

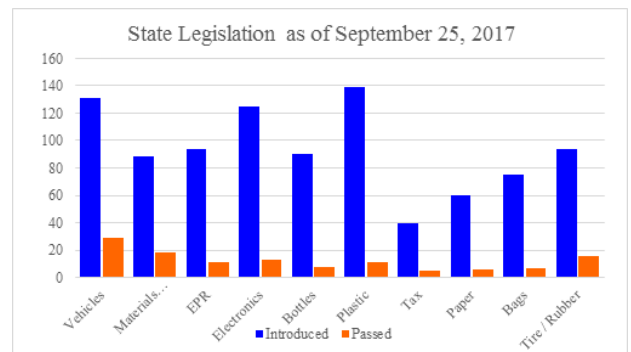
Mutilated Coin Program to Resume

The U.S. Mint announced its intention to resume the mutilated coin redemption program after a three year suspension following concerns of fraud.

- ISRI’s congressional and agency advocacy paid off allowing recyclers - once again - to redeem from the U.S. Mint large amounts of bent, broken, or unusable coins resulting from shredding operations or vending machines for scrap value.
- The new redemption program, suggests the Mint, will update and improve the redemption process to enhance security and ensure the integrity of the nation’s coinage, update the redemption rates, and declare it will no longer accept ‘fused’ coins.
- As part of the program, the Mint suggests it could provide information to law enforcement officials or third parties for purposes of criminal investigations or for seeking civil adjustments.
- **Why it’s important:** Coin redeemers have been holding millions of dollars – perhaps tens of millions of dollars in mutilated coins waiting for the [program’s redemption](#). If you are holding coins, don’t take for granted that the program will begin in 2017. The rulemaking can take some time. Contact [Billy Johnson](#) for more information.

State Legislative Update

Only nine states are still in their regular sessions, but between special sessions and automatic carryover provisions, even bills in those states that have "finished" for the year could easily be revived later this year or next. ISRI is tracking more than 500 state bills and regulations across the nation.



Materials Theft

- Pennsylvania [HB 267](#), as approved by the Governor on June 22, creates a new offense for the theft of secondary metal, based on value. This new offense is intended to create a deterrent for metals theft.
- In Maine, [LD 1440](#) allocates money to establish two motor vehicle detective positions to manage the licensing of scrap metal recyclers and mobile scrap metals dealers, with the hopes of increasing enforcement of the law and shutting down illegitimate businesses.
- To keep updated on changes to state metals theft laws, visit the [ISRI State Specific Policy Resources](#) webpage or search the [ISRI Metals Theft Law](#) Database.

Licensing Matters

- Illinois [SB 675](#) was approved by the Governor on August 28, requiring that municipal automotive parts recyclers and scrap processor business licenses be revoked if there is

fraud or misconduct committed against the municipality within three years preceding the effective date.

- Delaware passed [SB 73](#), which amended the current law to give more clarity on licensing and penalties for pawnbrokers, second hand dealers, and scrap processors.

Recycled Rubber / Artificial Turf

- An indefinite moratorium on synthetic turf fields was included in a budget bill (DC [B244-0341](#)) that was approved by the Mayor of the District of Columbia on August 1. As a budget bill, it requires congressional approval and will most likely be attached to the next congressional continuing resolution expected at the end of September.
- Illinois General Assembly passed [SB1943](#) to amend the state Environmental Protection Act, removing a provision that specified monies in the Used Tire Management Fund may be used to assist with the marketing of used tires.

State Superfund Recycling Equity Act (SREA) Equivalents

- On July 21, 2017, legislation in North Carolina ([HB 402](#)) was signed by the Governor thus making North Carolina the 8th state to enact a SREA equivalent in its state Superfund law. The new statute uses a similar strategy to that employed in Tennessee last year by simply stating that, for the purposes of the state's superfund law, the provisions of SREA shall apply.
 - ISRI has recently added links to our [State Policy Resources](#) pages to each state's Superfund law, as well as information on the 8 states (AR, FL, GA, MI, NC, PA, SC, & TN) that have adopted provisions similar to SREA. In the overwhelming number of states without a SREA equivalent statute, it is possible that scrap processors potentially could be subject to liability if the action is brought under the state Superfund law. For more information on state SREA efforts, contact [Danielle Waterfield](#) or [Shelley Backstrom](#).

What's New with ScrapTheftAlert.com?

Significant progress has been made since spring 2017 in making ScrapTheftAlert.com (STA) readily available to law enforcement across the country.

- ISRI has partnered with the Regional Information Sharing System (RISS) to host [STA](#) as a service provider on the RISS network. RISS receives funding from Congress and is administered by the U.S. Department of Justice, Bureau of Justice Assistance.
- STA is also now accessible through the Law Enforcement Enterprise Portal (LEEP) administered by the Criminal Justice Information Systems (CJIS) division of the FBI.

