

Briefer

*On the Draft 2026 Rules and
Procedure on the Conduct of
Free and Prior Informed Consent
(FPIC)*



A Briefer: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF FREE AND PRIOR INFORMED CONSENT (FPIC)

I. Introduction

Free and Prior Informed Consent (FPIC) is a substantive right of Indigenous Cultural Communities and Indigenous Peoples (ICCs/IPs) recognized under the Indigenous Peoples' Rights Act (IPRA), the United Nations Declaration on the Rights of Indigenous Peoples (UNRIP). Section 3(g) of IPRA defines FPIC as “the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion.” FPIC is not merely a procedural checkbox but an exercise of the right of self-determination (United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Article 3; International Covenant on Economic, Social and Cultural Rights, Article 1).

Decisions affecting ancestral lands must come from the collective will of the community itself, following its own customary decision-making processes. No government agency or project proponent may override, dilute, or bypass that collective will.

FPIC is not simply a procedural requirement to be completed before a government permit can be issued. It is a substantive right of Indigenous Peoples to decide what happens within their ancestral domains. Many projects—mining, energy development, infrastructure, bioprospecting, and natural resource extraction—may affect indigenous lands, waters, forests, and livelihoods for decades. FPIC ensures that communities are given the opportunity to understand a proposed project, discuss its impacts, and decide whether to allow or reject it before any activity proceeds. For this to be meaningful, communities must be able to deliberate freely, receive full information, and reach decisions without outside pressure or interference. The right to say “no” must be absolute, final, and binding.

The 2012 FPIC Guidelines were structured around these principles. The process emphasized community assemblies, consensus-building, and broad participation before projects could proceed within ancestral domains, with the aim of ensuring that decisions genuinely reflected the collective will of the community.

The National Commission on Indigenous Peoples (NCIP) has for consideration the draft “2026 Free and Prior Informed Consent Process Guidelines (2026 FPIC Guidelines),” circulated in April 2026, proposed to supersede NCIP Administrative Order No. 3, Series of 2012.

II. Summary of structural changes in the FPIC system

A. Project classification determines whether FPIC is applied

The 2026 Draft FPIC Guidelines divide projects into four categories, each carrying a different consent requirement. The practical effect is that the classification decision, made administratively by the NCIP Regional Director, determines how much the community actually participates. Under the 2012 Guidelines, projects affecting ancestral domains generally required full FPIC.

Category A. For large-scale mining, energy, and national-level resource agreements, the Guidelines require consent from household representatives but introduce features that weaken the process. Final consent may be determined by majority vote rather than the customary consensus IPRA requires. The decision-making period is capped at thirty working days regardless of project complexity. A rejected project may still be reopened through a Motion for Reconsideration. And the signed MOA, rather than the deliberative process, is designated as the principal evidence of consent.

Category B. Mineral exploration, quarrying, small-scale mining, coal permits, and early-stage energy studies fall here, described as having localized or reversible impacts. In practice, many of these activities affect rivers, forests, farmland, and sacred sites. Consent may be determined by validated elders and recognized leaders rather than the broader community, departing from IPRA's guarantee that decisions over ancestral domains belong to the ICCs/IPs as a whole. Because the NCIP controls which leaders are recognized, there is a real risk that participation is confined to those who are amenable to a project.

Category C. Defined as community-initiated or community-solicited projects, Category C requires only that the community be informed, not that it deliberate and decide collectively. The risk is that external actors can manufacture the appearance of a community request through a few letters, reclassify the project as Category C, and proceed without assemblies or genuine consent. Infrastructure or programs tied to larger development agendas could enter ancestral domains through this route.

Category D. Government infrastructure and scientific or academic research, including biodiversity studies and cultural documentation, may proceed on documentary review alone. The concern is specific: Section 35 of IPRA requires FPIC for access to biological resources and indigenous knowledge within ancestral

domains. Research described as non-commercial can still result in the extraction of samples or traditional knowledge with future commercial value. Placing these activities outside the FPIC process removes the community's opportunity to evaluate and decide on that access before it happens.

B. Reduced role of community assemblies

Community assemblies were central to the 2012 FPIC process, where communities received information, discussed projects, and decided collectively through two mandatory assemblies. The 2026 Draft Guidelines do not specify a minimum number of assemblies and set fixed administrative deadlines: ten working days for Category A and four working days for Category B. Category C projects require only validation. Category D projects require no community process. This may reduce opportunities for the entire community to participate in decisions affecting their ancestral domain.

C. Shortened timelines across the FPIC process

The 2026 Draft Guidelines introduce shorter timelines for several stages of the FPIC process. Consensus-building is limited to thirty working days for Category A and seven working days for Category B. Negotiations for the Memorandum of Agreement are limited to ten working days for Category A and two working days for Category B. The 2012 FPIC Guidelines allowed communities up to two months for consensus-building and did not impose fixed deadlines for MOA negotiations. These timelines compress stages that involve complex discussions on benefit-sharing, environmental safeguards, and conditions that may affect ancestral domains for many years.

D. Removal of categorical policy declaration

The 2012 FPIC Guidelines contained a direct policy declaration in Section 3 that no concession, license, permit, lease, or production-sharing agreement affecting ancestral domains shall be granted or renewed without going through the process laid down by law. This provision tracked Section 59 of IPRA directly. The 2026 Draft Guidelines do not carry this declaration forward. In its place is a principles chapter covering Sections 3 through 11. The question of whether FPIC applies to a given project is now resolved through administrative classification rather than a categorical legal requirement.

E. Certificate of Non-Overlap as FPIC loophole

The 2012 FPIC Guidelines allowed a Certificate of Non-Overlap to be issued only when the area was patently outside any ancestral domain or when the FBI determined no overlap (Section 15). The 2026 Draft Guidelines adds a new ground:

a CNO may also be issued on the basis of property or vested rights recognized under Section 56 of IPRA. This means a CNO may issue on the basis of a property claim without a factual determination that the area does not overlap with an ancestral domain. Section 59 of IPRA requires FPIC certification before any permit affecting ancestral domains is issued and does not provide an exception for areas subject to prior property claims.

F. Removal of excluded areas protection

The 2012 FPIC Guidelines excluded certain areas from any project activity under Section 25, including sacred grounds, burial sites, identified cultural and heritage sites, and areas identified in the ADSDPP. No equivalent provision appears in the 2026 Draft Guidelines. Under the 2026 framework, projects affecting sacred grounds or burial sites may still be classified and processed through the FPIC system. Section 33 of IPRA recognizes the right of ICCs/IPs to maintain, protect, and have access to their religious and cultural sites.

G. Project proponent controls documentation and venue

Under Section 42 of the 2026 Draft Guidelines, the project applicant prepares the Work and Financial Plan and shoulders all logistical expenses for FPIC activities, including venue arrangements, transportation, materials, and documentation infrastructure. The 2012 FPIC Guidelines also required the proponent to bear costs but placed the NCIP in control of the process. Allowing the proponent to organize the logistical arrangements for meetings may affect the independence of community deliberations. Section 3(g) of IPRA requires FPIC to be free from any external manipulation, interference, or coercion.

H. Full reliance toward documentary compliance

The 2026 Draft Guidelines rely on documentation and NCIP confirmation to verify that FPIC activities were completed. Under Section 50, the FPIC Report prepared by the applicant serves as the basis for CP issuance. The signed Memorandum of Agreement is identified as the principal evidence of consent. The 2012 FPIC Guidelines placed stronger emphasis on the substantive participation of community members and the Resolution of Consent or Non-Consent issued by the community as the primary expression of its decision. Under IPRA, FPIC must reflect the actual consensus of the community reached according to customary laws and practices.

I. Complaints do not suspend the FPIC process

The 2026 Draft Guidelines provide that the filing of a complaint shall not automatically suspend the FPIC timeline, and under Section 87 that complaints involving prohibited acts shall be resolved separately from the FPIC process. In

contrast, the 2012 FPIC Guidelines allowed the Regional Director to suspend proceedings where prohibited acts would adversely affect the outcome of consent proceedings (Section 66). Under the 2026 framework, the FPIC process may continue and a Certification Precondition may be issued while complaints about coercion, misrepresentation, or other irregularities remain under investigation.

J. Elimination of the independent expert guarantee

The 2012 FPIC Guidelines required the FPIC Team to invite independent experts to give opinions on any aspect of the proposed project during community assemblies (Section 17[f]). The cost of engaging these experts was borne by the proponent. The 2026 Draft Guidelines do not retain this requirement. No provision in the 2026 Draft requires the FPIC Team to facilitate access to independent technical expertise for the community. Section 3(g) of IPRA requires consent to be obtained after fully disclosing the intent and scope of the activity in a language and process understandable to the community.

K. Consent by bureaucratic default

Section 54 of the 2026 Draft Guidelines provides that if the Regional Director or the Commission En Banc fails to act on an application within thirty working days from submission of the FPIC Report, the application shall be deemed approved and the Certification Precondition issued as a matter of course. The 2012 FPIC Guidelines contained no equivalent provision. Section 59 of IPRA requires affirmative certification from the NCIP following FPIC, and provides that no certification shall be issued without the free and prior informed and written consent of the ICCs/IPs concerned. Under the 2026 provision, a Certification Precondition may issue without any affirmative finding that consent was properly obtained.

L. Bar on judicial remedies

Section 103 of the 2026 Draft Guidelines provides that no inferior court shall issue any restraining order or writ of preliminary injunction against the NCIP or any of its duly authorized offices in any case, dispute, or controversy arising from the lawful conduct of the FPIC process. Section 70 of IPRA contains a similar provision applicable to cases involving the interpretation and application of IPRA. The concern arises from how Section 103 operates alongside other provisions in the 2026 Draft, including the rule that complaints do not suspend the process, the deemed-approval mechanism, and the shortened timelines.

M. Permit extensions without consent

Section 115 of the 2026 Draft Guidelines provides that where a regulatory agency extends a permit without altering the nature, scope, or impacts of the original

activity, the full FPIC process may be dispensed with. Only a simple validation activity is required to inform the community of the extension and confirm that no objections exist. The 2012 FPIC Guidelines contained no equivalent provision. Section 59 of IPRA requires FPIC certification for renewals. Under the 2026 provision, the absence of recorded objection during a validation visit may be treated as sufficient, without an affirmative expression of consent by the community.

N. Restriction of customary law in disputes

Section 79 of the 2026 Draft Guidelines provides that customary law applies strictly to disputes solely between and among members of the same ICCs/IPs. Customary law shall not be applied when the dispute involves any non-IP party, even with consent. The 2026 Draft radically restricts customary law to intra-community disputes only. This means that when a proponent violates the MOA—pollutes a river, destroys a sacred site, fails to pay royalties—the dispute cannot be resolved through customary processes. It must go through NCIP administrative procedures (Section 80), where NCIP’s powers over non-IPs are limited to fact-finding, monitoring, advisory, and recommendation functions. This strips communities of their primary justice system precisely when they need it most, against powerful external actors. The 2012 FPIC Guidelines correctly recognized that customary law could apply to MOA disputes, with appropriate safeguards.

