

**CHAPTER 4**  
**COUNTIES' CHOICES: OPTING IN OR NOT AND**  
**DETERMINING ALLOCATIONS FOR TITLE II AND TITLE III**

*Counties' Allocation of Funds Between Title II and Title III*

All of the counties in this set of case studies have chosen to receive secure funding under P.L. 106-393. With the exception of three counties in Pennsylvania that waited until 2003, all the counties made the decision in 2001, during the first year of implementation of the legislation, and received their first payments in 2002. This sample is comparable to the national picture, where slightly more than 85% of the eligible counties had opted into the program by late 2004 (Ingles 2004). The number of counties participating in the program will not have decreased since then, and it may even have increased, given that once counties opt in they must remain in the program until September 2006, when the current Secure Rural Schools and Community Self-Determination Act legislation expires.

Table 1 shows the allocations to Titles I, II, and III for all counties nationwide receiving P.L. 106-393 payments.

*Table 1. P.L. 106 - 393. Allocations by Title*  
*(Percentages are the Combined Title II and Title III Allocation)*

<b>Bureau of Land Management (BLM) payments</b>						
<b>Year</b>	<b>Title I</b>	<b>Title II</b>	<b>Percent II</b>	<b>Title III</b>	<b>Percent III</b>	<b>Total</b>
2002	\$93,168,969	\$7,720,339	46.8%	\$8,790,960	53.2%	\$109,680,268
2003	\$93,974,054	\$8,291,249	50.0%	\$8,292,407	50.0%	\$110,557,710
2004	\$95,101,743	\$8,572,365	51.1%	\$8,210,296	48.9%	\$111,884,403
2005	\$96,338,065	\$8,807,719	51.8%	\$8,193,116	48.2%	\$113,338,900
<b>Total (BLM)</b>	<b>\$378,582,831</b>	<b>\$33,391,671</b>	<b>49.3%</b>	<b>\$33,486,780</b>	<b>50.7%</b>	<b>\$445,461,282</b>
<b>United States Forest Service (USFS) payments</b>						
<b>Year</b>	<b>Title I</b>	<b>Title II</b>	<b>Percent II</b>	<b>Title III</b>	<b>Percent III</b>	<b>Total</b>
2002	\$311,523,641	\$24,931,009	41.9%	\$34,535,822	58.1%	\$370,990,472
2003	\$313,697,037	\$30,447,515	50.6%	\$29,754,094	49.4%	\$373,898,646
2004	\$326,528,693	\$32,645,466	52.5%	\$29,511,373	47.5%	\$388,685,532
2005	\$330,405,366	\$33,009,159	52.0%	\$30,435,732	48.0%	\$393,850,257
<b>Total (USFS)</b>	<b>\$1,282,154,737</b>	<b>\$121,033,149</b>	<b>49.9%</b>	<b>\$124,237,021</b>	<b>50.1%</b>	<b>\$1,527,424,907</b>
<b>Total (BLM and USFS combined)</b>	<b>\$1,660,737,568</b>	<b>\$154,424,820</b>	<b>49.5%</b>	<b>\$157,723,801</b>	<b>50.5%</b>	<b>\$1,972,886,189</b>

There is a clear difference between the first and second years, as counties allocated more to Title III in year one because RACs were either not yet functional, or were just getting started. In subsequent allocations, there has been a slight shift towards Title II, resulting in an allocation since then that is close to 50% for each of Title II and Title III. The 20 Oregon counties that participate in the five Bureau of Land Management (BLM) RACs show a similar aggregate county funding pattern to those receiving Title II through the Forest Service. With the exception of the first year, the BLM RACs have been consistently allocating their funds in a similar way, dedicating approximately 50% to each Title.

Aggregating data nationally inevitably obscures potentially significant differences between counties, differences that emerge more clearly when the 16 case studies in this review are considered separately. The case studies cover 46 counties and cities that are receiving P.L. 106-393 payments of over \$100,000. The majority of the 46 counties have chosen to allocate more funding to Title II than to Title III. They have also tended to stay with their original allocation with only minor changes from one year to the next. The case studies represent a deliberately skewed sample since the review was designed to focus on an analysis of counties participating in RACs. Nevertheless, the nationwide data presented earlier in Table 1, confirm that, in the aggregate, counties have allocated nearly half of all eligible P.L. 106-393 funds to Title II, and that there has been little significant change in their allocations since 2003.

