



February 8<sup>th</sup>, 2022

Ohio House Transportation and Public Safety Committee

Brian Baldrige, Chair

**RE: H.B. No 490 / Revision of Laws Regarding Navigable Airspace**

Chair Baldrige, Vice-Chair McClain, Ranking Member Sheehy, and Transportation Committee members, thank you for your time. My name is Kyle Lewis, Great Lakes Regional Manager for Government Affairs with the Aircraft Owners and Pilots Association (AOPA). AOPA is the world's largest aviation organization, representing nearly 330,000 pilots, aircraft owners, and aviation enthusiasts, of which over 9,500 reside in the State of Ohio.

AOPA is strongly urging that the language specific to airspace and airport protections, including the language offered defining "navigable airspace" be adopted in House Bill 490. The current language found in the Ohio Revised Code is in dire need of clarification and updates to satisfy Federal Aviation Administration (FAA) guidance and regulation.

This language is not detrimental to property rights in Ohio, nor does it limit what can potentially be constructed. The language is simply required for ODOT to perform the mandated task of reviewing and issuing tall structure permits, keeping those in the air and on the ground safe – the number one priority. The language will also provide Ohio's public-use airports a level of protection from loss of utility due to uncoordinated tall structure construction. The new and updated language proposed in HB 490 will give local airport sponsors (the governing jurisdiction over airport operations, planning, and funding) the ability to have a voice in the process. This is not making the overall bureaucracy larger, but smarter. Aviation in Ohio is a 13-billion-dollar economic driver. Since 2005, over 3.3 billion dollars have been invested in Ohio's public airports from local, state, and federal funding sources. Many of these investments have gone toward runway rehabilitation, obstruction removal, navaid and lighting upgrades, and airfield infrastructure enhancements. HB 490 will ensure that these investments are protected and serve the aviation infrastructure in Ohio.

What do other states do? Nearly every state in the country has a tall structure permitting process, administered by an aeronautics commission or department of transportation. Our neighbors to the north have such a program that outright denies a permit if the proposed construction will alter the utility of an airport, or alter an instrument approach clearance altitude (see attached documentation). In the last decade, states like Minnesota, Michigan, North Dakota, and others have updated their tall structure permitting processes to maintain alignment with CFR Part 77 and protect the utility of airports within their jurisdiction. Moving further west to Kansas, even at the local county level, ordinances have been put in place that outright ban the construction of certain tall structures that interfere with airports and airspace.

Let's now discuss the roles and responsibilities of the FAA in this process. The FAA will take necessary actions to protect and maintain the safety and efficiency of the National Airspace System (NAS). There are several methods to this, some of those being detrimental to airports, like shortening runway landing distances, raising instrument approach minimum altitudes, and requiring obstructions and hazards be lit or marked with high visibility markings. These actions can ultimately hurt the utility of the airport, impact potential airport



development, and deter local airport sustainability. The FAA does NOT approve or deny construction of tall structures.

The FAA expects state and local law to protect airports from incompatible land use, in fact, this is spelled out in the federal grant obligations that airport sponsors must abide by. Code of Federal Regulation Part 77, which speaks specifically to airspace and obstruction evaluation processes, provides current terminology and processes by which airspace is evaluated when a structure of height is proposed. The current ORC is not in line with CFR Part 77, and this creates problems specific to the Ohio Department of Transportation, Office of Aviation's (ODOT) tall structure permitting process. The ODOT permitting process is key in protecting airports. Without the ability to review all proposed structures in navigable airspace, there may be impacts to airports that will be everlasting. The ODOT permit process, along with the FAA obstruction evaluation report, provides information to local jurisdictions to make sound decisions based on safety and potential airport economic impact. The FAA does not consider the economic impact when determining an obstruction.

