOUTHEASTERN COG 208 PLAN

SECOG 208 PLAN

10/11/77	Preliminary 208 Plan submitted for review
11/29/77	EPA comments provided to SECOG on preliminary 208 plan
12/77	Volume III - Final 208 Plan printed and distributed by SECOG
01/11/78	EPA internal memo requesting review of final Plan
02/08/78	Internal EPA meeting held to discuss Plan (no formal comments were provided to SECOG as a result of the review of the final document)
11/14/78	Certification letter received by EPA. EPA draft approval letter prepared and distributed for comment. Anticipate approval letter by the end of January

UTAH PLANS NOT YET CERTIFIED/APPROVED

UTAH STATEWIDE 208 PLAN

04/79 Draft partial plan received by EPA for review
04/17/79 EPA internal memo requesting review of draft plan
05/04/79 EPA acknowledged receipt of partial draft plan and requested time frame for when remainder of plan would be submitted
06/02/79 EPA comments provided to the State on Bear River portion
08/16/79 EPA comments provided to the State on West Desert portion
12/07/79 EPA comments provided to the State on 6 County portion

SE UTAH 208 PLAN

06/77 EPA review of draft 208 documents completed
07/77 Project Director resigns
05/78 New Project Director on board and supplemental grants made to update and revise 208 Plan.
01/80 Five out of eight subbasin plans completed and submitted to EPA (these are entirely new documents not just a revision of draft reports).

FIVE COUNTY 208 PLAN

08/77 Initial draft Plan received by EPA for review including summary document
08/24/77 EPA internal memo requesting 208 Team to review draft Plan
09/14/77 EPA commented on Land Use document
10/18/77 EPA commented on Facilities document
10/27/77 EPA commented on Water Quality Management Phase document
01/78 Second draft submitted to the State and EPA for review
02/21/78 EPA commented on Water Quality document
02/23/78 EPA comment letter requesting air quality impacts be included as part of the Plan
02/28/78 Headquarters assisted review of draft Plan completed
04/(3-6)/78 EPA held meeting in St. George to discuss NPS portions of the Plan with the SCS & SCDS, and to provide oral comments on entire Water Quality Management summary document
04/79 Technical documents and summary document revised and printed in final format
04/79 State received final documents for review and certification
06/79 EPA received final documents for review and approval
12/12/79 EPA received certification package
12/79 Approval letter being drafted -- anticipate final approval by Mid-January

Appendix 1-A

WYOMING PLANS NOT YET CERTIFIED/APPROVED

WYOMING STATEWIDE 208 PLAN

11/28/77	Requested review of draft 208 Plan
12/15/77	Requested review of draft 208 Plan policy recommendation
03/14/78	EPA comment letter sent to Powder River 208
01/05/79	Final plan received by EPA
02/01/79	Memo requesting review of final plan transmitted to EPA 208 review team

SOUTHWESTERN 208 PLAN

10/03/77	Preliminary draft of plan circulated within EPA for review
10/27/77	Meeting held within EPA to explain and discuss preliminary draft
11/23/77	Meeting held within EPA to discuss proposed comments on preliminary draft.
12/13/77	EPA comments on preliminary draft sent to 208 agency
09/19/78	EPA internal memo transmitted requesting review of final draft
10/05/78	Final draft transmitted to Salinity Forum for review
02/01/79	EPA internal memo transmitted requestin review of final plan
02/23/79	DEQ's recommendations for certification circulated for comment. (Governor is waiting to certify plan pending completion and certification of Statewide Plan. Certification letter has not been prepared.)

TETON 208 PLAN

12/77	Draft plan printed and distributed
01/23/78	Memo requesting review of draft plan transmitted to EPA 208 review team
03/29/78	EPA comments on draft plan sent to Teton 208
12/78	Final plan printed and distributed
02/01/79	Memo requesting review of final plan distributed
04/05/79	DEQ's recommendation for certification circulated for comment (Governor is waiting to certify plan pending completion and certification of Statewide Plan. Certification letter has not been prepared.)