The data on payments to counties participating in Forest Service RACs show that 28 of the 46 counties included in our case studies have elected to allocate most or all of their funds (over 55%) to Title II (Table 2).<sup>1</sup> Between 2002 and 2004, nine of these counties moved a significant additional percentage (over 5%) of their combined Title II and Title III funds from Title III to Title II. Just five of the 28 counties increased the percentage of funds allocated to Title III during the same period, although they are still allocating more funds to Title II than to Title III. Fourteen counties have allocated all or most of their funds to Title III, six of them shifting more than 5% of the combined total to Title II, while still allocating over half of their funds to Title III. Four counties have divided their funds equally between Title II and Title III.

It is interesting to note that most of the allocations (26 counties, or 56%) have remained stable. Counties have made minor variations from one year to the next, but overall, they have stayed with the choice they made at the beginning of the program. As counties have become more familiar with the secure payments program, some have adjusted their initial choice, and the shift has been decisively in favor of Title II with 15 counties (33% of the total) moving 5% or more of their combined Title II and Title III funds to Title II. The data indicate that counties have shown a clear – and growing – preference for investing in Title II and RACs, while retaining some funds in their control to cover the costs of services and to fund their own Title III programs.

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<sup>1</sup> The BLM maintains a separate database for payments to the O&C counties, which does not match the Forest Service database exactly. As noted in the discussion of nationwide data presented in Table 1, above, allocations between Title II and Title III are very similar for Forest Service and BLM RACs. The analysis here is based on data for Forest Service RACs only, but the broad trends are also applicable to the BLM RACs.

**Table 2. Changes in Allocation of Title II and Title III Funds Between 2002 and 2004**

<b>Title II / Title III allocations and trends</b>	<b>Number of counties</b>	<b>% of counties</b>
Over 55% to Title II. Stable	14	30
Over 55% Title II, with a further shift of more than 5% from Title III to Title II	9	20
Over 55% Title II with a shift of more than 5% toward Title III (but still over 55% in Title II)	5	11
<b>Total: Over 55% of funds in Title II</b>	<b>28</b>	<b>61</b>
Over 55% to Title III - stable	8	17
Over 55% in Title III, with more than 5% shift to Title II (but still over 55% in Title III)	6	13
<b>Total: Over 55% of funds in Title III</b>	<b>14</b>	<b>30</b>
<b>50% each to Title II and Title III - stable</b>	<b>4</b>	<b>9</b>
<b>Total number of counties</b>	<b>46</b>	<b>100</b>

Source: U.S. Forest Service, Payments to States web page.

(NOTE: Percentages are of the combined total of Title II and Title III funds. "Stable" means that any changes are smaller than 5% of the combined Title II and Title III funds.)

### ***Taking Stable Payments or Staying with Historic Receipt Payments***

In choosing whether to opt into the secure payments system of P.L. 106-393, counties have had to judge whether or not the new payments would be higher than their revenue under the Forest Service and BLM payment programs. For most counties in western states, confronted with the stark economic realities of continued reliance on federal receipt payments and dramatic declines in timber harvest, the decision was relatively straightforward. As the center of gravity of the U.S. timber industry shifted east and south, however, counties in these regions had to base their decision, not on recent experience, but on their expectations of future trends. For example, county commissioners in Franklin County, southwestern Mississippi, were inclined to continue receiving the 25% payments, in the belief that timber harvests on the Homochitto National Forest would remain stable. In this case, Forest Service staff presented projections to the county that accounted for expected reductions in harvest due to requirements for habitat protection, and pending legal challenges to management practices. The other counties surrounding the forest, and other forest counties in the state, all opted into the secure payments system out of the same concern that future timber harvests would not continue at present rates.

One strand of the debates leading to the passage of P.L. 106-393 was the question of whether or not the new legislation would decouple, or break the linkage, between timber harvesting and forest counties' revenue. Leaving aside the issue of whether or not P.L. 106-393 promotes decoupling, or whether decoupling would be desirable if it were to happen, the fact is that some county officials considered this argument as they made their decision about opting into the new program, and it influenced the ease with which some embraced it. In practice, in the sixteen cases we evaluated, there were only two places where interviewees specifically mentioned decoupling as a factor in the county's decision of whether or not to opt into the secure payments system. In two of the four counties surrounding the Allegheny National Forest in Pennsylvania, county officials said that one of the arguments that swayed them not to opt into the secure payments system in 2002 was the fear of losing standing to challenge litigation as a result of decoupling (an unfounded fear, according to the counties' legal counsel). In Alaska, informants in Wrangell and Petersburg mentioned that decoupling had been an issue as the two cities discussed establishing a RAC. Their conclusion, though, differed from that of their counterparts in Pennsylvania. The two cities elected to join forces to establish a RAC, believing that the projects it approved would, in fact, strengthen the linkages between their two communities and management of the surrounding Tongass National Forest.

