

**Appendix A**  
**Safety and Accident Data**

---

## APPENDIX A — TRAFFIC ACCIDENT AND SAFETY DATA

---

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

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