III. Discussion of structural changes in the FPIC system

The 2012 FPIC Guidelines contained a direct policy declaration in Section 3 that no concession, license, permit, lease, or production-sharing agreement affecting ancestral domains shall be granted or renewed without going through the process laid down by law. This provision tracked Section 59 of IPRA directly. The 2026 Draft Guidelines do not carry this declaration forward. In its place is a principles chapter covering Sections 3 through 11. The question of whether FPIC applies to a given project is now resolved through administrative classification rather than a categorical legal requirement. A categorical declaration binds the NCIP and all other agencies. This is not a technical editing choice. It is a fundamental shift in the legal architecture of FPIC.

Further, Section 3, for example, declares that customary laws shall govern all stages of the FPIC process, yet Section 52 imposes a thirty-working-day limit on consensus-building for Category A projects—a timeline that may be impossible under customary processes that require seasons, cycles, or repeated deliberation.

The precautionary principle in Section 6 is laudable, but its application is undermined by the deemed approval provision in Section 54 that issues Certification Preconditions automatically when the NCIP fails to act. Section 9 commands liberal interpretation in favor of ICCs/IPs, yet every operative provision—shortened timelines, classification gatekeeping, complaint non-suspension—cuts against that command. The 2026 Draft thus creates a facade of protection while constructing a machinery of extraction.

A. Project classification determines whether FPIC is applied

Under this framework, the classification of a project determines the level of consent required. The initial administrative decision on how a project is categorized effectively determines whether:

- Category A – full FPIC is required
- Category B – consent may be determined through recognized leaders or elders
- Category C – validation by the NCIP is sufficient
- Category D – no FPIC process is conducted

The table below summarizes these categories and the corresponding decision-making authority.

Category	Coverage / Types of Projects	Consenting Body / Decision-Making Authority
A	Projects involving development, exploitation, or utilization of natural resources with substantial, long-term, or potentially irreversible impacts, requiring approval by national-level authorities (e.g., DENR Secretary, DOE Secretary, DA Secretary, or the President). Examples include: large-scale mining agreements (MPSA, FTAA), large energy development projects (geothermal, hydropower, petroleum), national-level forestry and land-use agreements (IFMA, SIFMA, FLAg, SLUP), large-scale aquaculture or marine developments, and projects materially altering land use, affecting major watersheds, or requiring relocation of residents.	Household representatives of the concerned ICCs/IPs, following customary decision-making processes. The Certification Precondition is approved and issued by the NCIP Commission En Banc (CEB).

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

Category	Coverage / Types of Projects	Consenting Body / Decision-Making Authority
B	<p>Projects involving exploration, small-scale extraction, or minor utilization of natural resources with localized or reversible impacts, approved by regional or local authorities (e.g., provincial or municipal governments, PMRB). Examples include: mineral exploration permits, geoscientific surveys, quarry permits, commercial sand and gravel permits, small-scale mining (Minahang Bayan), road right-of-way or easements, micro-hydropower projects, municipal renewable energy micro-projects, and local agricultural or fisheries initiatives with limited disturbance.</p>	<p>Validated elders and leaders of the concerned ICCs/IPs, following customary decision-making processes. The Certification Precondition is issued by the NCIP Regional Director.</p>
C	<p>Community-initiated, community-solicited, and community-managed projects aligned with the ADSDPP and undertaken primarily for the benefit of the ICCs/IPs. Examples include: community-based agriculture, agroforestry, fisheries, handicrafts, eco-cultural tourism, gathering of minor forest products, community infrastructure (tribal halls, irrigation systems, storage facilities), natural resource conservation initiatives, and cultural revitalization programs.</p>	<p>No formal FPIC decision-making assembly required. Consent is satisfied through simple validation confirming that the community has been informed of the project. The Certification Precondition is issued by the NCIP Regional Director.</p>
D	<p>Non-commercial, government-initiated or community-solicited projects with minimal or incidental impacts, and which do not involve the exploitation of natural resources. Examples include: schools, health centers, barangay roads, water systems, electrification, disaster response structures, and non-commercial academic or scientific research such as biodiversity studies or cultural documentation.</p>	<p>No FPIC consent process required. Certification is issued by the NCIP Regional Director based on submitted documents, confirming that the activity falls within Category D.</p>

The 2012 FPIC Guidelines adopted a different approach. Under the earlier rules, projects affecting ancestral domains were generally required to undergo the full FPIC process, unless they fell under clearly defined exemptions such as projects that were proven to be outside the ancestral domain.

By contrast, the 2026 framework allows projects to proceed under simplified processes depending on administrative classification, which may significantly influence whether the community's right to FPIC is exercised. These particular concerns are further outlined below:

1. Category A projects

a. Majority voting instead of customary consensus

For Category A projects, Section 47 allows the final decision to be determined by majority vote of household representatives when the matter is brought to the domain-at-large. The provision states that "consent or non-consent shall be determined by the majority of household representatives present during the final decision-making meeting."

IPRA defines FPIC as a consensus of the community according to customary laws, not a numerical vote. Under Section 3(g) of IPRA, FPIC means "the consensus of all members of the ICCs/IPs determined in accordance with their customary laws and practices." Replacing consensus with majority voting may alter customary governance systems and allow approval even when a significant portion of the community opposes the project.

b. Limited time for community deliberation

Even for Category A projects, the timeline for decision-making may still be restrictive. Section 46 provides that the consensus-building and decision-making period is limited to thirty (30) working days. For large projects such as mining, energy development, or major land-use agreements, this period may not always be sufficient for communities to fully understand technical proposals, conduct internal consultations among families and clans, and seek independent advice before reaching a collective decision.

c. Motion for reconsideration after community rejection

If the community rejects a Category A project, the applicant may still file a Motion for Reconsideration. Section 47 states that "if consent is not granted, the applicant may file a Motion for Reconsideration (MR) before the Regional Director." This means a community decision rejecting a project may still be reopened, which could create pressure on communities to reconsider decisions that were already made through their internal processes.

d. Memorandum of Agreement as the principal evidence of consent

The Guidelines also state that “the signed Memorandum of Agreement shall constitute the principal evidence of consent granted” (Section 49). This places strong emphasis on the signed agreement rather than on the deliberative process through which the community reaches its decision. FPIC under IPRA is intended to reflect a collective decision reached through customary consensus, and an approach that centers primarily on the signed document may shift attention away from the integrity of that decision-making process.

2. Category B projects

a. Covered activities under Category B have considerable environmental impact

Category B projects include activities such as mineral exploration, quarrying, small-scale mining, coal mining permits, and early-stage energy projects. Although these activities are described as having localized or reversible impacts, they may still affect rivers, forests, farmland, and sacred areas within ancestral domains.

The list of projects under Category B includes several activities that communities often consider sensitive or harmful. These include:

- mineral exploration permits, including geological surveys and exploration drilling
- quarrying and sand and gravel extraction issued by provincial governments
- small-scale mining or Minahang Bayan permits
- small-scale coal mining permits
- early-stage energy projects such as feasibility studies for wind, geothermal, or hydropower projects
- micro-hydropower facilities and small renewable energy projects
- local infrastructure projects such as road right-of-way or irrigation systems that pass through ancestral land

Under the 2026 Draft Guidelines, consent for Category B projects may be determined through validated elders and leaders, rather than through the wider community. Section 45 provides that assemblies may be conducted with recognized leaders, Indigenous Political Structures, or validated elders.

IPRA recognizes that the right to decide over ancestral lands belongs to the Indigenous Cultural Community as a whole. When decision-making authority is concentrated in a smaller group of leaders, some members of the community may not have the opportunity to participate in discussions about projects that may affect their livelihoods and environment.

b. Exploration activities separated from full community consent

Under the 2026 Draft Guidelines, Category B projects include exploration activities, such as mineral exploration permits, geoscientific surveys, and feasibility studies for energy projects. Section 29 of the 2026 Guidelines expressly lists these activities under Category B, which allows consent to be determined through “recognized elders or leaders” rather than through the wider community. These activities are described as having localized or reversible impacts.

However, exploration activities are often the first stage of large mining or energy projects within ancestral domains. Once exploration is approved, companies may gain physical access to land, conduct drilling or surveys, and gather technical information necessary for full-scale development. These early stages may significantly influence whether larger projects will later proceed.

In contrast, the 2012 FPIC Guidelines (Section 19) required FPIC before exploration permits could be issued within ancestral domains, recognizing that exploration itself may have social, environmental, and cultural impacts for the community.

c. FPIC Consent of the community would be limited to the NCIP’s “recognized leaders”

Under the new rules, consent for Category B projects may be determined through validated elders and leaders of the ICCs/IPs, instead of involving the entire community. IPRA protects the right of the whole community to participate in decisions affecting their ancestral domain according to their customary laws and practices.

The new rules introduce changes in how consent may be determined for certain projects. In particular, the rules create a category called Category B projects, which are described as activities with “localized” or “reversible” impacts and are usually approved by regional or local government offices rather than national authorities. Even though these activities are described as having limited impacts, they can still affect mountains, rivers, forests, farmland, and sacred areas. Mineral exploration can open the way for future mining. Quarrying can damage river systems and watersheds. Coal mining and energy projects can affect land use, water sources, and the environment within ancestral domains.

Another issue relates to the reliance on “recognized leaders” in determining consent. When participation in the decision-making process is limited to leaders who are formally recognized in the process, government authorities may effectively control which leaders are recognized and allowed to participate. This creates the

possibility that recognition may be extended mainly to leaders who support certain projects, while other leaders or community members with different views may be excluded. In communities where opinions are divided on projects such as mining or energy development, this can concentrate decision-making power in a small group of individuals whose positions may not reflect the views of the wider community.

Under IPRA, the utilization of natural resources within ancestral domains requires the FPIC of the concerned ICCs/IPs. Section 3(g) of IPRA defines FPIC as: “the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion.” This definition emphasizes that the decision must come from the collective consensus of the Indigenous Cultural Community, not only from a few individuals or leaders.

Section 45 of the 2026 Guidelines provides: The community assemblies shall be conducted in the affected area where the project is to be implemented to ensure that all affected ICCs/IPs within the project area are fully informed and able to participate meaningfully. Assemblies shall be conducted in accordance with customary decision-making processes and community protocols, provided these remain consistent with IPRA and these Guidelines.

FPIC is meant to ensure that everyone who will be affected by a project has the opportunity to learn about it, ask questions, and discuss its possible impacts before any decision is made. When the process is limited to a smaller group of recognized leaders, many members of the community may not receive full information about the project. Farmers who depend on the land, fishers who rely on rivers, women who manage household resources, and young people who will inherit the land may not have the chance to share their concerns or experiences. Without broader participation, the decision may not reflect the full knowledge and perspectives of the community.

Further, concentrating decision-making power in a few individuals may expose those leaders to pressure from outside actors. Project proponents who want approval for their activities may focus their efforts on convincing or influencing a small group of leaders instead of engaging with the whole community. In some situations, leaders may even face harassment or intimidation. In practice, this change may weaken the protection that FPIC is supposed to provide under IPRA. Instead of reflecting the collective decision of the Indigenous community, consent may end up being determined by a limited group of recognized leaders, even when the project affects the whole ancestral domain.

For communities concerned about the entry of coal mining, quarrying, and energy projects, it is important to understand this change. It means that decisions about these projects could move forward through a shorter and more limited consent process, without the full participation of the community that will live with the consequences.

3. Category C projects

The 2026 Draft FPIC Guidelines introduce Category C projects, defined as community-initiated, community-solicited, and community-managed activities aligned with the ADSDPP, such as community agriculture, agroforestry, fisheries, eco-cultural tourism, small infrastructure, conservation, and cultural programs. Under the draft rules, these projects do not undergo the full FPIC process. Instead, the requirement for consent is satisfied through simple validation confirming that the community has been informed, after which the Certification Precondition may be issued by the NCIP Regional Director.