A recurrent theme in interviews with county officials and planners was the importance of the security afforded by payments under P.L. 106-393. Secure payments are particularly critical where counties have no alternatives to raise funds for roads and schools, and face constraints on their ability to raise general fund reserves. In some states, voters have approved measures limiting or freezing tax rates and the powers of local governments to raise revenue. In Montana, for example, Initiative 105, approved by the state's voters in 1986, capped property taxes at 1986 levels, and specifically prohibits "taxing units," such as school districts or counties from tax levies.<sup>2</sup> Cities and boroughs in Alaska have certain responsibilities for education and road maintenance, but have significantly more restricted powers to levy taxes than counties in the lower 48 states. In many states, too, communities adjacent to national forests are among the poorest in the state, or even in the nation, limiting the tax base that would be the main source of funding for education and road maintenance. The most pressing task for these counties is to secure long term, stable funding to provide these services. Title I of P.L. 106-393 is, therefore, a welcome, secure source of revenue for eligible counties.

Elected officials in nearly all the counties in these case studies described the decision to move from the receipt-based payments to the new secure payments as an easy one in light of the financial difficulties they faced with declining timber harvests.<sup>3</sup> The experience of Franklin County in Mississippi and others in this study that first chose not to receive P.L. 106-393 payments suggests that nationwide, those counties that have chosen to continue receiving receipt-based payments have done so because they are confident that they are unlikely to experience sharp reductions in timber harvest in the near future. In some cases, there may already be so little timber harvested that the issue is

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<sup>2</sup> The implementation of Initiative 105 has, in practice, been more nuanced with differential impacts on different components of local taxation (see Young 1996).

<sup>3</sup> Counties had been receiving 25% of receipts from timber harvested on national forests, and 50% of receipts from O&C lands administered by the Bureau of Land Management.

moot, or it may be that challenges to current management practices are unlikely. If the legislation is reauthorized, however, it is quite possible that some additional counties in timber-producing areas of the South, the Midwest, and the East, will take advantage of P.L. 106-393 to ensure a more secure source of revenue in the face of possible future limits on timber harvesting.

### ***Factors Influencing Allocations Between Title II and Title III***

As discussed above, for most of the 48 counties included in the sixteen case studies in this assessment, the initial decision to receive secure payments under P.L. 106-393 was not difficult.<sup>4</sup> Two counties had no further decision to make since they were receiving less than \$100,000 annually, all of which would be used under Title I of the legislation for roads and education. Elected officials in the 46 other counties still had to make a further decision on the allocation of funds between Title II and Title III. The case studies include the full range of possible allocations from electing to use all funds for Title II, to various mixes of Title II and Title III funding, to some counties that decided to retain all of their funds in Title III. (See Appendix 1 for a list of counties included in the case studies and their allocations). This section of the report outlines some of the factors that appear to have influenced counties, each of which faces a unique set of social and economic conditions, in their decisions. Later sections will report on and analyze the ways in which counties and Resource Advisory Committees (RACs) have chosen to allocate these funds.

In explaining how they elected to divide payments between Title II and Title III, county officials referred, also, to their understanding that one of the intents of the secure payments legislation was to encourage the collaborative process embodied in the RAC. It is widely believed that evidence of successful RACs will enhance the likelihood of reauthorization of P.L. 106-393. Since secure payments are of vital importance to their capacity to provide critical services, most counties were eager to ensure the success of the RAC experiment. Enthusiasm for Title II is, nevertheless, tempered by the degree to which county budgets depend on forest-related revenue, concerns over the loss of control over the use of funds, and the level of confidence in the ability of a RAC to overcome a history of conflict among different interest groups. The calculus of decision-making is complicated further by the possible effects of P.L. 106-393 payments on other sources of federal or state funding to counties, such as Payments in Lieu of Taxes (PILT).