How does this impact the day-to-day operations of an airport? Let's have a short "ground school"

- Instrument Approach Procedures
- Raised Minimums
- Approaches not available at night

House Bill 490 is also designed to allow for aviation infrastructure to grow into the future. Ohio is becoming a leader in the Unmanned Aircraft Systems (UAS) frontier, with airports like Springfield-Beckley Municipal taking visionary steps to create an infrastructure to support these new vehicles. UAS operators will need protected airspace, robust airport infrastructures, and a strong partner with the regulating bodies in which they will choose to operate.

One change AOPA would like to see, involves the definition of "Aircraft". The current text would call for "ultralight vehicles" to be included as aircraft for the intent and purpose of section 4561.01. FAA regulations specifically define ultralights as vehicles used for recreation in FAR Part 103, and not aircraft as defined under FAR Part 91 and Part 45. AOPA would ask that language to differentiate ultralights from aircraft be included in this bill.

House Bill 490 is integral to the growth of all aspects of aviation in Ohio, and AOPA is proud to support this bill. On behalf of our membership in the State of Ohio, AOPA thanks you for your time and consideration on this issue.



If there are any questions or concerns, do not hesitate to contact me at [kyle.lewis@aopa.org](mailto:kyle.lewis@aopa.org) or 301-695-2229

Kyle Lewis

Regional Manager for Government Affairs and Airport Advocacy / Great Lakes Region  
AOPA

cc:

*Rep. Juanita O. Brent*  
*Rep. Michael Sheehy*  
*Rep. Rodney Creech*  
*Rep. Haraz Ghanbari*  
*Rep. Thomas Hall*  
*Rep. Mark Johnson*  
*Rep. Michele Lepore-Hagan*

*Rep. Kevin Miller*  
*Rep. Jessica Miranda*  
*Rep. Michael O'Brien*  
*Rep. Bob Young*  
*Rep. Adam Holmes (Sponsor)*

## OFFICIAL WEBSITE OF MICHIGAN.GOV

DEPARTMENT OF TRANSPORTATION

## AERONAUTICS



AERO / EXPLORE AERO / AIRSPACE &amp; ZONING

## Applying for Tall Structure Permit

Federal Aviation Regulation (FAR) Part 77 requires that proposals to construct anything which may obstruct the use of airspace by aircraft requires notice to the FAA. The FAA has an **online notice criteria tool** that can be used to determine if notification is required.

The Michigan Tall Structure Act requires these proposals to obtain a Tall Structure Permit from the Office of Aeronautics. If the proposed construction or alteration meets either of the following criteria, a Michigan Tall Structure Permit is required:

- Anything over 200' AGL (above the ground at its site).
- Proposals in the vicinity of an airport, if the proposal would be higher than a slope from the nearest point on a runway and increasing its elevation at a ratio of:

Longest Runway Length	Proximity to Closest Runway	Slope
More than 3200 ft.	Within 20,000 ft.	100 to 1
3200 ft. or less	Within 10,000 ft.	50 to 1
Heliport	Within 5,000 ft.	25 to 1



Unless an airspace study results in a finding of noninterference, the Tall Structure Act requires us to object to:

- Structures greater than 1000 ft. high (500 feet in a VFR flyway or in the vicinity of a natural landmark).
- Structures which would increase the Minimum Obstruction Clearance Altitude for an instrument approach procedure.
- Structures which obstruct imaginary surfaces (as defined in the Tall Structure Act).
- Structures which violate a local airport zoning ordinance

### To start this process:

- Submit an online 7460-1 to the FAA using the **Obstruction Evaluation / Airport Airspace Analysis (OE/AAA)** website.
- If a Michigan Tall Structure Permit is required, the sponsor and representative listed on the 7460-1 will receive an application package via e-mail from our office. This package will consist of a denial letter, application, and invoice (if applicable).

