

APPENDIX A

Traffic Accident and Safety Data

The National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370f, requires that this analysis of the proposed project must consider and discuss its effects and impacts on mankind, and its effects and impacts on plants, animals, resources, and the natural world in general. One of the key elements to be discussed in any NEPA analysis of a proposed highway project is its effects and impacts on the safety of those who use those highways. However, Congress has recognized that even while this document summarizes and presents traffic accident and safety information for the general benefit of the public, pursuant to federal law, some people may attempt to use the information to establish federal, state or local liability in lawsuits arising from highway accidents. Congress has enacted a law, 23 USC Section 409, which prohibits the discovery or use, in litigation, of highway accident and safety data, developed under federal law to make highway safety improvements. Congress's rationale is obvious: the safety data was compiled and collected at their request, to help prevent future accidents, injuries and death on our nation's highways. If that information can be used in expensive damage suits, then the millions of dollars that litigation may cost the Missouri Department of Transportation (MoDOT) and local governments will not be available for their use to make Missouri's highways safer. The collection of this safety data should be encouraged, not discouraged.

Traffic accident statistics and safety data are compiled, presented and summarized in portions of this NEPA document. Where noted in an introductory footnote to a segment of this document, the discussions, reports, lists, tables, diagrams and data presented throughout that chapter, unit, section or subsection were compiled or collected for the purpose of identifying, evaluating or planning the safety enhancement of potential accident sites or hazardous roadway conditions pursuant to federal law. Thus, that information and its supporting reports, schedules, lists, tables, diagrams and data are not subject to discovery, and they are prohibited by federal law (23 USC § 409) from being admitted into evidence in a federal or state court proceeding, or from being considered for other purposes, in any action for damages arising from an occurrence on the highways, intersections or interchanges discussed in this document.