



REMY | MOOSE | MANLEY  
LLP

Andrea K. Leisy  
aleisy@rmmenvirolaw.com

April 17, 2019

VIA ELECTRONIC & U.S. MAIL  
[alopez@ocair.com](mailto:alopez@ocair.com)

Mr. John Clarey, Chair  
Attn: Ms. Aida Lopez  
Orange County Airport Commission  
3160 Airway Avenue  
Costa Mesa, CA 92626

Re: April 17, 2019 Airport Commission Special Meeting – Proposed  
Recommendations Regarding General Aviation Improvement Program  
(ASR 19-000429)

Dear Chairperson Clarey and Honorable Commission Members:

We submit this letter on behalf of the City of Newport Beach (City) requesting that the Commission accept public comment on the General Aviation Improvement Program (GAIP or Project) and related Environmental Impact Report (EIR) this evening and vote to continue the item before issuing any recommendations to the Board of Supervisors (Board). The Final EIR was released on April 9<sup>th</sup> - barely six business days ago. An entirely new health risk analysis was prepared and made publically available on April 15, 2019, after mistakenly being omitted from the Final EIR. (See Attachment A to Final EIR Vol. 2A.)

An inadequate amount of time has been provided for the Commissioners and the public to thoughtfully review the new health risk analysis, the responses to comments in the Final EIR and the nearly 100 pages of proposed CEQA Findings of Fact and Statement of Overriding Considerations. Given the technical nature and importance of the new health risk analysis, the County should circulate the analysis for public review and comment rather than cramming it into the Final EIR at the last minute.

The purpose of requiring public review is to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action. Public review permits accountability and informed self-government....Public review ensures that appropriate alternatives and mitigation measures are considered, and permits input from agencies with expertise....Thus, public review provides the dual purpose of bolstering the public's confidence in the agency's

decision and providing the agency with information from a variety of experts and sources.<sup>1</sup>

Rushing the administrative approval process, as the County appears to be doing here despite receiving 288 comment letters and generating a Final EIR consisting of four volumes, undermines these principals. That said, we have the following preliminary comments on the Final EIR, including identifying many of the inadequate responses to comments, and may submit additional comments to the Board once we have had more time to review the Final EIR:

I. Boeing 737-MAX Aircraft Assumptions Used in the EIR

The City remains deeply concerned that the EIR's future cumulative baseline assumptions are overly optimistic. Specifically, in the noise and air quality modeling of the Proposed Project and Alternative 1, the EIR assumes that 40% of the Boeing 737 and Airbus A320 aircraft utilizing the Airport will include the newer Boeing 737-MAX and Airbus A320-NEO with substantially quieter and more fuel efficient engines. As noted in our prior comments, this is different from the 2026 fleet mix assumptions used to prepare the 2014 Settlement Agreement Amendment EIR and appears to paint an overly rosy future baseline scenario against which the GAIP EIR evaluates the potential effects of the Project and Alternative 1.

The 40% assumption is important because, without it, the future baseline environmental condition for noise would be louder and the air quality around the airport more degraded with an assumed older fleet mix. (See DEIR 617 [Ch. 4.1 [Air Quality], 4.6 [Noise], 5 [cumulative impacts], Appendix B-D, available at: <https://www.ocair.com/communityrelations/settlementagreement/deir617>.) It would therefore take less of an incremental noise and air quality contribution from the increase in general aviation aircraft under the GAIP to trigger a cumulatively considerable contribution under CEQA. (See *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692 [reasoning that an otherwise small contribution to an existing degraded environment may be cumulatively considerable and therefore a significant impact].) The EIR nevertheless refuses to engage in this analysis.

Although a lead agency has deference to determine the methodology used in an EIR's impact analysis, the assumptions must be supported by substantial evidence. (See Pub. Resources Code, § 21082.2; CEQA Guidelines, §§ 15064, 15384.) The responses to

---

<sup>1</sup> *Environmental Protection Information Center v. California Dept. of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 486, quoting *Schoen v. Department of Forestry & Fire Protection* (1997) 58 Cal.App.4th 556, 573–574; see also *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 1236 [One of CEQA's goals is to foster “transparency in environmental decisionmaking”]; CEQA Guidelines, § 15201 [public participation is an essential part of the CEQA process].

comments on this issue in the Final EIR lack citation to substantial evidence. (See Final EIR, p. 3-34 [RTC NB-4 stating the assumption was “based on airline orders, statements by airlines regarding the use of the MAX and NEW, and factors that affect airlines decision-making on aircraft purchases. All of these indicate a high utilization of the MAX and NEW at the Airport in the future”], without citing any telephone conversations or actual “substantial evidence” in support.)

The Final EIR also completely ignores the recent reality that Boeing’s production of 737-MAX aircraft has been drastically cut since March 13, 2019, when the FAA grounded all 737-MAX aircraft after the Ethiopian Airlines crash that killed 157 people and the Indonesia crash that killed 189 people. (See Attachment B [news articles relating to safety concerns regarding the Boeing 737-MAX].) Boeing has slowed production of the aircraft to 42 a month and has received only 32 new orders in the first three months of 2019 (compared to 122 during the same period of 2018). Southwest currently has 34 of the 737-MAX aircraft in their fleet with 280 ordered, leaving 246 unfulfilled. There is no time table for when, or if, the MAX will return. (See Attachment B.) The County should, in good faith and in light of these recent events, re-evaluate the EIR’s 40% assumption by 2026.

If this assumption proves to be overly optimistic, as we believe it is, and new cumulatively considerable effects of the GAIP/Alternative 1 are identified (i.e. to noise or regional ROG or NOx levels), the County should also identify mitigation measures that would avoid or substantially lessen the cumulative effect. Moreover, if additional or more polluting operations occur in the future scenarios than assumed in the EIR, the County should impose a monitoring program and threshold trigger(s) as a condition of its approval and commit to revisiting the EIR’s analysis.

## II. The Responses to the City’s Comments are Inadequate

Under CEQA, responses to comments contained within a Final EIR must demonstrate a “good faith, reasoned analysis.” (CEQA Guidelines, § 15088, subd. (c).) The Final EIR therefore represents an opportunity for lead agencies to clarify and expand upon the analysis in a Draft EIR where that analysis needs improving. Unfortunately, much of the Final EIR, here, neglects to seize that opportunity and therefore does not represent a good faith effort.

Comment NB-5 asked the County to identify the existing general aviation flight patterns. Response to Comment (RTC) NB-5 states this information was provided in Appendix H of the Draft EIR at page 42. That page refers to one-half of a page of explanation which discusses the general use of Runway 20R/02L by larger commercial aircraft, wind directions, general routes when aircraft arrive from the northwest (starting to turn near South Coast Plaza), and refers the reader to Table 6 “Existing (2016) Runway End Utilization”, none of which show, on a map, the existing general aviation flight patterns. For this information, the RTC points to Figure 9 of Appendix H “Existing Radar Tracks for Air Carrier and General Aviation Aircraft” which shows – without distinguishing between the two – both commercial and general aviation arrival (in



red) and departure (in blue) tracks. It is impossible to determine which lines on Figure 9 are general aviation tracks. Not only is this information buried deep in an Appendix to the Draft EIR, it is entirely unhelpful to the reader.

RTC NB-5 states “The analysis assumes there would not be a change in the flight patterns applicable to the type of aircraft[,]” noting such an assumption would be speculative due to FAA’s refinements to the NextGen procedures. (Final EIR, p. 3-36.) RTC NB-6, however, appears to contradict this statement when explaining the EIR’s comparison of 2016 Baseline to Baseline Plus Project under the Alternative 1 scenario and including a new figure “to allow comparison of the areas where the noise contours are expected to change.” (Final EIR, p. 3-37; see also 3-38.)

If the noise contours are expected to change, as shown in the new figure attached to the RTC, it appears the general aviation flight patterns may also be anticipated to change. The existing general aviation flight patterns assumed in the EIR’s analysis must be identified. This information is an essential part of the EIR’s assumed existing baseline conditions for noise and air quality emissions. Yet, they remain unclear.

