



**VEHICLE AND AUTOMOTIVE
DISTRIBUTORS ASSOCIATION**

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Helping you drive Vermont's economy

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NOVEMBER 2020

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VADA Holiday Closing

VADA offices will be closed in observance of Thanksgiving on Thursday, November 26th and Friday, November 27th. It will resume normal operating hours on Monday, November 30th.



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2021 NADA SHOW

A promotional poster for the 2021 NADASHOW. The background is dark purple with a grid of glowing dots. It features three people: a man in a suit looking at a phone, a woman with curly hair looking at a laptop, and a man in a light blue shirt looking at a laptop. The text is white and yellow.

VIRTUAL

2021 NADASHOW

JOIN THE NADA SHOW EXPERIENCE!
FEBRUARY 9-11 >>>

A Very Exceptional Virtual Show
This year's NADA Show is going virtual, with a lively online platform and all the valuable insights and engaging connections you've come to expect from the Auto Industry Event of the Year.

- ▶ 60+ workshops and education sessions (live and on-demand)
- ▶ NADA Expo, featuring one-on-one meetings with exhibitors, exclusive product demos and dynamic virtual booths showcasing thousands of dealer products
- ▶ Keynote sessions from industry leaders and experts
- ▶ Franchise meetings with our OEM partners, including live Q&A
- ▶ Key industry legal and regulatory updates affecting dealers
- ▶ Exclusive receptions and networking opportunities
- ▶ Individual and group chats with other attendees and exhibitors

Learn more and register at nadashow.org today!

#NADASHOW

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PPP, LIFO, And LIFO Webinar

Late last week, the Internal Revenue Service (IRS) issued guidance on the **deductibility of expenses paid with Paycheck Protection Program (PPP) loan proceeds**. Two new documents confirm the IRS's position that expenses paid with PPP loan proceeds will be nondeductible by businesses when the loan is likely to be forgiven. In response, Senate Finance Committee Chairman Chuck Grassley (R-Iowa) and Ranking Democrat Ron Wyden (D-Ore.) issued a [joint statement](#) advising that they are working to pass legislation by the end of the year to clarify that forgiven PPP loan expenses will be fully deductible. NADA continues to urge Congress to reverse the IRS interpretation and restore full deductibility of forgiven expenses funded with PPP loans.

For more information about the IRS clarification, please see the following [new documents](#):

- [Proc. 2020-51](#), which clarifies that businesses that do not file for forgiveness or are denied forgiveness will be permitted to deduct PPP funded expenses through a safe harbor procedure.
- [Rul. 2020-21](#), which clarifies that disallowed expense deductions due to PPP loans occur in tax year 2020, regardless of whether forgiveness is granted in 2020 or 2021.

Dealerships with PPP loans are encouraged to discuss these new developments with their tax advisor. Additional information on the PPP is available on [NADA's Coronavirus Hub](#). See the letter sent to the U.S. Treasury Department explaining that a series of government actions to contain the spread of the coronavirus caused a major foreign trade disruption to occur. The letter seeks **LIFO relief for car and truck dealers** who experience significant reductions in their new vehicle inventories at the end of the calendar year; specifically, it requests that the Department exercise its authority under the Internal Revenue Code to allow such dealers to elect to replace their new-vehicle inventories over a three-year period. Treasury may exercise this authority when a "major foreign trade disruption" has occurred that makes the replacement of inventory during the tax year difficult or impossible and other conditions are met.

While NADA will advocate in earnest for this extraordinary form of relief, dealers should not assume that Treasury will grant it. In order to help dealers identify potential approaches to managing the tax consequences of LIFO recapture, NADA has arranged for the dealer accounting firm Crowe to present a [webinar](#) on the topic on **Tuesday, December 8, at 1:00 pm eastern time**; please click on the "webinar."

