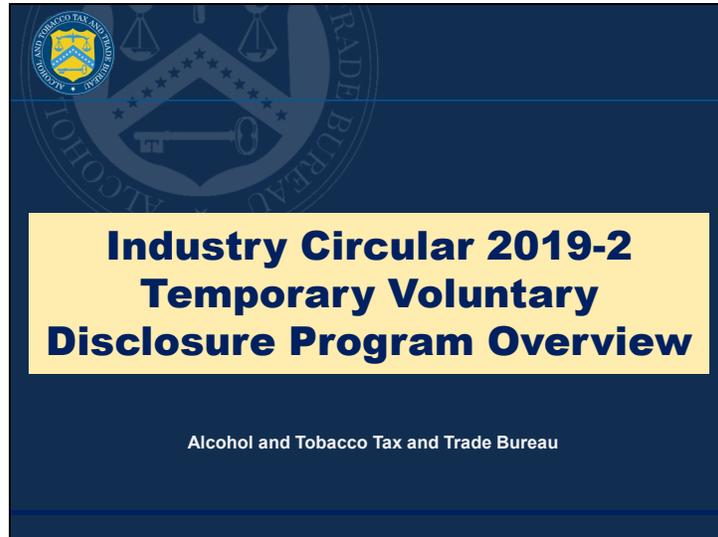


Slide 1



V1: Thank you for joining our virtual training today. I'm a Technical Advisor with Permitting and Taxation in Cincinnati, Ohio.

V2: And I'm a Program Analyst with Permitting and Taxation, also in Cincinnati.

V1: We appreciate you taking time to connect with the Bureau regarding previously unreported changes in control or proprietorship.



Objectives

- Review Industry Circular 2019-2 for the Temporary Voluntary Disclosure Program (TVDP)
- Identify the TVDP eligibility requirements

2 9/10/19

V2: In this presentation, we'll provide an overview of Industry Circular 2019-2, *Temporary Voluntary Disclosure Program for Alcohol Beverage Wholesalers and Importers to Address Unreported Changes in Control or Proprietorship*, which we'll just call TVDP for short. We'll also go over the eligibility requirements, and then view demonstrations on how to apply for the TVDP through Permits Online.

V1: Our Industry Circulars and Permits Online information can be found on our website at www.ttb.gov. This presentation is intended to address how to submit the necessary documentation for the Temporary Voluntary Disclosure Program through Permits Online. Because many questions about this program are dependent on the specific facts, we are addressing those questions on a case-by-case basis working directly with the industry members.



IMPORTANT NOTE

This information is being presented to help you understand and comply with the laws and regulations that TTB administers. It is not intended to establish any new, or change any existing definitions, interpretations, standards, or procedures regarding those laws and regulations.

In addition, the information in this presentation may become obsolete by changes in laws and regulations. Please consult the applicable laws, regulations, and guidance for the most current requirements.

3 9/10/19

V2: This information is being presented to help you understand and comply with the laws and regulations that TTB administers, and specifically the Industry Circular 2019-2. This presentation is not intended to establish any new, or change any existing definitions, interpretations, standards, or procedures regarding those laws and regulations. In addition, the information in this presentation may become obsolete by changes in laws and regulations. Please consult the applicable laws, regulations, and guidance for the most current requirements.



What Does Industry Circular 2019-2 Do?

- Provides a streamlined application process for eligible industry members
- Provides a process for disclosure of previously unreported changes in control
- Mitigates TTB actions in response to failure to report changes
- Allows industry members who are otherwise compliant to continue operations until TTB takes action on the application

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V1: So, what does the TVDP Industry Circular do? Well, the program is intended to streamline the application process so you can report, disclose, and apply for a new permit all at one time. And, we've established a team that will focus on and process the voluntary disclosures that you submit to help move the process along more quickly.

V2: Through this new, temporary program, eligible wholesalers and importers can simultaneously voluntarily disclose the unreported changes in control or proprietorship and file an application for a new permit. By combining these processes, it reduces the burden on eligible industry members while also giving us, TTB, a short-term process to specifically address the volume of submissions related to these disclosures.

V1: For eligible industry members who participate in this temporary program, we'll also exercise enforcement discretion regarding these unreported changes.



TTB's Enforcement Discretion

- For eligible industry members, TTB will not seek civil or criminal penalties for continued operation while we review your TVDP applications
- TTB will not deny an application on the sole basis that you operated without a permit, provided you:
 - Operated in compliance with the statutes and regulations administered by TTB
 - Are not disqualified from obtaining a permit
- TTB has authority to investigate and take action in response to other violations
- This does not apply to changes in control or proprietorship already discovered by TTB, or to industry members who have been notified of a TTB investigation or audit.

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V1: So, you may wonder what we mean by TTB's *enforcement discretion*. Section 6 of the TVDP Industry Circular covers this more thoroughly, but basically, what it means is that if you are eligible for this program, we won't seek civil or criminal penalties for continued operation while we review your applications. We also won't deny your application on the sole basis that you operated without a permit as long as you were in compliance with other statutes and regulations, and as long as you're not *ineligible* for a permit.

