



# ARIZONA STATE RETIREMENT SYSTEM

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*Paul Matson*  
Director

## REVISED AGENDA NOTICE OF PUBLIC MEETING OF THE ARIZONA STATE RETIREMENT SYSTEM EXTERNAL AFFAIRS COMMITTEE

3300 North Central Avenue, 14<sup>th</sup> Floor Conference Room  
Phoenix, AZ 85012

December 17, 2014  
2:00 P.M. Arizona Time

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Trustees of the Arizona State Retirement System (ASRS) External Affairs Committee (EAC) and to the general public that the ASRS External Affairs Committee will meet on December 17, 2014, beginning at 2:00 P.M. in the 14<sup>th</sup> Floor Conference Room of the ASRS office, 3300 North Central Avenue, Phoenix, AZ, 85012. Trustees of the Board Committee may attend either in person or by telephone conference call.

This is a scheduled meeting of the EAC; however, due to possible attendance by other ASRS Board Trustees, this meeting may technically become a meeting of the ASRS Board or one of its committees. Actions taken will be consistent with EAC governance procedures, and no business of the Board will be transacted. Actions requiring Board authority will be presented to the full Board for final decision.

The Chair may take public comment during any agenda item. If a member of the public wishes to speak to a particular agenda item, he or she should complete a Request to Speak form indicating the item and provide it to the Committee administrator.

This meeting will be teleconferenced to the ASRS Tucson office at 7660 East Broadway Boulevard, Suite 108, Tucson, Arizona 85710. The conference call to Tucson will be disconnected after 15 minutes if there are no attendees in the Tucson audience.

The Agenda for the meeting is as follows:

1. Call to Order; Roll Call; Opening Remarks .....Mr. Brian McNeil  
Chair, External Affairs Committee
2. Approval of the Public Meeting Minutes of the October 6, 2014 EAC Meeting  
.....Mr. Brian McNeil
3. Presentation, Discussion and Appropriate Action Regarding the ASRS Regulatory Agenda for  
2015 .....Mr. Patrick M. Klein  
Assistant Director, External Affairs Division  
Ms. Jessica Ross  
ASRS Rule Writer





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Director

## SUMMARY OF A PUBLIC MEETING OF THE ARIZONA STATE RETIREMENT SYSTEM EXTERNAL AFFAIRS COMMITTEE

HELD ON  
October 6, 2014  
10:30 a.m., Arizona Time

The External Affairs Committee (EAC) of the Arizona State Retirement System (ASRS) met in the 14th Floor Conference Room of the ASRS Office, 3300 North Central Avenue, Phoenix, AZ, 85012. Mr. Brian McNeil, Chair, called the meeting to order at 10:32 a.m., Arizona Time.

This meeting was teleconferenced to the ASRS Tucson office at 7660 East Broadway Boulevard, Suite 108, Tucson, Arizona, 85710.

### 1. Call to Order; Roll Call; Opening Remarks

Present: Mr. Brian McNeil, Chair  
Mr. Tom Manos – Via Teleconference  
Mr. Kevin McCarthy – Via Teleconference

Absent: Dr. Richard Jacob, Vice Chair

A quorum was present for the purpose of conducting business.

### 2. Approval of Minutes of the April 11, 2014 EAC Meeting

**Motion:** Mr. Tom Manos moved to approve the minutes of the April 11, 2014 EAC meeting. Mr. Kevin McCarthy seconded the motion.

By a vote of 3 in favor, 0 opposed, 0 abstained, and 1 excused, the minutes were approved.

### 3. Presentation Regarding Introduction of A New External Affairs Staff Member

Mr. Patrick Klein introduced Ms. Jessica Ross as the new Rules Writer for the Arizona State Retirement System and gave a brief summary of her professional accomplishments.

#### 4. Presentation, Discussion and Appropriate Action Regarding Legislative Initiatives and Legislative Update

Mr. Patrick M. Klein explained the process of obtaining legislative initiatives and introduced Mr. Nick Ponder, Government Relations Officer. Mr. Ponder gave a brief introduction to the topic regarding the legislative agenda for 2015 and presented the following legislative proposals:

- **38-783. Retired members; dependents; health insurance; premium payment; separate account; definitions:** Add federal conforming language required by the IRS regarding our 401(h) account and the health benefit supplement.
- **38-797.07. LTD program benefits; limitations; definitions:** Remove the word “total” from long term disability statutes when written prior to the term “disability.” The statutory definition only refers to the inability of a member to do his or her own occupation initially, then any occupation subsequently.
- **15-1451. Optional retirement plans:** Add language to the statute that restricts the ASRS to only transfer the account balance for active, inactive and disable members (excluding retired members). If a member is on LTD and joins the ORP of a community college district, under the proposed language, the member will be dropped from the LTD program.