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NADA Chairman Lashes Out at Automakers Over "Mausoleum Mandates"

The Covid-19 pandemic has put the move to digital world on "hyperdrive" according to the chairman of the National Automobile Dealers Association and the result is likely to be an escalation of a decades-long battle between dealers and automakers. Speaking to a virtual meeting of the Automotive Press Association, NADA Chairman Rhett Ricart pointed to the move towards doing more business online as further evidence against what he called "mausoleum mandates" by automakers that force dealers to make costly investments to enlarge and enhance their showrooms.

Source: Forbes

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COVID Reminders on Employees Testing Positive

When an Employee Tests Positive for COVID-19, it is recommended that dealerships follow a plan to minimize exposure.

1. Isolate/Quarantine Confirmed Employees

The infected employee should remain at home until released by a physician or public health official. If a medical note releasing the employee is unavailable, follow the CDC guidelines on when an employee may discontinue self-isolation, which contain specific requirements dependent upon whether the employee tested positive for COVID-19 and the symptoms exhibited.

According to the CDC:

Persons with COVID-19 who have symptoms and were directed to care for themselves at home may discontinue isolation under the following conditions: at least 10 days have passed since symptom onset **and** at least 24 hours have passed since resolution of fever without the use of fever-reducing medications and other symptoms have improved.

2. Address And Isolate Employees Working Near An Infected Co-Worker

In most cases, you do not need to shut down your facility. If it has been less than 7 days since the sick employee has been in the facility, close off any areas used for prolonged periods of time by the sick person: You should ask infected employees to identify all individuals who worked in close proximity. Close contact is currently defined by CDC as someone who was within 6 feet of an infected person for at least 15 minutes starting from 2 days before illness onset until the time the patient is isolated. Send home any employees who worked closely with the infected employee for 14 days under CDC Guidance to ensure the infection does not spread. While quarantined, those employees should self-monitor for symptoms, avoid contact with high-risk individuals, and seek medical attention if symptoms develop.

3. Inform all employees that someone at the dealership has tested positive for COVID-19 but maintain confidentiality of individual's identity. Inform employees of the actions you have taken, including requiring employees who worked closely to the infected worker to go home. Let employees know about your sanitizing and cleaning efforts and remind them to seek medical attention if they exhibit symptoms. The failure to notify employees at your location of a confirmed case may be a violation of OSHA's general duty clause, which requires all employers to provide employees with a safe work environment.

4. Clean And Disinfect The Workplace After a confirmed COVID-19 case, follow the CDC guidelines for cleaning and disinfecting the workplace. Your cleaning staff or a third-party sanitation contractor should clean and disinfect all areas (e.g., offices, bathrooms, and common areas) used by the ill person, focusing especially on frequently touched surfaces. Wait 24 hours before cleaning and disinfecting to minimize potential for other employees being exposed to respiratory droplets. If waiting 24 hours is not feasible, wait as long as possible. During this waiting period, open outside doors and windows to increase air circulation in these areas. If using cleaners other than household cleaners with more frequency than an employee would use at home, ensure workers are trained on the hazards of the cleaning chemicals used in the workplace and maintain a written program in accordance with OSHA's Hazard Communication standard.

If an employee reports close contact exposure while not at work, management should determine the level of exposure and make decisions accordingly. The employee may be asked to get tested or to quarantine for 14 days under CDC Guidance. While quarantined, those

employees should self-monitor for symptoms, avoid contact with high-risk individuals, and seek medical attention if symptoms develop.

Here's a great Flow Chart [if an employee-household member tests positive](#).

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VT AG Reminder Re Off-Site Sales-3 Day Cooling Off Period Worth Repeating

Because of COVID-19 restrictions and requirements, increased off-site sales transactions are being conducted. We just received a reminder from the Office of the Vermont Attorney General that dealers should be sure they understand and are in full compliance with the Vermont Home Solicitation Sales Law, links and details for which are below.