Structure Height (AGL)	Application Fee (non-refundable)	Project Cap Per 1 Nautical Mile (non-refundable)
Less than 50 ft.	\$150	\$1,000
50 – 199 ft.	\$250	\$2,000
200 – 499 ft.	\$300	\$5,000
500 ft. or greater	\$400	\$5,000
No Permit Required	\$50	\$2,000

### Application questions?

Office of Aeronautics  
Hilary Hoose: 517-242-2494  
Kelly Badra: 517-335-9282  
MDOT\_Tall\_Structures@Michigan.gov

**On Airport Construction:**

Airspace proposals on most Michigan airports are coordinated by the Office of Aeronautics under the State Block Grant Program. Airspace proposals for Primary Commercial Service airports and Detroit Willow Run airport are coordinated by the FAA Airports District Office in Romulus, MI.


Any notices for construction on airport property should be electronically filed using the **Obstruction Evaluation / Airport Airspace Analysis (OE/AAA)** website.

**On airport construction questions?**

Office of Aeronautics  
Hilary Hoose: 517-242-2494  
HooseH@michigan.gov

**RELATED CONTENT**

Pay your Tall Structure Invoice by Credit Card

Michigan Tall Structure Act (Changes) 

Michigan Tall Structure Act



**MDOT HOME**  
**MDOT Title II ADA**  
**MDOT TITLE VI**  
**FOIA**

**MICHIGAN.GOV HOME**  
**ADA**  
**MICHIGAN NEWS**  
**POLICIES**

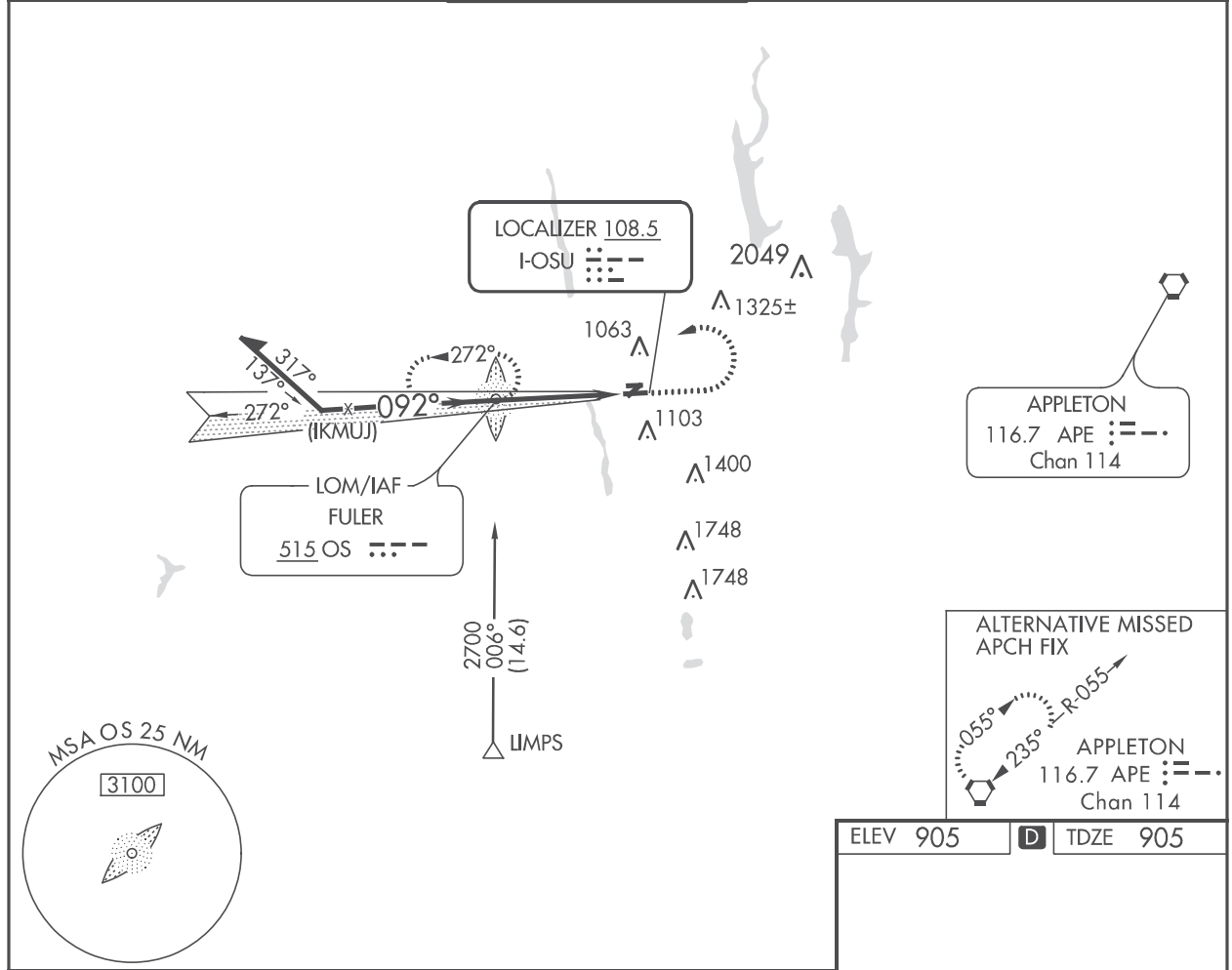
**COPYRIGHT 2022 STATE OF MICHIGAN**

LOC I-OSU <b>108.5</b>	APP CRS <b>092°</b>	Rwy Idg <b>5004</b>
		TDZE <b>905</b>
		Apt Elev <b>905</b>

# ILS or LOC RWY 9R

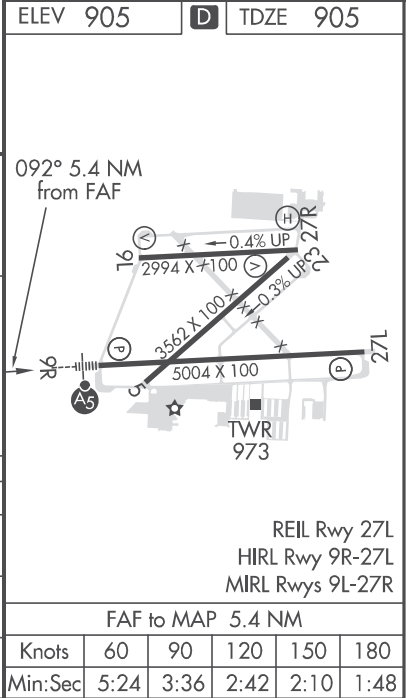
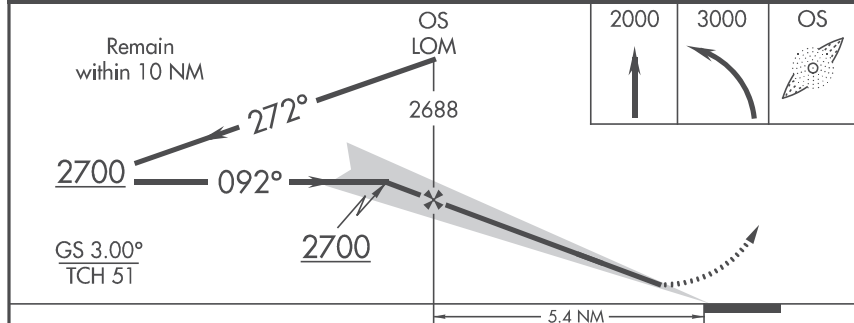
OHIO STATE UNIVERSITY (OSU)

ADF required for procedure entry. ADF required.			MALSR A5	MISSED APPROACH: Climb to 2000 then climbing left turn to 3000 direct FULER LOM and hold.	
ATIS <b>121.35</b>	COLUMBUS APP CON <b>125.95 317.775</b>	STATE TOWER ★ <b>118.8 (CTAF) 254.325</b>	GND CON <b>121.7</b>	CLNC DEL <b>121.7</b>	UNICOM <b>122.95</b>