Currently, the statute suggests, if an ASRS member becomes an employee of a community college district and elects to join the district’s Optional Retirement Plan (ORP); then the ASRS must transfer all contributions from the ASRS account to the ORP.

- **38-703. Plans for coverage of employees of eligible political subdivisions; payroll audits** and **38-755. Information as to member’s status; beneficiary designation; spousal consent; confidentiality:** Remove the terms “provided in rules” and “subject to rules prescribed by the board” in both of these statutes.
- **38-737. Employer contributions:** The ASRS is requesting the ability, but not requirement, to change its actuarial valuation method. Reasons to execute this change would include: to obtain consistency with GASB 67; to obtain great consistency with other states; the ability to maintain the aforementioned consistencies if appropriate.
- **38-797.10. Assurances and liabilities:** Exempt the ASRS from “bad faith” claims as they relate to the LTD program. ERISA plans are protected from bad faith claims and because the ASRS uses ERISA as guidance, in many circumstances this would offer similar protection.
- **38-738. Adjustment and refund:** Currently, employers are allowed to take a credit on contributions made to the ASRS that were in excess of the required contribution amount, if requested within one year of the date of contribution. (The ASRS has





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*Paul Matson*  
Director

**TO:** The Arizona State Retirement System (ASRS) External Affairs Committee

**FROM:** Mr. Patrick M. Klein, Assistant Director, External Affairs Division  
Ms. Jessica Ross, Rule Writer

**DATE:** December 12, 2014

**RE:** **AGENDA ITEM NO. 3:** Presentation, Discussion and Appropriate Action Regarding the ASRS Regulatory Agenda for 2015

**Purpose:**

To view and accept the 2015 Regulatory Agenda covering rule writing activity proposed by staff.

**Recommendation:**

Accept the Regulatory Agenda for 2015.

**Background:**

Arizona Revised Statutes § 41-1021.02 State agencies; annual regulatory agenda requires each agency to post its agenda for the coming calendar year. The attached draft agenda highlights the rule making identified by ASRS staff and management as having a higher priority and, consequently, deserving of staff time and effort initially.

This list of proposed rulemakings does not prohibit the agency from identifying additional or replacement rulemakings and promulgating those during the calendar year as well.

Ms. Jessica Ross, ASRS Rule Writer, will provide a brief overview of each proposed rulemaking.

Attachment

**ARIZONA STATE RETIREMENT SYSTEM (ASRS)  
REGULATORY AGENDA FOR 2015**

Pursuant to A.R.S. § 41-1021.02, the ASRS prepared a regulatory agenda for the 2015 calendar year. Pursuant to A.R.S. § 41-1021.02(D), the ASRS may undertake a rulemaking even if the rulemaking is not included in the annual regulatory agenda.

**Rulemakings Expected During 2015**

Identification of Rulemaking	Notice of Docket Opening (Expected)	Notice of Proposed Rulemaking (Expected)	Notice of Final Rulemaking (Expected)
<u>2 A.A.C. 8, Art. 1</u> R2-8-104. Definitions	1/6/2015	1/9/2015	5/5/2015
<u>2 A.A.C. 8, Art. 1</u> R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member	3/3/2015	3/6/2015	7/7/2015
<u>2 A.A.C. 8, Art. 1</u> R2-8-116. Reemployment After Retirement	4/1/2015	4/3/2015	9/1/2015
<u>2 A.A.C. 8, Art. 1,</u> <u>Retirement System;</u> <u>Defined Benefit Plan</u>	5/27/2015	5/29/2015	9/1/2015
<u>2 A.A.C. 8, Art. 2, State Retirement Defined Contribution Program</u>	2/4/2015	2/6/2015	6/2/2015
<u>2 A.A.C. 8, Art. 4,</u> <u>Practice and Procedure Before the Board</u>	7/9/2015	7/10/2015	11/3/2015
<u>2 A.A.C. 8, Art. 5,</u> <u>Purchasing Service Credit</u>	8/5/2015	8/7/2015	12/1/2015

**Existing Rules Scheduled for Review During 2015**

Rules Being Reviewed	Due Date
2 A.A.C. 8, Articles 1, 2, 4, and 5	May 2015

## Rulemaking Information for 2015 Regulatory Agenda Approval

Article 1: This Article contains seven rules addressing the administration of the defined benefit plan. In 2010, ASRS analyzed each rule<sup>1</sup> within the article to determine whether the rules required any rulemaking action. ASRS identified that R2-8-104, R2-8-115, R2-8-118, and R2-8-122 needed to be updated.

