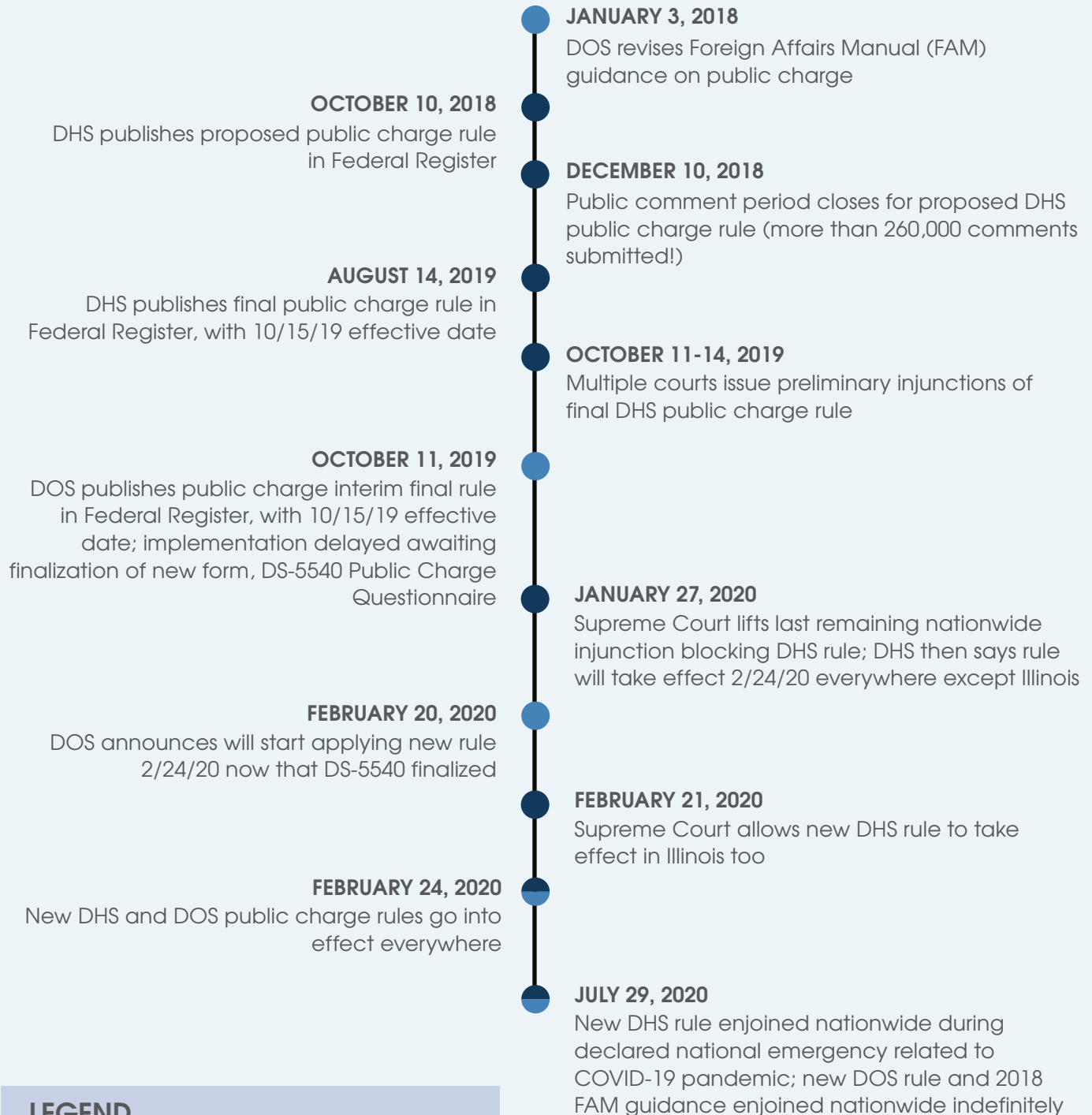




PUBLIC CHARGE TIMELINE



LEGEND

-  DHS/USCIS
-  DOS/Consulates
-  DHS/USCIS and DOS/Consulates

SO WHERE ARE WE NOW?

We are awaiting guidance from DHS/USCIS and DOS articulating how they interpret the July 29, 2020 injunctions and intend to implement them.

Based on the broad wording of the DHS injunction, which bars the agency from “enforcing, applying, implementing, or treating as effective the Rule for *any* period during which there is a declared national health emergency in response to the COVID-19 outbreak,” our interpretation is that DHS/USCIS cannot apply its 2019 public charge rule in *any* adjustment adjudications, regardless when the applications were filed, for the duration of the national emergency in response to COVID-19. This would mean that old public charge guidance from 1999 continues to apply to adjustment of status cases, as it had from 1999 up until February 24, 2020, and USCIS may not use the new public charge form, I-944 Declaration of Self-Sufficiency.

Likewise, based on the broad wording of the DOS injunction, which bars the agency from “enforcing, applying, implementing, or treating as effective the 2018 FAM Revisions (and) DOS Rule,” our interpretation is that DOS cannot apply its 2019 public charge rule in *any* visa adjudications while the injunction remains in place. This is because while the DHS injunction is tied to the public health emergency, the DOS injunction is indefinite, lasting until a court makes a new order lifting the injunction. This would mean that consular officers should follow DOS guidance pre-dating the January 3, 2018 FAM revisions, and may not use its new public charge form, DS-5540 Public Charge Questionnaire.

Note that litigation challenging the DHS and DOS public charge rules, 2018 FAM revisions, and related issues is ongoing.

Check our [Public Charge Page](#) for further updates.