V2: But, we still have the authority to investigate and take appropriate action in response to other possible violations discovered, for example, during the course of our review of your voluntary disclosure submission and/or subsequent audits or investigations.

V1: The appropriate action could include permit suspension or revocation, subject to applicable statute of limitations and due process requirements.



Eligibility Requirements

- Hold a TTB permit *only* as a wholesaler and/or importer of alcohol beverages
- Self-identify a change in control or proprietorship and voluntarily disclose it per Industry Circular 2019-2
- Submit all the required documentation no later than December 31, 2019

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V2: Let's go over the eligibility requirements to be accepted into the program now.

V1: Okay, first of all, this program is **ONLY** for alcohol beverage wholesalers and importers to address unreported changes in control or proprietorship. Industry members who hold other TTB permits, notices, or registrations are not eligible.

V2: Also, you must self-identify and voluntarily disclose these changes to us.

V1: Yes, and you have to submit all the required documents to us no later than the end of the calendar year – December 31, 2019.



Eligibility Requirements (cont.)

- File a signed, written request for acceptance into the TVDP:
 - Includes certification acknowledging consent for possible future action (Attachment A)
- File an application for a new permit before December 31, 2019

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V2: Great, now let's talk about the two steps you must complete to participate in this program. First off, only an individual authorized to represent the business through signing authority or power of attorney can file the required documentation.

V1: One step is that you have to upload a signed, written request on company letterhead. The statement should include a certification that you expressly acknowledge and consent that, if TTB approves the application and issues a new permit, TTB may take action against the new permit for violations that took place prior to the issue date of the new permit, other than the unreported change in control or proprietorship that you're reporting. You can find a template for this at Attachment A of the Industry Circular.

V2: The other step is to file an application for a new permit. The best way to apply is electronically through Permits Online. We highly recommend you use Permits Online to expedite the process, and you can track any incoming notifications from us, and we can do the same from you. Under this temporary program, you can file the request for acceptance and the application for the new permit at the same time.

V1: You should make sure that all the required information is provided up front to prevent any delays in processing.

V2: On a case-by-case basis, we may request additional information, but everyone who applies for the TVDP will get an acknowledgement letter with further information regarding your specific situation.



Change in Legal or Actual Control

- **Legal** – a change in the person or entity that owns or controls the majority of ownership interest in the business
- **Actual** – a change in the person or entity who exercises managerial control over the operations of the business
- Changes must be reported to TTB ***within 30 days of the change***

27 U.S.C. 204(g)(2), 27 CFR 1.44, and 27 CFR 1.42

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V1: So, let's talk about what we mean when we talk about changes in control. In general, when there is a change in who controls a business or a change in the person or entity that owns a permitted business, the Federal Alcohol Administration Act requires that you submit a new permit application within 30 days of the change.

V2: If you do not submit these applications within 30 days, your permit automatically terminates, and then you cannot lawfully conduct operations. Operating without the required permit may subject your business to civil and criminal penalties.

V1: So, at this point, to resume operations and stay in compliance with federal law, if your permit automatically terminates for the reasons we just covered, you must apply for a new permit.

V2: Our TVDP will help bring you into compliance, and using our Permits Online system will help you quickly submit the necessary information and applications. Now let's talk about the application process for changes in control.



Reporting Changes in Control

- In *Permits Online*, select **Amended** application – not new
- Permit number remains the same
- Industry Circular 2019-2, Attachment B provides detailed instructions

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V1: Okay, let's talk about what you should do when you need to report a change in control.

V2: So, if the entity that controls the business stays the same, TTB treats that as a change in control. For this type of change, TTB's Permits Online system calls that type of application an amended application. If your application is approved, your permit number will remain the same.

V1: Section four of the Industry Circular as well as Attachment B, go into further detail, so please refer to these areas as you complete your application.



Reporting Changes in Proprietorship

- In *Permits Online*, select **New** permit application – not amended
- Permit number changes
- Industry Circular 2019-2, Attachment C provides detailed instructions

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V2: Now let's talk about what's required when the entity that controls the business changes. TTB refers to this as a change in proprietorship or a change in ownership.

V1: Entities who have a TTB permit as an alcohol beverage wholesaler or importer, and who undergo a change in proprietorship must: apply for a new permit, not an amended permit in Permits Online. With a new permit, the permit number changes because it's a completely new entity.

V2: Section five of the Industry Circular as well as Attachment C, go into further detail, so please refer to these areas as you complete your application.



Questions



For specific questions,
contact TTB at:

- 1-877-882-3277

OR

- CIC2019@ttb.gov

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V1: We've received several very specific questions regarding the TVDP, and the correct answers really depend on ALL the facts of any given situation. So, if you have any specific questions regarding your particular situation, please contact us by phone or email and we'll be happy to help you!

V2: Also, please check out the features section in the center of our home page at ttb.gov. You'll find an article about the Temporary Voluntary Disclosure Program along with links to specific sections of Industry Circular 2019-2 .

V1: Good luck and thanks for joining us!