While this category is intended to support genuine community initiatives, it also creates a risk that externally driven projects may be presented as community-initiated. In practice, government agencies or project proponents may encourage a few members of the community to write letters requesting or supporting a project. Once such a letter exists, the project can be framed as community-solicited, even if the idea and planning came from outside the community.

When this happens, the project may be classified as Category C and bypass the full FPIC process, including community assemblies and collective deliberation. This creates the danger that projects affecting the ancestral domain, such as infrastructure linked to larger government projects, could move forward without the collective decision of the community.

4. Category D projects

The 2026 Draft FPIC Guidelines classify Category D projects as non-commercial, government-initiated or community-solicited activities with minimal or incidental impacts that do not involve the exploitation of natural resources. Examples include schools, health centers, barangay roads, water systems, electrification, disaster response structures, and academic or scientific research such as biodiversity studies or cultural documentation. Under this category, certification may be issued by the NCIP Regional Director based mainly on submitted documents, without conducting the full FPIC process.

While many public service projects may benefit communities, the inclusion of scientific research and biodiversity studies raises concerns. Under the Indigenous Peoples' Rights Act, access to biological and genetic resources and to indigenous knowledge within ancestral domains is allowed only with the Free and Prior Informed Consent of the concerned ICCs/IPs, obtained according to their customary laws. This requirement is expressly provided in Section 35 of IPRA.

Scientific research and biodiversity surveys may involve the collection of biological samples or documentation of indigenous knowledge. Even when described as non-commercial, such research can later lead to the use or commercialization of biological resources or traditional knowledge.

If these activities are processed under Category D without a full FPIC process, communities may not have the opportunity to fully discuss the purpose, risks, and possible future use of the information or materials collected from their ancestral domains.

B. Reduced role of community assemblies

Community assemblies have historically been central to the FPIC process. Under the 2012 FPIC Guidelines, assemblies such as the First and Second Community Assemblies were key stages where community members collectively received information, discussed the project, and determined how decisions would be made.

The 2026 Draft Guidelines introduce several pathways where assemblies may be reduced or bypassed. For example, Section 45 allows Category B assemblies to be conducted only with recognized leaders, elders, or Indigenous Political Structures. Category C projects require only validation that the community has been informed, while Category D projects may proceed without assemblies.

Because Section 3(g) of IPRA defines FPIC as the consensus of all members of the ICCs/IPs according to customary laws and practices, community assemblies remain an important mechanism through which collective participation occurs. When decision-making is limited to smaller representative groups, opportunities for wider participation may be reduced.

C. Shortened timelines across the FPIC process

The 2026 Draft FPIC Guidelines introduce shorter timelines for several stages of the FPIC process. For example, Section 46 provides that the consensus-building and decision-making period for Category A projects shall be completed within thirty (30) working days, and seven (7) working days for Category B projects, while other

provisions shorten the time allotted for activities such as negotiation of the Memorandum of Agreement. Section 48 provides that negotiations must be completed within ten (10) working days for Category A projects and two (2) working days for Category B projects. These timelines compress stages that involve complex discussions on environmental safeguards, benefit-sharing, and operational conditions that may affect the ancestral domain for many years.

Under the Indigenous Peoples' Rights Act, Free and Prior Informed Consent must be obtained through a process that is free from manipulation and determined according to the customary laws and practices of the ICCs/IPs. Section 3(g) of IPRA defines FPIC as the consensus of all members of the community reached through their customary decision-making systems. Meaningful consensus-building often requires time for internal consultations among elders, leaders, families, and clans, particularly when projects involve technical or environmental issues that must be explained and discussed.

These timelines are extremely short considering the long-term implications of the projects involved. Agreements related to mining, energy development, or land use often govern the relationship between the project proponent and the community for decades, sometimes extending 25 to 50 years or more. The MOA determines critical matters such as benefit-sharing, environmental safeguards, access to land and water, and operational conditions that may permanently affect ancestral domains. Because of this, the negotiation stage is one of the most important moments in the FPIC process. It is where communities can assert their autonomy, define safeguards, and negotiate the conditions under which outsiders may operate within their ancestral lands.

Limiting negotiations to two or ten days does not reflect the realities of how Indigenous communities make decisions. Negotiation is not simply a matter of reviewing a written draft. Communities often need time to discuss the proposed terms internally, consult with elders, clan leaders, families, and other members, and consider the long-term consequences of the agreement. When timelines are compressed into only a few days, the process risks becoming a procedural requirement designed to move the project forward, rather than a meaningful opportunity for communities to deliberate and negotiate the terms that will govern their land and resources for decades.

The geographic realities of many ancestral domains also make such short timelines unrealistic. Communities are often spread across mountainous or remote areas, and elders or traditional leaders may need to travel long distances, sometimes hiking

for three days, just to attend meetings. Gathering the relevant leaders and households, discussing the issues, and returning to consult with their communities requires time. Short timelines can therefore exclude important voices from the process simply because they cannot physically arrive within the schedule set for negotiations.

These provisions appear strongly tilted in favor of project proponents, who benefit from a faster and more predictable approval process. At the same time, the compressed timelines may place communities at a disadvantage by limiting their ability to study proposals, consult internally, and negotiate on equal footing. When agreements that may affect ancestral domains for generations are negotiated within only a few days, the process risks undermining the very purpose of FPIC, which is to ensure that communities can freely and meaningfully decide the terms under which their lands and resources may be used.

The 2012 FPIC Guidelines provided longer and more flexible timelines for consensus-building, recognizing that communities may require extended discussions before reaching a collective decision. The emphasis in the earlier rules was on allowing the community to deliberate according to their customary processes rather than completing the process within fixed administrative timelines. The shorter timelines in the 2026 Draft may limit the time available for internal consultations and independent advice before a final decision is made.

D. Removal of the policy that no concession or permit shall proceed without FPIC

The 2012 FPIC Guidelines contained a direct policy declaration in Section 3 that no concession, license, permit, lease, or production-sharing agreement affecting ancestral domains shall be granted or renewed without going through the process laid down by law. This provision tracked Section 59 of IPRA directly.

No provision in the 2026 Draft restates the categorical prohibition in the form that Section 3 of the 2012 Guidelines and Section 59 of IPRA established. In its place is a principles chapter covering Sections 3 through 11, which addresses the primacy of customary law, the precautionary principle, non-diminution of rights, and transparency. These principles are stated in broad terms and are not without value, but they do not replicate the operational function of the 2012 policy declaration.

The practical consequence is that the question of whether FPIC applies to a given project is now resolved through the classification system in Sections 28 and 29 rather than by a categorical legal requirement. Under this system, Category C

projects require only validation that the community has been informed, and Category D projects may proceed through document review alone. Neither category requires the community assemblies, consensus-building, and consent process that Section 59 of IPRA contemplates. The removal of the categorical policy declaration is what makes this possible. Once the prohibition is gone, classification determines everything.

2012 FPIC Guidelines	2026 Draft Guidelines	IPRA (RA 8371)
<p>Section 3(b). No concession, license, permit or lease, production-sharing agreement, or other undertaking affecting ancestral domains shall be granted or renewed without going through the process laid down by law and this Guidelines.</p>	<p>Sections 28-29 introduce project classification.</p> <p>No equivalent standalone declaration.</p> <p>Section 11. Non-Diminution of Rights. The rights of ICCs/IPs under these Rules shall be interpreted consistent with the doctrine of non-diminution of rights. No provision herein shall be construed to reduce, impair, or adversely affect rights already recognized under the Constitution, international human rights instruments, R.A. No. 8371, administrative issuances, or jurisprudence. Recognition of vested rights of parties under Section 56 shall likewise be complied.</p>	<p>Section 59. Certification Precondition. All departments and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain... no certification shall be issued by the NCIP without the free and prior informed and written consent of the ICCs/IPs concerned.</p>

E. Certificate of Non-Overlap as FPIC loophole

The 2012 Guidelines allowed a certificate of non-overlap (CNO) in two situations only: the area is patently outside any ancestral domain, or the FBI determined the activity does not affect an ancestral domain. Both grounds require a factual determination about the relationship between the project area and an ancestral domain.

Section 34 of the 2026 Draft retains these two grounds but adds a third: a CNO may now be issued on the basis of vested or property rights recognized under Section 56 of IPRA. This third ground is categorically different from the first two. It does not require any finding about whether the area overlaps with or affects an ancestral domain. It issues on the basis of a property claim, regardless of what the land actually is.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

This third ground has no basis in IPRA. Section 59 of IPRA requires FPIC certification before any permit is issued for areas that affect ancestral domains. Section 56 of IPRA, which the 2026 Draft anchors, only provides that existing property rights upon IPRA’s effectivity shall be recognized and respected. It does not say that such rights exempt the holder from the FPIC requirement under Section 59. It does not authorize the NCIP to issue a CNO on that basis.

<p style="text-align: center;">2012 FPIC Guidelines</p>	<p style="text-align: center;">2026 Draft Guidelines</p>	<p style="text-align: center;">IPRA (RA 8371)</p>
<p>Section 15. Certificate of Non-Overlap; When Issued. When the area is patently and publicly known to be outside any AD, or the activity is determined, after FBI, not to affect an AD, the Regional Director, with the concurrence of the concerned Commissioner, shall issue a CNO, provided however, that the applicant shall execute an undertaking for the conduct of FPIC should it be discovered later that there is, in fact, an overlap with an AD, provided further, that special attention shall be given to ICCs/IPs who are shifting cultivators or traditionally nomadic so as not to prejudice their rights as such.</p>	<p>Section 34. When the area is patently and publicly known to be outside any ancestral domain (AD), or the activity is determined, after FBI, not to affect an AD, the Regional Director, with the concurrence of the concerned Commissioner, shall issue a CNO, provided however, that the applicant shall execute an undertaking for the conduct of FPIC should it be discovered later that there is, in fact, an overlap with an AD x x x</p> <p>The Certificate of Non-Overlap shall explicitly include the following: x x x</p> <p>3. The property or vested rights recognized, if the Certificate of Non-Overlap is issued pursuant to Section 56 of IPRA; and x x x</p> <p>The issuance of a Certificate of Non-Overlap shall be without prejudice to future determination that the subsequent conduct and/or operations of the project affects an Ancestral Domain and shall not be a waiver to enforcement of the ICCs/IPs’ right to FPIC under these Rules nor a diminution of other rights as provided by other statutes. x x x</p>	<p>Section 56. Existing Property Rights Regimes. Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.</p> <p>Section 59. Certification Precondition. All departments and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certification shall only be issued after a field-based investigation is conducted by the Ancestral Domains Office of the area concerned: Provided, That no certification shall be issued by the NCIP without the free and prior informed and written consent of ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or production sharing agreement while there is a pending application for a CADT: Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.</p>

The practical implication is serious. A mining permit holder may assert that the land is privately owned, obtain a CNO on the basis of that claim, and proceed with operations. By the time the affected community is able to establish that the area falls within their ancestral domain, mining activities may already be underway. An ancestral domain that has been mined, logged, or built upon cannot be restored to its prior condition simply because a legal determination eventually favors the community.

The without-prejudice clause and the undertaking to conduct FPIC after the fact offer a remedy that arrives too late to prevent the harm that the FPIC requirement under Section 59 of IPRA was designed to prevent in the first place.