- R2-8-104: Definitions (mostly contains excluded “classes” or “positions” of people)
- Last amended for typographical error (“required”) in 1997 and substantive revisions in 1984 before that, but otherwise, this rule remains extremely outdated.
  - This rule does not follow proper rulemaking format for a definition section because it actually does not contain a list of definitions or all the definitions that are not contained in statute that apply to at least all of article 1, if not all the articles.
  - The rule is not clear, concise, or understandable because it appears to address when certain categories of people (e.g. agricultural labor, student services, and elective positions) are excluded from participating in ASRS. This is not the typical function of a definitions section.
- R2-8-115: Return of contributions upon termination...; Payment of survivor benefits...
- Last amended in 2006, but will need further revision consistent with removing definitions from R2-8-115 to put them in R2-8-104 instead.
  - In the 2010 5YRR, the ASRS proposed to amend this rule by including language that reflects that beneficiary information can be updated electronically via the ASRS website.
  - This rule also needs to be updated to include language stating that ASRS will only distribute funds based on completed documentation on file at the time of death of a member, unless otherwise provided by law (such as QDRO).
  - This will ensure that the rule is clear and understandable, as well as consistent with other laws (our current process is consistent, and this will ensure that our rules reflect our process, making our process easier to enforce).
- R2-8-116: Expired (used to be “Reemployment after retirement” prior to 2010)
- Needs to be promulgated to define statutory language “position ordinarily filled by an employee of the employer,” and to state that payment of the ACR does not entitle the retiree to any benefit or refund based on the payment of the ACR.
  - This rule is necessary to clarify when an employer is required to remit an ACR.

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<sup>1</sup> Among other criteria, clarity, conciseness, understandability, enforceability, and consistency are among those aspects of rules that an agency must analyze for each rule when completing a five-year-review report (5YRR); and the Council must ensure those aspects of the rules are met before approving 5YRRs or rulemakings.

- The current ASRS policy is to look at the “class” the position is in and whether that “class” of positions has typically been filled by employees of the employer. Defining the “class” will make the policy enforceable.

R2-8-118: Application of interest rates (table also contains investment yield rate)

- Last amended in 2013 to set the assumed actuarial interest and investment yield rate at 8%, the interest rate to determine return of contributions at 2% for Plan members and 8% for System members, and the interest rate for survivor benefits at 8%.
- In November 2014, ASRS promulgated R2-8-123 Actuarial Assumptions, which states that the Board determines the interest and investment return rate assumptions. R2-8-123 provides the Board with the flexibility to change the interest and investment return rates when necessary to meet its statutory duties. However, having specific rates in R2-8-118 limits that flexibility and this rule should be amended to remove specific interest and investment return rate assumptions in order to be consistent.
- Additionally, this rule will need revision consistent with removing definitions from R2-8-118 to put them in R2-8-104 instead.

R2-8-120: Designating a beneficiary; spousal consent to designation

- Last amended in 2014 to require members to designate their spouse as their beneficiary pursuant to statute.
- This rule needs to be amended to (1) remove “beneficiary” which is the dictionary definition and does not need to be defined otherwise; and (2) remove “contingent annuitant” because it appears in A.R.S. § 38-711. Removing these definitions will make the rule more clear, concise, and consistent.

R2-8-122: Remittance of contributions (how and when to make payment to ASRS)

- Last amended in 1982, but in the 2010 5YRR, the ASRS proposed amending the rule to remove superfluous language like “such” and “without limitation” in order to be more clear and concise.
- In the 2010 5YRR, the ASRS also proposed repealing and promulgating a new article entitled “Compensation, Payment of Contributions and Service Accrual.”
- However, this section is very useful for regular contributions, as well as ACR payments and delinquent payments. I recommend repealing this rule **only** at the same time as we promulgate its replacement.

R2-8-123: Actuarial Assumptions and actuarial value of assets

- Last amended in 2014 to notify the public of how the Board makes actuarial assumption and asset valuations.

- However, this rule needs to be amended to remove some definitions that are unnecessary because they either appear in statute (e.g. “Board”) or because they apply to more than R2-8-123 and should be moved to R2-8-104.

R2-8-126: Calculating Benefits (lists how ASRS calculates benefits based on age and annuity)

- Last amended in 2013 to remove the \$20 monthly limit for life annuity in subsection (E).
- However, this rule needs to be amended to move definitions from R2-8-126 to R2-8-104 because the definitions apply to more than R2-8-126 and moving the definitions will make the rule more clear, concise, and consistent.