### ***Effect of PILT and Other Legislation***

Title III funds are considered federal payments to counties and are counted against Payment in Lieu of Taxes (PILT). Thus, when Title III payments are received, PILT payments are likely to be reduced. PILT payments can be substantial and enter the county's budget directly as revenue, without the constraints on expenditures attached to

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<sup>4</sup> The case studies also include five counties that receive no P.L. 106-393 funds at all because there is no public forest within their boundaries, but are represented on RACs because of their proximity and use of national forests. These counties have not been counted in the following discussions about allocation of Title II and Title III funds.

Title III payments.<sup>5</sup> The formula by which PILT payments are calculated, however, is very complex, and payments have often not been fully funded, whereas Title III payments are currently not subject to annual federal budget negotiations in Congress and the Senate. (See Chapter 2 for a more detailed discussion of PILT payments.)

For most counties, the amount of revenue and the reliability of payments from P.L. 106-393 far outweigh any possible reduction in PILT and they have preferred to retain funds in Title III. For some counties, however, total P.L. 106-393 payments are relatively modest, so that the loss of PILT payments has an important impact on the county budget. In these cases, the tendency is to allocate funds to Title II. Officials from the counties in the Colville RAC (Washington) said that they had changed their allocations in favor of Title II because of the impact of Title III payments on their PILT receipts. In the case of Ferry County, the shift had been from 100% in Title III in 2002, to 60% in 2004. By 2004, Pend Oreille and Stevens, the other two counties on the Colville RAC, were allocating all of their P.L. 106-393 funds to Title II. Counties in Washington State, California, Idaho, and Montana all referred to the careful calculations they had to make to avoid losing revenue as a result of their allocation of funds to Title III. Where the decision to allocate funds to Title II has been a mechanism to avoid a reduction in PILT payments, counties have tended to try to extend some control over the composition and decisions of the RAC (see below for observations on county control over RACs). In addition to PILT funds, counties have also had to consider the impacts of other legislative arrangements on their decisions regarding the allocation of P.L. 106-393 funds. In Washington, for example, counties also receive Department of Natural Resources (DNR) Trust funds. In many states, purchasing conservation easements, whether it is with Title III funds or through some other funding mechanism, will reduce the counties' tax base.

The outcome of this complex calculus, in terms of allocations between Title II and Title III is, inevitably, different in each county. What was common to nearly all counties, however, was the absence of readily accessible sources of information to refer to. In Alaska, which has no counties and where different classes of cities and boroughs have different rights and responsibilities for providing services and raising revenue, the Department of Community and Regional Affairs in Juneau has played a major role in generating and disseminating information, and has worked closely with the Forest Service regional office to assist local authorities in their decision-making. In Washington State, counties received an orientation to the legislation by Karl Denison, the USFS Legislative Liaison for Washington State, and Tom Robbins of the Washington State Association of Counties (WSAC). WSAC created an interactive website to enable counties to simulate what their PILT payments would be under different Title III allocation scenarios to assist in sound decision-making. In California, the Regional Forester's Assistant, Chris Nota, worked closely with the national forests to set up the RACs. She has continued to work with the RACs in California and has also provided informal consultation about Title III. Andy Brunelle, the USFS Capitol City Coordinator for the State of Idaho, played a similar role in that state. Idaho and Oregon, as did other states, also relied on their associations of counties for direction and information. But these individuals and groups notwithstanding, a single source of expert information and

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<sup>5</sup> See Appendix 1 for a Table of PILT payments to the counties participating in the RACs in this review.

counsel about the Title III does not exist. Counties that are beneficiaries of the secure payments legislation have been obliged to rely on their own legal and financial expertise to determine how the payments fit into and affect the broader picture of county funding and budgeting. The difficulty that even these professional advisors have experienced in offering informed advice has frustrated many county officers in their efforts to decide on the most appropriate allocation of P.L. 106-393 funds between Titles II and III.