A comparison of the relevant provisions is shown in the table in the previous page.

F. Removal of excluded areas protection

The 2012 FPIC Guidelines excluded certain areas from any project activity under Section 25, including sacred grounds, burial sites, identified cultural and heritage sites, and areas identified in the ADSDPP. The exclusion was categorical and did not depend on the outcome of the FPIC process. These areas were not available for any activity other than the purposes for which they were designated, and a community did not need to raise the sacred character of a site during FPIC proceedings because the question was resolved before any application could proceed. Section 32 of IPRA recognizes the right of ICCs/IPs to maintain, protect, and have access to their religious and cultural sites.

The 2026 Draft removes this categorical exclusion entirely. In its place are general references to cultural integrity and the precautionary principle, but neither provision creates a prohibition against projects affecting sacred or burial sites. The concern is compounded by how the categorization system operates in practice. A project such as small-scale quarrying falls under Category B, which allows consent to be determined by validated elders and recognized leaders rather than the wider community. This means that where a proposed quarrying activity covers or borders a sacred site or burial ground, the decision on whether to allow it may rest with a small group of NCIP-recognized leaders, without the full community having the opportunity to deliberate or object. There is nothing in the 2026 Draft that prevents this outcome.

The burden effectively shifts to the community. Where the 2012 Guidelines resolved the question of protected areas before any application could move forward, the 2026 Draft requires communities to assert and defend the sacred

character of their sites within the FPIC process itself, at a stage where the project is already in motion and the pressure to engage is already present.

Without a categorical exclusion for sacred and cultural sites, the classification system creates a means by which activities that would have been barred outright under the 2012 Guidelines can now proceed through a fast-tracked process, decided by a limited group, The community as a whole may never be consulted, and the sacred character of the affected area may never be formally considered.

<p style="text-align: center;">2012 FPIC Guidelines</p>	<p style="text-align: center;">2026 Draft Guidelines</p>	<p style="text-align: center;">IPRA (RA 8371)</p>
<p>Section 25. Excluded Areas. The following areas are excluded from any activity except for the exclusive purposes for which they are identified:</p> <p>a. Sacred grounds and burial sites of indigenous communities;</p> <p>b. Identified international and local cultural and heritage sites;</p> <p>c. Critical areas identified or reserved by the ICCs/IPs for special purposes; and</p> <p>d. Other areas specifically identified by ICCs/IPs in their ADSDPP</p>	<p>No equivalent.</p> <p>General cultural integrity references in Section 9. x x x All activities within ancestral domains shall respect cultural integrity, intergenerational responsibility, and the indigenous concept of ownership over ancestral domains and priority rights over resources found therein.</p> <p>Precautionary principle in Section 6. x x x Particular scrutiny shall be given to activities that may cause x x x interference with cultural or spiritual practices, or risks disproportionate to expected benefits.</p>	<p>Section 7. Rights to Ancestral Domains. The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. x x x</p> <p>Section 33. Rights to Religious, Cultural Sites and Ceremonies. ICCs/IPs shall have the right to manifest, practice, develop, and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access to their religious and cultural sites; the right to use and control of ceremonial objects; and, the right to the repatriation of human remains. Accordingly, the State shall take effective measures, in cooperation with the ICCs/IPs concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.</p> <p>To achieve this purpose, it shall be unlawful to:</p> <p>a. Explore excavate or make diggings on archeological sites of the ICCs/IPs for the purpose of obtaining materials of cultural values without the free and prior informed consent of the community concerned; and</p> <p>b. Deface, remove or otherwise destroy artifacts which are of great importance to the ICCs/IPs for the preservation of their cultural heritage.</p>

G. Project proponent arranges documentation and venue

Section 42 of the 2026 Draft FPIC Guidelines requires the project applicant to prepare the Work Plan identifying the schedule, venues, and logistical arrangements for FPIC activities, and to shoulder the costs of these arrangements, including transportation, materials, and documentation infrastructure.

While it is reasonable for the project proponent to bear the financial cost of the FPIC process, this is problematic as the applicant may also influence where and how the meetings are conducted, including the venue and documentation setup. When the party seeking consent arranges these aspects of the process, the independence of community deliberations may be affected.

This concern is significant in light of the Indigenous Peoples' Rights Act. Section 3(g) requires that FPIC be obtained free from external manipulation, interference, or coercion, and in accordance with the customary decision-making processes of the ICCs/IPs. The 2012 Guidelines gave effect to this by keeping the applicant out of the consensus-building stage entirely: during internal deliberations, the applicant and other non-community members were not permitted to participate or interfere, with documentation left solely to the NCIP. The 2012 FPIC Guidelines also specifically states that the community assemblies and the voting be done inside the ancestral domain.

The risks this creates are not hypothetical. In the Kaliwa Dam project, the community assembly and voting were held in a resort outside the ancestral domain. Elders who attended reported feeling unsafe in an unfamiliar environment away from their communities. They were also told that transportation fare for the return trip would not be provided if they did not vote in favor of the project. Attendance sheets signed for the purpose of reimbursement were later presented as evidence of community consent. The experience illustrates how logistical arrangements, when controlled by the proponent, can affect the integrity of the process and the reliability of its recorded outcome.

Project proponents must shoulder the costs of the FPIC process. However, communities should retain authority over how its assemblies are conducted, where they are held, and how decisions are documented. Proponents may bear the cost, but the conduct of the process should remain with the community.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

2012 FPIC Guidelines	2026 Draft Guidelines	IPRA (RA 8371)
<p>Section 22. Conduct of Community Assemblies and Other Activities. Two (2) community assemblies, known as First and Second Community Assembly, respectively, shall be held. The First Community Assembly shall be held x x x on a date and strategic place within the AD x x x</p> <p>The Second Community Assembly shall be held on a date and place within the AD decided upon during the First community assembly. x x x</p>	<p>Section 42. Approval of the Work and Financial Plan (WFP). x x x The applicant shall shoulder all antecedent and logistical expenses necessary for the conduct of the activities, including but not limited to venue arrangements, transportation, materials, and documentation infrastructure, consistent with these Rules, to be indicated in a work plan.</p>	<p>Section 3 (g) Free and Prior Informed Consent - as used in this Act shall mean the consensus of all members of the ICCs/IPs to; be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community;</p>

H. Full reliance toward NCIP’s certification

In the 2012 Guidelines, the primary proof of the results of the FPIC process is the communities’ resolution, whether consent or non-consent. However, the 2026 Draft Guidelines rely on documentation and NCIP confirmation to verify that FPIC activities were completed. Under Section 50, the FPIC Report prepared by the applicant serves as the basis for CP issuance. The signed Memorandum of Agreement is identified as the principal evidence of consent. The 2012 FPIC Guidelines placed stronger emphasis on the substantive participation of community members and the Resolution of Consent or Non-Consent issued by the community as the primary expression of its decision. Under IPRA, FPIC must reflect the actual consensus of the community reached according to customary laws and practices.

Here, the documentation substitutes for the substantive inquiry into whether consent was actually free, prior, and informed. Documented cases of FPIC violations have involved exactly this gap: processes where consent was claimed on the basis of attendance lists signed by community members who had come to collect reimbursement for travel expenses.

Section 3(g) of IPRA defines FPIC as “consensus that is free from external manipulation, interference, and coercion, obtained in a language and process understandable to the community.” That standard cannot be verified through

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

documentation alone. The primary proof that FPIC was properly conducted should remain what it has always been under IPRA: the resolution of consent or non-consent issued by the community, not the certification of the NCIP.

<p style="text-align: center;">2012 FPIC Guidelines</p>	<p style="text-align: center;">2026 Draft Guidelines</p>	<p style="text-align: center;">IPRA (RA 8371)</p>
<p>Section 26. Submission of Report. Where the ICCs/IPs gave their consent in accordance with the foregoing provisions, the FPIC Team shall submit a formal report with recommendation/s, systematically prepared with pertinent and legible annexes, signed by the team leader and members under oath to the Regional Director.</p>	<p>Section 50. Preparation and Submission of the FPIC Report and Memorandum Agreement. Upon signing of the Memorandum of Agreement, the applicant shall prepare and submit the FPIC Report and Memorandum of Agreement within seven (7) working days to the Ancestral Domains Office (ADO), copy furnish the Legal Affairs Office (LAO), Office on Education, Culture, and Health (OECH), Office of Empowerment and Human Rights (OEHR), and the concerned Regional Office, for projects under Category A and three (3) working days to the concerned Regional Office for projects under Category B. x x x</p>	<p>Section 3 (g) Free and Prior Informed Consent - as used in this Act shall mean the consensus of all members of the ICCs/IPs to; be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community;</p>
<p>Section 5(m). Resolution of Consent. It refers to the written resolution adopted by the affected ICCs/IPs by themselves or through their duly authorized elders/leaders expressing their acceptance of the plan, program, project or activity.</p> <p>Section 5(n). Resolution of Non-Consent. It refers to the written resolution adopted by the affected ICCs/IPs expressing their non-acceptance and the reasons therefor.</p>	<p>No equivalent definition establishing the resolution as the authoritative expression of community decision.</p> <p>The MOA, not the community resolution, is defined in Section 13(g) as "the definitive expression of the ICCs/IPs' informed consent."</p>	<p>Section 16. Right to Participate in Decision-Making. ICCs/IPs have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them x x x</p>

I. Complaints do not suspend the FPIC process

Section 66 (b) of the 2012 Guidelines established that where the commission of a prohibited act would adversely affect the outcome of community consent proceedings, the proceedings could be suspended upon written request, until it was shown that the prohibited act had been addressed.

The suspension power recognized a basic point: a consent process tainted by coercion, misinformation, or manipulation does not produce consent. Allowing it to continue and then attempting to remedy the problem afterward means the project may already have moved forward on the basis of a compromised process.

Section 87 of the 2026 Draft removes that protection. Complaints involving prohibited acts are to be resolved separately from the FPIC process. The filing, investigation, or pendency of a complaint shall not suspend, delay, or otherwise bar the issuance or denial of the Certification Precondition. The remedy available after the fact, nullification of the CP or administrative liability for the persons involved, does not address the position of the community whose consent was obtained while the complaint was still pending.

2012 FPIC Guidelines	2026 Draft Guidelines	IPRA (RA 8371)
<p>Section 66. Sanctions. b) Less grave violations. Commission of any of the prohibited acts by or attributable to the applicant may constitute grounds for suspension of the FPIC process by the Regional Director until the violation is sufficiently addressed as certified to by the concerned elders/leaders. If the extent of the commission of the prohibited act would adversely affect the outcome of the community consent proceedings, the said proceedings shall, upon written request, be suspended by the Regional Director until it is shown that the prohibited act done has already been addressed.</p>	<p>Section 87. Resolution of Complaints Involving Prohibited Acts. Complaints involving prohibited acts shall be resolved separately from the FPIC process. The filing, investigation, or pendency of such complaints shall not suspend, delay, or otherwise bar the issuance or denial of the Certification Precondition. The resolution of these complaints, however, may result in the nullification of the Certification Precondition or other appropriate corrective action, without prejudice to civil, criminal, or administrative liability of the persons involved.</p>	<p>Section 3 (g) FPIC shall mean consensus “free from any external manipulation, interference and coercion.”</p>

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

2012 FPIC Guidelines	2026 Draft Guidelines	IPRA (RA 8371)
<p>Section 66. Sanctions a) Grave violations. Commission of any of the prohibited acts by the applicant/s considered grave violations shall constitute a ground for the non-issuance of the certificate applied for. The violation is considered grave when the commission of the prohibited act is intentional and has resulted to loss of life or serious damage to property of an IP member of the community x x x</p>	<p>No equivalent graduated sanction scheme. Complaints resolved separately with no automatic effect on CP issuance.</p>	<p>Section 59. Certification Precondition. x x x Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.</p>

If the process continues over those objections, the CP may issue and the project may begin before the complaint is ever resolved. By the time a finding is made that the prohibited act occurred, the project may already be operating on the ancestral domain. The without-prejudice clause offers a remedy on paper that would be considered moot to prevent the harm FPIC was designed to prevent.