Article 2: This Article contains two rules addressing the administration of the defined contribution plan. In 2010, ASRS analyzed each rule<sup>2</sup> within the article to determine whether the rules required any rulemaking action. ASRS identified that R2-8-201 and R2-207 needed to be updated.

R2-8-201: Definitions

- Last amended in 2004, but the ASRS identified in its 2010 5YRR that it needs to be amended consistent with A.G. Opinion I09-009, stating that the ASRS cannot reduce System benefits.
- It also needs to be amended to remove superfluous definitions contained in statute and otherwise appearing in the general definitions section of the 2015 amended R2-8-104 section. Such an amendment will make the rule more clear and concise, as well as consistent with other rules.

R2-8-207: Return of Contributions (for the System only)

- Created as a new section in 2004, but the ASRS identified in its 2010 5YRR that it needs to amend subsection (A)(3) to remove the 90 day limit because a member may apply for a refund at any time prior to retirement, which renders the 90 day limit unenforceable.
- Additionally, the ASRS stated in the 2010 5YRR that this rule needs to be amended to reflect that payments of nonguaranteed balances do not need to wait for an actuarial valuation to be completed.
- Such amendments would make the rule more enforceable, clear, concise, and understandable, as well as consistent with other law.

Article 4: This article contains five rules relating to practice and procedure before the Board. Specifically, the rules address definitions, general procedures, Board decisions on hearings before OAH, and rehearing or review of a final decision. These rules need to be

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<sup>2</sup> Among other criteria, clarity, conciseness, understandability, enforceability, and consistency are among those aspects of rules that an agency must analyze for each rule when completing a 5YRR; and the Council must ensure those aspects of the rules are met before approving 5YRRs or rulemakings.

amended to reflect the ASRS policies for agency appeals, consistent with the APA (such as time limits for appealing decisions, and whether people may appeal directly to an ASRS director, AD, or LTD provider, depending on the issue being appealed). It is important to amend the rules in this article in order to put the public on notice of how and when they may appeal agency decisions, as well as ensure that the current ASRS appeal process is enforceable. Amending these rules will also make the appeal process more clear, concise, and understandable. Specifically, R2-8-401 also needs to be amended to remove superfluous definitions that should appear in R2-8-104 instead in order to make the rules more clear, concise, and consistent.

Article 5: This article contains twenty-three rules addressing the purchase of service credit. In 2010, ASRS analyzed each rule<sup>3</sup> within the article to determine whether the rules required any rulemaking action. ASRS identified that R2-8-501, R2-8-502, R2-8-503, R2-8-508, R2-8-509, R2-8-510, R2-8-511, R-2-8-512, R2-8-513, R2-8-513.02, R2-8-514, R2-8-515, R2-8-516, R2-8-517, and R2-8-519 needed to be updated.

R2-8-501: Definitions

- Last amended in 2013 to remove reference to R2-8-123, which is now, the Spousal Consent rule, and no longer contains any actuarial assumptions.
- The ASRS identified in its 2010 5YRR that the rule needed to be amended to clarify the definitions such as “presidential call-up” (now “military call-up” in A.R.S. § 38-745), “current annual compensation” (which is superfluous because it is defined in A.R.S. § 38-711(10)), and “termination pay distribution.”
- The definitions can also be made more clear, concise, and understandable by removing to R2-8-104, any definitions that would apply to all the articles, and removing completely, any other superfluous definitions contained in statute.

R2-8-502: Request to purchase service credit and notification of cost (form requirements)

- Last amended in 2012, to remove the provision allowing the retiree to purchase the service with a partial lump sum retirement distribution.
- However, the form requirements and request process in this rule need to be amended to reflect which information ASRS must collect from a member or retiree in order to process a request to purchase service credit. Such amendments could make the rule more clear, concise, and understandable.

R2-8-503: Requirements applicable to all service credit purchases (types of service)

- Last amended in 2012, to remove the language allowing the retiree to purchase the service with a partial lump sum retirement distribution.

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<sup>3</sup> Among other criteria, clarity, conciseness, understandability, enforceability, and consistency are among those aspects of rules that an agency must analyze for each rule when completing a 5YRR; and the Council must ensure those aspects of the rules are met before approving 5YRRs or rulemakings.