EC-2, 27 JAN 2022 to 24 FEB 2022

EC-2, 27 JAN 2022 to 24 FEB 2022



CATEGORY	A	B	C	D
S-ILS 9R	1105-1/2 200 (200-1/2)			
S-LOC 9R	1420-1/2	515 (600-1/2)	1420-1	515 (600-1)
CIRCLING	1420-1	515 (600-1)	1420-1 1/2 515 (600-1 1/2)	1680-2 1/2 775 (800-2 1/2)



LOC/DME I-LUK <b>110.9</b> Chan <b>46</b>	APP CRS <b>205°</b>	Rwy Idg TDZE Apt Elev	<b>6101</b> <b>475</b> <b>483</b>
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# ILS or LOC RWY 21L

CINCINNATI MUNI/LUNKEN FLD (LUK)

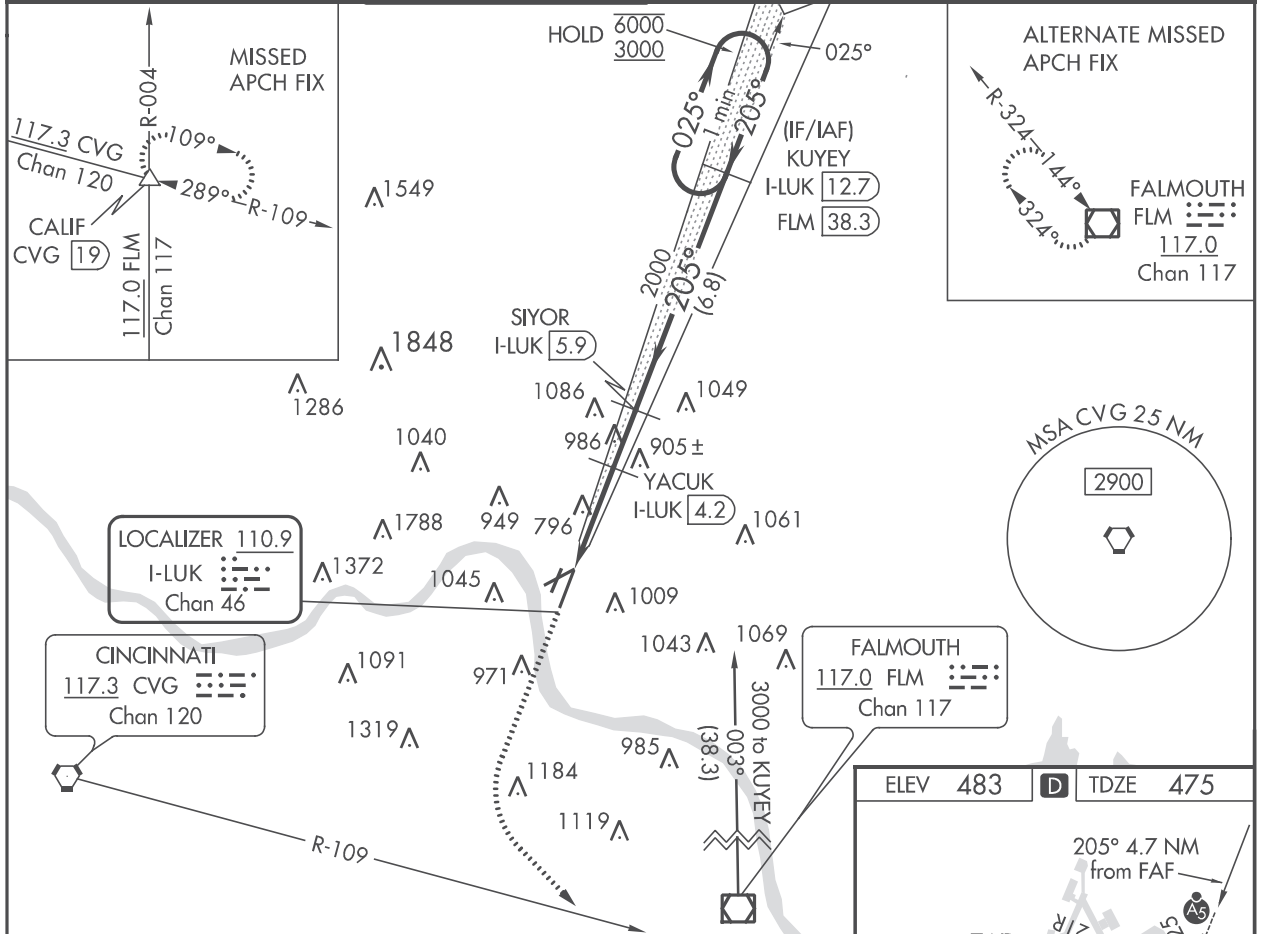
DME required.