J. Elimination of the independent expert guarantee

Section 17(f) of the 2012 Guidelines required the FPIC Team to invite appropriate independent experts to give their opinions on any aspect of the proposed project. Section 5(k) defined an independent expert as a person specializing in related field whose education and/or experience can be a source of invaluable information pertaining to a particular issue and who is expected to give an objective information or opinion, that will help the ICCs/IPs to reach a sensible, intelligent and well-informed decision. The cost was on the proponent even if the expert is not affiliated to the project proponent.

The mechanism addressed something structural to the FPIC process. A mining company or energy developer arrives with its own technical team who are all working toward approval. The community receives the information that the team prepares and presents. Without an independent source of technical input, the community evaluates the proposal on terms the proponent has shaped. The 2012 Guidelines recognized this imbalance and provided a specific instrument to correct it.

The 2026 Draft removes it entirely. Neither the definition of independent expert nor the FPIC Team’s obligation to facilitate expert access appears anywhere in the draft. No provision requires that independent technical advice be available to communities, at the proponent’s expense or otherwise.

The consequences fall directly on the “informed” element of FPIC. Section 3(g) of IPRA requires that consent be obtained after fully disclosing the intent and scope of the activity in a language and process understandable to the community. Full disclosure requires the community’s capacity to assess it.

Where a mining company presents an environmental impact analysis prepared by its own consultants, and there is no independent expert available to review it or explain its limitations, the community’s ability to evaluate risk and understand what it is agreeing to is materially reduced. The 2026 Draft withdraws one of the few mechanisms that made it possible.

2012 FPIC Guidelines	2026 Draft Guidelines	IPRA (RA 8371)
Section 5(k). Independent Expert. Refers to a person specializing in a related field whose education and/or experience can be a source of invaluable information pertaining to a particular issue and who is expected to give an objective information or opinion, that will help the ICCs/IPs to reach a sensible, intelligent and well-informed decision.	No definition of independent expert. No equivalent provision.	Section 3(g). FPIC shall mean consensus “obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community.”
Section 17(f). Duties and Functions of the FPIC Team. Invite the appropriate independent experts, if available, to give their opinions on any aspect of the project; Section 22. Section 22. Conduct of Community Assemblies and Other Activities. x x x Second Community Assembly. x x x Sharing by an expert/s, if engaged or invited, to include presentation of the result of the EIA if available, expert opinion/s on any aspect, recommendation/s, and identification of affected area/s.	No equivalent. No obligation on the FPIC Team to facilitate expert access. No provision allocating independent expert costs to the proponent.	Section 7(b). Right to Develop Lands and Natural Resources. x x x The right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they may sustain as a result of the project; and the right to effective measures by the government to prevent any interference with, alienation and encroachment upon these rights.

K. Consent by bureaucratic default

The 2012 FPIC Guidelines had no deemed-approval provision. The absence of a decision by the NCIP was not treated as consent. This was consistent with the basic logic of IPRA where consent is a positive act of the community.

Section 54 of the 2026 Draft departs from this entirely. If the Regional Director or the Commission En Banc fails to act on an application within thirty working days from submission of the FPIC Report, the application is deemed approved. The MOA is treated as concurred in by the NCIP, and the Certification Precondition is issued as a matter of course.

The thirty-day window is too short for reviewing the record of a process that should involve multiple community deliberations, negotiating for the benefits, and eventually concluding into a MOA.

<p style="text-align: center;">2012 FPIC Guidelines</p>	<p style="text-align: center;">2026 Draft Guidelines</p>	<p style="text-align: center;">IPRA (RA 8371)</p>
<p>No deemed-approval provision. The absence of a decision by the Regional Director or the Commission is not treated as consent or approval.</p>	<p>Section 54. Approval as a Matter of Course. If there is no justifiable reason, the Regional Director or the Commission En Banc, as applicable, fails to grant or deny the Certification Precondition within thirty (30) working days upon submission of the FPIC Report x x x the application shall be deemed approved, without prejudice to monitoring, compliance, and enforcement mechanisms provided herein. As such, the Memorandum of Agreement shall be deemed concurred by the NCIP, and the Certification Precondition shall be issued as a matter of course.</p>	<p>Section 3(g). FPIC shall mean “the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion.”</p> <p>Section 59. “No certification shall be issued by the NCIP without the free and prior informed and written consent of ICCs/IPs concerned.”</p>

L. Bar on judicial remedies

Placed alongside the complaint rule (Section 87, complaints do not suspend the FPIC process), the deemed-approval mechanism (Section 54, inaction for thirty days issues the CP automatically), and the shortened timelines throughout, Section 103 closes the last practically accessible exit for a community trying to stop a defective process before the Certification Precondition issues. Filing a complaint does not stop the clock and waiting for NCIP review risks default approval at day thirty. Lastly, regional courts cannot issue any injunction.

The community’s only theoretical remedy is a petition before the Court of Appeals which could take months. By the time a higher court acts, the CP is likely already issued, the MOA signed, and project activities commenced. Where the activity involves clearing land, disturbing a burial site, or disrupting a water source, the harm may already be irreversible. The relevant provisions are summarized below:

2012 FPIC Guidelines	2026 Draft Guidelines	IPRA (RA 8371)
No equivalent provision restricting courts within the FPIC guidelines themselves. Complaint and petition mechanisms in Sections 66–71 provided internal remedies with defined timelines, and the suspension power under Section 66 gave communities a practical tool to halt a compromised process before it concluded.	Section 103. No Restraining Order or Preliminary Injunction. No inferior court shall issue any restraining Order writ of preliminary injunction against the NCIP or any of its duly authorized offices in any case, dispute, or controversy arising from the lawful conduct of the FPIC or the lawful execution of the FPIC process.	Section 70. No inferior court of the Philippines shall have the jurisdiction to issue any restraining order or writ of preliminary injunction against the NCIP or any of its duly authorized or designated offices in any case, dispute or controversy to, or interpretation of this Act and other pertinent laws relating to ICCs/IPs and ancestral domains.

M. Permit renewals and the dispensation of full FPIC

The 2012 FPIC Guidelines contained no provision allowing the FPIC process to be bypassed or abbreviated on the basis that a permit was being renewed rather than newly issued. Each application, including those involving continuation of existing activities, was subject to the full process.

In the case of Lone Congressional District of Benguet vs. Lepanto (G.R. No. 244063, June 21, 2022), the Court held that the renewal of a mining agreement is not a continuation of an existing right but a new grant that must comply with

prevailing law, including IPRA. It rejected the position that prior consent or pre-IPRA agreements dispense with the need for FPIC upon renewal, emphasizing that once a permit expires, there is no vested right to its extension. Renewal, in this sense, reopens the legal conditions under which the activity may proceed, and necessarily requires compliance with the certification precondition and the securing of fresh consent from affected ICCs/IPs. FPIC was treated not as a procedural formality but as a continuing safeguard tied to constitutional and statutory protections of ancestral domains.

Section 115 of the 2026 Draft Guidelines departs from this principle. Where a regulatory agency extends a permit without altering the nature, scope, or impacts of the original activity, the full FPIC process may be dispensed with. In its place, a simple validation activity is required, limited to informing the community of the extension and confirming that no objections exist.

The concern deepens when read alongside the categorization system. Under the 2026 Draft, Category B projects are already subject to a streamlined consent process decided by validated elders and recognized leaders rather than the broader community. A permit renewal for a Category B project could therefore undergo two successive reductions: first, by virtue of its category, consent authority is vested in a limited group; second, by virtue of being a renewal, even that limited process is replaced by a validation visit.

Without a clear requirement that renewals undergo the same process as original applications, Section 115 creates a mechanism by which activities that were consented to under one set of conditions can be extended under different ones, without the community having any formal opportunity to revisit that consent.

This provision allows projects to continue indefinitely through serial extensions, with only a simple validation each time. The 2012 FPIC Guidelines contained no such loophole because it recognized that consent is time-bound and must be renewed when the permit expires. The 2026 Draft's validation standard is dangerously low: confirm that no objections or new material concerns exist. Silence is not consent. This violates the free and prior elements of FPIC for renewed phases of the same project.

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Section 116, on the other hand, provides that renewal of permits shall require the conduct of an FPIC process in all cases. However, renewal FPIC shall dispense with the FBI unless there are material changes. In lieu of the FBI, the FPIC Team validates continued accuracy of original findings, applicant's compliance, continuing or new impacts, and proposed changes. While the 2026 draft correctly requires FPIC for renewal, it eliminates the Field-Based Investigation, which is the very

mechanism that establishes baseline conditions, identifies affected communities, and validates customary structures. How can communities give informed consent to renewal without a fresh investigation of what has changed in the years since the original FPIC? New generations, who may have been children during the original process, cannot participate meaningfully without reinvestigation. The 2026 Draft assumes that conditions remain static, which is empirically false.

2012 FPIC Guidelines	2026 Draft Guidelines	IPRA (RA 8371)
No equivalent provision. Renewals subject to full FPIC process.	Section 115. Extension of Original Permits. Where a regulatory agency extends the term of an existing resource permit for valid reasons without altering the nature, scope, scale, or impacts of the original activity, the full FPIC process may be dispensed with. In such cases, the Regional Director shall require the conduct of a simple validation activity to inform the concerned ICCs/IPs of the extension and to confirm that no objections or new material concerns exist.	Section 59. Certification Precondition. No concession, license, permit, lease or agreement shall be granted without the free and prior informed consent of the ICCs/IPs concerned, including renewals thereof.

Analogously on the (Non-)transferability of Certificate Precondition, Section 109 requires that a succeeding entity must execute a new Memorandum of Agreement absorbing all rights and responsibilities. However, the provision begins with “As a general rule” but does not clearly state what the exceptions are or who determines them. This is dangerous drafting. A general rule with unstated exceptions is an invitation to administrative discretion that may favor proponents. The exceptions should be deleted entirely or exhaustively listed with no discretion. Moreover, the provision does not define what constitutes a change in corporate identity sufficient to require a new MOA. The last paragraph also runs the risk of swallowing the rule, where the engagement of operators, contractors, or analogous service providers provided the original permit-holder remains the same legal entity and continues to bear full responsibility. There must be clear guidelines distinguishing between genuine service contracts and de facto transfers of control. Even where a new MOA is required, Section 109 does not give the ICCs/IPs the right to withhold consent or withdraw their original consent upon learning of a proposed transfer. It only requires that they be formally informed and that the succeeding entity executes a new MOA absorbing obligations. The provision should explicitly state

that the community has the right to refuse the transfer entirely and that the original CP lapses if the community does not affirmatively consent to the new entity.