- However, in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect “military call-up service” instead of “presidential call-up service” in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
- R2-8-508: Required documentation/calculations for leave of absence service credit (form req)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needed to be amended to define “guidelines” in subsection (A)(2).
  - The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process a leave of absence service credit purchase, which would render the current ASRS process more enforceable.
- R2-8-509: Required documentation/calculations for military service credit (form requirement)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect “military call-up service” instead of “presidential call-up service” in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
  - The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process a military service credit purchase, which would render the current ASRS process more enforceable.
- R2-8-510: Required documentation/calculations for presidential service credit (form reqs)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect “military call-up service” instead of “presidential call-up service” in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
  - ASRS also stated in the 2010 5YRR that it needed to be amended because ASRS no longer enforces subsection (B) (30 days from active duty termination date is not sufficient time for employer to request service purchase).
  - The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process a military call-up service credit purchase (including USERRA requirements for 90 day break in service), which would render the current ASRS process more enforceable.
- R2-8-511: Required documentation/calculations for other public service credit (form reqs)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to ensure the form requirements are clear, concise, and understandable.

- In the 2010 5YRR, the ASRS identified it also needs to be amended to be consistent with the information the ASRS needs to determine if the service falls under A.R.S. § 38-738, when the request to purchase service credit is with an ASRS employer.
- R2-8-512: Purchasing service credit by check, Cashier's check, or money order (when/how)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect certain restrictions placed on service purchases by the Internal Revenue Code when made with after-tax monies.
  - Such amendments will ensure that the rule is clear and understandable, as well as consistent with other laws.
- R2-8-513: Purchasing service credit by irrevocable payroll deduction authorization (info reqs)
- Last amended in 2012, to remove the language allowing the retiree to purchase the service with a partial lump sum retirement distribution.
  - However, in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect "military call-up service" instead of "presidential call-up service" in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
  - The rule also needs to be amended to ensure the requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process this method of service credit purchase, which would render the current ASRS process more enforceable.
- R2-8-513.02: Termination date (sets the termination dates for purchases under R2-8-513)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect "military call-up service" instead of "presidential call-up service" in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
  - The rule also needs to be amended to ensure the information is clear, concise, and understandable, as well as consistent with the current process the ASRS uses, which would render the current ASRS process more enforceable.
- R2-8-514: Purchasing service credit by direct rollover (form requirements)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to provide members a longer timeframe to submit rollover requests, because the current (90 day?) timeframe is not enough if termination pay is allowed to be used.

- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process a rollover service credit purchase, which would render the current ASRS process more enforceable.

R2-8-515: Purchasing service credit by trustee-to-trustee transfer (form requirements)

- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to provide members a longer timeframe to submit rollover requests, because the current (90 day?) timeframe is not enough if termination pay is allowed to be used.
- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process this transfer service credit purchase, which would render the current ASRS process more enforceable.

R2-8-516: Purchasing service credit by indirect IRA rollover (form requirements)

- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to provide members a longer timeframe to submit rollover requests, because the current (90 day?) timeframe is not enough if termination pay is allowed to be used.
- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process this IRA service credit purchase, which would render the current ASRS process more enforceable.

R2-8-517: Purchasing service credit by distributed rollover contribution (form requirements)

- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to provide members a longer timeframe to submit rollover requests, because the current (90 day?) timeframe is not enough if termination pay is allowed to be used.
- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs (only one form now instead of two) to process this contribution service credit purchase, which would render the current ASRS process more enforceable.

R2-8-519: Purchasing service credit by termination pay distribution (form requirements)

- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect that the ASRS does not send Termination Pay Authorization forms automatically, but only on request from a member.

- The ASRS also identified in the 2010 5YRR that it needed to be amended to clarify that a member must be actively contributing in order to request a recalculation of the service purchase cost.
- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the required information the ASRS needs to process this service credit purchase, which would render the current ASRS process more enforceable.



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*Paul Matson*  
Director

**TO:** The Arizona State Retirement System (ASRS) External Affairs Committee

**FROM:** Mr. Patrick M. Klein, Assistant Director, External Affairs Division

**DATE:** December 12, 2014

**RE:** **AGENDA ITEM NO. 4:** Presentation, Discussion and Appropriate Action Regarding the ASRS External Affairs Committee Meeting Calendar.

**Purpose:**

Accept the following 2015 ASRS External Affairs Committee Meeting dates.

## **External Affairs Committee (EAC) 2015**

February 13, 2015, Friday, 10:30 a.m.  
March 13, 2015, Friday, 10:30 a.m.  
April 10, 2015, Friday, 10:30 a.m.  
May 8, 2015, Friday, 10:30 a.m.  
September 11, 2015, Friday, 10:30 a.m.  
October 9, 2015, Friday, 10:30 a.m.  
November 13, 2015, Friday, 10:30 a.m.