***Dependence on Revenue from Public Forestlands, the Size of P.L. 106-393 Payments, and Transaction Costs to Counties***

Seven of the eight counties in this review that had allocated all of their funds to Title III were in Mississippi and Pennsylvania.<sup>6</sup> In both of these places, the national forests are set in a matrix of private and public forestland, and occupy a relatively small percentage of the land area in the counties. The Homochitto National Forest makes up less than 20% of the land in six of the eight counties in the Southwestern Mississippi RAC. The only counties that have chosen to allocate some of their P.L. 106-393 funds to Title II are the two counties where the national forest makes up more than 20% of their land.<sup>7</sup> On the Allegheny National Forest, the federal government currently owns only 69% of the land within the legally demarcated boundaries of the national forest--the rest is still in private hands. The national forest is an important, but by no means the only, source of commercial timber. It is not the overwhelmingly dominant presence that it is in western states, where it is not unusual for public land to occupy 75% of the area of a county. In the southern and eastern forests, counties' interest in directly receiving compensation for services they provide on the national forest appears to outweigh their interest in supporting projects to improve the health of the forest, leading them, therefore, to allocate funds to Title III.

The total amount of P.L. 106-393 payments a county receives might be thought to affect the decision to allocate funds to a RAC under Title II, or to retain the funds for use by the county under Title III. In the course of interviews for this study, elected officials in some counties explained their reluctance to allocate Title II funds to establish a RAC on the grounds that the transaction costs involved could be higher than the likely benefits. They argued that for counties with low levels of payments, it might not be worth making the necessary investment of time and human resources to establish a committee, which would probably not have enough funds to recommend more than a very few, small projects. The costs involved referred either to the difficulty of persuading different interests to come together, or they referred to the logistics of bringing RAC members together in one place for regular meetings.

In practice, the data show that there is no discernable relationship between total P.L. 106-393 payments and the decision to allocate funds to Title II or to Title III<sup>8</sup>. In

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<sup>6</sup> The eighth was in Oregon.

<sup>7</sup> Five other counties are members of the RAC without contributing any Title II funds. A sixth county is a member of the RAC although none of its land is in the national forest and it receives no P.L.106-393 funds.

<sup>8</sup> This statement refers only to those counties receiving over \$100,000 in P.L. 106-393 payments, the point at which they are required to allocate funding to some combination of Titles II and III. It is also worth noting that, with the exception of the four counties surrounding the Allegheny

2004, for example, Coos County, a member of the Coos Bay RAC in Oregon, allocated 78% of its combined Title II and Title III funds (\$1,104,566) to Title III. Lincoln County in Montana has elected to allocate 71% of its comparable, if smaller, combined Title II and Title III payment (\$865,866) to Title II. At the other end of the range of payments, Ferry County, a member of the Colville RAC in Washington, only allocates 40% of its total Title II and Title III payment of \$139,798 to Title II, while Navajo County in eastern Arizona allocates the whole of its payment of \$108,906 to Title II. Despite the statements of some elected county officials, in these case studies, the size of the payment a county receives does not, in itself, appear to be a significant factor in determining the allocation of funds between Title II and Title III.

Many counties receiving stable payments are in remote areas, with long distances between small communities and towns. Members of a RAC may face genuine difficulties in traveling to meetings, and, in a large area with a small population, there may not be a large pool of people willing to make the time commitment needed for travel and frequent meetings. Transaction costs are real in these places, and may be a disincentive to allocate funds to Title II, if there are significant logistical costs attached to running it. Alaska may represent the extreme case, where there is no road linking the two communities of Wrangell and Petersburg that have formed a RAC. Participants must travel by private boat or fly to meetings, and may need to stay overnight before returning home after a meeting. In the same state, the Yakutat RAC experienced considerable difficulty in finding enough members in the community of some 800 people to fill all of the positions in the different categories to serve on the RAC during its second term. Despite these very real transaction costs, however, it has been possible to find funding (thanks to assistance from the Forest Service) to cover travel costs, and to actively recruit enough applicants to fill the positions on the Yakutat RAC. Where significant travel is needed for RAC members to attend meetings, it is important either for the RAC to be able to allocate some funds to cover costs, or for the agency or county to be able to assist.

Further analysis of the issue of transaction costs suggests that where it has been raised, it may in fact mask more difficult questions about the relations between the different interests involved in establishing a RAC. In a situation such as Pennsylvania, where the Allegheny National Forest is experiencing a particularly challenging period of confrontation and litigation over management practices, Forest Service staff and county officials may feel that there is little to be gained in trying to bring representatives of bitterly opposed conservation and timber interests to the table for a constructive discussion of projects. While it is true that it is difficult to establish a RAC in a setting polarized by conflicts between conservation and timber, many counties around the country have found that, despite a legacy of bitter divisions between interest groups, establishing a RAC has been an important first step in moving toward a more collaborative future. There are real transactions costs involved in implementing Title II, but to invoke them as a reason to allocate funds only to Title III could also be an indication of a lack of vision and the capacity to move beyond present confrontations and conflict.

