

# 2005 Legislation Amendment Proposals

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- L01 Article 403.6 Authority of the National Board of Review Chair Page 83 Pacific LMSC

403.6.2 - Dismiss a grievance or appeal determined to be without merit or where a potential conflict of interest exists between the complainant and the member issuing the sanction, with the concurrence of the USMS president.

**Rationale:** *USMS must establish some process for the NBR chair to be able to waive the hearing panel procedure and/or the appeal to the Board of Directors, where it can reasonably be demonstrated that bias or the perception of bias exists between the appellant and the NBR Chair and/or Board of Directors.*

- L02 Article 403.9.2 Appeal to the Board of Directors Page 85 Pacific LMSC

403.9.2—The USMS president and National Board of Review chair shall select, from the Board of Directors, a board panel chair and ~~eight~~ four additional board panel members to hear the appeal.

**Rationale:** *When this adopted 2 years ago, the selection of 9 members to sit on a board panel to hear appeals was based on a board size of 45 and even with 45 BOD members 9 was thought to be a very large number. Now that we have 17 board members the selection of over half to hear grievance appeals seems even more extreme. Realistically a 3 or 5 member panel should be able to hear and decide an appeal to the BOD.*

- L03 Article 503 Zones Page 88

Planning Committee - Governance

*Add new Article 503.3, by moving Zone Representative information from 507.2 and renumber remaining 503.*

### 503.3. ZONE REPRESENTATIVES

~~507.2.2~~503.3.1—Zone representatives shall be elected in odd-numbered years at the zone meeting held in conjunction with the annual meeting of the House of Delegates. The term of office shall be 2 years.

~~507.2.3~~503.3.2—Zone representatives shall be residents of their respective zones.

~~507.2.4~~503.3.3—If a vacancy in the position of zone representative occurs, the vice president for local operations shall consult with the chair of each LMSC in that zone and appoint a new or replacement zone representative, with the concurrence of the USMS president.

**Rationale:** *Move the definition of the election and term of office of the Zone representative into the section of code dealing with the Zone rather than the Zone Committee.*

- L04 Article 504.1 Membership (House of Delegates) Page 89 Planning Committee - Governance

*Add new 504.1.8 and renumber remaining.*

(504.1.8—The president shall be empowered to appoint employees and contractors as at-large members of the House of Delegates as needed for the benefit of the corporation.

**Rationale:** *If an employee/contractor is needed at the convention, he/she should be a delegate.*

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L05 Article 504.2 Powers (House of Delegates)                      Pages 89-90      Planning Committee  
 - Governance

*Add new 504.2.1 through .3 and renumber remaining. Additional adds of 504.2.10 and .12*

Current	Topic	Proposed
(new)	Determine USMS mission	504.2.1
(new)	Powers not delegated	504.2.2
(new)	Delegate responsibility to other USMS entities	504.2.3
504.2..4	Call regular/special USMS meetings	504.2.4
504.2.1	Admit members eligible	504.2.5
504.2.2	Prescribe/approve USMS code	504.2.6
504.2.7	Interpret code and rules	504.2.7
504.2.3	Impose/enforce penalties	504.2.8
504.2.5	Collect/expend monies	504.2.9
(new)	Control standing committees	504.2.10
504.2.6	Govern national championship meets	504.2.11
(new)	Receive/approve annual reports	504.2.12

504.2.1—To determine the mission and objectives that shall govern USMS in all of its activities.  
 504.2.2—To delegate responsibility and authority to other USMS entities as prescribed in USMS code and by USMS policy.  
 504.2.3—The following powers are fully the responsibility of the House of Delegates and shall not be delegated:  
     A. Election of officers and directors (Note: the nomination and election procedures may be delegated.)  
     B. The ratification of amendments to the USMS Code of Regulations and Rules of Competition.  
     C. The review and approval of the annual budget.  
 504.2.4—To call regular and special meetings of USMS and to fix the time, place and manner for holding all meetings not fixed by this code.  
 504.2.10—To create, modify or disband standing committees as is appropriate and beneficial to the corporation.  
 504.2.12—To receive and approve all annual reports.