⚠ Circling NA for Cat D northwest of Rwy 7 and 21R. Rwy 21L helicopter visibility reduction below 3/4 SM NA. VDP NA when using Cincinnati/Northern Kentucky Intl altimeter setting.  
 ⚠ When local altimeter setting not received, use Cincinnati/Northern Kentucky Intl altimeter setting and increase all DA 86 feet and all MDA 100 feet; increase S-LOC 21L Cat A/B visibility to RVR 5500 and Cat C/D to 2 SM. For inop ALS when using Cincinnati/Northern Kentucky Intl altimeter setting and increase S-ILS 21L all Cats visibility to RVR 6000 and S-LOC 21L Cat A to RVR 5500 and Cat C/D to 2 1/2 SM. For inop ALS, increase S-LOC 21L Cat A/B visibility to RVR 5500, and Cat C/D to 2 SM. Circling Rwy 3L, 7, 21R NA at night.



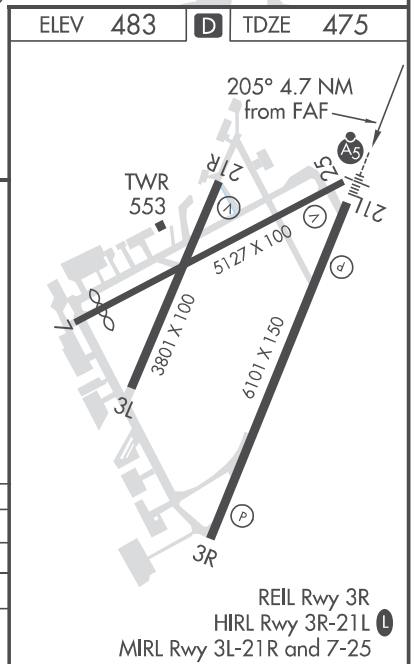
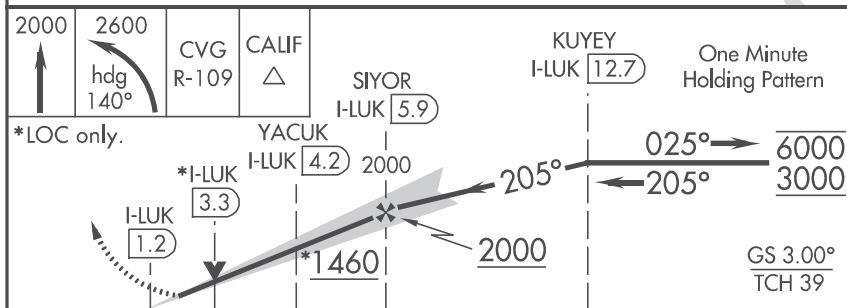
MISSED APPROACH:  
Climb to 2000 then climbing left turn to 2600 on heading 140° and CVG VORTAC R-109 to CALIF/CVG 19 DME and hold.