### III. The New Health Risk Analysis Should be Circulated for Public Review and Comment prior to Certification of the Final EIR

In response to the comments of the City, the South Coast Air Quality Management District, and several others raising concerns with the County’s initial approach to evaluating the GAIP’s public health impacts, the County retained environmental consultant Ramboll to prepare a Health Risk Assessment Technical Report (HRA) for the Project. While a summary of the HRA’s conclusions was included in the FEIR topical response to comments, the HRA was initially omitted from the version of the Final EIR posted on the County’s website. After our office contacted County staff to inform them of the oversight, the HRA was made available for public review on April 15, 2019.

Public Resources Code section 21092.5, subdivision (a), provides that, at least ten days before certifying a final EIR, a lead agency “shall provide a written proposed response to a public agency on comments made by that agency” in conformance with CEQA standards. These written responses may be provided to the commenting agency in either print or electronic format. (CEQA Guidelines, § 15088.5, subd. (b).) With respect to the health risk analysis, a focal point of the City’s comments on the Draft EIR, many of the responses to comments refer to the new health risk analysis (provided for the first time two days ago on April 15<sup>th</sup>.) Ten days runs on April 25, 2019. The Board therefore must postpone its decision on the EIR until ten days has passed.

Also, the County’s decision to prepare a HRA for the Project warrants recirculation of the new analysis for public review and comment. (See *Rodeo Citizens Assn. v. County of Contra Costa* (2018) 22 Cal.App.5th 214, 218 [EIR recirculated following request from air district for more information about refinery project health risk assessment].) Under CEQA, “[a] lead agency is required to recirculate an EIR when

significant new information is added to the EIR after public notice is given of the availability of the draft EIR . . . but before certification.” (CEQA Guidelines, § 15088.5, subd. (a).) As used in CEQA Guidelines section 15088.5, “the term ‘information’ can include changes in the project or environmental setting as well as additional data or other information.” (*Ibid.* Emphasis added.) New information is considered “significant” where the EIR is changed in a way that deprives the public of a meaningful opportunity to comment on a substantial adverse environmental effect of the project. (*Ibid.*)

Releasing the HRA just two days before the Commission considers the adequacy of the EIR fails to provide members of the public and the Commission a meaningful opportunity to review the analysis and conclusions in the HRA and EIR. (See *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1130 [CEQA’s recirculation provisions intended to encourage meaningful public comment].) Re-circulation is particularly warranted in this case where the new information and analysis included in the FEIR concerns the Project’s potential public health impacts on workers, residential receptors, and nearby sensitive receptors. Furthermore, as the HRA and multiple appendices prepared here demonstrate, health risk assessments are highly technical documents which require time and expertise to critically review.

Based upon our initial review, questions remain regarding the assessment of the GAIP’s potential public health impacts. For instance, the HRA fails to account for the Project/Alternative 1’s construction-related health risk impacts, yet the California Office of Environmental Health Hazard Assessment Air Toxics Hot Spots Program Risk Assessment Guidelines recommend assessing cancer risk for projects, including construction, lasting more than two months.<sup>2</sup> Construction of the various GAIP phases over 7 years, including under Alternative 1, will exceed two months. (See Final EIR, p. 3-39, RTC NB-8.) Construction related NOx emissions were also found significant, although use of Tier-4 equipment is expected to reduce the impact to less-than-significant. The public, nevertheless, should be given a meaningful opportunity for review and comment on this additional analysis.

Furthermore, it remains unclear what impact, if any, the fleet mix and flight path assumptions relied on in preparing the EIR factor in to the HRA. If recirculated, the revised and recirculated sections should also identify Alternative 1 as the preferred project alternative for approval, thereby alleviating the burden that the public otherwise had in reviewing and commenting, equally, on the proposed GAIP Project and Alternative 1 during the Draft EIR review period. (See *Wahoe Meadows Community v. Dept. of Parks and Recreation* (2017) 17 Cal.App.5th 277 [issuing writ and requiring EIR and project approvals to be set aside where draft EIR analyzed various alternatives in detail but failed

---

<sup>2</sup> Office of Environmental Health Hazard Assessment, Air Toxics Hot Spots Program, Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments (Feb. 2018), p. 8-17, available at <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>.

Chairperson Clarey  
Honorable Commission Members  
April 17, 2019  
Page 6

to identify one “preferred” alternative during the EIR process; court reasoned, as a matter of law, that by describing a range of possible projects, the agency had presented the public with a “moving target” which required the public to comment on all the alternatives rather than just one project and therefore imposing an undue burden to the public].) These questions, and others, are best addressed through re-circulation of portions of the EIR for public review and comment.

IV. Conclusion

We request that the Commission postpone making recommendations to the Board at this time and, instead, allow additional time for review and recirculation of sections of the EIR as noted above. For the reasons set forth in Mayor Dixon’s letter to the Board, dated March 25, 2019, and including safety, the City remains supportive of Alternative 3, as does the City of Costa Mesa. A true and correct copy of the Mayor’s letter is included herein as Attachment A.

Finally, we request that the Commission and the Board take the time needed to thoughtfully consider the Final EIR and adoption of Alternative 3. Thank you for your consideration of our comments.

Very truly yours,



Andrea K. Leisy

Encl.

Cc: Honorable Board of Supervisors

# **Attachment A**



CITY OF NEWPORT BEACH

100 Civic Center Drive  
Newport Beach, California 92660  
949 644-3004 | 949 644-3039 FAX  
newportbeachca.gov

March 25, 2019

*Mayor*

Diane Brooks Dixon

*Mayor Pro Tem*

Will O'Neill

*Council Members*

Brad Avery

Joy Brenner

Marshall "Duffy" Duffield

Jeff Herdman

Kevin Muldoon

Lisa A. Bartlett, Chairwoman  
Orange County Board of Supervisors  
333 W. Santa Ana Blvd.  
Santa Ana, CA 92701

RE: John Wayne Airport General Aviation Improvement Project

Chairwoman Bartlett and Members of the Orange County Board of Supervisors:

After extensive review of the Draft Environmental Impact Report (DEIR) for John Wayne Airport's proposed General Aviation Improvement Project (GAIP) the Newport Beach City Council unanimously voted to endorse Alternative #3 pursuant to the GAIP DEIR.

The City of Newport Beach (City) understands the need for updating John Wayne Airport's current general aviation facilities to Federal Aviation Administration (FAA) standards and it endorsed such action with its support of Alternative #3. However, the GAIP, as currently structured, goes well beyond that. As presented in the DEIR, it would introduce commercial operations into the normal sphere of influence of general aviation (GA) and encourage international travel as well as commercial operations at privately operated, Fixed Base Operators (FBOs). While the GAIP speaks of modernization, the City's residents instead see the burden of more GA jet operations, diminished air quality, additional noise, and flights operating at all hours. Equally important, any actions concerning the GAIP must take into account safety, security and accountability for and to all, not just the select few passengers partaking in GA jet travel.

Pending further environmental review, the City believes Alternative #3 is the least impactful for the Newport Beach community. It allows for the updating of airport's GA facilities to current FAA standards, would not expand general aviation facilities at the FBOs, nor would it significantly alter the airport's current mix of GA aircraft that are based at the airport. It would also result in the least amount of GA jet operations by the year 2026.

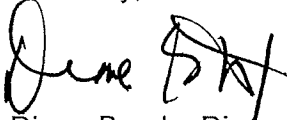


The County of Orange has achieved what no other jurisdiction in the nation has been able to do by putting protections in place and managing JWA in a manner that helps to mitigate the airport's operations on the surrounding communities. Any proposal that seeks to limit the County's involvement, by shifting certain responsibilities to private companies operating at the airport, must be resisted. Airport security, as the Board has recognized in the past, is of utmost importance. Security for international travel should be processed in the Thomas F. Riley Terminal along with the processing of all commercial passengers where it has, until recently, historically taken place. As current national and international events have demonstrated, safety and security shall always remain of utmost importance.

On behalf of the Newport Beach City Council, I respectfully request that the Board of Supervisors adopts Alternative #3. Should any member of the Board or their representatives wish to discuss the matter in more detail, offer further explanation of the GAIP, or assurances of the County's actions, the City would be happy to meet at your convenience.

Thank you for your anticipated professional courtesy and cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane Brooks Dixon". The signature is stylized and includes a large, sweeping flourish at the end.

