Major Flaws/Problems - Waxman Markey "ACES" Bill

General Concerns:

- The bill's narrow approach to GHG reduction is not accompanied by any semblance of a comprehensive energy policy: it fails to allow for expanded production of known fossil energy reserves or sufficiently speed the adoption of additional new technologies, nuclear capacity or other sources of low - carbon energy sources. The bill's effective anti-coal approach does not allow sufficient transition time, especially for coal - reliant manufacturing plants.

- The bill requires no concurrent binding commitments from other countries or any "stop signs" in the U.S. program in the future if these countries fail to follow through with commitments. The U.S. share of global CO_2 production is 25% and declining every year.

- Emissions caps are too much too soon, requiring a 42% reduction in emission levels by 2030. This approach puts way too much faith in new technologies being available, especially carbon capture and storage, which likely won't be in place to any degree before 2030 and won't be ready to help industrial plants. There is also no "safety valve" upper limit on the price of carbon (per ton), leaving us with macroeconomic guesswork and the promise of price volatility.

- Little focus is taken on the post - 2035 impacts, with major GHG reductions required on a steep trajectory (83% below 2005 baseline by 2050.) With global energy demands expected to continue to rise significantly, this is completely unrealistic in terms of its effects on the global economy. In addition, after 2035, the flow of allowances available will be eliminated completely, transitioning to market auctions, with revenues returning the federal government.

- Market Bizarre: the bill establishes a new complicated carbon trading process, allowing any party (environmental groups, investors etc. as well) to buy, hold, sell, trade or retire allowances during quarterly auctions. The potential for market manipulation and excessive speculation is very real.

Energy - Intensive Manufacturing:

- Provisions in the bill, which provide temporary (phased out by 2034) transition free - allowance rebate assistance for energy - intensive manufacturing plants (Inslee - Doyle) are vastly inadequate. The relief targeted for energy-intensive plants should be made permanent, and at the very least the Inslee - Doyle phase - out is too short in duration. The bill's trajectory for emissions cap reductions should be eased considerably as well. Energy - intensive plants will also incur significant indirect cost increases, including transportation and utility pass-through rate charges.

- Inslee-Doyle provides a temporary pool of allowances for energy - intensive plants based on average energy efficiency - sectoral benchmarks. The paper and chemical sectors, however, will not benefit much from this approach, favoring instead an approach based on ***historic*** emissions, reflecting different fuel uses and production processes among paper and pulp mills. Moreover, MWV Specialty Chemicals plants will have to apply to determine their eligibility for Inslee - Doyle rebates. This entire mechanism is inadequate, way too complex and pits industries against one other for limited relief.

- Regulating the U.S. industrial sector before negotiating an international agreement undermines the ability to reach agreements fair to U.S. companies. Absent equal, concurrent global mandates, including equivalent mandates for the industrial sectors in China, India and other developing countries, a tremendous competitiveness disparity will result for U.S. manufacturing plants.

- The bill includes a "border - adjustment" provision to theoretically apply a border tax on imports from non-participating countries in the future. In addition to being unworkable and WTO - illegal, such a mechanism fails to address the disparity US manufacturing would face regarding exports.

Unfair for Coal - Reliant Manufacturing Plants:

- The Covington mill and other coal - reliant manufacturing plants would face massive cost penalties imposed by emissions caps, as opposed to similar gas-fired facilities. Covington would have to make a massive financial investment in its operation to shift away completely from coal, on top of the cost of allowances imposed.

- Coal - burning utilities under the bill receive considerable transition relief, as well as the promise of carbon capture and storage technology and construction commitments. In addition, the entire private utility sector will receive tremendous relief in terms of allowances in the first phase of the law, with some utility allowances determined by historical emissions performance. At the very least, Coal - using industrial facilities should receive levels of support similar to what the coal - burning utilities will receive.

Paper Industry Sector Concerns:

- Paper mills, in addition to paying for the allowances, will incur considerable costs increases, including, increased feedstock prices (due to RES), transportation (loggers and shippers - costs), much higher utility charges, as well as indirect costs associated with other raw materials and chemicals used. The added indirect costs that energy - intensive sectors will incur is underestimated in the legislation.

- The bill fails to recognize combined heat and power (CHP) or waste heat technologies in manufacturing operations. The investments our companies have made has been essential in the past two decades to allow paper mills to improve their efficiency. Failing to credit the industry for its past energy efficiency improvements, the bill does not provide paper companies with early - action credit. MWV co-generates 70 % of its power requirements at its mills.

- The bill's inclusion of a federal renewable energy "RES" mandate (20% requirement on utility sales by 2020) will create more demand for woody biomass as an energy source. Thus, the bill's definition of "biomass" is important, but is flawed and needs several corrections: 1) residues and by-products, as well as "black liquor" must be explicitly included to count as renewable biomass under an RES mandate; 2) regarding the use of wood for energy generation, such incentives should discourage consumption of trees for purposes of generating energy where it competes with its use toward high - value products, including paper-making. Protecting forest sustainability against excessive biomass incentives is also critical for paper mills in the future.

- Decisions regarding domestic forest carbon offsets (managed forests, wood products and recycling) will be decided by an EPA - led advisory committee with little specificity on forest projects that would qualify.

- The bill does not include significant funding or other incentives to promote new CHP or biorefinery technologies, which are low-carbon energy production technologies deemed to be essential to help the paper industry remain competitive in the future.