ATIS <b>120.25</b>	CINCINNATI APP CON <b>121.0 254.25</b>	LUNKEN TOWER ★ <b>118.7 (CTAF) 257.8</b>	GND CON <b>121.9</b>	CLNC DEL <b>121.9</b>	CLNC DEL <b>124.9</b> (when twr closed)	UNICOM <b>122.95</b>
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EC-2, 27 JAN 2022 to 24 FEB 2022

EC-2, 27 JAN 2022 to 24 FEB 2022



CATEGORY	A	B	C	D
S-ILS 21L		798/40	323 (400-3/4)	
S-LOC 21L	1200/40	725 (800-3/4)	1200-1 5/8	725 (800-1 5/8)
CIRCLING	1260-1 777 (800-1)	1360-1 1/4 877 (900-1 1/4)	1360-2 1/2 877 (900-2 1/2)	1400-3 917 (1000-3)

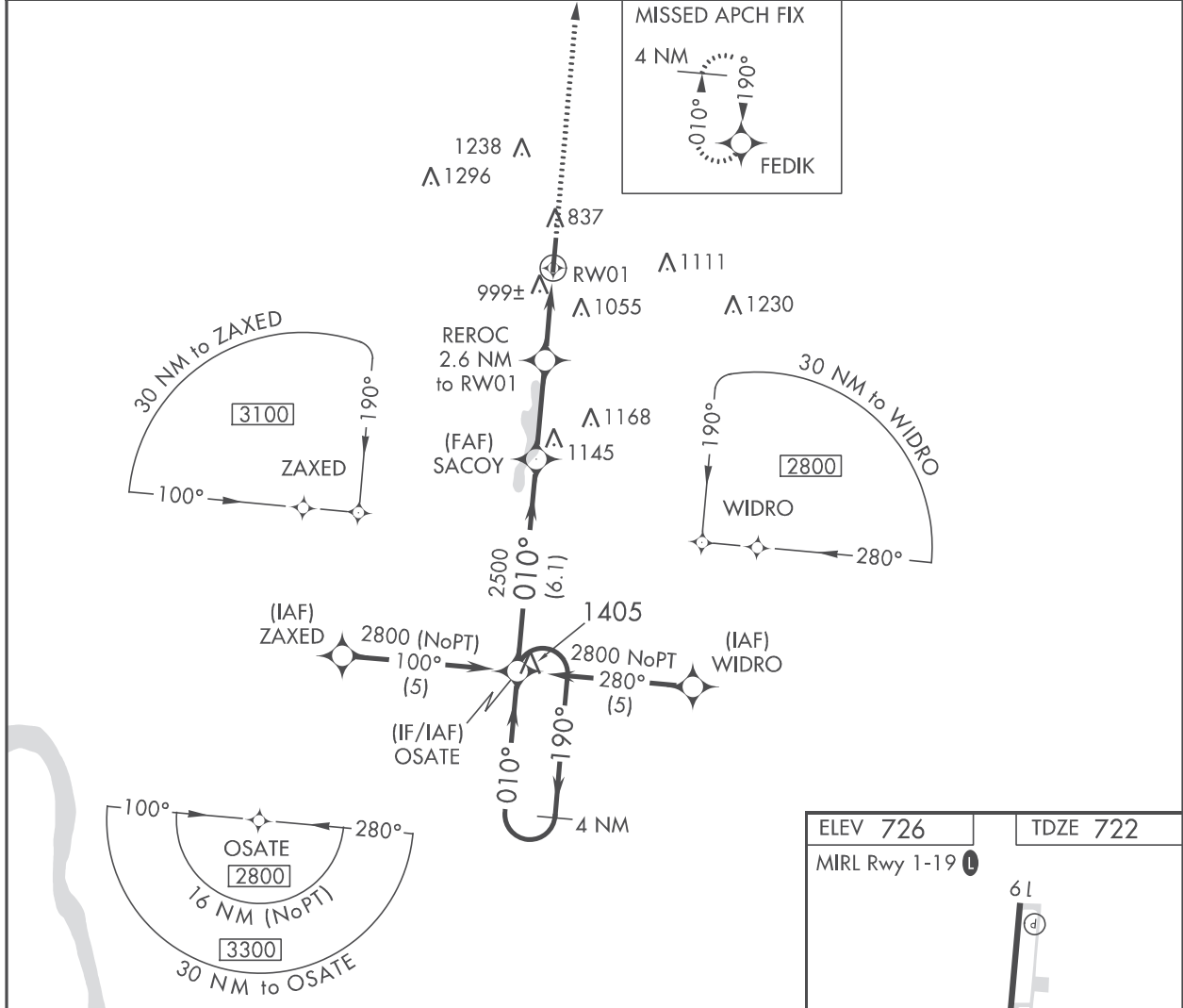
APP CRS <b>010°</b>	Rwy Idg <b>4870</b>
	TDZE <b>722</b>
	Apt Elev <b>726</b>