Diane Brooks Dixon  
Mayor

## **Attachment B**

**AMERICAN AIRLINES EXTENDS CANCELLATIONS UNTIL**

## August 19 because of 737 Max grounding

By Victoria Cavaliere, [CNN Business](#)

Updated 4:13 AM ET, Mon April 15, 2019

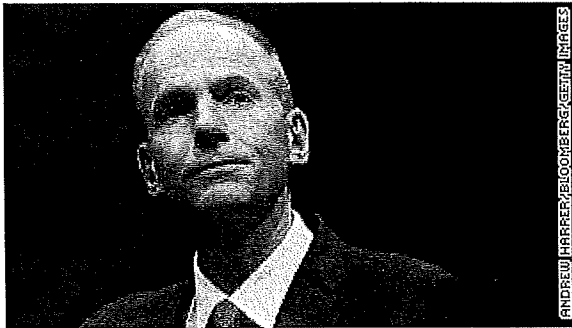
**(CNN)** – American Airlines is extending flight cancellations into mid-August because of the Boeing 737 Max grounding.

American (AAL), the world's largest airline, decided to extend cancellations from early June through August 19, to help plan ahead for the busy summer travel season. Southwest Airlines (LUV) last week also extended flight cancellations for 737 Max planes from June until August.

"Based upon our ongoing work with the Federal Aviation Administration (FAA) and Boeing, we are highly confident that the MAX will be recertified prior to this time," American Chairman and CEO Doug Parker and President Robert Isom said Sunday in a message to airline staff. "But by extending our cancellations through the summer, we can plan more reliably for the peak travel season."

Approximately 115 flights a day will be canceled through August 19, representing about 1.5% of the airline's total daily flights, they said.

The airline has 24 737 Max jets in its fleet. American has previously said that all flights that were originally scheduled on a MAX plane will not be canceled, with some being substituted with other aircraft.



The 737 Max was grounded in March after one of the planes flown by Ethiopian Airlines crashed, killing everyone on board. It was the second accident involving the jet model in less than six months, after another flown by Indonesia's Lion Air crashed last October. The crashes killed 346 people in total.

**Related Article:** Boeing CEO says new software update has been tested by most 737 Max customers

The causes of the crashes are still being investigated, but the focus has been on an automatic safety feature that may have forced the nose of each plane lower when it incorrectly sensed the plane was in danger of going into a stall.

Boeing (BA) and the FAA said they are working on an upgrade of the 737 Max software to deal with that safety feature.

Boeing CEO Dennis Muilenburg said on Thursday the planemaker is closing in on a fix for the software, and a majority of the 50 customers that have ordered 737 Max planes have had a chance to test it using a flight

"It's our responsibility to eliminate this risk," Muilenburg said.

Muilenburg did not say when 737 Max planes may begin flying again.

Boeing announced earlier this month it was cutting the production rate for all of its 737 planes from 52 a month to 42 amid the worldwide grounding.

*--CNN Business' Paul R. La Monica contributed to this report*



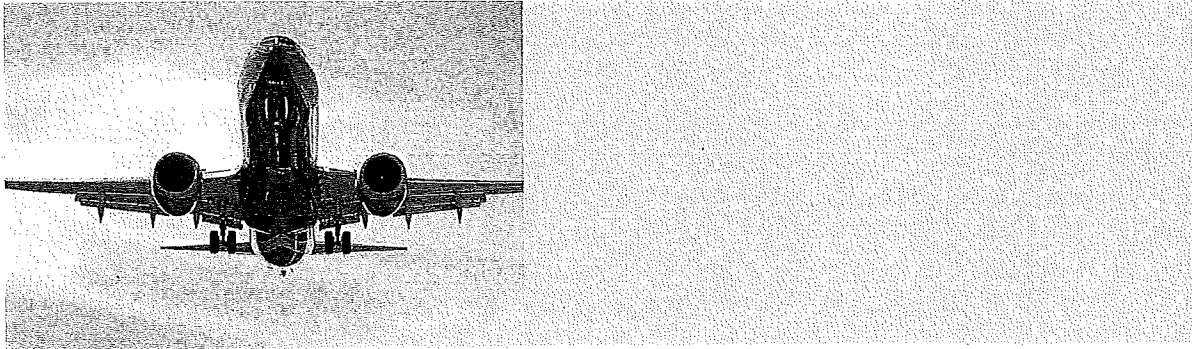
# Southwest removes Boeing 737 Max from flight schedule through early August as grounding persists

PUBLISHED FRI, APR 12 2019 • 9:21 AM EDT UPDATED FRI, APR 12 2019 • 6:25 PM EDT

[Emma Newburger@EMMA\\_NEWBURGER](mailto:Emma.Newburger@EMMA_NEWBURGER)

## KEY POINTS

- Southwest Airlines has removed the Boeing 737 Max jet from its schedule through Aug. 5, which marks a key summer travel period.
- It's unclear how many flights will be canceled as a result.
- Other major airlines like American and United have canceled thousands of flights because of the prolonged groundings.



A Southwest Boeing 737 Max 8 enroute from Tampa prepares to land at Fort Lauderdale-Hollywood International Airport on March 11, 2019.

*Joe Raedle | Getty Images*

Southwest Airlines has removed the Boeing 737 Max jet from its schedule through Aug. 5, a key summer travel period. It's unclear how many Southwest flights will be canceled as a result.

Southwest suspended all 34 of its Max jets from its fleet of more than 750 Boeing 737 models after the Max's anti-stall software was implicated in an Ethiopian crash in March that killed 157 people.

**737 Max not coming back any time soon**

There's no timetable for the return of the Max, which has been grounded since mid-March. Boeing has slowed production and stopped deliveries as it works on a software fix.

Other major airlines like American and United have canceled thousands of flights because of prolonged groundings. American, which operates 24 Max planes and has 76 more on order, canceled roughly 1,200 flights in March. United has 14 of the Boeing 737 Max 9s in its fleet, and like American, has canceled 737 Max flights through June 5.

“The limited number of customers, who have already booked their travel and will be affected by this amended schedule, are being proactively notified so that we can reaccommodate their flight plans well in advance of their travel date,” Southwest President Tom Nealon said in a statement.

<https://www.cnbc.com/2019/04/12/southwest-removes-737-max-from-flight-schedule-through-early-august.html>

# Shareholder suing Boeing, alleges investors were misled about 737 Max jet



PHOTOS: Boeing's 737 Max takes off for its maiden flight in Seattle on April 13, 2017.

By **Bernard Condon**  
Associated Press

APRIL 10, 2019, 2:20 PM | NEW YORK

**A** Boeing shareholder is suing the company for allegedly hiding problems with its 737 Max jet to push its shares higher.

Shareholder Richard Seeks argues that Boeing should have told investors about safety problems with its best-selling plane after a fatal crash in October. Instead, it pushed the stock up to artificial highs by speaking optimistically about future sales before a second fatal crash in March sent shares tumbling, he says.

The federal suit also named Boeing CEO Dennis Muilenburg and the chief financial officer, Gregory Smith, as defendants.

The company misled investors "by touting its growth prospects and profitability, raising guidance, and maintaining that the Boeing 737 MAX was the safest airplane to fly the skies," the lawsuit alleges. By doing so, investors bought shares at "artificially inflated prices."

The suit filed in U.S. District Court for the Northern District of Illinois seeks class-action status for all Boeing shareholders who bought stock between Jan. 8 and March 21.

Boeing did not immediately respond to a request for comment.

The Chicago-based company has been named as a defendant in a growing number of suits filed by families of passengers killed in a Lion Air crash off the coast of Indonesia on Oct. 29 and an Ethiopian Airlines crash on March 10. All 346 aboard the two flights died.

Its stock hit \$440 early last month, then fell to \$362 after the Ethiopian Airlines crash. The stock was at \$369 in midafternoon trading Wednesday.

Boeing announced that it is making changes to a flight-control system implicated in both crashes. It has vowed to a software fix to get the planes back in the air since a worldwide grounding last month. The company is also promising that it would provide airlines with certain safety features previously offered to them as options and that it would provide additional training for Max pilots.

The lawsuit said that Boeing should have told investors that the safety features were optional on the Max jets it sold. It also alleged that the company hid from investors that the U.S. Federal Aviation Administration had given it authority to help certify that the Max plane was safe, along with allowing the company to greenlight a flight-control system involved in the two crashes.

The practice by the FAA of delegating safety checks to manufactures has come under fire by congressional investigators since the crashes. The company is also facing probes by the U.S. Justice Department and the Transportation Department's inspector general.