**Rationale:** *To clarify the role and responsibilities of the HOD.*

L06 Article 505.2 Elections and Term of Office (Officers)                      Page 90              Planning Committee  
 - Governance

*Split 505.2.1 into 505.2.1 and 505.2.2 and renumber remaining.*

505.2.1--All officers of USMS shall be elected by the members of the House of Delegates at annual meetings held in odd-numbered years. ~~Elected officers shall hold office for 2 years or until their successors are elected and qualified.~~ Their terms of office shall commence at the close of the annual meeting of the House of Delegates at which they are elected.  
 505.2.2—Elected officers shall hold office for 2 years or until their successors are elected and qualified.

**Rationale:** *(Second sentence was moved to 505.2.2. Clarification of when officers take over.)*

L07 Article 505.3 Vacancies (Officers)    Page 90              Planning Committee  
 - Governance

Vacancies in any office of USMS ~~may~~ shall be filled for the unexpired term by the Board of Directors at any meeting of the Board of Directors. The appointed officer shall have full rights and responsibilities of the office.

**Rationale:** *Clarification of the rights of the appointed replacement and make filling vacancies mandatory.*



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- L12 Article 506.4 POWERS (Board of Directors) Page 92 Legislation  
Committee

The Board of Directors shall have the authority to act for USMS and the House of Delegates between meetings of the House of Delegates, except that it cannot amend the rules and regulations and it cannot amend the budget. The Board of Directors shall have the power to adopt and amend policies to govern USMS. The board shall have the emergency power to adopt or suspend any swimming rule (Part 1 or Part 3) or administrative regulations of competition (Part 2) provided the board, with the advice and consent of the Rules Committee, Legislation Committee and legal counsel, determines immediate action is required to serve the interests of USMS. An action taken under this emergency provision shall be effective until the next meeting of the House of Delegates. The president shall make a detailed report of the findings to the entire membership of the House of Delegates within 30 days of the action taken.

**Rationale:** *Clarify the powers of the Board of Directors, in that they are empowered to act for USMS and the HOD, except the BOD cannot amend code or modify the HOD approved budget. The emergency powers clause is to allow the BOD to make special exceptions in extraordinary situations, with the provision that the House of Delegates is fully briefed of any actions taken.*

- L13 Article 506.4 POWERS (Board of Directors) Page 92 Pacific LMSC

The Board of Directors shall have the authority to act for USMS between meetings of the House of Delegates, including the power to temporarily suspend a standing rule within Part 1, Part 2, or Part 3 of the USMS Code of Regulations and Rules of Competition when it is deemed to be in the best interest of USMS.

**Rationale:** *Between meetings of the House of Delegates, USMS must have some process or policy to suspend a standing rule when the enforcement or observance of the rule is not in the best interests of USMS.*

- L14 Article 507.1 Executive Committee Page 92 Planning Committee  
- Governance

~~507.1.3—The Executive Committee shall have the authority to act for USMS between meetings of the Board of Directors.~~

A. Manage the operations of USMS,

B. Carry out policies established by the Board of Directors, and

C. In an emergency, assume the policy-making responsibilities of the Board of Directors.

**Rationale:** *Clarification of authority and responsibility.*

- L15 Article 507.2 Zone Committee Page 93 Legislation  
Committee

*Move the Zone Committee under Standing Committees, deleting 507.2 and renumber the remainder of 507. 507.2.2 – 507.2.4 were moved into 503.3 in L02.*

~~507.3.22~~ ~~507.2.~~ ZONE COMMITTEE

A ~~507.2.1~~—The Zone Committee shall consist of the vice president of local operations plus a representative from each zone elected by the delegates from each LMSC within that zone.

B ~~507.2.5~~—The committee shall enhance communications between the national office and LMSCs, and between USMS committees and LMSCs. The committee shall carry out the responsibilities assigned to it by the policies of the House of Delegates, the president, the USMS Code of Regulations, and the stated need of the LMSCs.

C ~~507.2.6~~—The Zone Committee shall develop and maintain election operating guidelines pertaining to the conduct of USMS national elections.