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National Forest in Pennsylvania, the sample of 16 case studies in this review deliberately focused on counties participating in a RAC and therefore allocating funds to Title II.

### ***County Control Over Title III Funds***

Counties alone are responsible for the use of Title III funds. Local control is balanced by constraints on the kinds of projects counties may approve, and by the expectation that counties will select projects through a transparent process of solicitation, review, and approval with a period for public comment<sup>9</sup>. By contrast, counties have less direct control over the funds that they allocate to the Title II program, where Section 204 of the legislation makes it clear that final approval of projects selected by a RAC is the prerogative of “the Secretary concerned” (the Secretary of the Department of Agriculture in the case of Forest Service RACs, and the Secretary of the Department of the Interior in the case of BLM RACs) (United States Congress 2000). The multi-interest group RAC, which includes government representatives, provides recommendations for how to allocate these dollars, establishes its own priorities, and is under no obligation to approve proposals submitted by the county.

As noted above, a major factor in counties’ decisions to shift from receipt payments to secure payments has been the urgent pressure to find secure sources of funding for schools, road maintenance, and other county expenditures and services such as search and rescue. Title III is therefore an attractive resource in the eyes of county officials struggling to meet their obligations with scarce funds. State budget crises in California and Oregon in the early 2000s added additional financial pressures on counties and nudged them toward increased Title III allocation and, for some, supporting activities that appeared beyond the spirit and intent of Title III. This is discussed further below. In Pennsylvania, counties are not responsible either for education or for road maintenance. Since counties did not receive the receipts payments for roads and schools in the past, P.L. 106-393 has allowed them to receive Title III funds, giving them access to a new source of revenue. The possibility of retaining county control over Title III funds inevitably enters into the decision when allocating funds between Title II and Title III.

Some counties perceive allocating funds to Title II as being almost the equivalent of turning over a part of their revenue to the Forest Service or the Bureau of Land Management, and they are therefore reluctant to do so. In many formerly timber-dependent communities, a culture of distrust of federal agencies is compounded by a belief that these agencies--rather than a mix of factors including shifting national priorities in environmental protection and changing international timber markets--are directly responsible for policy changes that have led to reductions in timber harvest and timber mill closures.

Some believe that RAC money is not federal money. This belief exists because counties determine how much money RACs have to work with and, indeed, whether they will receive any funding. It also stems from the fact that receipt payments flowed from the federal government to the states and the counties and were not considered federal money. The Office of General Counsel in the Department of Agriculture has made clear, however, that RAC dollars are agency and federal dollars. RACs recommend and the agency’s Designated Federal Official (DFO) approves projects. While it is true that federal agencies retain control over Title II dollars, RAC project recommendations are

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<sup>9</sup> There remains confusion or some dispute over this interpretation. The legislation clearly spelled out what a project entailed for Title II (Sec. 203(b)(1-7)). We have assumed this definition holds for the use of the term “project” in Title III.

rarely rejected. Nevertheless, friction over the proposition that “RAC money is not county money” could, ultimately, lead counties to prefer Title III to Title II, or to try to retain some control over the decisions taken by the RAC. A county supervisor from one of the counties participating in the Fremont-Winema RAC in Oregon, for example, suggested that the DFO working with the RAC should forward the list of proposed projects to the county before it is approved. This is already happening to projects presented to the Medford RAC, also in Oregon. Another county in Oregon has demonstrated its dissatisfaction with what commissioners perceive to be unwarranted agency involvement with the RAC by shifting its allocation decisively from Title II to Title III, and participants at an annual nationwide meeting of RACs in Sparks, Nevada in April 2005 listed “county threats to withdraw Title II funding” as one of their main concerns.

Despite the expressed intentions of some counties to shift funding away from Title II, the national-level data on counties’ allocations of P.L. 106-393 since 2002 do not show strong evidence of counties acting on these threats. The data presented in Table 1 show that the overall pattern of a 50-50 split of funds between Titles II and III has remained quite stable from 2003 up to and including the 2005 round of allocations. Interviews from these case studies suggest that the different purposes for which Title II and Title III monies can be used, and the belief in the importance of the RAC process have been strong enough influences to keep even the more frustrated counties funding Title II.