*Follow @ChiTribBusiness on Facebook and @ChiTribBiz on Twitter.*

Copyright © 2019, Chicago Tribune

**This article is related to:** Boeing, Federal Aviation Administration

FFF



# *Costs for Boeing Start to Pile Up as 737 Max Remains Grounded*

The grounding of Boeing's 737 Max planes has the company and the airlines it supplies scrambling to adjust. Credit Ruth Fremson/The New York Times

Image



The grounding of Boeing's 737 Max planes has the company and the airlines it supplies scrambling to adjust. Credit Ruth Fremson/The New York Times

**By David Gelles**

- April 12, 2019

In the 22 months that Boeing's 737 Max flew commercially before it was grounded, the jet became the company's flagship as well as an integral part of the global aviation system, and the American economy.

Airlines around the world sped the plane into service, eager to capitalize on its efficient engines. Some low-cost carriers built new routes around the Max, which could travel farther on less fuel than its predecessor. Boeing's stock soared thanks to strong demand for the jet.

But with the Max grounded following two deadly crashes in five months, Boeing and the airlines that rely on its planes are scrambling to adjust, and the costs are mounting.

Major airlines, including Southwest, American and United, have canceled thousands of flights. Boeing has slowed production of the Max and stopped deliveries, stockpiling the finished planes in Seattle. And with no timetable for the return of the Max, Boeing is facing escalating bills, numerous legal threats and a crisis of confidence.

“Having two crashes in rapid succession with no survivors is really unprecedented in modern aviation industry,” said Chesley B. Sullenberger III, the retired pilot who landed a jet in the Hudson River. “This is going to be a huge hit to Boeing. What they need to do now is to behave in a way that proves themselves worthy of the public’s trust.”

An aerospace behemoth with more than 140,000 employees, Boeing has annual sales of some \$101 billion. It is the largest manufacturing exporter in the United States and is the largest component of the Dow Jones industrial average. When Boeing does well, it can lift the fortunes of American industry and thousands of staff. But when the company hits turbulence, the effects quickly ripple across the globe.

American Airlines, which operates 24 Max planes and has 76 more on order, canceled about 1,200 flights in March. With no sign that the Max will be flying again anytime soon, American said it was extending cancellations through June 5. The airline also said it was lowering its estimated quarterly revenues, in part owing to the grounding of the Max.

Boeing, which will report earnings this month, will undoubtedly take a financial hit this quarter, and most likely for the rest of the year.

“Boeing revenue, profit and margins for 2019 are in jeopardy after the grounding of its 737 Max,” according to a report by Bloomberg Intelligence, which estimated that the cost of lawsuits and reimbursements could total \$1.9 billion in just six months.

#### ADVERTISEMENT

And while Boeing has already taken orders for more than 4,600 additional Max jets, representing the vast majority of its total backlog and billions of dollars in future sales, it may find new orders in short supply. On Tuesday, it said there were just 32 new orders for the jet in the first three months of the year, compared with 122 a year earlier. Boeing this week slowed its production of 737 planes to 42 a month, from 52, with most of those being the Max model.

“It is difficult to expect a 737 Max order at the upcoming Paris Air Show,” Noah Poponak, an analyst at Goldman Sachs, wrote in a recent note, referring to the annual event where many commercial airline deals are sealed.



## **Boeing 737 Max: What's Happened After the Ethiopian Airlines and Lion Air Crashes**

Boeing has come under intense scrutiny after its best-selling 737 Max jet was involved in two deadly crashes in five months.

Already, some airlines are expressing reservations about continuing to fly the Max, including the national airlines of Indonesia and Ethiopia, the two countries where the Max crashed. Garuda Indonesia has asked to cancel its order for 49 Max planes. And Ethiopian Airlines is reportedly reconsidering its order for 25 additional Max planes because of the “stigma” surrounding the aircraft.

“We continue to assess the financial impact, including working capital, of our production decisions and pause in deliveries,” Boeing said in a statement. “The 737 Max return-to-service timeline, as well as future rate decisions, will influence the cash receipts profile, including both delivery and pre-delivery payments.”

Boeing is likely to need to compensate airlines for the cost of canceled flights, leasing replacement aircraft and higher fuel costs on less efficient planes needed to pick up slack for the grounded Maxes.

“It is quite obvious that we will not take the cost,” Bjorn Kjos, the chief executive of Norwegian Air, which operates 18 Max jets, said in March. “We will send this bill to those who produced this aircraft.”

Those costs could amount to about \$115 million a month for Boeing, or perhaps much more, according to the J.P. Morgan analyst Seth Seifman.

Richard Aboulafia, vice president for analysis at the Teal Group, an aviation consulting firm, said, "The company is big and incredibly profitable, but a billion or two here and there stings."

Meanwhile, it remains unclear when regulators will clear the planes to fly again. Boeing had been hoping to submit a software update to the Federal Aviation Administration soon, but last week said work on the fix had been delayed by several weeks.

Once the new software is submitted, it must be approved by the F.A.A. and other international regulators. And before the Max can fly again, all the planes will have to be updated and pilots retrained. Mr. Seifman predicted a return between August and November.

Scrutiny from lawmakers over the F.A.A.'s certification process could mean further delays, Mr. Seifman said in a note. "For the F.A.A., various investigations into its independence will likely result in a high degree of caution and the need for an extensive and compelling paper trail to back the decision," he wrote.

International regulators, which have traditionally followed the F.A.A.'s lead, are already signaling they may take longer to approve the planes to fly in their airspace.

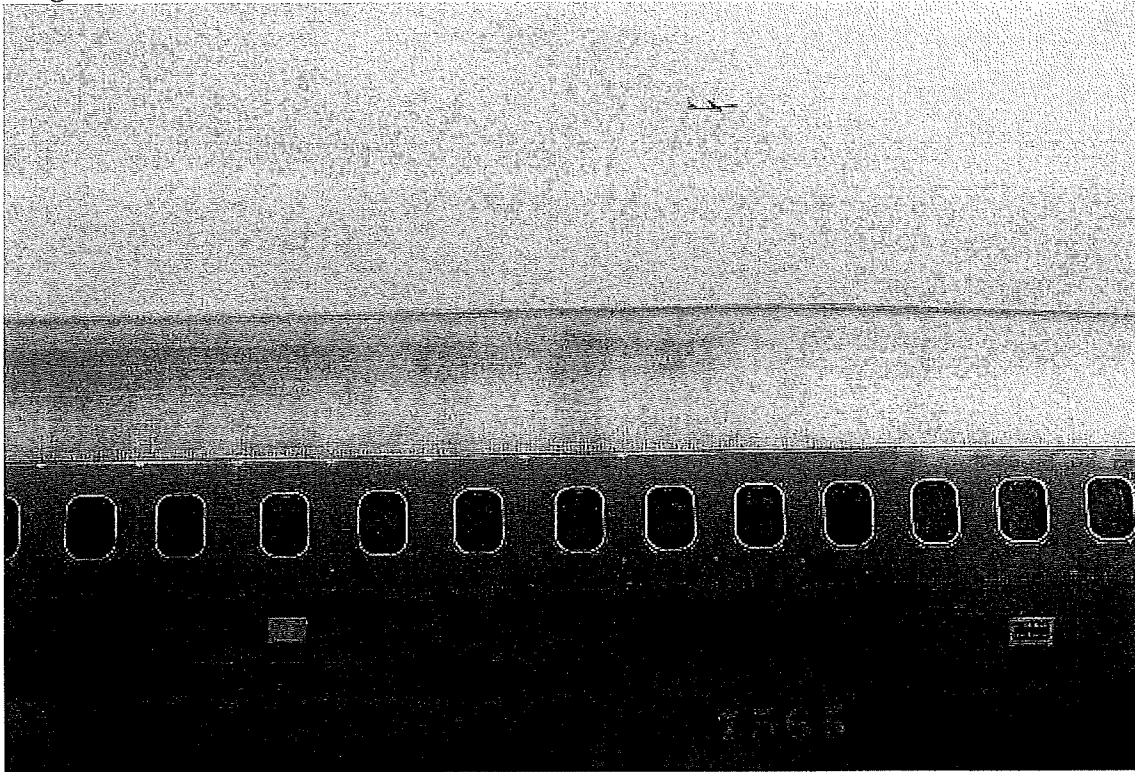
"After the update, we will take a few months to check things to be careful that everything is O.K. before we allow the Max to fly again," said Polana Pramesti, the head of Indonesia's civil aviation authority.