**Rationale:** *Move the Zone Committee under Standing Committees.*

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L16 Article 507: Committees  
- Governance

Pages 92-96 Planning Committee

*The description of Controller has been moved from 508.2 with no changes. The description of Internal Auditor has been moved from 508.3 with no changes. The description of legal Counsel has been moved from 505.4.1(D) with no changes.*

### ARTICLE 507: COMMITTEES, COORDINATORS, AND APPOINTMENTS

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#### 507.3. STANDING COMMITTEES

The president, with the concurrence of the Executive Committee, shall appoint the chair of each committee. ~~to a 2-year term.~~ The president, with the concurrence of the committee chair, shall choose committee members from the individual membership of USMS. Whenever possible, each committee shall have representation from each zone. The divisional vice president responsible for a committee shall be an ex officio member of that committee. Standing committees shall meet in conjunction with the annual meeting of the House of Delegates. Each committee member shall have one vote, with the exception of ex officio members, who shall have voice but no vote.

...

#### 507.4 AD HOC COMMITTEES

The president may establish other committees on an ad hoc basis that are deemed necessary to carry out the duties of the president. The president shall provide the Board of Directors a written description of the ad hoc committee's purpose. ~~Each committee shall meet annually in conjunction with the annual meeting of the House of Delegates, if requested by the committee chair, a committee member, or any member of the House of Delegates.~~

#### 507.5 APPOINTMENTS

##### 507.5.1--COORDINATORS

The president, with the concurrence of the Executive Committee, shall appoint the coordinators. Coordinators will have the same rights and responsibilities as the chairs of standing committees.

##### 507.5.2 ~~508.2~~ CONTROLLER.

##### 507.5.3 ~~508.3~~ INTERNAL AUDITOR

##### 507.4.4 ~~505.4.1 D~~-LEGAL COUNSEL

##### 507.5.5 SPECIAL ASSIGNMENTS

The president may make special assignments that are deemed necessary to carry out the duties of the president and shall provide a written description of duties to the Board of Directors.

##### 507.5.6 LIAISONS

The president may appoint Liaisons to other organizations to further the interests of USMS. The president shall provide a written description of duties to the Board of Directors.

**Rationale:** *Removed 2 year term because the president can replace a chair at any time. Added role of the vice presidents. There should be a written description of purpose for all add hoc committees and appointments. All appointments have been moved to this section so that they are listed together.*

L17 Article 507.3 STANDING COMMITTEES  
Committee

Page 93

Legislation

Standing committees shall be as listed in this article. Unless otherwise specified in this article, the president, with the concurrence of the Executive Committee, shall appoint the chair of each committee, and the president, with the concurrence of the committee chair, shall choose committee members from the individual membership of USMS. When practical ~~ever possible~~, each committee shall have representation from each zone. The president may appoint associate members. The divisional vice president responsible for a committee shall be an ex officio member of that committee. Committee definitions may name other ex officio positions. Standing committees shall meet in conjunction with the annual meeting of the House of Delegates. Each committee member shall have one vote. Associate and, with the exception of ex officio members, who shall have voice but no vote.

**Rationale:** *The first sentence clarifies that all USMS Standing Committees are listed in this article. The "unless otherwise specified in this article" was added to make allowances for standing committees (e.g. Zone Committee) where the president does not appoint the chair. The inclusion of associate members is to codify the existing practice of adding additional non-voting members to committees to*

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*allow new members to be involved in committee activities. In the past these have been identified as ex officio even though these members held no specified office. The remaining changes align with the governance recommendations.*

- L18 Article 507.3.3 Communications Committee Page 93-94 Communications Committee

~~The Communications Committee shall include the committee chair, the National Publication Editor, the Webmaster/IT Director, the rule book coordinator and the chair of the publications committee. The committee shall plan and provide guidance for communications with the general membership. That guidance shall encompass the USMS webmaster and magazine editor positions. The committee and shall interact with all USMS committees and LMSCs to develop communications that promote the healthy lifestyle of Masters swimming, highlight the benefits of membership, and provide ongoing feedback and information regarding USMS programs. The webmaster and magazine editor shall be ex-officio members of the committee.~~

**Rationale:** *The committee description is revised to a) Remove the responsibility for providing guidance for the USMS webmaster and magazine editor positions. Guidance for these two positions will be provided by a combination of the Executive Committee and the Publications Committee. b) Makes the webmaster and National Publication Editor voting members of the committee. c) Makes the rule book coordinator a member of the committee.*

- L19 Article 507.3.4 Convention Committee Page 94 Planning Committee  
- Governance

*Delete 507.3.4 and renumber the remainder of 507.3.*

~~507.3.4—Convention Committee~~

~~The Convention Committee shall coordinate with USAS in the preparation of each year's national convention and carry out the operational needs of the House of Delegates and its committees at convention.~~

...