Why it's important: Although STA has always been available through the ISRI website and at [ScrapTheftAlert.com](#), it is now an investigative tool directly available through the *RISS* and *CJIS* networks. More than 117,000 law enforcement officers in nearly 9,000 agencies are members of the RISS network. LEEP has over 60,000 registered users. While there certainly may be some

overlap here, the numbers are nonetheless significant. Since RISS and CJIS are available to law enforcement their access and registrations with STA have improved significantly since May.

Be Aware: Along with increased visibility may come increased scrutiny. More officers are becoming aware of STA and of the "industry" itself. However, the very availability of STA through *RISS* and *LEEP* gives STA, itself, and to some extent, the scrap recycling industry, legitimacy in the eyes of law enforcement. Contact [Brady Mills](#) for more information.

U.S. District Court Strikes Down Obama's Overtime Rule

The Obama overtime rule will not take effect, but changes to overtime rules are likely still coming down the pike. A U.S. District Court in Texas [ruled](#) for plaintiffs who challenged the Department of Labor's 2016, rule. The Justice Department, which defended the rule, formally ended its attempt to impose the rule.

- **The Overtime Rule:** Once an employee works over 40 hours a week, employees must be paid time-and-a-half. The exemptions to this are workers whose duties are "managerial" in nature, and reach a certain salary threshold.
- **The conflict began when** the U.S. Department of Labor announced a new rule in May 2016 that would raise the salary threshold from \$23,660 to \$47,476 starting in December to allow for more employees to be eligible for overtime pay.

Why this is Important: ISRI members that were caught off guard by the rule can relax a little now that that the court said the Obama administration overstepped its authority by making these increases without reviewing the job duties. The rule could have swept in some management workers who are supposed to be exempt from overtime protections.

Be Aware: Businesses should be alert for revised changes coming down the pike as the judge said that the Labor Department does have the ability to use a salary test, but must base eligibility for overtime pay on a combination of workers' duties and wages.

- **A rise in the salary threshold** is likely coming as the Trump Administration has [requested public comments](#) on increasing the salary level.

Contact [Danielle Waterfield](#) with questions, or for more information.

New Senate Tax Proposal

There is a new senate tax proposal being offered by two Republican Senators to lower corporate tax rates to 20 percent, down from 28 percent.

- To reduce the costs of the proposal, many tax deductions and allowances would be eliminated.
- President Trump proposed, during the recent Presidential campaign, that corporate tax rates be lowered to 15 percent and many in the corporate world are hoping that happens.
- ISRI secured for the industry a permanent 50 percent accelerated depreciation allowance in the first year after purchase for new recycling equipment. However, even these deductions could be on the chopping block.
- The tax reform negotiators known as the “Big Six” (Sens. McConnell, Hatch, Reps. Ryan Brady, Administration officials Cohen and Mnuchin) reportedly are moving away from such expensing and replace them with temporary provisions which would sunset.
- The “Big Six” will likely continue with the economic stimulus created by accelerated depreciation, but limit it to reduce its long-term budgets and deficits.

Why it’s important: Tax reform is eminently important to the scrap recycling industry. The tax reform situation is very fluid. It is rumored that some sort of mortgage interest deduction reform may be considered to limit the amount of interest allowed. Given the fluidity of the situation, ISRI will keep its members informed as new important tax reform developments arise. For more information, contact [Billy Johnson](#).

Proposed Tax Reform Jeopardizes Pass-Through Entities

In Washington, DC, Tax Reform is on the menu. An area of consensus, at this writing, is ensuring a new low top rate on pass-through businesses partnerships (S Corporations, sole proprietorships). But, separating business and individual rates brings its own challenges.

- **Pass-through income is derived** from businesses which is claimed on individual tax returns, i.e., it “passes through” to the business owners and is taxed at the owners’ individual tax rates.
- **Lawmakers looking to lower taxes for small and medium-sized businesses** often look to these pass-through rates to keep their tax cut pledges without incurring the huge revenue hit that would result from lowering the top individual tax rate.
- **Distinguishing between business profits and income** tied to labor will likely be a heavy lift as lawmakers seek to develop rules that classify business income and wages.
- **For better or worse**, Congress appears stuck on applying an arbitrary 70/30 rule on pass-through income. The idea would be to subject 70 percent of pass-through income to payroll taxes.
- **The arbitrary 70/30 rule** would unfairly disadvantage pass-throughs as [this chart comparison](#) illustrates, by allowing C-corporations to be taxed at a blended differential

of approximately 25 percent while pass-throughs would be taxed at approximately 30 percent on the same amount of net profits.

Why it's important: Many ISRI member companies are pass-through entities currently, and this tax proposal, if enacted, could force some to incur the trouble and unproductive cost of converting to C corporation status in order to remain competitive.

- **With the potential to turn a proposed tax cut to a tax hike** for many pass-through businesses, the arbitrary 70/30 rule is an incredibly damaging proposal.
- **It is not easy to distinguish returns** from an owner's personal labor and his/her investments in capital and employees, and getting it wrong has the potential to completely undo the benefits of tax reform. Contact [Danielle Waterfield](#) with any questions.