Under Vermont Home Solicitation Sales Law, 9 V.S.A. [2451\(d\)](#) and [2454](#), a buyer has three days right to cancel a transaction that is subject to those provisions. The following notice must be given "in boldface type of a minimum size of 10 points": **You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation for an explanation of this right.**

Under the provisions of 9 V.S.A. 2454(c)(3), "Until the seller has complied with this subsection, the consumer or any other person obligated for any part of the purchase price may cancel the home solicitation sale by notifying the seller in any manner and by any means of his or her intention to cancel. The cancellation period of three business days shall begin to run from the seller complies with this subsection.

Please review all of your documents to be sure you are in compliance with these laws when off-site sales take place and that you have educated your sales staff accordingly.

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What Dealer Compliance Might Look Like in a Biden Administration

Joe Biden's victory likely will usher in a new era of consumer protection and compliance challenges for auto dealers. Four out of the five Federal Trade Commission (FTC) Commissioners will have their terms expire during the Biden Administration. President Biden will have the power to replace the head of the Consumer Financial Protection Bureau. The Democrats will, for at least two years, control the House and maybe the Senate, too. The Biden administration is likely to focus on safeguards and privacy so make those first on your list. (Review your privacy notice and make sure it states what your actual sharing practices are). Consumer protection in sales and F & I will be another area for activist agencies. If you have not already done so, adopt and implement the NADA Fair Credit Compliance Program and the NADA Voluntary Protection Products policy and program.

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ALLIANCE Calls MASS 'Right to Repair' Law Unconstitutional in Lawsuit

The Alliance for Automotive Innovation on Friday filed a federal lawsuit over a recently enacted ballot measure in Massachusetts that updates an existing state law, expanding access to data related to vehicle maintenance and repair. Starting with the 2022 model year, the updated "right

to repair" law requires makers of vehicles sold in Massachusetts to equip vehicles that use telematics systems - which collect and wirelessly transmit mechanical data to a remote server - with a standardized, open-access data platform. It also gives vehicle owners and independent repair shops access to real-time information from the telematics such as crash notifications, remote diagnostics, and navigation. The law is scheduled to take effect Dec. 3. The alliance said automakers, which can begin selling 2022 model-year vehicles as early as Jan. 2, 2021, could face "impossible compliance obstacles." *Source: Automotive News*

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No Change in Dollar Thresholds in Regs Z and M

Did you see it? The Federal Reserve Board (Fed) and Consumer Financial Protection Bureau (CFPB) announced ["no change" to the dollar thresholds in regulations Z \(Truth in Lending\) and M \(Consumer Leasing\) for exempt consumer credit and lease transactions](#) for 2021. These thresholds are set pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amendments to the Truth in Lending Act and the Consumer Leasing Act that require adjusting the thresholds annually based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The thresholds that were set for 2020 (\$58,300) will remain the same for 2021.

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Dept. of Energy & EPA Release 2021 Fuel Economy Guide REMINDER: Dealers Required to Display Guide

The United States Department of Energy and the Environmental Protection Agency recently released the Model 2020-2021 Fuel Economy Guide. This guide (and all previous guides) is available to download and print on the <https://www.fueleconomy.gov/> webpage. You can also click on this [link](#) to directly download a pdf of the report.

Dealers selling new vehicles with a gross vehicle weight rating under 8,500 pounds are required to prominently display paper copies of the guide at each location where new vehicles are offered for sale. These guides must be available for free upon customer request.

Beginning with the 2008 model year vehicles, city and highway estimates account for conditions such as higher speeds and faster accelerations, air conditioning use, and cold temperature operation. Further details regarding the determination of gas mileage (mpg) ratings are available at www.epa.gov/fueleconomy.

The annual fuel cost estimates in the electronic fuel economy guide are updated weekly to match the Energy Information Administration's current national average prices for gasoline and diesel fuel.