N. Restriction of customary law in disputes

Section 79 of the 2026 Draft Guidelines provides that customary law applies strictly to disputes solely between and among members of the same ICCs/IPs. Customary law shall not be applied when the dispute involves any non-IP party, even with consent. The 2026 Draft radically restricts customary law to intra-community disputes only. This means that when a proponent violates the MOA—pollutes a river, destroys a sacred site, fails to pay royalties—the dispute cannot be resolved through customary processes. It must go through NCIP administrative procedures (Section 80), where NCIP’s powers over non-IPs are limited to fact-finding, monitoring, advisory, and recommendation functions. This strips communities of their primary justice system precisely when they need it most, against powerful external actors. The 2012 FPIC Guidelines recognized that customary law could apply to MOA disputes, with appropriate safeguards.

IV. Conclusion and Recommendation

The 2026 Draft represents a significant regression from the protections established under IPRA and the 2012 Guidelines. Rather than strengthening community participation, it introduces a tiered system where the extent of community involvement depends on how a project is administratively classified. Under this system, some projects require only documentary certification by an NCIP official in place of actual community consent, while others allow decision-making to be concentrated in a small group of recognized leaders rather than the community as a whole.

Timelines for deliberation are compressed into rigid administrative schedules that do not account for the time communities genuinely need for internal consultations, inter-clan discussions, and the cultural processes through which collective decisions are properly reached. The project proponent, the party with the clearest interest in securing approval, is given responsibility for organizing and funding the activities that the process relies on to remain independent.

The overall direction appears to be a tilt in favor of project proponents and away from the communities whose rights FPIC is meant to protect. This orientation is perhaps most visible in the treatment of complaints: under the 2026 Draft, allegations of violations in the FPIC process, regardless of their gravity, will not suspend it. A community that believes its consent was manipulated, its leaders

pressured, or its customary process disregarded cannot stop the project while its complaint is pending. The process continues, and the certification may issue, even as the complaint remains unresolved. The 2026 Draft does not improve on the 2012 Guidelines and regresses from the FPIC protections that indigenous communities have relied on. What adds to this concern is the process by which it was produced. The 2012 Guidelines were developed through open consultations with different stakeholders, including Indigenous communities themselves. The 2026 Draft was prepared differently. Official copies were not made readily and publicly available, which limited the ability of communities and advocates to study and engage with rules that will directly govern their rights. This was the same for an earlier 2025 draft.

The 2026 Draft FPIC Guidelines do not strengthen Indigenous Peoples' rights. It refines the machinery of extraction. What appears as procedural improvement is, upon close reading, a systematic dismantling of FPIC as a meaningful right. The Principles chapter sets forth the confounding in the 2026 Draft, it speaks the language of protection, but the operative provisions—classification, timelines, deemed approval, restricted remedies—tell a different story. The 2026 Draft is not a revision of the 2012 Guidelines, it is a replacement of a rights-based framework with an administrative efficiency framework that leans in the favor of project proponents.

This concern is compounded by the fact that the 2026 Draft mirrors a broader trend seen in other government-driven processes that prioritize speed over safeguards—most notably, the Energy Virtual One-Stop Shop (EVOSS) Act. Like the EVOSS system, which compresses permitting timelines and risks overriding community consent in the name of investment facilitation, the 2026 Draft imposes rigid deadlines, deemed approval mechanisms, and narrow windows for remedy. Both frameworks treat indigenous opposition not as a substantive rights issue but a procedural bottleneck to be optimized away. This shared logic of administrative efficiency at the expense of participatory justice makes clear that the 2026 Draft is not an isolated regulatory lapse but part of a coordinated push to fast-track projects by weakening the very mechanisms that ensure free, prior, and informed consent.

The NCIP must conduct genuine and open consultations that place indigenous peoples at the heart of any revision to the FPIC Guidelines. Any new rules must be developed with the communities whose rights they will govern, not simply presented to them. The very process of drafting must embody the spirit upon which the FPIC was founded.

Annex A

**THE 2026 POLICY, PROCEDURES, AND GUIDELINES ON THE CONDUCT OF THE FREE AND PRIOR INFORMED
CONSENT PROCESS AND OTHER PROCESSES**

**CHAPTER I
PRELIMINARY PROCEDURES**

Section 1. Short Title. This shall be known as "The 2026 Free and Prior Informed Consent Process Guidelines (2026 FPIC Guidelines)."

Section 2. Legal Bases. These Guidelines are promulgated pursuant to Republic Act (R.A.) No. 8371, otherwise known as the Indigenous Peoples Rights Act of 1997, and other pertinent and applicable laws, international covenants, treaties, and declarations.

**CHAPTER II
GUIDING PRINCIPLES AND POLICIES**

Section 3. Primacy of Customary Law. ICCs/IPs have the right to make collective decisions through their indigenous systems, practices, and consensus-based decision making processes. These customary practices ensure that all development initiatives respect their cultural values, uphold their priorities, and reflect the community's unified stance, fostering harmony and alignment with their self-determined goals.

The customary laws, Indigenous Peoples' governance systems, justice systems, conflict resolution institutions, peace-building processes, and consensus-building mechanisms of the concerned ICCs or IPs shall govern all stages of the Free and Prior Informed Consent (FPIC) process.

The identification of leaders, validation of representation, conduct of assemblies, and formation of community decisions shall be determined exclusively in accordance with the commonly accepted customs and traditions of the concerned ICCs or IPs, as recognized by their Indigenous Political Structures (IPS) and traditional authorities.

In matters involving disputes or procedural questions within the FPIC process, customary laws and practices shall constitute the primary framework for resolution, subject to conformity with the Constitution and internationally recognized human rights standards.

Interpretation shall favor the full recognition of indigenous self-governance and collective rights consistent with the national legal system.

Section 4. Exercise of Free and Prior Informed Consent. The exercise of FPIC shall be governed by validated customary laws, processes, and indigenous governance institutions of the concerned ICCs/IPs, including existing ADSDPP and previously conducted FPIC. The consensus of the concerned ICCs/IPs, whether to allow or reject a proposed plan, program, project, or activity, determined strictly in accordance with their respective customary laws and practices shall be exercised free from external manipulation, interference, or coercion, and only after full disclosure of the intent, nature, scope, and implications of the proposed activity in a language and manner understandable to the community. The exercise of the right to FPIC shall consider the traditional land use of the affected area and the agreements of the concerned community. The concerned ICCs/IPs shall fully consider in their decision the directly and indirectly affected area and the apparent and potential effect of the proposed project to the ancestral domain, and ensure that the rights, interests, and well-being of present and future generations of ICCs/IPs are safeguarded. This shall be in recognition of the indigenous concept of ownership that ancestral domains and all resources found therein shall serve as the material bases of their cultural integrity.

Section 5. Protection of Households Whose Life, Livelihood, Property, or Access May Be Affected. FPIC process shall provide specific protection to households, clans, and long-established occupants whose life, livelihood, property, or access to land and natural resources may be adversely affected by the entry or implementation of any proposed activity.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

Such protection shall ensure that this individuals or groups are adequately informed, heard, and afforded substantive due process during the FPIC process. These safeguards shall not diminish the collective nature of the community decision making under the FPIC but shall ensure that those who may be disproportionately affected are properly identified, consulted, and accorded appropriate consideration.

Migrant IPs who are residents of the ancestral domain may only participate if allowed by the ancestral domain owners in accordance with their customs and traditions, provided however, that the permission be made in writing and signed by the authorized elders/leaders.

Section 6. Application of the Precautionary Principle. The precautionary principle shall apply in all determinations involving potential or actual harm to persons, property, livelihoods, culture, or the ancestral domains. Credible indicators of risk or adverse impact shall warrant preventive, mitigating, or compensatory measures even in the absence of complete scientific certainty. Particular scrutiny shall be given to activities that may cause significant land conversion, displacement, restriction of traditional land use, disruption of ecosystems, interference with cultural or spiritual practices, or risks disproportionate to expected benefits.

Section 7. Transparency and Accessibility. All FPIC processes shall observe transparency and accessibility. Full disclosure of project information shall be made in a language and format understandable to the community. Notices, invitations, schedules, and other relevant communications shall be posted in conspicuous places within the affected ancestral domains and in the concerned NCIP Community Service Center (CSC), Provincial Office (PO), and Regional Office (RO), and shall likewise be published in the FPIC Transparency Server. All documents in the custody of the NCIP relating to proposed or ongoing activities within the ancestral domains, including maps, reports, submissions, and issuances, shall be accessible to ICCs/IPs and concerned parties through the Transparency Server and upon request, subject to applicable laws and regulations.

Section 8. Inclusive, Equitable, and Culturally Aligned Partnerships. Partnerships involving government, private entities, or non-government organizations operating within ancestral domains shall be equitable, transparent, and culturally aligned. These engagements shall honor indigenous governance structures, community protocols, and indigenous knowledge systems relating to environmental stewardship and resource management.

Section 9. Interpretation in Favor of ICCs/IPs and Cultural Integrity. These Rules shall be interpreted liberally in favor of promoting the rights, welfare, and self-determined development of ICCs/IPs. All activities within ancestral domains shall respect cultural integrity, intergenerational responsibility, and the indigenous concept of ownership over ancestral domains and priority rights over resources found therein.

Section 10. Respect for Property Rights, Priority Rights, and Existing Vested Rights. The property and priority rights of ICCs/IPs to manage, develop, and benefit from natural resources within ancestral domains shall be respected. Likewise, the rights of persons or entities with existing and vested rights prior to the effectivity of R.A. No. 8371 shall be recognized consistent with Section 56 of the Act, and the constitutional protection of property rights. Such vested rights shall not be impaired by these Rules but shall be exercised in a manner harmonized with the rights of the ICCs/IPs and subject to reasonable regulation to safeguard the welfare, cultural integrity, and environmental security of the ancestral domain.

Section 11. Non-Diminution of Rights. The rights of ICCs/IPs under these Rules shall be interpreted consistent with the doctrine of non-diminution of rights. No provision herein shall be construed to reduce, impair, or adversely affect rights already recognized under the Constitution, international human rights instruments, R.A. No. 8371, administrative issuances, or jurisprudence. Recognition of vested rights of parties under Section 56 shall likewise be complied.

Section 12. Continued Compliance with the Principles, Policies, and Requirements of these Guidelines. Compliance with the principles, policies, and procedural frameworks set forth in these Guidelines shall form an integral part of the continuing validity of the Certification Precondition. The applicant shall faithfully observe all obligations arising under these Rules, including transparency requirements, community safeguard, monitoring obligations, disclosure duties, and respect for customary processes, throughout the life of the project or activity.