State Sales Internet Tax Ruling Worth Billions

The fight to force all businesses to collect sales taxes is moving forward. The South Dakota Attorney General said the state is one step closer to forcing a re-examination of the fairness gap between online and brick and mortar transactions when it comes to sales taxes. Recently, the SD State Supreme Court ruled that companies selling wares over the internet can't be forced to collect South Dakota's 4.5 percent tax on purchases, laying the groundwork for a U.S. Supreme Court appeal that could change law across the country.

- **In a made for the Court play**, the case of [State of South Dakota v. Wayfair, Overstock and Newegg](#) is a legal challenge to the [Main Street Fairness Act](#). Legislation introduced in the SD State Senate would allow the state to collect sales taxes from out-of-state businesses that do more than \$100,000 worth of business or more than 200 individual transactions.
- **The legislative effort is** designed to overturn a 1992 [U.S. Supreme Court](#) precedent that prohibits states from collecting sales and use taxes on businesses without a physical presence in the state. The bill was drafted to provide for U.S. Supreme Court review once the SD Supreme Court rejected it.

Why it's important: Federal law currently shields out-of-state businesses from paying the same tax remitted by in-state businesses. A decision forcing out-of-state businesses to collect such taxes could be worth billions in revenue to state and local governments. Those in the scrap business are included under the state law that requires all businesses to collect taxes.

- **Collecting sales tax** on scrap transactions could become a regular occurrence in all 50 states if the U.S. Supreme Court overturns the current legal precedent established in the 1992 [Quill Corp. v. North Dakota](#).
- The tax question is *not just for online retail transactions* even though that is where the primary focus has been. The fact is that scrap dealers, brokers and possibly even frequent peddlers could, depending on the US Supreme Court's decision, be looking at collecting or remitting sales taxes based on the volume of business. Contact [Danielle Waterfield](#) for more information.

Surface Transportation Board and CSX Update

The Surface Transportation Board (STB) responded to CSX Rail Issues that generated outrage among its customers and the three members of the STB Board. CSX' new CEO implemented operational changes to speed up trains but these changes, instead, caused major service disruptions for mail shippers. The "improvements" included idling special rail cars including large gondolas important to ferrous scrap shippers and others in the scrap recycling industry.

- Due to the complaints from shippers and other operators the STB issued to CSX a strongly worded letter stating its serious concerns with CSX' activities
- CSX responded to the STB stating that the changes were temporary problems and would be gone when improvements became effective. CSX also responded to customers and others advising them that the improvements would improve rail service, while increasing profits.
- The STB responded by setting up a "Listening Session," planned for early September but postponed due to hurricane concerns (CSX is a Florida-based company. The rescheduling date is October 8.

Why it's important: CSX runs up and down the east coast and the mid-west so their service impacts many scrap recycling shippers. Scrap recyclers and others are watching how this case proceeds. For more information, contact [Billy Johnson](#).

Mercury Switch Program Extended as States Renew their Collection Programs

The original national collective agreement known as the National Vehicle Mercury Switch Recovery Program (NVMSRP) will continue in practice until the year 2021 thereby ensuring recyclers may continue utilizing the switch collection buckets and services provided by the [End of Life Vehicle Solutions](#) (ELVS) entity.

- **ISRI adopted a new policy position** regarding [NVMSRP](#) at its July 2017 board meeting which supported the extension to the year 2021 as long as key terms of the [original agreement](#) remained unchanged.

- **Some states do not think this is enough**, however, and believe that the NVMSRP lacks necessary compensation for recyclers who are tasked with the removal and proper recycling of mercury switches. A North Carolina state representative sponsored such an effort in his state.

Why it's important: The [ELVS collection system](#), which comes at no cost to recyclers, will continue to be available to ISRI members beyond the end of 2017 with this new agreement. Contact [Danielle Waterfield](#) with any questions.

EPA's Federal Advisory Committee for the Negotiated Rulemaking on Limiting the Chemical Data Reporting (CDR) Requirements

Regulatory reform is not easy to achieve even when everything seems in place—the law, a friendly Congress, and a friendly Administration. A case in point is the EPA's Federal Advisory Committee for the negotiated rulemaking on limiting the Chemical Data Reporting (CDR) requirements for recycled inorganic byproducts, as mandated by the recently revised Toxic Substances Control Act (TSCA).

The regulatory reform process, itself, matters. What seemed like a straight-forward task to develop a deregulatory proposal that EPA would use for a proposed rulemaking in the near future slid into an intractable stalemate within the Committee over a number of months. The following factors contributed to the stalemate:

- Committee members did not have equal interests in achieving the deregulatory outcome of the negotiated rulemaking.
- The CDR regulations are complex in their applicability to recycled inorganic byproducts.
- The diversity of recycled inorganic byproducts seeking regulatory relief prevented development of simple fix to the CDR regulations.

This is important because negotiated rulemakings like this one tend to have greater success in achieving their ostensible outcome—in this case, a proposed rule that reduces CDR requirements for recycled inorganic byproducts. Despite the Committee's stalemate, EPA has latitude in developing a CDR proposal. While this TSCA negotiated rulemaking process could still produce a deregulatory outcome, this episode may be a sign of future difficulties in achieving regulatory reform.