Paper copies of the guide are no longer mailed automatically to dealers, but you can request a paper copy of the guide by visiting: <http://www.fueleconomy.gov/feg/printGuides.shtml>.

Through the website, dealerships can also add a fueleconomy.gov widget to their website, blog, or social media site. Click the "Get Widget" button and copy the "embed" code into your blog or web page.

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NHTSA Odometer Rule Changes Disclosure Exemption from 10 to 20 Years

Effective January 1, 2021, a rule issued last year by the NHTSA will phase in a change in odometer disclosure requirements on vehicles from the current 10 model years to 20 model years.

According to NHTSA, the new 20-year odometer capture exemption requirements apply only to vehicles that are 2011 model year or newer. 2010 model year vehicles or older remain exempt under the 10-year exemption.

This type of 'rolling' exemption is best described as adding an additional model year worth of vehicles each January until the 20-year exemption is fully implemented.

[View additional information](#) about the Odometer Rule and upcoming change in disclosure requirements.

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WORKERS' COMP SAFETY CORNER

1. As wintery weather season arrives, remind employees (especially Sales) to be diligent in the need for appropriate footwear when working in icy and snowy conditions. Slips and falls on ice and snow continue to be one of the most common and debilitating winter injuries to dealership personnel.
2. As cold, dry air arrives, the chances of fire from a static electricity spark while transferring flammable liquids increase. Take a minute to make sure that all containers of flammable liquids (gas buggies, paint thinner drums, brake wash drums, windshield washer fluid drums, etc.) are properly grounded. An old, or cheap pair of jumper cables can easily be split and used to make a ground wire.
3. As the weather cools, it is important to remind employees that sprained muscles become more possible due to the cold. It is important that all employees take precautions such as using hoists and lifts for heavy lifting. When the only option is lifting by hand, remind employees to use proper lifting techniques and to stretch like an athlete before a lift to prevent sprain and strain injuries.

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CFPB Settles with Auto Loan Payment Plan Company for Deceptive Practices

The Consumer Protection Financial Bureau (CFPB) has reached a \$7.5 million settlement with SMART Payment Plan, LLC, finding that "the company's disclosures of its loan payment program contained misleading statements in violation of the Consumer Financial Protection Act of 2010's prohibition against deceptive ads or practices."

SMART Payment Plan was found to have made deceptive statements by giving consumers misleading "benefit summaries" that misrepresented the amount of money clients would save by enrolling in their provided auto loan payment plans. [View news release from CFPB](#)

While the CFPB's action did not directly implicate any dealer or allege that any dealer made any deceptive statements, the payment plan program was marketed almost exclusively through automobile dealers.

Dealers are reminded to be proactive in ensuring compliance regarding disclosures related to financing and voluntary protection products.

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Banned in Quebec

Quebec will not allow the sale of new gasoline-powered vehicles beginning in 2035 as part of a climate plan to lower carbon dioxide (CO₂) emissions that the Canadian province announced this week.

Quebec unveiled its Plan for a Green Economy 2030 earlier this month to invest \$6.7 million to combat climate change and lower emissions by 37.5% under 1990 levels by 2030 along with a carbon neutrality goal by 2050. Of the \$6.7 million investment, the province plans to spend \$3.6 million to cut transportation greenhouse gas (GHG) emissions, which currently account for 43% of GHG emissions.

The Plan for a Green Economy 2030 will be implemented from 2021 to 2026 that will target the electrification of public and private transportation. The plan aims to have 1.5 million electric vehicles (EV) by 2030 and will incentivize EV purchases with rebates as well as constructing a charging station infrastructure for drivers.

Quebec's plan also calls for investing \$768 million to reduce industrial emissions and \$550 million for cutting emissions from residential, commercial, and instructional buildings from heating. The provincial government will also target an emissions reduction in its buildings by 60% under 1990 levels by 2030 and will also convert all government-owned cars, vans, and SUVs, along with 25% of its pickup trucks to EVs by 2030.