CHAPTER III DEFINITION OF TERMS

Section 13. Definition of Terms. The definition of terms found in R.A. No. 8371, and its implementing Rules and Regulations (IRR) are hereby adopted, including the terms defined herein below:

- a. Certification Precondition (CP) – The Certificate issued by the NCIP attesting to the grant of FPIC by the concerned ICCs/IPs after appropriate compliance with the requirements provided for in these Guidelines.
- b. Certificate of Non-Overlap (CNO) – The Certificate issued by the NCIP attesting to the fact that the area affected by the project or activity does not overlap with any ancestral domain.
- c. Community Assembly or Assemblies - A key component of the FPIC process, serving as the venue for consultations where the ICCs/IPs are informed and engaged in deliberations on proposed projects, programs, or activities. It promotes transparency, builds consensus, and ensures collective participation. Community assembly or assemblies provide a platform for disseminating critical information, discussing potential impacts, and negotiating equitable benefit sharing mechanisms, all while prioritizing inclusivity, respect for customary practices, and recognition of the collective rights and voices of communities across affected and non-affected areas within the ancestral domain.
- d. Field-Based Investigation (FBI) – The investigation undertaken to determine whether or not the plan, program, project, or activity overlaps with, or affects an ancestral domain, the extent of the affected area, and the ICCs/IPs whose FPIC is to be obtained.
- e. Free and Prior Informed Consent (FPIC) – The consensus of all members of the ICCs/IPs concerned to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference, and coercion, and obtained after fully disclosing the intent and scope of the activity, and in a language and process understandable to the community.
- f. Keyhole Markup Language (KML) – A file used to display geographic data in applications like Google Earth. It is an XML-based format for representing geographic features such as place marks, lines, and polygons, and can also include images, 3D models, and custom data.
- g. Memorandum of Agreement (MOA) – A formal agreement negotiated and signed by the ICCs/IPs, the project proponent, and the NCIP, outlining mutually agreed terms and conditions. It includes provisions for benefits, royalties, mitigation measures, and other obligations of the parties. The MOA is the definitive expression of the ICCs/IPs' informed consent to a project or activity and is validated and finalized through culturally appropriate processes, ensuring alignment with customary laws and priorities.

CHAPTER IV GENERAL PROVISIONS

Section 14. Scope. These Guidelines govern the general policies, processes, safeguards, and regulatory frameworks for the conduct of the FBI, the FPIC process, and the issuance of Certification Precondition (CP) and Certificates of Non-Overlap (CNOs). They shall apply in a supplementary and harmonizing manner to all projects and activities requiring FPIC under the IPRA.

Section 15. Nature of the Certification Precondition. The Certification Precondition attaches to a government permit, license, or contract when FPIC is required. It is valid only if the permit is valid; and its term shall in no case exceed that of the permit. Once the permit expires, is cancelled, or declared void, the Certification Precondition is extinguished by operation of law. A Certification Precondition cannot give authority on its own—it is not a substitute for regulatory approval. If the permit is invalid, then the Certification Precondition is also invalid, and any activity done under it is unauthorized and may face penalties under the Republic Act No. 8371, also known as the Indigenous Peoples Rights Act (R.A. No. 8371, IPRA) and other laws.

Section 16. Obligation of the Applicant to Establish Free and Prior Informed Consent Compliance. The applicant shall bear the obligation to clearly demonstrate that FPIC has been properly obtained in accordance with law, these Guidelines, and customary decision-making processes. The applicant must show full compliance with all procedural requirements, accuracy of information disclosed, and integrity in its participation throughout the FPIC process. Compliance with these obligations shall form part of the basis for the continuation, evaluation, and final determination of the FPIC process.

Section 17. Disclosure Obligations of Applicants. Applicants shall fully disclose all relevant information concerning the proposed activity, including its nature, scope, risks, anticipated impacts, financial and technical data, and all documents necessary for the ICCs/IPs to make an informed decision. Any nondisclosure, material omission, or misrepresentation shall invalidate the FPIC process or any outcome derived therefrom and shall constitute grounds for appropriate Administrative, civil, or criminal action in accordance with applicable laws and regulations.

Materiality of the disclosure shall be determined by whether such disclosure would influence the ICCs/IPs concerned in forming an estimate of the advantages or disadvantages of giving their consent.

Section 18. Documentary Requirements. All applicants shall duly accomplish and submit the NCIP prescribed application form.

For projects or activities required to secure the endorsement of a regulating government authority, the application form shall be accompanied by the following documentary requirements:

1. An endorsement issued by the concerned National Government Agency (NGA) or Government Owned or Controlled Corporation (GOCC), as the case may be;
2. A Position Paper, if any, that the area affected by the proposed project does not overlap with any ancestral domains;
3. If available, Environmental and Social Impact Statement or Project Risk Assessment or any other similar documents of the proposed project, including identified risks and mitigation measures. The Environmental Impact Statement (EIS) is the document prepared and submitted by the project proponent and/or Environmental Impact Assessment Consultant that serves as an application for an Environmental Compliance Certificate (ECC). It is a comprehensive study of the significant impacts of a project on the environment. It includes an Environmental Management Plan/Program that the project proponent will fund and implement to protect the environment. The EIS or Project Risk Assessment or any other similar documents shall be submitted at any stage before the issuance of notice to proceed, if applicable;
4. Project profile shall include the following:
 - a. Nature and purpose of the project, and location;
 - b. Abstract of the project describing the size, pace, reversibility and scope;
 - c. Feasibility Study, if applicable;
 - d. Duration;
 - e. Preliminary assessment of the likely economic, social, cultural and environmental effects including potential risks and how these will be addressed;
 - f. Persons to be involved in the implementation;
 - g. Project Cost and business plan to include financial projection showing possible profits; and
 - h. Comprehensive project monitoring and evaluation plan showing preferably indicators of success.
5. Indicative map/location map/any geographical representation/illustration showing the aerial view of the proposed project area showing the names of sitios and/or barangays that will be affected and its geographic coordinates and KML Files/Shapefiles;
6. Corporate profile, proof of constitution of business/juridical entity and latest General Information Sheet (GIS) which shall include, among others, the following:
 - a. Authorized Capital Stock
 - b. Subscribed Capital Stock
 - c. Paid Up Capital

For applicants other than a corporation, any legal document proving the applicant's name and principal address of the applicant, such as - Articles of Partnership, DTI Business Certification, Business Permit, Mayor's Permit or BIR Registration.

7. Audited Financial Statements (AFS) with stamp received by Bureau of Internal Revenue (BIR), if available.
8. Special Power of Attorney (SPA) in case of representatives or Notarized Secretary's Certificate/Notarized Board Resolution, and resolution of the Sangguniang Barangay/Bayan/Panglungsod/Panlalawigan, as the case maybe. In all cases, they shall be so authorized to negotiate and/or sign the MOA for and in behalf of the proponent;
9. For LGUs — Concerned Sangguniang Resolution authorizing the local chief executive to sign the FPIC MOA.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

For projects or activities that do not require an endorsement of a regulating authority, the application form shall be accompanied by the abovementioned requirements listed under items 7,8, and 9.

For projects under Category C, as provided in Section 29 of these Guidelines, the application form must be accompanied by the following:

- Project profile, Project Proposal or Feasibility Study;
- Proponents Profile;
- Exact location of the project;
- Project components; and
- Authorized Representative.

Section 19. Completeness of Documents. An application with incomplete requisite documents shall be deemed not filed. The Proponent will be informed in writing of such fact and no action shall be taken thereon until all required documents in the preceding section are submitted.

The concerned Regional Office shall inform the proponent of such fact and deficiency or lacking documents within two (2) working days upon receipt of the application.

Section 20. Where to file the Application. The project proponent must file the application, with the accompanying required documents provided in Section 18 of these Guidelines, to the NCIP Regional Office with jurisdiction over the area where the proposed project, program, or activity is to be implemented.

Where the project involves multiple regions, the project proponent shall submit the letter of intent together with maps, technical description and KML/shapefiles to ADO for projection purposes and to determine which appropriate regional office/s where the application should be filed. The submission of these documents to the ADO does not constitute filing.

Section 21. Processing of Multiple Certification Precondition Applications in an area.

1. Multiple Certification Precondition applications filed by different applicants involving different types of projects with overlapping applied areas, whether in whole or in part, shall be processed on a first-come-first-served basis, giving precedence to the first application received.
2. Multiple Certification Precondition applications filed by a single applicant may be processed simultaneously or successively if the projects are similar in nature, interconnected, or utilize the same resource, such as cascading hydropower projects along a river, provided they are clearly defined and situated in distinct areas within the ancestral domain.

Section 22. Processing of Certification Precondition. Applications involving Multiple Areas, Components, or Applicants. The processing of Certification Precondition applications shall be undertaken in a manner that avoids confusion, protects community decision-making, and prevents competing claims over the same resource. The following rules shall apply to applications involving multiple ancestral domains, multiple project components, or multiple applicants.

1. When a single applicant proposes a project that affects more than one ancestral domain under the jurisdiction of a singular Regional Office, the FPIC process shall be conducted separately for each ancestral domain, unless the concerned ICCs/IPs agreed otherwise. If all affected ancestral domains issue their respective consent, a single Certification Precondition covering the entire project shall be issued. If an ancestral domain component thereof withholds consent, no Certification Precondition shall be issued for the portions affecting those ancestral domains, without prejudice to the issuance of a separate Certification Precondition for ancestral domains whose consent has been granted, conditioned upon the concerned regulatory agency's re endorsement of project documents reflecting the exclusion of the non-consenting Ancestral Domain.
2. When a single applicant proposes a project composed of multiple components or phases within a single ancestral domain, a unified FPIC process may be conducted if the components form part of an integrated development undertaking. Where the components differ substantially in purpose, impact, or required engagements, the Regional Director may require separate FPIC processes to ensure clear community understanding and informed deliberation.

3. The simultaneous processing of competing Certification Precondition applications filed by different applicants for projects of similar nature, purpose, and location that contend for the same resource or operational space is strictly prohibited. Such cases shall be referred to the concerned regulatory agency such as Department of Environment and Natural Resources (DENR) and Department of Energy (DOE) and such other regulatory agencies for resolution in accordance with its rules on priority rights, permitting, or resource allocation.
4. Applications filed by different applicants for projects that are non-competing, distinct in purpose, or capable of coexistence within the same Ancestral Domain may be processed concurrently. In such cases, the Regional Director shall ensure that the concurrent FPIC processes do not create confusion among the ICCs/IPs, that the nature and implications of each project are clearly explained, and that delineated benefit-sharing arrangements are established in the event that negotiations proceed to the drafting of a Memorandum of Agreement.
5. For applications covering areas under the jurisdiction of two or more Regional Offices, Section 22.1 shall apply.

Section 23. Issuance of CPs and CNOs under Special Circumstances

- a. In cases where projects, programs, or activities have components or segments established in different locations due to spatial and technical requirements, and their cohesiveness and integrity necessitate areas both within and outside the Ancestral Domain, a CP may be issued for the portions of the ancestral domain, while separate certifications contemplated in this Guidelines, as applicable, may be issued for areas outside the AD or in locations covered by exemptions, noncoverage or vested or existing property rights.
- b. When a single project or program covers one or more regions, partial CPs can be issued to each of the ADs that has completed the FPIC process. On the other hand, CNOs can be issued by the regional office concerned to areas within the project or program's coverage already determined to be outside any ancestral domains during the FPIC in accordance with Section 32 (a) of this Guidelines.
- c. When a project or program with multiple components is to be implemented in one or more regions due to its spatial needs and design, and each component is separately endorsed to the concerned NCIP regional office or regional offices that have proper administrative jurisdiction/s over the same for the FPIC process by the regulatory agency, the CP or other certifications can be issued separately for each of the endorsed component.
- d. When a project or program consists of multiple components, each to be implemented by different proponents, CPs or other certifications can be issued separately to each project proponent for their respective areas.
- e. When a single project or program spans two or more ancestral Domains (ADs), regardless of their regional location, a partial CP may be issued to any AD that has completed the FPIC process, even if the FPIC process for the other ADs is still pending or in progress.