# RNAV (GPS) RWY 1

JAMES A RHODES (I43)

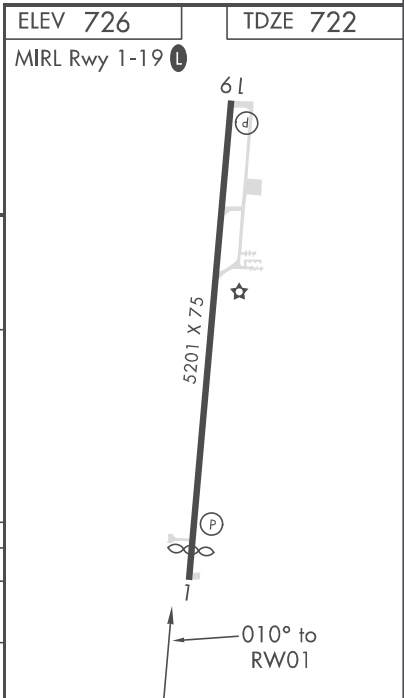
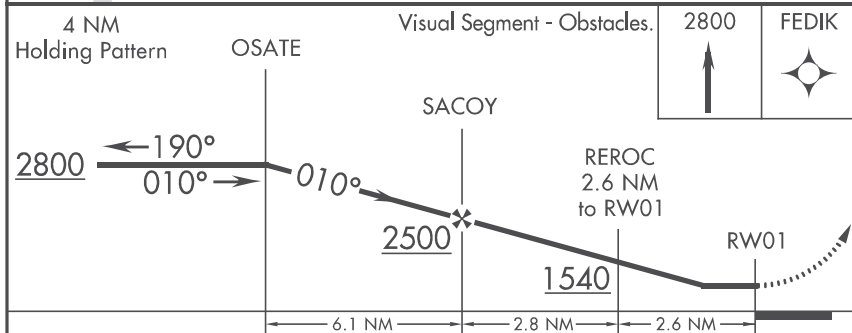
RNP APCH.	When local altimeter setting not received, use Greater Portsmouth altimeter setting and increase all MDA 60 feet, and increase LNAV Cat C/D and Circling Cat B visibility ¼ SM. Rwy 1 helicopter visibility reduction below 1 SM NA. <b>Straight-in Rwy 1 NA at night, Circling Rwy 1 NA at night.</b>	MISSED APPROACH: Climb to 2800 direct FEDIK WP and hold.
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AWOS-3 <b>118.825</b>	HUNTINGTON APP CON <b>128.4 270.1</b>	UNICOM <b>122.7</b> (CTAF) <b>0</b>
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EC-2, 27 JAN 2022 to 24 FEB 2022

EC-2, 27 JAN 2022 to 24 FEB 2022



CATEGORY	A	B	C	D
LNAV MDA	1300-1	578 (600-1)	1300-1½ 578 (600-1½)	1300-1¾ 578 (600-1¾)
CIRCLING	1340-1 614 (700-1)	1480-1 754 (800-1)	1680-3	954 (1000-3)