

Pub. L. 102-354, §3(a)(2), (5), Aug. 26, 1992, 106 Stat. 944; Pub. L. 104-320, §11(b)(1), Oct. 19, 1996, 110 Stat. 3873.)

#### Editorial Notes

##### AMENDMENTS

1996—Pub. L. 104-320 in section catchline substituted “Encouraging negotiated rulemaking” for “Role of the Administrative Conference of the United States and other entities”, and in text added subsecs. (a) and (b) and struck out former subsecs. (a) to (g) which related to: in subsec. (a), consultation by agencies; in subsec. (b), roster of potential conveners and facilitators; in subsec. (c), procedures to obtain conveners and facilitators; in subsec. (d), compilation of data on negotiated rulemaking and report to Congress; in subsec. (e), training in negotiated rulemaking; in subsec. (f), payment of expenses of agencies; and in subsec. (g), use of funds of the conference.

1992—Pub. L. 102-354, §3(a)(2), renumbered section 589 of this title as this section.

Subsec. (d)(2). Pub. L. 102-354, §3(a)(5)(A), substituted “section 566” for “section 586”.

Subsec. (f)(2). Pub. L. 102-354, §3(a)(5)(B), substituted “section 568(c)” for “section 588(c)”.

Subsec. (g). Pub. L. 102-354, §3(a)(5)(C), substituted “section 595(c)(12)” for “section 575(c)(12)”.

#### § 570. Judicial review

Any agency action relating to establishing, assisting, or terminating a negotiated rulemaking committee under this subchapter shall not be subject to judicial review. Nothing in this section shall bar judicial review of a rule if such judicial review is otherwise provided by law. A rule which is the product of negotiated rulemaking and is subject to judicial review shall not be accorded any greater deference by a court than a rule which is the product of other rulemaking procedures.

(Added Pub. L. 101-648, §3(a), Nov. 29, 1990, 104 Stat. 4976, §590; renumbered §570, Pub. L. 102-354, §3(a)(2), Aug. 26, 1992, 106 Stat. 944.)

#### Editorial Notes

##### AMENDMENTS

1992—Pub. L. 102-354 renumbered section 590 of this title as this section.

#### § 570a. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.

(Added Pub. L. 104-320, §11(d)(1), Oct. 19, 1996, 110 Stat. 3873.)

#### SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

#### Editorial Notes

##### CODIFICATION

Another subchapter IV (§581 et seq.) relating to negotiated rulemaking procedure was redesignated subchapter III (§561 et seq.) of this chapter.

##### AMENDMENTS

1992—Pub. L. 102-354, §3(b)(1), Aug. 26, 1992, 106 Stat. 944, transferred this subchapter so as to appear immediately after subchapter III of this chapter.

#### § 571. Definitions

For the purposes of this subchapter, the term—

(1) “agency” has the same meaning as in section 551(1) of this title;

(2) “administrative program” includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter;

(3) “alternative means of dispute resolution” means any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, fact-finding, minitrials, arbitration, and use of ombuds, or any combination thereof;

(4) “award” means any decision by an arbitrator resolving the issues in controversy;

(5) “dispute resolution communication” means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or non-party participant; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

(6) “dispute resolution proceeding” means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

(7) “in confidence” means, with respect to information, that the information is provided—

(A) with the expressed intent of the source that it not be disclosed; or

(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

(8) “issue in controversy” means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement—

(A) between an agency and persons who would be substantially affected by the decision; or

(B) between persons who would be substantially affected by the decision;

(9) “neutral” means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

(10) “party” means—

(A) for a proceeding with named parties, the same as in section 551(3) of this title; and

(B) for a proceeding without named parties, a person who will be significantly affected by the decision in the proceeding and who participates in the proceeding;

(11) “person” has the same meaning as in section 551(2) of this title; and

(12) “roster” means a list of persons qualified to provide services as neutrals.