Analysts also believe that regulators in China could drag their feet to reduce overall United States exports.

"The company is big and incredibly profitable, but a billion or two here and there stings," one analyst said. CreditElaine Thompson/Associated Press



Image



“The company is big and incredibly profitable, but a billion or two here and there stings,” one analyst said. CreditElaine Thompson/Associated Press

“This seems to have fractured the international trust that has existed for decades,” Mr. Sullenberger said. “Now it seems like each nation is prepared to go it alone.”

On Friday, F.A.A. officials met for three hours with safety representatives from the three airlines in the United States that fly the 737 Max — American, Southwest and United — as well as the airlines’ pilots unions. Daniel Elwell, the regulator’s acting administrator, discussed the preliminary findings of the investigations into the two crashes, the coming software update and pilot training.

In a statement, the F.A.A. said Mr. Elwell had also told them that “the agency values transparency” as it works on decisions related to the aircraft.

In the meantime, airlines continue to cancel flights with the plane grounded. Southwest Airlines, which has 34 Max jetliners and was operating about 140 flights a day with the plane before the grounding, has adjusted its schedule through early August. United, which has 14 Max planes, said it was working to manage the disruption and expected 130 related cancellations this month.

Air Canada, which has 24 Max jets, said it had adjusted its schedule through May 31, but was minimizing cancellations “through a series of mitigation measures, schedule changes and temporary route suspensions.”

And when the Max is approved to fly again, it remains unclear whether passengers will feel comfortable on the planes. In the days after the crash of Ethiopian Airlines Flight 302 in March, before the Max was grounded, the travel booking website Kayak.com added a filter that allowed customers to filter by plane type.

Yet for all the uncertainty facing Boeing today, analysts believe there is little long-term risk to the company. Boeing and its European rival Airbus are the only significant manufacturers of commercial aircraft. And the 737 Max, for all its problems, remains one of two midsize fuel-efficient passenger jets on the market, along with the Airbus A320neo.

“Boeing’s best protection is that this is a supply-constrained industry,” Mr. Aboulafia said. “There are only two modern airplanes that offer fuel savings. The risk of defection is minimal because of that.”

Nor is there much risk that airlines that have already placed orders with Boeing will walk away, analysts said. With Airbus also backlogged, airlines looking for new planes have no real alternatives.

“Boeing’s ability to modify the aircraft effectively, the duopoly structure of the aircraft market, the large installed base of 737s, and Boeing’s deep and long-term relationships with its customers mean that demand for the Max will not change dramatically,” Mr. Seifman wrote.

Even if Boeing weathers the immediate financial storm, it faces other unknowns. The families of passengers and crew members killed in the Ethiopian Airlines crash and the crash of Lion Air Flight 610 in October have hired lawyers to pursue legal claims against the company.

The Transportation Department’s inspector general and the Justice Department are investigating the design, manufacturing and certification of the Max. And it may be months or even years before Boeing wins back the public’s confidence.

“The general flying public seems to be asking more questions about the airplane than they have with prior fleet groundings,” Mr. PoPONAK, the Goldman Sachs analyst, wrote in a recent note. “We see a risk that lasts in the order book moving forward over the next few years.”

A version of this article appears in print on April 14, 2019, on Page B1 of the New York edition with the headline: Costs Pile Up as Boeing Crisis Drags On.

Technology

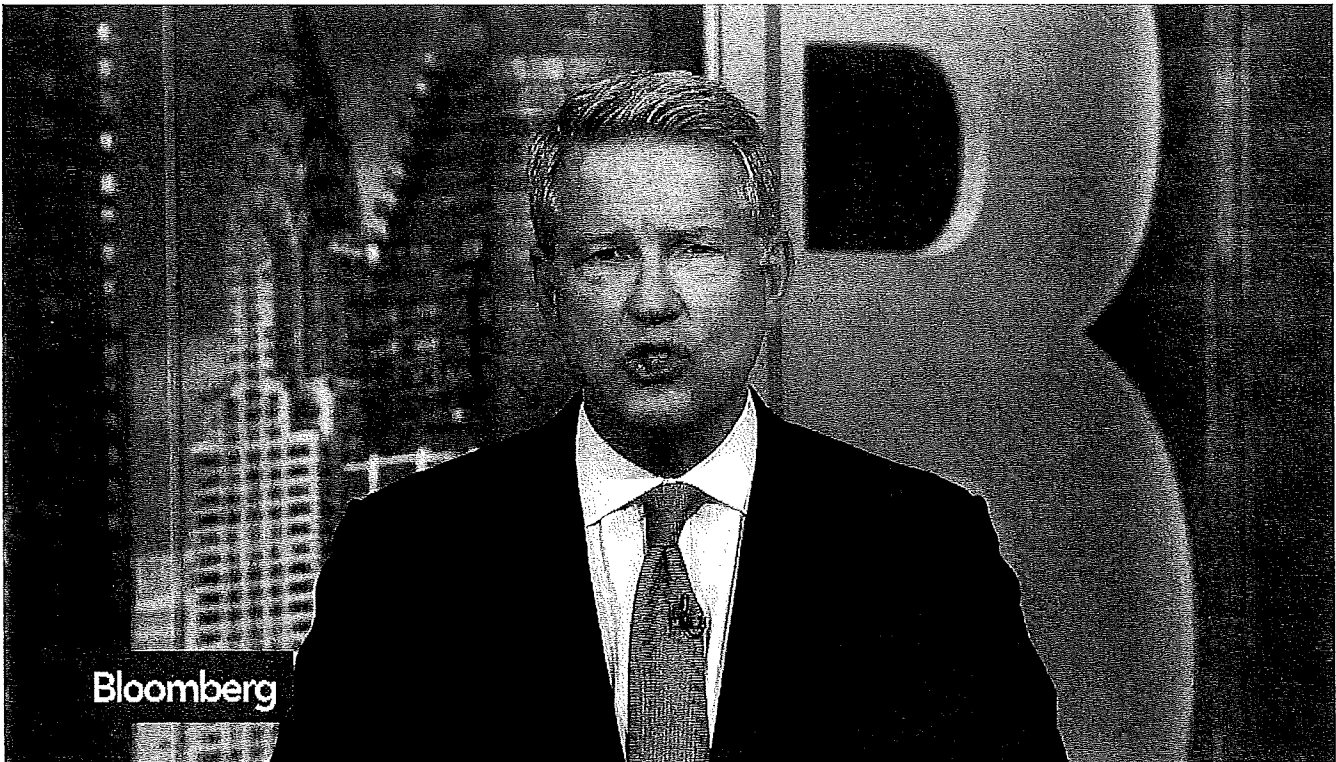
# Boeing Cuts 737 Jet Output 19% as Global Groundings Drain Cash

By [Julie Johnsson](#)

April 5, 2019, 1:03 PM PDT

Updated on April 5, 2019, 5:54 PM PDT

- ▶ Slowdown could hurt suppliers who had cranked up capacity
- ▶ Planemaker also names four-member board panel to review safety