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Study: More Consumers Giving High marks to Franchised Dealers

The number of franchised dealer reviews over four stars has grown as a percentage of all reviews. According to a study from auto industry online reputation services company Friendemic, the number of positive reviews grew from January 2017 through August 2019. Negative reviews have dropped below 13% of total reviews. In a blog post titled, "Do Consumers Really Dislike the Dealership Experience?" Friendemic posted the study's findings, with chief growth officer Denise Chudy saying dealers are using feedback from reviews to improve their customer interactions.

Source: Auto Remarketing

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Cox Automotive Industry Update



ECONOMIC INDICATORS

- The pace of the jobs recovery slowed again in October, as the month saw 638,000 jobs created compared to September. The prior two monthly numbers were revised up for a net increase of 15,000 jobs than originally estimated.
- The headline unemployment rate declined to 6.9% in October. However, the BLS reported that the rate could have been at most 0.3 points higher if not for misclassification due to confusion about people considered as employed but away from work.
- For the full year, an estimated 2.1 million auto loans defaulted in 2019. Through October this year, an estimated 1.35 million loans have defaulted. In October, 1.28% of auto loans were severely delinquent, which was an increase from 1.26% in September. 4.64% of subprime loans were severely delinquent, which was an increase from 4.54%. 60-day delinquencies have increased in each of the last 3 months.

DEMAND

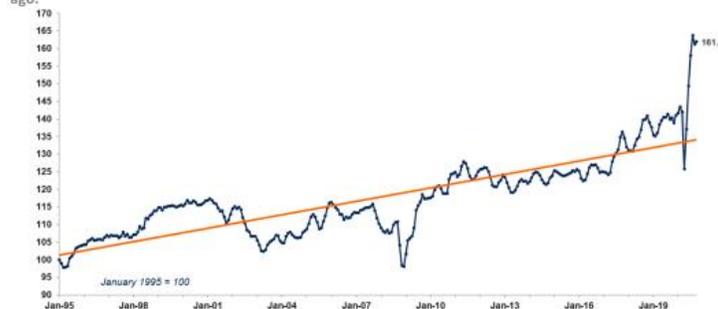
- October total new vehicle sales were up 0.9% y/y with one more selling day compared to October 2019. With those volumes, the October SAAR was 16.2 million, a 4% decrease from last year's 16.8 million and a slight decline from September's 16.3 million.
- Combined sales into large rental, commercial, and government buyers were down 27% y/y in October. Including an estimate for fleet deliveries into the dealer and manufacturer channel, we estimate that the remaining retail deliveries were up 5% y/y in October, leading to an estimated retail SAAR of 14.3 million, which was up from 14.1 million last October but down from September's 14.4 million rate.
- CPO sales in October increased 1.4% y/y and 4% m/m. CPO sales are down 6% YTD.

LIGHT VEHICLE SALES

- ↓ 43% Rental
- ↓ 13% Commercial
- ↑ 8% Government

SUPPLY

- Days' supply for October was 56, down 17 days y/y and up 8 days from September. Average car days' supply came in at 59, down 7 days y/y and up 8 days from September. Light truck days' supply was 55 last month, down 21 days from last year and up 7 days from the prior month. The Manheim Used Vehicle Value Index, which is seasonally adjusted, increased 0.47% m/m in October. The increase brought the index to 161.9, which was a 15.4% increase from a year ago.



COVID-19

- The number of COVID-19 cases reached 49.1 million globally. There have been 1.24 million deaths. The number of infected in the U.S. has risen to 9.67 million cases; 235,416 have died. Daily new cases continue to rise. Thursday's total of 121,139 was a new daily record. We could see 200,000 daily cases by Thanksgiving. Hospitalizations and daily deaths are also growing, and hospitalizations are also setting records.

Source: Cox Automotive Industry Update Report, November 17, 2020

COX AUTOMOTIVE

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