Appendix 1-A

COLORADO APPROVED PLANS

DRCOG 208 PLAN

03/31/77	Options paper prepared discussing the inclusion of the 208 Plan in the Overview EIS
April 1977	Draft Plan received by EPA for comment
04/29/77	Notice of Intent to prepare an EIS on the DRCOG 208 Plan issued
05/17/77	Action Board briefed on substance of Plan
05/18/77	EPA comments sent to DRCOG redraft Plan (21 pg letter)
06/08/77	Draft letter addressed to DRCOG outlining EPA's position on Plan; circulated within EPA for review
07/15/77	Preliminary position on Plan sent to DRCOG
12/20/77	EPA received final 208 Plan
01/03/78	Options paper concerning plan approval circulated for review
01/10/78	State certified 208 Plan
01/13/78	EPA received certification letter
01/24/78	EPA acknowledged receipt of certification letter and advised State that 208 Plan was covered in the Overview EIS
04/11/78	EIS circulated for comment (30 days)
05/05/78	EPA advised by State that the State was in the process of revising its certification of the Plan
05/15/78	Notice to extend comment period to June 10, 1978 issued
05/26/78	State sent EPA a second certification letter
06/10/78	End of EIS comment period
06/19/78	First draft of approval letter circulated within EPA for comment
06/23/78	Action Board meeting to discuss Plan approval
06/28/78	Second draft of approval circulated
07/07/78	Action Board meeting to discuss Plan approval
07/19/78	Third draft of approval letter circulated for review within EPA
07/24/78	EPA final approval letter routed for signature
08/05/78	EPA approval letter signed
August 1978	Final Action Document for EIS issued (included copy of 208 approval letter)

LARIMER-WELD 208 PLAN

04/28/78	Draft Plan received by EPA
08/11/78	EPA comments on draft Plan provided to Larimer-Weld
09/78	Final Plan received by EPA
02/14/79	Plan certified by State
02/23/79	Certified Plan received by EPA
03/21/79	Draft approval letter circulated for review within EPA
05/01/79	Final approval letter routed for signature
05/16/79	Approval letter signed

Appendix 1-B

COLORADO APPROVED PLANS (CONT'D)

PIKES PEAK 208 PLAN

05/26/76 Draft plan submitted to State and EPA (Comment letter never officially sent; typed for signature after receiving final plan; oral comments and a draft of the letter were provided to Pikes Peak)

08/76 Final Plan submitted to State and EPA

08/04/76 Letter from RA to Division Directors directing the staff to respond to earlier requests for comments on draft Plan

02/07/77 State certified Plan to EPA

02/10/77 EPA received certified Plan

02/10/77 Meeting with Action Board to discuss State's certification and EPA's options

03/01/77 EPA acknowledged receipt of certified Plan

03/10/77 Action Board Meeting to discuss proposed EIS action

03/18/77 EPA issued notice of intent to publish an EIS on the Plan

03/25/77 Draft EIS issued

05/19/77 End of comment period on draft EIS

06/08/77 End of comment period on final EIS

06/10/77 EPA approved Plan

08/04/76 Letter from RA to Division Directors directing the staff to respond to earlier requests for comments on draft Plan

PUEBLO 208 PLAN

07/77 Draft of Volumes 1 and 2 received by EPA

07/21/77 EPA comments on Volumes 1 and 2 sent to Pueblo

09/77 Draft of Volume 3 received by EPA

09/30/77 Pueblo's response to EPA comments on Volumes 1 and 2

10/77 Volume 3 circulated and comments received (informally transmitted to Pueblo)

12/15/77 State commented on Pueblo's draft Plan

02/13/78 State and EPA met with Pueblo to discuss replacement of 208 staff and schedule for completing 208 plan

08/04/78 Pueblo responded to State's comment letter

08/15/78 State held public hearing on Plan

10/02/78 WQCC adopted the Plan

11/02/78 State certified Plan to EPA

11/14/78 EPA received certified Plan

12/11/78 EPA draft approval letter circulated for comments

12/20/78 EPA final approval letter routed for signature

01/24/78 EPA approved 208 Plan

Appendix 1-B

MONTANA APPROVED PLANS

BLUE RIBBONS 208 PLAN

2/78	Draft Report printed and distributed for comment
03/27/78	Internal memo transmitted requesting review of draft
01/11/79	Joint State/EPA review letter sent to Blue Ribbons on draft
8/79	Revised plan printed and distributed
08/17/79	Governor's certification received by EPA
11/15/79	Approval letter routed for signature
12/26/79	Approval letter signed

FLATHEAD

6/77	Draft report printed and distributed for comment
2/78	Final plan submitted to State and EPA
02/07/78	Internal memo transmitted requesting comment on Final Plan
08/17/79	Certified plan received by EPA
11/05/79	Approval letter signed

YELLOWSTONE/TONGUE 208 PLAN

10/77	Rough draft printed and distributed for comment
11/02/77	Internal memo requesting comments transmitted
12/30/77	Comment letter on draft sent to 208 agency
3/78	Final report submitted
03/27/78	Internal memo requesting comments on final draft
08/17/79	Certified plan received by EPA
11/15/79	Approval letter routed for signature
12/26/79	Approval letter signed