In a more positive vein, counties that have been close to the formulation and implementation of the legislation or that have a history of testing innovative approaches to bringing different interests together see Title II for what it can be: a potent mechanism for local input into forest management. One of the commissioners of Douglas County, Oregon, who played an important role in getting the initial legislation passed, continues to work through his county and Oregon county associations to ensure that Title II expenditures remain high. Douglas County, which participates in four BLM RACs and three Forest Service RACs, has consistently allocated over 70% of its combined Title II and Title III funds to Title II. Title II funds can have significance beyond the projects the RAC approves. In Mississippi, for example, supervisors in Amite County, one of the two counties in the state allocating funds to the RAC, made a very important observation about the significance of Title II funds for local democratic practice. In their view, the RAC process is a mechanism to ensure that local voices are included in funding decisions affecting activities on the national forests, and by extension, local lives and livelihoods. As county supervisors, they felt confident that the RAC gave all interest groups an opportunity to be a part of decision-making, and, as a result, they as supervisors could be confident that funds were truly being used in the public interest.

A further factor in deciding on the allocation between Title II and Title III is county officials’ perception of the limitations on the use of Title III funds. In Oregon, officials and administrators from Klamath and Lake Counties (the Fremont-Winema RAC) stated, for example, that they would like to fund more on-the-ground restoration-related projects, infrastructure projects such as boat ramps, and the acquisition of real

property – projects they believed were not permitted under Title III.<sup>10</sup> They concluded that had the legislation clearly indicated that these were acceptable uses of Title III funds, it is likely that they would have allocated more funding to Title III and less to Title II. Hence, the current categories of authorized projects under Title III, and county officials' understanding of what fits and does not fit in these categories, may encourage some counties to allocate more funds to Title II and to the more public and inclusive decision-making arena of the RAC than might otherwise be the case.

### ***Timing and the Capacity to Collaborate***

Legislators took pains to construct the process of consultation and collaboration embodied in the RAC with the expectation that it would mark a step away from the entrenched conflicts that have characterized the management of national forests over the last 30 years or more. For counties to take that step and to allocate funds to Title II, however, they must be confident that there is room for discussion and agreement on project priorities. The time must be right for the agencies, the community, and historically adversarial interest groups to be willing to search for a way out of the discourse of blame and the associated policy gridlock that have characterized debates over public land management. Differences in priorities and visions for the future of the forests persist in California, Oregon, and Washington, but decisive legal rulings have set the course of action between conservation and extraction for some years to come. In these western states, the overriding concern of forest counties now is the challenge of coming to terms with the present dispensation. P.L. 106-393 is an integral part of the process of coming to terms, and RACs are one of the mechanisms that can give a voice to different interests while giving them a direct incentive in the form of project funding to reach agreement on some actions – however modest – that benefit the health of the forests and the communities they share.

In the Alaska and Montana case studies, the conflicts are still fresh, the parameters are still being set, and the consequences of conflict are still being felt as the last local sawmills close down and even the large timber corporations sell extensive tracts of their own timber land, often to be converted to housing developments. In these places, along with some pockets in the Pacific West, interviews indicated that some elected officials, and some local interest groups, visualize P.L. 106-393 as a stopgap measure, providing an essential, secure source of revenue until the commercial timber sector can resume business as before. Interest in allocating funds to Title II is closely related to a perception that an effective RAC will be seen as an important measure of the value of P.L. 106-393 in the course of debates about reauthorization. Interviewees in these counties also recognized that RACs have brought different members of the community together to focus on what community members have in common, rather than to dwell on their differences. As a result, county officials are increasingly seeing the value for the longer-term interests of their community in supporting the RACs and allocating more funds to Title II.

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<sup>10</sup> It is interesting to note the diversity of interpretation of Title III limitations. Jefferson County, in Washington State, has used Title III monies to acquire properties for conservation and restoration purposes.