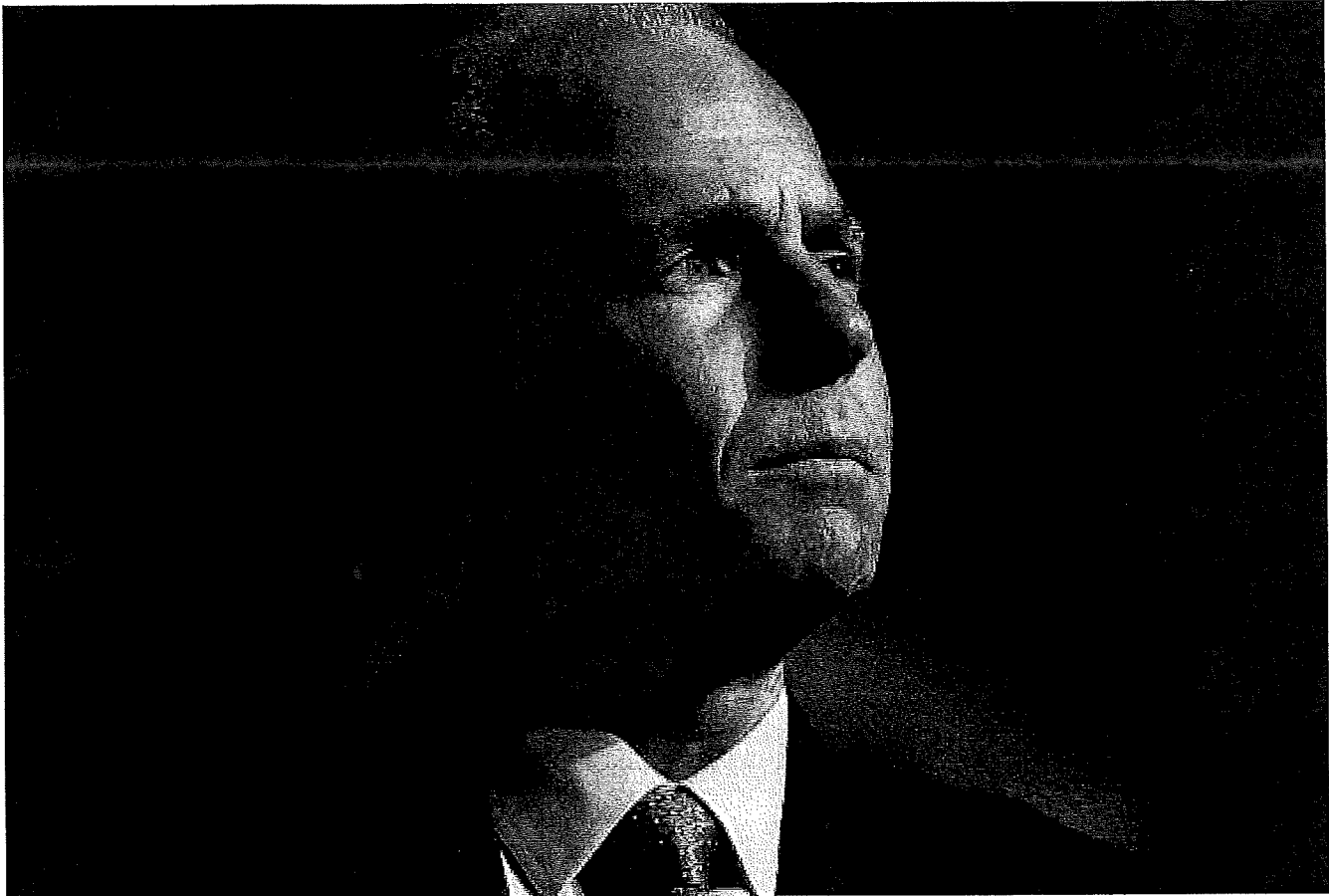


What the Ethiopia Crash Report Means for Boeing

Boeing Co. is cutting production of its 737 jetliner for the first time since the Sept. 11 attacks as the planemaker works to limit financial damage from the global grounding of its newest and best-selling aircraft model.

By slashing output 19 percent -- to 42 airplanes a month by mid-April -- Boeing will be able to reduce its spending on the 737 and preserve cash. As work slows in a Boeing factory south of

Seattle, two key suppliers, CFM International and Spirit AeroSystems Holdings Inc., indicated they would continue full-tilt at the current record pace.



Dennis Muilenburg *Photographer: Anna MoneyMaker/Bloomberg*

Boeing Chief Executive Officer Dennis Muilenburg outlined the plan Friday as the company ramps up efforts to restore public confidence in the 737 Max and the planemaker's commitment to safety after two of the aircraft crashed within five months. Boeing is facing criminal and Congressional probes stemming from the disasters. To help quell concerns, the company's board named a committee dedicated to reviewing the design and development of its aircraft.

"Safety is our responsibility, and we own it," Muilenburg said in a statement..... Friday after the close of regular trading. "When the Max returns to the skies, we've promised our airline customers and their passengers and crews that it will be as safe as any airplane ever to fly."

Even at the slower production pace, Boeing faces about \$3.6 billion in quarterly losses, said George Ferguson, an analyst with Bloomberg Intelligence. As it continues to build planes, the company is foregoing payments from customers who aren't able to take delivery because of the grounding.



## What Bloomberg Intelligence Says

“Boeing’s 737 rate-cut to 42 a month from 52 starting in mid-April tells us the company thinks it will take longer than expected for regulators to end the grounding of the 737 Max.”

--George Ferguson, Americas aerospace analyst

[Click here](#): to view the research.

Before the Lion Air and Ethiopian Airlines crashes, Boeing had planned to raise output of the 737, a workhorse for budget carriers, about 10 percent by midyear. The reversal squeezes suppliers who’d hired workers and invested to expand capacity. Some had already started moving toward a 57-jet monthly pace under a carefully orchestrated schedule.

Boeing will coordinate with customers and suppliers to blunt the financial impact of the slowdown, and for now doesn’t plan to lay off workers from the 737 program, Muilenburg said.

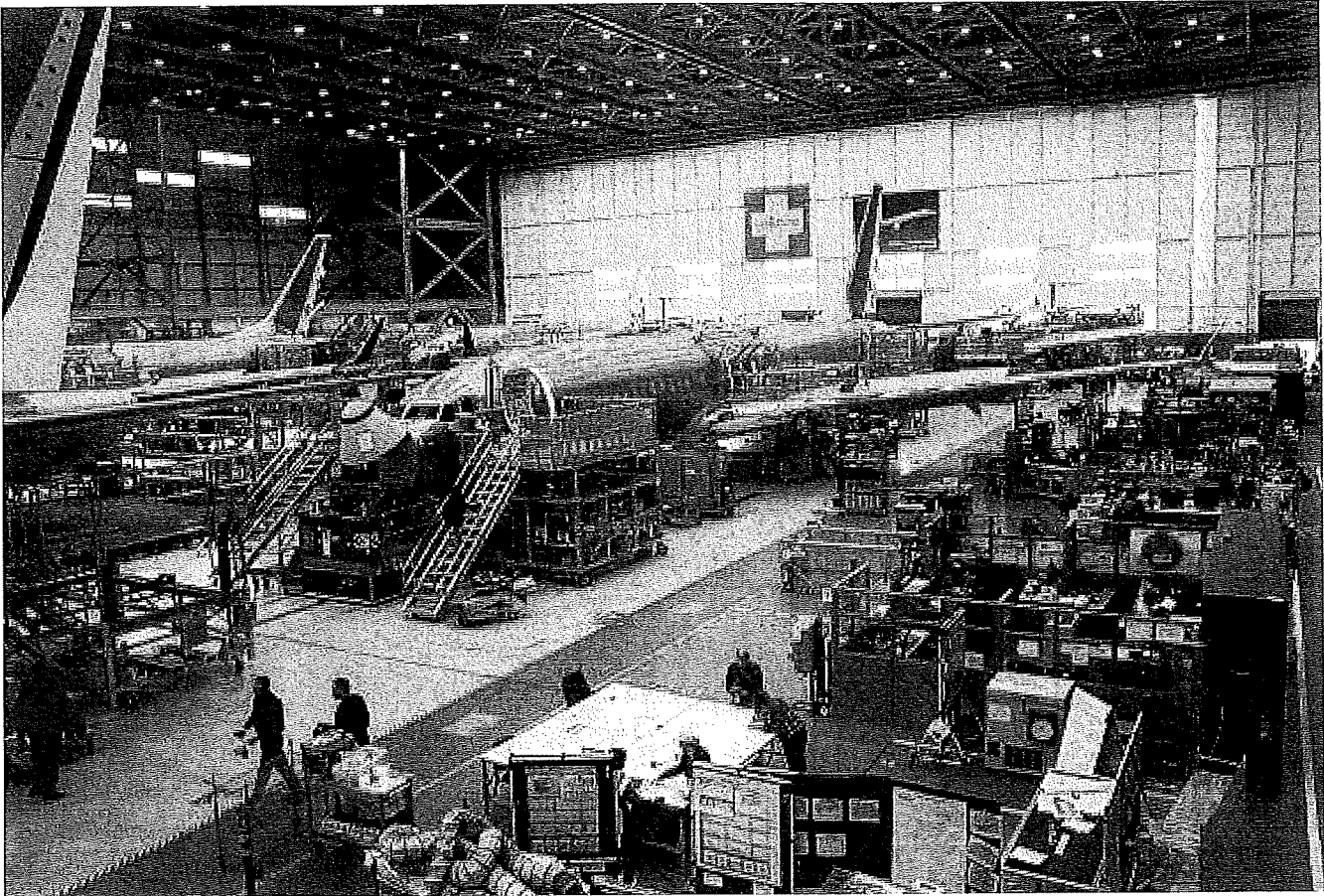
“It’s cash conservation,” said Stephen Perry, co-founder of Janes Capital Partners, an investment bank that focuses on aerospace and defense deals. A short-term slowdown could help Spirit AeroSystems and CFM work out supplier issues of their own, he said. Though “if it lasts longer, it’s problematic.”