507.5.1 COORDINATORS

~~A Convention Coordinator - The convention coordinator shall cooperate with USAS in the preparation of each year's national convention and carry out the operational needs of the House of Delegates and its committees at convention.~~

**Rationale:** *These duties can be done effectively by one person. Delegates will be recruited to assist during the convention.*

- L20 Article 507.3.8 Insurance Committee Page 94 Planning Committee  
- Governance

*Delete 507.3.8 and renumber the remainder of 507.3.*

~~507.3.8—Insurance Committee~~

~~The Insurance Committee shall study and review the insurance needs of USMS and shall recommend policies, procedures, and appropriate insurance coverage for USMS, its participants, and its programs.~~

...

507.5.1 COORDINATORS

~~B Insurance Coordinator - The insurance coordinator shall study and review the insurance needs of USMS and shall recommend policies, procedures, and appropriate insurance coverage for USMS, its participants, and its programs.~~

**Rationale:** *These duties will be the responsibility of the Insurance Coordinator.*

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- L21 Article 507.3.9 International Committee Page 94 Planning Committee  
- Governance

*Delete 507.3.9 and renumber the remainder of 507.3.*

~~507.3.9 International Committee The International Committee shall encourage, promote, and assist with the dissemination of information on international meets, and notify USMS about opportunities to bid on international championship meets.~~

...

507.5.1 COORDINATORS

C International Coordinator - The International Coordinator shall encourage, promote, and assist with the dissemination of information on international meets, and notify USMS about opportunities to bid on international championship meets.

**Rationale:** *These duties will be the responsibility of the International Coordinator.*

- L22 Article 507.3.9 International Committee Page 94 International  
Committee

The ASUA Representative and FINA Representative shall be ex officio members. The International Committee shall encourage, promote, and assist with the dissemination of information on meets, and notify USMS about opportunities to bid on international championship meets identify opportunities for and provide support to USMS in bidding to host international events and facilitate and support local organizing committees when USMS hosts an international event. The committee shall establish and maintain contact with other Masters swimming governing bodies to promote international communications and USMS members' participation in international meets, open water events, and postal swims. The committee shall also serve as a resource for the USMS membership concerning differences between USMS and international competitions.

**Rationale:** *The current International Committee believes that the role of this committee has already been expanded from the current definition in the USMS rule book and supports leaving the committee structure intact and expanding the definition to fit what the committee is currently doing. As USMS prepares for the upcoming FINA World Championship meet in 2006, this committee has been able to assist the Stanford local organizing committee with some tasks and believes it will continue to provide a resource of manpower to continue in this role. If the committee is dissolved and a liaison appointed, this pool of volunteers interested in international competitions and communications would not be as readily accessible. With the current changes in the structure of the USMS Board of Directors, the International Committee believes it is more appropriate to allow the BOD proposed changes to occur and then allow the BOD and HOD time to assess if more committee structure changes are needed in the future.*

- L23 Article 507.3.10 International Swimming Hall of Fame Nominating Committee Page 94  
Oregon LMSC

*Add new 507.3.10 and renumber remaining.*

The USMS International Swimming Hall of Fame Nominating Committee shall consist of the committee chair and a minimum of four members. The USMS International Swimming Hall of Fame (ISHOF) Nominating Committee shall select at least one person annually as the USMS candidate and shall submit the nomination form for ISHOF honoree consideration to the International Swimming Hall of Fame Selection Committee, which selects inductees into The International Swimming Hall of Fame. The committee shall also nominate worthy candidates to the International Masters Swimming Hall of Fame (IMSHOF) and shall submit the nomination form for IMSHOF consideration.

