

APPENDIX I-A

# Traffic Accident and Safety Data

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

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