NORTH DAKOTA APPROVED PLANS

NORTH DAKOTA STATEWIDE 208 PLAN

10/26/78	Memo requesting review of draft Plan transmitted to 208 review team (no record of formal comments being sent to the State)
03/79	Final Plan printed and distributed
08/24/79	Certification of Plan received by EPA
12/07/79	First draft of approval letter typed
12/27/79	Second draft of approval letter typed. Anticipate approval by mid-January

LEWIS AND CLERK 208 PLAN

08/11/77	EPA internal memo requesting review of draft Plan transmitted to 208 review team (no record of formal comments being sent to Lewis and Clark)
08/24/79	Certification of Plan received by EPA
12/07/79	EPA first draft of approval letter typed
12/27/79	EPA second draft of approval letter typed. Anticipate approval by mid-January

SOUTH DAKOTA APPROVED PLANS

SOUTH DAKOTA STATEWIDE 208 PLAN

08/78	Preliminary draft of 208 Plan printed and distributed
09/26/78	EPA received second draft 208 Plan for review
10/(4-5)/78	Public hearings on Plan held
10/06/78	EPA letter sent to State indicating submittal is incomplete and, therefore, EPA cannot do a full review.
11/14/78	State's certification letter received by EPA
11/20/78	EPA acknowledged receipt of certification letter and requested additional copies of the Plan. Noted that Statewide Plan was missing from the package.
12/28/78	Letter from Governor amending 11/14/78 certification letter received by EPA (letter affected only Statewide Plan).
01/17/79	EPA acknowledged receipt of amendment to certification letter
02/02/79	Statewide Plan mailed to EPA. Statewide Plan received by EPA
07/24/79	EPA approval letter routed for signature
08/28/79	EPA approval letter signed

SIXTH DISTRICT 208 PLAN

05/77	Resignation of 208 staff
04/06/78	Final 208 Plan submitted to State for certification
04/07/78	Final 208 Plan received by EPA
05/02/78	EPA internal memo requesting review of final 208 Plan
05/17/78	EPA comments due on final 208 Plan (files show that no comments were recieved).
11/14/78	State certification of Plan received by EPA
09/20/79	Draft approval letter - comments requested within EPA
10/10/79	EPA final approval letter routed for signature
10/18/79	EPA approval letter signed

Appendix 1-B

UTAH APPROVED PLANS

MOUNTAINLAND 208 PLANS

06/27/77	Draft Plan received by EPA
07/28/77	EPA review letter sent to Mountainland
08/25/77	Final Plan received by EPA
06/08/78	State's initial certification letter received by EPA
08/02/78	EPA's rejection of certification due to lack of designated management agencies
08/18/78	State's designation of management agencies thus completing certification of Plan
08/31/78	EPA received complete certification package
12/11/78	Draft approval letter prepared and circulated for review within EPA
02/27/79	Final approval letter routed for signature
03/23/79	Approval letter signed

UINTAH BASIN 208 PLAN

06/77	Preliminary draft received by EPA
08/77	Revised draft received by EPA
10/13/77	EPA comments on draft provided to AOG
12/77	Final 208 Plan received by EPA
02/23/78	Headquarters assisted review of 208 Plan through contract completed
11/22/78	Certification letter received in RA's office
12/13/78	Certification letter received by Program office
12/28/78	EPA acknowledged receipt of certification letter (cited April 12, 1979 as date by which EPA must take action).
03/08/79	EPA requested U.S. Fish and Wildlife review
04/05/79	U.S. Fish and Wildlife review letter recommending that EPA add conditions to its approval of the Plan
04/30/79	Internal meeting to discuss F & W letter was held
06/25/79	EPA response to F & W letter sent with draft copy of 208 Plan approval letter
09/25/79	EPA approval letter routed for signature
09/28/79	EPA approval letter signed

WEBER RIVER 208 PLAN

09/02/77	Final Plan submitted to State for certification
09/06/77	Weber River WQPC staff's briefing of EPA personnel regarding contents of Plan
12/09/77	EPA comment letter on Plan sent to Weber River 208
11/20/78	Plan certification received by EPA
12/13/78	EPA acknowledged receipt of certified Plan (cited 3/20/79 as date by which EPA must act on Plan)
03/79 (2nd week)	Draft approval letter circulated for review within EPA
03/08/79	EPA requested U.S. Fish and Wildlife review
04/08/79	EPA final approval letter routed for signature
05/11/79	Approval letter signed

Appendix 1-B

UTAH APPROVED PLANS (Cont'd)