**Rationale:** *The work of the committee is ongoing and includes researching and updating dossiers for candidates and providing a worthy candidate each year to The ISHOF and The IMSHOF selection committees for possible induction into "The Hall." If the committee determines that USMS shall not offer a candidate for any given year, all candidates in the "pool of candidates" already submitted shall have their dossier updated. A specific database, for this committees' use only, is maintained for*

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compilation of world and national records, All American, All Star, Top Ten, and Masters Swimmer of the year status. The sole purpose of the committee is to select the best candidate that USMS has to offer to the ISHOF and to the IMSHOF selection committees. A relationship between USMS and ISHOF has been established and needs to be maintained. Becoming a standing committee gives the USMS candidate even more significance, which will become much more important as the rest of the world submits their candidates for consideration. We shall provide USMS NOMINATIONS both to the ISHOF and to the IMSHOF, which are NOT USMS awards. The current Ad Hoc ISHOF Nominating Committee believes that it should NOT be merged with the Recognitions and Award Committee. It needs its own autonomy to insure that the work of the committee as listed in rationales number one through three (1 – 3) are not lost in a myriad of duties performed by the Recognitions and Award Committee.

- L24 Article 507.3.13 Officials Committee Page 95 Planning Committee  
- Governance

*Delete 507.3.13 and renumber the remainder of 507.3.*

~~507.3.13—Officials Committee~~

~~The Officials Committee shall develop policies and procedures to assure that all USMS sanctioned events are officiated uniformly and conducted in conformance with the USMS swimming rules.~~

...

507.5.1 COORDINATORS

~~D. Officials Coordinator - The officials coordinator shall develop policies and procedures to assure that all USMS sanctioned events are officiated uniformly and conducted in conformance with the USMS swimming rules. The officials coordinator shall be an ex officio member of the Rules Committee.~~

**Rationale:** *These duties will be the responsibility of the Officials Coordinator. The Officials Coordinator will work closely with Rules and should be a part (ex officio) of the committee.*

- L25 Article 507.3.15 Publications Committee Page 95 Planning Committee  
- Governance

*Delete 507.3.15 and renumber the remainder of 507.3.*

~~507.3.15—Publications Committee The Publications Committee shall design, edit, and produce the rule book, and other materials or media, as approved by the House of Delegates.~~

...

507.5.1 COORDINATORS

~~E. Rule Book Coordinator - The rule book coordinator shall design, edit, and produce the rule book, and other materials or media, as approved by the House of Delegates. The rule book coordinator shall be a member of the Communications Committee and an ex officio member of the Legislation, Long Distance, and Rules Committees.~~

...

Article 507.3.3—Communications Committee Page 93

~~... The rule book coordinator shall be a member of the committee. The webmaster and magazine editor shall be ex officio members of the committee.~~

**Rationale:** *These duties will be the responsibility of the Rule Book Coordinator. The Rule Book Coordinator will work closely with Communications and should be a part of the committee.*

- L26 Article 507.3.15 Publications Committee Page 95 Executive  
Committee

The Publications Committee shall consist of the committee chair, the USMS national publication editor, the USMS webmaster/IT director, the rule book coordinator, and one representative from each of the following committees: Marketing, Communications, and Finance. The committee shall manage all USMS publishing activities and shall set publishing policy. The committee shall support the operations staff

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handling the separate elements of USMS publications. The committee shall work with representatives from the publishers of the USMS national publication on magazine-related activities.

**Rationale:** *USMS has numerous publications including USMS SWIMMER, the web site and the rule book. These and other publications represent us and are sometimes the first view that people have of USMS. The revised Publications Committee is intended to house management and coordination of all USMS publications under one committee whose members are selected based on knowledge, experience and an ability to commit time on a continuing basis. Day-to-day production will still be handled by the responsible committees and professional staff. The committee size is limited so that it can react and implement policy quickly and efficiently.*

L27 Articles 507.3.5, .507.3.10, and 507.3.11 Pages 94, 96 Planning Committee  
- Governance

507.3.5—Finance Committee

The Finance Committee shall consist of the committee chair and no more than 16 additional members, with ~~and~~ at least one member from each zone. ...

...

507.3.10—Legislation Committee

The Legislation Committee shall consist of the committee chair and ~~two members~~ no more than sixteen additional members, with at least one member from each zone. The Rules Committee chair and the rule book coordinator shall be ex officio members of the committee. ...

...

507.3.11—Long Distance Committee

The Long Distance Committee shall consist of the committee chair and no more than 16 additional members, with at least one member from each zone. The rule book coordinator shall be an ex officio member of the committee....

