

TSA hasn't yet complied with order to start public discussion on body scanners

It's been one year since a federal court ordered the [Transportation Security Administration](#) to open up its new body scanner system to a process that includes taking comments from the public and justifying the policy, yet the TSA has not yet followed through with the order yet.

Because the agency hasn't complied, the Electronic Privacy Information Center (EPIC) organization plans to file a motion with the U.S. Court of Appeals for the D.C. Circuit on Tuesday to ask the court to enforce it.

Ginger McCall, a director at EPIC, confirmed to The Daily Caller on Monday that the group is planning to file the motion Tuesday about the failure of TSA to comply with the court's notice-and-comment rulemaking order.

"A year has passed," McCall told TheDC. "The agency has not demonstrated any steps to indicate that they have taken that notice-and-comment rule making. We are filing a motion with a court to ask the court to enforce their own order."

McCall cited "ongoing concerns about radiation risks" and "questions about the effectiveness of these machines" as reasons why the process needs to start.

"That really indicates that the agency needs to allow the public to weigh in on whether or not the public feels this is worthwhile," he said.

But in a statement provided to TheDC, TSA spokeswoman Lorie Dankers said the agency is already "working on a Notice of Proposed Rulemaking (NPRM) to respond to the decision of the U. S. Court of Appeals for the District of Columbia Circuit."

"TSA expects that the NPRM will be published in the Federal Register next year," Dankers said. **(RELATED: [Full coverage of the TSA](#))**

About 13,000 of the agency's "advanced imaging technology" critics have taken to an [online petition](#) at WhiteHouse.gov calling on President Barack Obama to force "the TSA to begin the public process the court ordered."

The petition was started by Jim Harper, the director of Information Policy Studies at the libertarian Cato Institute. He said he started the effort on his own and it is not affiliated with Cato.

“I started this myself and it’s sort of taken off like wildfire,” he told TheDC. “It’s great.”

The language from the federal court last year called on the agency to conduct the notice-and-comment rulemaking “promptly,” “and a year later, they haven’t even started the process — the public part of the process,” Harper said. “I don’t think that’s prompt.”

He said the process will lead to questions being answered from the public on the policy.

“You’re going to get an agency articulating its policy, and having taken comment from the public,” he said. “So how good are you doing on your risk management? How good are your cost benefit analysis? Have you considered all the other dimensions of this problem? And I don’t think they have.”

The introduction of the body-scanners has been contentious and has led to complaints about invasions of privacy.

TSA describes the scanners as, “Advanced imaging technology [that] safely screens passengers for metallic and nonmetallic threats including weapons, explosives and other objects concealed under layers of clothing without physical contact to help TSA keep the traveling public safe.”