SALT LAKE COUNTY 208 PLAN

10/03/77	Draft Plan received by EPA for comment
02/10/78	EPA approved designation of Salt Lake County Department of Water Quality and Water Pollution Control as the 208 planning agency to replace the Association of Governments
02/13/78	EPA review letter sent to 208 agency
04/27/78	EPA followup review letter sent to 208 agency
11/14/78	Certification of that part of 208 Plan dealing with the South Valley Regional WWTP
12/01/78	EPA approved portions of 208 Plan dealing with the South Valley Regional WWTP
12/04/78	Final 208 Plan submitted to Governor for certification
12/08/78	Copy of final 208 Plan received by EPA
02/12/79	EPA received certification of Central Valley Regional WWTP portion of 208 Plan
04/30/79	Certification of remainder of the 208 Plan - letter received by EPA
05/18/79	EPA letter requesting clarification of management agency responsibilities
05/30/79	Response to EPA's 05/18/79 letter received by EPA
06/25/79	EPA approved portions of Plan dealing with the Central Valley Regional WWTP
11/06/79	EPA final approval letter routed for signature
12/11/79	EPA approval letter signed

Appendix 1-B

APPENDIX II

208 QUESTIONNAIRE

208 Plan Approvals

1. How important do you think 208 plan approvals are in terms of:
 - a) setting priority for the expenditure of future funds either among 208 agencies or among 208 program activities?
 - b) affecting the expenditure of 201 (Step 1, 2, or 3) funds?
 - c) affecting the writing of NPDES permits?
 - d) other (please specify)?
2. What sort of priority did you personally give to approved 208 Plans? For example, as a project officer, did you ever refuse to review a faculty plan or attend intra-office meetings because of the need to complete the approval of a 208 Plan? If you are a supervisor, did you ever sit down with a project officer prior to the end of the 120 days to adjust workloads and/or develop a schedule for approving the 208 Plan?
3. What is your perception of the priority given to 208 Plan review and approval during the past year by the following groups? Compared to previous years?
 - a) RA's office
 - b) Other Divisions
 - c) Water Division
 - d) Headquarters

4. For those plans taking longer than 120 days to approve, please identify the three most significant reasons for requiring the additional time. Be specific--project by project if you are a project officer.
5. May 23, 1979 regulations call for a concurrent certification and approval process. How have you implemented or how do you propose to implement these regulations?
6. Do you have any specific suggestions on how to improve the 208 Plan approval process?
7. What do you think is a reasonable amount of time required to approve a 208 Plan once a certified plan is received by EPA, assuming a normal workload? _____ (days/project)

APPENDIX III

Typical Workload for a 208 Project Officer

Sept 78	- Assume Areawide from Rakers - Assume Statewide from Schroeder - Transition Quarter Grants - 106 - 208
Nov 78	SD SEA
Nov 78	FY 79 SD 106 Grant 1/2
Feb-Apr 79	FY 78 208 contracts for Statewide
Feb-Mar 79	Lake Herman MIP
Feb-Mar 79	RCWP Activities
Feb-Mar 79	SD 106 Grant
Apr-May	SD 208 Needs FY 79
June	Take over ND Statewide and Lewis & Clark from Zander
June	SD FY 79 208 work plans
June	ND FY 79 208 work plans
July	SD 79 208 Grant Award
July	ND 79 208 Grant Award
Aug	SD Statewide 208 Approval letter--3 weeks work, 2,000 pages to read--draft was never commented on--over 8 retypes, one for major format changes--13 weeks to get out after last written submittal.
Aug-Oct	SD FY 80 208 Funding Plan
Aug-Oct	ND FY 80 208 Funding Plan
Aug-Oct	SD FY 80 SEA
Aug-Oct	ND FY 80 SEA
Oct-Dec	ND Construction Grants Issues
Oct-	Population Disaggregations
Oct-	Indian Grants

October-December Support OPAIR on P.P. Grants

Oct	6th District 208 Plan--3 weeks to do, 500 pages, 5 or 6 retypes. Draft was never commented on.
Oct-Nov	FY 80 needs for 208 selection
Oct-Nov	Hunting Season
Nov-Dec	SECOG 208 Plan--800 pages, 3 weeks to do. Draft was never commented on--typist backlog.
Dec-Jan	Rapid City NURP work plan
Dec-Jan	ND 5 year needs assess
Dec-Jan	SD 5 year needs assess
Jan 80	ND FY 79 contracts review
Jan 80	<ul style="list-style-type: none">- SD FY 79 contracts review- NURP detailed work plan- Big Sioux Aquifer Study- ND FY 79 208 grants release- SD FY 79 208 grants release
Jan-Mar	<ul style="list-style-type: none">- ND FY 80 208 work plans- SD FY 80 208 work plans
Jan	<ul style="list-style-type: none">- land treatment seminar for consultants- SD population disaggregation review- ND population disaggregation review