

# **ACCESSABILITY RULES EVERY PEG CHANNEL SHOULD UNDERSTAND**

**OCTOBER 15, 2024**

PEG Channels fall under two sets of Federal rules – which causes some confusion.

**FCC Captioning Rules** pertain to all television channels in the US

**ADA** (which is administered by DOJ) pertains to all organizations and businesses in the US

FCC Rules have been in place since 1998, but have changed over time to include more devices and services.

Americans with Disabilities Act has been in place since 1991, but the Federal Government determines implementation of the Act

## Two Sets of Rules: FCC & DOJ

All channels must be captioned, and captions must have specific standards

<https://www.fcc.gov/consumers/guides/closed-captioning-television>

Information about consumer complaints and quality standards

There are ***self-implementing exemptions*** for certain programs and organizations

Self-Implementing Exemptions

<https://www.fcc.gov/general/self-implementing-exemptions-closed-captioning-rules>

Includes exemptions for channels with less than \$3M in revenue, and for which captioning costs would exceed 2% of gross revenues

## FCC Captioning Rules

If cable channels are streamed, the exemption continues to that online video delivery

BUT

Online only video ***must*** have captioning per Congress

21<sup>st</sup> Century Communications and Video Act

<https://www.fcc.gov/cvaa>

Passed in 2011, CVAA describes accessibility standards and requirements for online media content

## FCC Captioning Rules

ACM has been asking the FCC to clarify its reporting standards so that public access producers would not have to file contact information with the Commission.

We expect a ruling on this issue later this year.

FCC has set up a contact database for all video channels in the US to help with consumer complaints about captioning.

## July 1 Deadline

We expect to work with the FCC to help stations list their point of contact for complaints and concerns and to list their exemption status for the FCC rules.

# FCC Captioning Rules

New Rule Implementing Title II of Americans with Disabilities Act

Published in *Federal Register* **April 24**, adds new subpart H to the Title II ADA regulation, 28 CFR part 35

<https://www.federalregister.gov/documents/2024/04/24/2024-07758/nondiscrimination-on-the-basis-of-disability-accessibility-of-web-information-and-services-of-state>

Justice Department had started a process more than a decade ago that was halted by the prior administration

Rules address the **quality** of online and application-based communication

***Meant to empower individuals with a disabilities to be civically engaged and to improve lives***

Affects **all** local and state governments in the US (Title II entities)

## DoJ Implements Quality Standards

# Outlines How ADA Can Be Achieved

Doesn't Change Responsibilities or Authority  
Under Americans with Disabilities Act

**Effective Communication** is still key

*Requires specific standard:*

Web Content Accessibility Guidelines

**WCAG 2.1 Level AA**

- WCAG is internationally recognized standard
- Updated regularly to meet changing uses & forms by W3 Consortium (2.2 already published; 3.0 being drafted)
- Recognizes different levels of accessibility

# Outlines How ADA Can Be Achieved

## **WCAG 2.1 Level AA**

Version adopted in the DoJ Rule

<https://perma.cc/UB8A-GG2F>

The guidelines include references for how to meet accessibility standards (e.g. contrast, alternate text)

Includes multiple types of disabilities

***This version was written in 2018***



*perceivable*

*operable*

*understandable*

*robust*

All guidelines flow from these principles

Each guideline conforms to a different level of success:

Level A (lowest)

**Level AA (middle)**

Level AAA (highest)

## Key Principles Under WCAG 2.1

# How does this apply to video?

***WCAG 2.1 requires providing alternatives to Time-Based Media***

## **Success Criterion 1.2.4 Captions (Live)**

(Level AA)

Captions are provided for all live audio content in synchronized media.

## **Success Criterion 1.2.5 Audio Description (Prerecorded)**

(Level AA)

Audio description is provided for all prerecorded video content in synchronized media.

DoJ Order continues the **Effective Communication Standard** for all entities

<https://www.ada.gov/topics/effective-communication/>

Title II entities have a responsibility to communicate with disabled individuals through ***the means that individuals determine***

**Undue burden** remains a standard for the DoJ in the Order

If a service is fundamentally altered or there is an undue financial burden on the ***Title II entity*** based on an accommodation, responsible parties must state publicly why a service cannot be provided

## Effective Communication Standard

Communities served OVER 50,000 people have two years to comply on all online and app-based communication

**April 24, 2026**

Applies to all units of government and their contractors

Communities served under 50,000 people have three years to comply on all online and app-based communication

**April 24, 2027**

Applies to all units of government and their contractors

## Timeline for Implementation

# DoJ Expects Entities to Audit & Revise

***Local Governments should assess services they deliver for conformity to WCAG 2.1 Level AA***

*The rules expect affected entities to remediate their services (or develop new services) in the timeline given*

Testing, certification and replacement of apps and websites

Understanding specifications of new products

# Final tips & takeaways

Assess and Listen to Needs of Your Community

Communicate Your Obligation to Accommodate Individuals

Have a Plan for Online Communications and Time-Based Media

Make a Real Assessment of Costs Regularly

Communicate with Decision Makers

Assess Compliance of Current Communications Inventory and Plan Compliance by Deadline

Work with Vendors Familiar with Standards and Use Products that Conform with WCAG Standards

Seek Financial Resources

# QUESTIONS?

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