...

507.3.19—Rules Committee

The Rules Committee shall consist of the committee chair and ~~two members~~ no more than 16 additional members, with at least one member from each zone. The Legislative Committee chair, the rule book coordinator and the officials coordinator shall be ex officio members of the committee. ...

**Rationale:** *Since members of Finance (L31), Legislation, Long Distance, and Rules are granted automatic HOD delegate status, membership requirements were made uniform. Chair of Rules and Publications are now ex officio members, but it has never been part of the code.*

L28 Article 507.3.14 Planning Committee Page 95 Planning Committee  
- Governance

~~The Planning Committee shall consist of the committee chair and at least one member from each zone, representing a broad range of experience in all aspects of Masters swimming. The committee shall work closely with the Board of Directors Executive Committee—particularly the president—to generate short and long range plans...~~

**Rationale:** *Planning for the corporation is the responsibility of the Board of Directors. The Planning Committee will work with the BOD and make recommendations to implement the BOD objectives.*

L29 Article 507.3.16 Recognition and Awards Committee Page 95 Planning Committee  
- Governance

The Recognition and Awards Committee shall consist of the committee chair, USMS registered Ransom J. Arthur Award recipients, and additional members to assure age and zone representation. The committee shall review and approve proposals for all official USMS awards, ~~except competitive awards.~~ The committee shall also nominate USMS members for induction into the International Swimming Hall of Fame. The committee shall maintain a history of award recipients.

**Rationale:** *This committee will oversee criteria for all awards.*



# 2005 Legislation Amendment Proposals

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*Split Article 510 into 2 unique articles Article 510 and Article 511.*

## ARTICLE 510: INDEMNIFICATION AND DISSOLUTION

### 510.1. COVERAGE INDEMNIFICATION

~~510.1.1~~—Each person who is or was a director, officer, or employee of USMS (including the heirs, executors, administrators, or estate of such person) shall be indemnified by USMS to the full extent permitted by the Nonprofit Corporation Law of the state of Ohio against any liability, cost, or expense incurred in the capacity as director, officer, or employee, or arising out of the status as a director, officer, or employee (including serving at the request of USMS as a director, trustee, officer, employee, or agent of another corporation).

### 510.2. INSURANCE

~~510.1.2~~—USMS ~~shall may~~ maintain insurance, at its expense, to protect itself and any such person against any such liability, cost, or expense. For the purpose of article ~~510508.4~~, references to “~~USMS the corporation~~” include all constituents absorbed in a consolidation or merger as well as the resulting or surviving corporation.

## ARTICLE 511:~~510.2~~:DISSOLUTION

### 511.1 Dissolution

~~510.2.1~~—If deemed advisable by the members, USMS may be dissolved pursuant to the applicable provision of the corporation laws of the state of Ohio.

### 511.2 Distribution of Assets

~~510.2.2~~—Upon the dissolution of USMS, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of USMS, dispose of all the assets of USMS exclusively for the purposes of USMS or to such organization or organizations organized and operated exclusively for charitable, educational, religious, literary, or scientific purposes as shall qualify as exempt organizations under section 501(c)(3) of the Internal Revenue code of ~~4954~~ 1986 (or the corresponding provision of any future United States Internal Revenue law).

**Rationale:** *Indemnification and Dissolution are two unique concepts that should be addressed as separate articles of code. Second, insurance for the corporation should be mandatory not optional, therefore the change of “USMS may maintain insurance” to “USMS shall maintain insurance”. Third, some housekeeping to correct an article reference, the use of “the corporation”, and the latest revision to IRS code.*

L35 Appendix D: Zone and LMSC Boundaries – LMSC Boundaries

Page 149 Central LMSC

*Change LMSC name and related housekeeping to change CE to IL and Central to Illinois in maps, abbreviations and other references within Appendix D and Appendix E.*

Central Illinois —The state of Illinois except the counties of St. Clair, Calhoun, Greene, Jersey, Monroe, and Madison.

**Rationale:** *The Central LMSC is, for the most part, the state of Illinois. Therefore, Illinois LMSC provides a better, less confusing description of the LMSC. Additionally, the name change aligns the USMS LMSC name with USA-Swimming*