Pennsylvania and most of Mississippi have yet to make the transition from confrontation to the search for agreement. Counties' primary interest is in a source of revenue, rather than in a forum to bring conflicting interests together. The choice of all but two counties in the state of Mississippi, then, has been to allocate all funds to Title III--under the direct control of the county. The Allegheny case study shows even more clearly the importance of the right configuration and timing of events. Conflicts over timber harvesting are still at their height. There is little interest on the part of USFS, counties, timber interests, or environmentalists in looking for common ground and resolving differences. The four counties also differ in their dependence on timber and levels of economic diversification. Counties have an important stake in allocating funds to Title III, because of their perceived flexibility, and county control over a new source of revenue (since counties in Pennsylvania are not responsible for schools or roads). There is very little interest therefore in allocating funds to Title II to establish a RAC, creating a forum to explore common ground and resolve conflict. In communities such as these, the federal agencies have a particular responsibility to ensure that counties are well informed about the legislation, and that they receive the information from the full range of both interested and neutral parties. It may also be useful to facilitate exchanges and conversations with counties that have had several years of experience with the secure payments system, in order to respond to counties' questions and concerns about the implementation of both Titles II and III.

Prior to the passage of P.L. 106-393, several western states had some experience with advisory groups working with both the Forest Service and the BLM to bring a degree of consensus and public participation to the management of public lands. The Lakeview Stewardship Group in Lake County, Oregon, one of two counties in the Fremont-Winema RAC, is one of the best-known examples. In Washington, the Olympic Peninsula has a particularly rich array of civic groups that have brought together communities, state and federal agencies, tribes, local governments, forest workers, and other interests to participate in civic and natural resource decision-making processes. In these and other states, counties with a history of community activity and collaborative efforts in forest management have had opportunities and the support to build the community capacity and social capital that are necessary for a consultative body such as a RAC to succeed. The time was right for them to be ready to invest P.L. 106-393 funds in Title II.

### ***Agency Involvement in Decisions About Title II and Title III Funding***

There is no national oversight of Title III funds and program implementation. Forest Service and BLM staff have been important sources of information and advice to counties in the process of implementing P.L. 106-393. Counties have turned to the agencies for assistance regarding both Title II and Title III, although legally, the agencies have no direct involvement or decision-making authority in matters concerning Title III. Agency field staff appear to have respected the national directive from their agencies to remain objective and not to make recommendations to counties about the allocation of funds between Title II and Title III. In some cases, the agency may even have been too passive, leaving a vacuum to be filled by organizations with a vested interest in particular outcomes, rather than by a neutral source of information. Several observers reported, for example, that on the Allegheny National Forest in Pennsylvania, the Forest Service was

not very proactive in informing counties about P.L. 106-393 and the ways in which Title II and Title III funds might be used. In these counties, pressure to shift to secure payments came particularly from the school districts. The Allegheny Forest Alliance (AFA)--an organization advocating a strong local economy based on resource utilization--has taken the lead in continuing discussions about whether or not to establish a RAC. An organization such as AFA has every right to articulate its position. However, the fact that an organization with an unambiguous agenda to see a return to higher levels of timber harvest on the forest has become the principal source of information on the legislation, highlights the lack of a recognized neutral source of information on P.L. 106-393, one goal of which is to defuse entrenched conflicts over forest management.

Federal agencies appear to have respected counties' prerogative to decide whether to opt into the system of secure payments, and to determine the allocation of funds between Title II and Title III. There is more variation, however, in the degree to which they have driven decision-making with regard to the establishment and functioning of RACs. In Mississippi, the regional office of the Forest Service decided how many RACs there should be and which counties would participate, before consulting the counties. At the other end of the spectrum, in the Coos Bay RAC in Oregon, the BLM appears to have given way to officials in Coos County in disagreements about the autonomy of the RAC and the county's threat to cut Title II funding if the RAC approved projects of which the county did not approve. On the Medford RAC (also in Oregon) the BLM, the counties, and the Association of O&C Counties exert considerable control over the activities of the RAC by screening the list of applicants to serve on the RAC and vetting project proposals before they are submitted to the RAC, in order to ensure that the RAC supports their priorities. Our analysis of Title II later in this report discusses the range of situations, from those where the agencies have been very directive, to those where the agencies appear to have taken a weak supporting role in the face of counties' determination to control the use of RAC funds.

It is worth noting that as agency personnel move from one post to another, they may bring their experience from locations with advisory bodies and draw on it in working with civic groups in their new posts. This is especially important when staff with experience in western states transfer to eastern and southern states. In Mississippi, both the RAC coordinator and the DFO had seen and worked with active advisory groups in the West. The supervisor of the Kootenai National Forest in Montana had served previously in Oregon and worked with advisory groups that were precursors to RACs. Members of these RACs all acknowledged the importance of agency staff in encouraging county officials to allocate funds to Title II, and in inspiring members of the public to volunteer to serve on the RAC.