Both CFM and Spirit AeroSystems were plagued by delays last year. The slowdown at Boeing will give them a chance to bolster the weak links in their own supply chains, Perry said. By continuing at full speed, the companies will be positioned to accelerate to an even higher rate, if needed, once Max deliveries resume, he said.

## Supplier Plans

Maintaining the status quo will “help ensure the stability of the global CFM supply chain,” Jamie Jewell, a CFM spokeswoman, said in a statement. Spirit AeroSystems, which makes the fuselages for the Max, said it plans to store the 737 fuselages and other components around its factories. “This staggered production approach allows us and our supply base to better prepare for and support 737 production,” said CEO Tom Gentile.

Boeing shares fell 2.4 percent to \$382.69 in after-hours trading. The stock has declined 7.2 percent since the March 10 Ethiopian crash, the second-worst performance among the 30-member Dow Jones Industrial Average. Spirit Aero fell 1.9 percent to \$87.97.



A Boeing Co. 737 Max airplane at the company's manufacturing facility in Renton. *Photographer: David Ryder/Bloomberg*

The planemaker doesn't rule out further cuts to production if the grounding proves to be lengthy. "We'll continue to assess our production plan," Boeing spokesman Chaz Bickers said.

Boeing's announcement comes a day after Ethiopian officials released a preliminary report on the latest Max accident, concluding that the jet experienced the same equipment failure as a Lion Air 737 that crashed off Indonesia in October. The two incidents killed a combined 346 people.

### Ethiopian Carrier Rethinks 737 Max Purchase, Citing 'Stigma'

If regulators take their time in certifying the Max's return to the skies, Boeing would be forced to stash hundreds of factory-fresh jets in airports across the Western U.S. until commercial flights resume. As of Friday, there were 21 of the jets stored at Paine Field north of Seattle, according to 737 production blogger Chris Edwards, and eight at Boeing Field to the city's south.

A swift return to normal looks increasingly unlikely for the Max and Boeing. Engineers are still finishing work on a software update for a stall-prevention system linked to a Lion Air crash in

October and the fatal dive of an Ethiopian Airlines plane near Addis Ababa last month. The disasters killed a combined 346 people.

Ethiopian Transport Minister Dagnawit Moges recommended Thursday that Boeing review its flight-control system after releasing a report that she says showed pilots had followed proper procedures to counter the flawed anti-stall system in the plane.

## Rigorous Review

Muilenburg on Friday said he asked Boeing directors to establish a committee to review “company-wide policies and processes for the design and development of the airplanes we build.” The group, chaired by Retired Admiral Edmund Giambastiani Jr., will study the safety of the 737 Max and other programs and recommend improvements.

Boeing said April 1 that it would be several weeks before the software patch for the Max is submitted to regulators. The U.S. Federal Aviation Administration vowed a rigorous review, while authorities in Europe, Canada and China plan to do their own analysis.

By establishing a common cause behind the two crashes, the Ethiopia report eliminates the worst-case scenario for Boeing -- a new technical issue that would've made it far more complex for Boeing engineers to resolve.

“There now appears to be a sound technical fix,” Douglas Harned, analyst with Bernstein, said in a note to clients Friday morning. “Timing is still uncertain, however, with multiple investigations underway. Still, we are now looking at scenarios we believe can keep 2020-21 free cash flow roughly the same, even though 2019 will likely see large swings in inventory.”

– *With assistance by Rick Clough*

## In this article

---

BA  
**BOEING CO/THE**  
 375.65 USD ▼ -3.99 -1.05%

---

SPR  
**SPIRIT AEROSYS-A**  
 86.57 USD ▼ -0.98 -1.12%

---

INDU  
**DJIA**  
 26,383.80 USD ▼ -28.50 -0.11%

---

[Terms of Service](#)  
[Trademarks](#) [Privacy Policy](#)  
©2019 Bloomberg L.P. All Rights Reserved  
[Careers](#) [Made in NYC](#) [Advertise](#) [Ad Choices](#) [Contact Us](#) [Help](#)

# Boeing will cut 737 Max production as it works to get plane back in the air

By [Nathaniel Meyersohn](#), CNN Business

Updated 5:12 PM ET, Fri April 5, 2019

**New York (CNN Business)** Boeing is cutting its 737 Max production rate as the company works to return the plane to flight.

"We have decided to temporarily move from a production rate of 52 airplanes per month to 42 airplanes per month starting in mid-April," CEO Dennis Muilenburg said in a statement Friday.

Muilenburg was talking about the company's entire 737 production system, which includes more than just the Max line of jets. But most are Max planes.

The Max came under scrutiny following two crashes in the span of about five months involving Lion Air and Ethiopian Airlines. A total of 346 people died in the two accidents.

All of Boeing's 737 Max planes were grounded after the crash in Ethiopia last month.

In a new statement Friday, Muilenburg also said he has asked the company's board to establish a committee that will review the policies and processes Boeing uses to design and develop its airplanes.

That committee will look at how effective the company is able to assure the "highest level of safety" for the Max planes, as well as Boeing's other planes.

The latest decision comes the day after a preliminary report on the Ethiopian Airlines tragedy showed that the pilots of that plane performed all of the aircraft manufacturer's procedures, but were unable to control the jet before it crashed.

On Thursday, Boeing recognized the similarities between the two crashes, and acknowledged the role of its anti-stall system. The Ethiopian report does not specifically name that system, but its findings seem to indicate that the system pushed the plane into a dive fueled by erroneous angle of attack sensor readings.

Boeing is working to develop a software fix that will get the 371 grounded 737 Max jets back in the air.

Muilenburg also said Thursday that the company was "sorry for the lives lost" in the 737 Max crashes.

"The history of our industry shows most accidents are caused by a chain of events," he wrote in his apology. "This again is the case here, and we know we can break one of those chain links in these two accidents."

Boeing's (BA) stock dipped nearly 2% in after-hours trading Friday.



# Trump administration grounds Boeing 737 Max planes

By Kevin Liptak, CNN

Updated 5:25 PM ET, Wed March 13, 2019

**Washington (CNN)** — Facing mounting pressure, President Donald Trump said Wednesday his administration was ordering Boeing 737 Max jets grounded until more information is gathered about the crash of an Ethiopian aircraft.

It was a turnabout from the administration's earlier position, which deemed the planes safe to fly even as dozens of other nations banned them after they were involved in two fatal disasters.

Trump said the decision to ground the Max 8 and Max 9 was made in light of new information about last week's crash, which killed 157 people. The Federal Aviation Administration said new evidence had been collected at the sight of the crash on Wednesday, and that information -- along with new satellite data -- led to the grounding decision.

Until Wednesday afternoon, administration officials had insisted the planes were safe, bucking calls from lawmakers and airline labor unions to suspend flights until an investigation could be completed.

Even as he was announcing his administration's decision, Trump said the move was more precautionary than mandatory.

"I didn't want to take any chances. We didn't have to make this decision today," he said. "We could have delayed it. We maybe didn't have to make it at all. But I felt it was important both psychologically and in a lot of other ways."

Trump said his decision was fact-based, even as he admitted it was made partly with regard for the mental well-being of American travelers.

"The safety of the American people, of all people, is our paramount concern," Trump told reporters.



**Related Article:** Canada grounds Boeing Max planes

Planes in the air when the announcement was made were ordered to land at their destination and remain grounded. Though Trump said airlines and pilots had been notified of the decision, one of the airlines using the plane said it was still working to confirm the order.

"We are currently seeking confirmation and additional guidance from the FAA," a Southwest Airlines spokesman said.

Speaking with reporters on a conference call, acting FAA Administrator Daniel Elwell said the grounding of the 737 Max 8 and 9 came in light of new information, including from the flight data recorder and voice recorder.

"Since this accident occurred we were resolute that we would not take action until we had data," Elwell said. "That data

coalesced today."

He said the new data tied the Ethiopian airline disaster to an earlier crash of the same model plane in Indonesia.

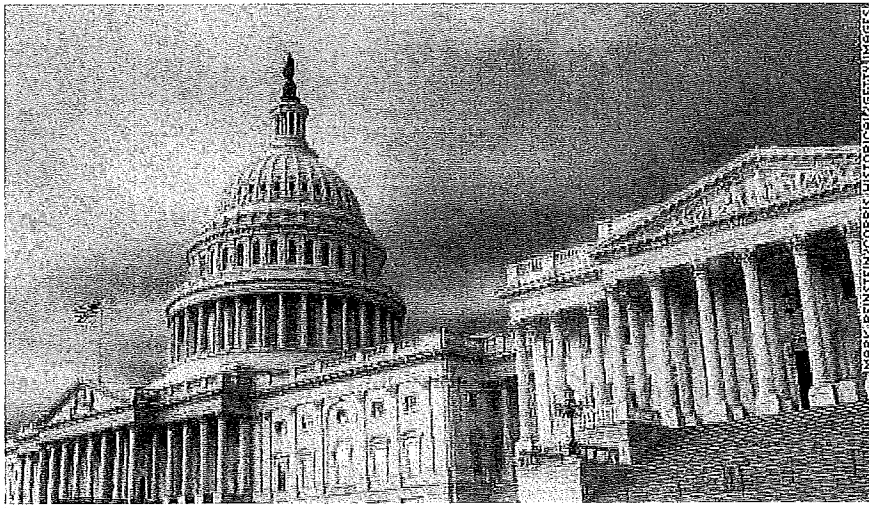
Elwell declined to guess how long the grounding would last but he said he hoped to keep it "as short as possible."

Trump described the airliner issue as "a terrible, terrible thing" and defended the jet's manufacturer, which he has maintained close ties to over the course of his presidency.

"Boeing is an incredible company," he said. "They are working very hard right now."

He said the company was looking to find answers to the plane issue, but "until they do, the planes are grounded."

## Close ties between Boeing and Trump administration



**Related Article:** Boeing a major lobbying player on Capitol Hill

The global grounding of Boeing's 737 Max 8 airliner had drawn new attention to the close ties between the manufacturer and the Trump administration.

Trump has touted Boeing sales across the globe -- including two weeks ago in Vietnam -- and has cultivated close relationships with the company's executives. His acting defense secretary served atop the company for more than three decades, including as the newly scrutinized planes were being developed. The company has spent millions over the past years lobbying decision-makers in Washington.

Now, as Boeing faces crumbling public confidence in one of its

marquee products, those ties are being viewed in a new light.

Trump spoke by phone Wednesday with CEO Dennis Muilenburg ahead of his grounding announcement, which came during a session on drug trafficking.

A day earlier, Muilenburg assured Trump in a separate phone call the 737 Max 8 was safe, despite the two recent crashes. Hours after that call, the FAA said it remained confident in the planes, even as governments across Europe and Asia grounded them.

That view changed by midday, as Canada's minister of transport said the country would no longer allow Boeing 737 Max 8 or 9 aircraft to take off or land in Canada. A day earlier, the European Union suspended operations of the model. That followed announcements from countries in Asia, Africa and the Middle East declaring use of the plane forbidden, for now.

Startling real-time flight tracking maps showed the plane flying only over North America -- and nowhere else -- as the White House and the FAA continued to deem the aircraft safe.

While the President was not explicitly pushing for the grounding over the last 24 hours, Canada's decision made it untenable for the US to hold out, according to an official familiar with the matter.

The President was eager to act given the public pressure, the official said, but it was the satellite data that finalized the decision on the grounding order.

Despite the initial reluctance to ground the planes, Trump insisted on Wednesday his administration had acted quickly and "fact-based" in response to the crash, which occurred on Sunday.

Democratic and GOP lawmakers had been agitating for a ban on the plane. Senators calling for a temporary grounding of the planes included Republicans Mitt Romney, the 2012 presidential nominee, and Ted Cruz, who chairs a subcommittee on aviation and space. Sen. Roger Wicker, another Republican, announced the Commerce Committee he chairs would hold a hearing on the matter.

Sen. Richard Blumenthal, a Connecticut Democrat who sits on the Senate Commerce, Science and Transportation Committee, said the partial government shutdown at the start of the year may have affected the FAA's ability to execute planned software changes on the Max 8 planes. But the FAA's Elwell denied the shutdown affected anything.

"We just got confirmation that the shutdown did not cause any delay in work on the software -- the software addition to the MAX," he told reporters Wednesday.

## Mixed messaging



**Related Article:** Wall Street Journal: Software fix to Boeing 737 Max 8 planes delayed in part by government shutdown

Helmed by an acting administrator for more than a year, the FAA finds itself the focus of congressional and public scrutiny for its role in inspecting and ensuring the safety of Boeing airplanes. Some US pilots who fly the Boeing 737 Max registered complaints about the way the jet has performed in flight, according to a federal database accessed by CNN.

One of the pilot complaints from the federal database include a report saying it is "unconscionable" that Boeing, the FAA and the pilot's airline (which was unnamed) would have pilots flying the aircraft without adequate training or sufficient documentation.

The same entry also charges that the flight manual for the 737 Max 8 "is inadequate and almost criminally insufficient."

The FAA didn't respond to a request for comment about the complaints.

Trump was expected to name Steve Dickson, a former Delta executive, to the permanent FAA administrator role as of last week, according to a senior administration official.

The President made the selection before the current Boeing controversy, and the timing of any announcement isn't clear. The official said no nomination is considered final until Trump makes his decision public.

The administrator role has been filled in an acting capacity by deputy administrator Elwell for more than a year. Dickson was Delta's senior vice president for flight operations and is a former military and commercial pilot, including of earlier versions of the 737 aircraft.

Trump initially wanted to name the pilot of his personal jet, John Dunkin, to the job but faced questions about Dunkin's qualifications. Trump has long cast himself as an authority on air travel and aviation, including in a tweet on Tuesday.

"Airplanes are becoming far too complex to fly. Pilots are no longer needed, but rather computer scientists from MIT," he wrote, adding: "I don't know about you, but I don't want Albert Einstein to be my pilot. I want great flying professionals that are allowed to easily and quickly take control of a plane!"

## Shanahan connection



**Related Article:** Trump airs doubts about airplane tech after Boeing crashes

Asking on Capitol Hill Tuesday whether the planes were safe to fly, acting Defense Secretary Patrick Shanahan -- who was an executive at Boeing for 31 years, including overseeing commercial aircraft -- demurred.

"Let me just say this: my condolences go out to all the all the families on Ethiopian Airlines," he said. "These situations, as you well know, are very serious and let's let the FAA and others take command of the situation and trust that part of the process."

Shanahan has faced accusations of being overly warm to his former employer in his Pentagon role, including in a new request filed Wednesday by a government watchdog group asking the Defense Department's inspector general to investigate whether Shanahan violated government ethics rules.

The complaint cites news reports claiming Shanahan has promoted Boeing's products over rival Lockheed Martin in his official tenure.

"It is extremely disturbing that acting Secretary Shanahan appears to be using his public office for Boeing's private gain," said Noah Bookbinder, executive director of Citizens for Responsibility and Ethics in Washington, which filed the complaint. "Ethics rules make clear that government employees cannot abuse their offices to promote a private company, much less work on official matters involving their former employer."

Shanahan wouldn't be alone in promoting Boeing's products. It was only two weeks ago that Trump himself oversaw the sale of 100 of the 737 Max planes while in Hanoi for a summit with Kim Jong Un.

Ahead of his nuclear talks, Trump participated in a trade signing ceremony with a number of airline executives inside the Vietnamese presidential palace. Among them was Kevin McAllister, Boeing's executive vice president CEO of Boeing Commercial Airplanes.

Among the agreements was a deal between Boeing and VietJet, a low-cost airline based in Hanoi, for 100 of the 737 Max planes -- 80 of the Max 10 variety, and 20 of the Max 8, the aircraft current under scrutiny. Boeing said the order was worth \$12.7 billion.

Now, Vietnam says the safety issues must be resolved before the planes can fly.

*CNN's Fredreka Schouten, Greg Wallace and Annie Grayer contributed to this report.*

*This story has been updated.*