**CHAPTER V
COMPOSITION OF THE FIELD-BASED INVESTIGATION TEAM AND
THE FREE AND PRIOR INFORMED CONSENT TEAM**

Section 24. Field-Based Investigation (FBI) Team. The FBI Team shall be constituted by the Regional Director, or in the absence of the Regional Director, by the TMSD Chief, within the timeframe specified in these Guidelines. The FBI Team shall be composed of the following members:

- a. Community Development Officer (CDO) or the Provincial Legal Officer, as Team Leader;
- b. Provincial Engineer; In the absence of a Provincial Engineer, the Regional Director may designate the Regional Engineer or any engineer from other NCIP Provincial Offices within the same administrative jurisdiction.
- c. Tribal Affairs Assistant or one (1) Community Service Center staff;
- d. Authorized representative of the Community;
- e. In the absence of an established Community Service Center within the administrative jurisdiction concerned, the Provincial Legal Officer shall serve as the Team Leader. In the event that the position of Provincial Legal Officer is vacant, the Regional Director may designate the Team Leader; provided, however, that under no circumstances shall the Provincial Officer be designated as Team Leader. The Team Leader may request additional NCIP staff from the Regional Director, as deemed necessary, to expedite the conduct of the FBI.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

Members of the FBI Team must possess sufficient technical, cultural, and field competency and must not have any conflict of interest relating to the applicant or the affected ICCs/IPs. Any objection to the participation of a Team member shall be raised within three (3) working days from disclosure, supported by notarized written complaints with supporting evidentiary documents. The Regional Director shall resolve such objections and, when warranted, reconstitute the Team.

The FBI Team shall remain constituted until the completion and submission of the notarized FBI Report, unless the Regional Director issues an order modifying its composition for justifiable reasons.

The FBI Team shall commence its functions only after the approval of the Work and Financial Plan and payment of the required FBI fee.

Section 25. Free and Prior Informed Consent Team (FPIC Team). The FPIC Team shall be constituted by the Regional Director, or in the absence of the Regional Director, by the TMSD Chief, within the timeframe specified in these Guidelines. The FPIC Team shall be composed of the following members:

A. FPIC Team Composition in Provinces with Provincial Offices. The FPIC Team in provinces and cities with established provincial offices shall include:

- Provincial Legal Officer/City Legal Officer, as Team leader;
- One (1) Engineer from the Provincial/City or Regional Office; and
- Head of the FPIC Team.

B. FPIC Team Composition for Community Service Centers (Provinces Without Provincial Offices). For provinces without provincial offices, the FPIC Team shall comprise:

- Community Development Officer as Team Leader;
- Legal Officer to be assigned by the Regional Director;
- Community Affairs Officer;
- One (1) Engineer from the Regional Office, or from other NCIP offices designated by the Regional Director;
- Tribal Affairs Assistant II; and
- Tribal Affairs Assistant I.
- The FPIC Team shall also seek assistance from the following representatives to facilitate communication, coordinate activities, and serve as resource persons:
 - Two (2) IP elders/leaders, or a sufficient number representing their respective ancestral domains, as appropriate.
 - One (1) representative each from women and youth, selected by the community unless restricted by customary law.
 - A representative from the host Local Government Unit (LGU).
 - One (1) Indigenous Peoples Mandatory Representative (IPMR).

The Regional Director may assign additional NCIP personnel to the Team when needed to ensure timely and effective completion of the processes.

The following officials are expressly prohibited from being part of the FPIC Team under any circumstance: the Regional Legal Officer, the Chief of the TMSD, and the Regional Director. Any designation that violates this prohibition shall be void.

The written order constituting the FPIC Team shall specify the names and functions of each member and shall be furnished to the applicant, the concerned ICCs/IPs, and the responsible NCIP field offices.

The FPIC Team shall assume its responsibilities only upon issuance of this written order and shall thereafter prepare the Work and Financial Plan for the consensus building and decision making stages.

CHAPTER VI
DUTIES AND FUNCTIONS OF THE FBI TEAM AND THE FPIC TEAM

Section 26. Duties and Functions of the FBI Team. The FBI Team is responsible for providing relevant information to the project proponent, engaging with the affected community, recognized IPS or Indigenous Peoples Organization (IPO), and determining key details such as project locations, socio-cultural impacts, affected ICCs/IPs, traditional land and resource use, and customary decision-making processes.

The FBI Team shall also consider existing and available NCIP records, such as the Recognition Book, the ADSDPP, and other NCIP-validated documents, as essential reference points and integral to the investigation process.

All findings and observations derived from the FBI must be comprehensively documented in the FBI Report. This report should serve as the definitive record of the investigation, detailing the outcomes of all methodologies employed, including key activities, findings, and recommendations. The report must adhere to the prescribed standard template and include all relevant attachments, ensuring a clear, accurate, and thorough representation of the investigation's results.

The FBI Team Leader shall be responsible for overall coordination, scheduling, direction of field activities, and ensuring compliance with the approved Work and Financial Plan.

Section 27. Duties and Functions of the Free and Prior Informed Consent Team. The FPIC Team shall be responsible for supervising, facilitating, and documenting all activities ensuring compliance with legal requirements, and promoting meaningful participation of ICCs/IPs, in accordance with customary laws, community protocols, and these Rules. The FPIC Team shall ensure that the process is conducted with integrity, transparency, and respect, free from any external manipulation. The FPIC Team shall not assume functions assigned to the applicant or to the ICCs/IPs and shall not exercise authority beyond what is expressly provided in these Rules.

The FPIC Team shall perform the following responsibilities:

1. Facilitate consensus-building and decision-making activities by coordinating schedules, venues, and procedures with the validated elders, customary leaders, the IPS, the IPO, and other decision makers identified in the FBI Report.
2. Clarify procedural steps and ensure that the ICCs/IPs understand the requirements, stages, and implications of the FPIC process, without influencing or directing the outcome of community decisions.
3. Ensure that notices of activities are properly posted by the applicant in the mandatory areas identified in the approved FBI Report and that proof of posting is submitted before any activity is conducted.
4. Safeguard the voluntariness of the process by preventing coercion, manipulation, inducement, or any act that compromises the freedom of the ICCs/IPs to express consent or non-consent.
5. Facilitate the flow of information between the ICCs/IPs and the applicant, ensuring that disclosures are complete, accurate, and made in a culturally appropriate manner.
6. During the negotiation and drafting of the Memorandum of Agreement, represent the interest of the community by ensuring that the terms reflect the conditions, safeguard, and benefit-sharing arrangements agreed upon during the FPIC process, without substituting its judgment for that of the ICCs/IPs.
7. Review and affirm the completeness and accuracy of the FPIC Report prepared by the applicant, ensuring that it faithfully reflects the decisions and declarations of the ICCs/IPs before submitting the report to the Regional Director.
8. Submit the FPIC Report to the Regional Director only after verifying that all required documentation, proof of postings, and reports of assemblies are attached and complete.
9. Perform such other facilitative functions necessary to ensure the lawful, orderly, and culturally appropriate conduct of the FPIC process, without undertaking duties expressly assigned to the applicant or the ICCs/IPs.

CHAPTER VII
CLASSIFICATION OF PROJECTS AND EXEMPTED ACTIVITIES

Section 28. Classification and Determination of Projects for the FPIC Process. All projects, activities, or undertakings proposed within Ancestral Domains (ADs) shall be classified as Category A, Category B, Category C, or Category D for purposes of determining the extent of FPIC activities, the decision-making body of the ICCs/IPs, and the approving authority for the Certification Precondition. The classification shall not diminish any substantive rights of the ICCs/IPs under the IPRA.

The Regional Director shall determine the project classification on the basis of the FBI Report and upon consultation with the FBI Team, taking into account the verified facts, technical findings, and community conditions reflected therein. The Regional Director may affirm or modify the preliminary classification where warranted by the evidence on record.

When, due to extraordinary peculiarities of the proposed activity, the project does not fall under any of the foregoing categories, or cannot be readily classified, or when a legitimate question arises regarding its proper classification, the CEB may, *motu proprio* upon submission of the Regional Director's report and recommendation, or upon request of the concerned ICCs/IP or the applicant, initiate a determination of the appropriate classification and the corresponding FPIC process to be applied, applying the precautionary principle and resolving all uncertainties in favor of the rights and welfare of the ICCs/IPs.

The request for clarification, or the exercise of the CEB's authority, may be made at any time before the issuance of the Notice to Proceed to Mandatory Activities, as the case may be. Upon resolving the question of classification, the CEB may directly instruct the Regional Director on the specific process to be conducted, including any procedural adjustments necessary to ensure the full and effective protection of the rights and welfare of the ICCs/IPs, with due regard to the rights of private parties and the mandate of other regulatory agencies. If there is no request for clarification on the categorization at the time of the issuance of the Notice to Proceed, the same shall be construed as an acceptance of the categorization issued.

Section 29. Classification of Projects. As a general rule, projects requiring approval of national government authorities shall be classified under Category A; and those that are approved by regional, provincial, city, municipal, or local authorities shall be classified under Category B; projects involving community-solicited and non-commercial activities shall be classified under Category C; and projects that are community-initiated, community-solicited, and community-managed shall be classified under Category D, except as otherwise provided herein or where the verified facts warrant a different classification.

Category A. This category refers to projects or undertakings involving the development, exploitation, or utilization of natural resources or other activities with substantial, long term, or potentially irreversible impacts that require approval, signature, or issuance by national-level officials such as the Secretary of the Department of Environment and Natural Resources (DENR), the Secretary of the Department of Energy (DOE), the Secretary of the Department of Agriculture (DA), President of the Republic of the Philippines or any equivalent national authority under existing laws and regulations.

Category A includes, but is not limited to:

1. Mineral Agreements and Natural Resource Contracts, including but not limited to Mineral Production Sharing Agreements (MPSA), Financial or Technical Assistance Agreements (FTAA), large-scale metallic or non-metallic mineral agreements such as Industrial Sand and Gravel Permits, under national management;
2. Energy Development Projects, including but not limited to renewable energy such as geothermal, hydropower, wind, solar, biomass and non-renewable energy such as petroleum, large scale coal mining projects requiring national approval of service contracts;
3. Forestry, Land, and Resource Use Agreements, including but not limited to Integrated Forest Management Agreements (IFMA), Socialized Industrial Forest Management Agreements (SIFMA), Forest Land Use Agreements (FLAg), and Special Land Use Permits (SLUPs) issued at the national level. This shall also include carbon-sequestration initiatives;

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

4. Foreshore, Coastal, and Marine Resource Use, including but not limited to Foreshore Lease Agreements, Marine Lease Agreements, and large-scale aquaculture, reclamation, or marine estate developments requiring national authority; and
5. Projects materially-altering land-use across multiple sitios or affecting major watersheds, projects requiring relocation or displacement of residents, and projects introducing irreversible environmental, social, or cultural impacts.

For Category A projects, consent shall be determined by the ICCs/IPs concerned household representatives present, following customary decision-making processes. The Certification Precondition shall be approved and issued by the CEB.

Category B. This category refers to projects, activities, or undertakings involving exploration, small-scale extraction, or minor utilization of natural resources that have limited, localized, or reversible impacts and that are approved, issued, or authorized by regional, provincial, city, municipal, or local offices, including regulatory bodies such as the Provincial Mining Regulatory Board (PMRB) or their equivalents. Category B includes, but is not limited to:

1. Exploration Activities, including but not limited to mineral exploration permits issued by Mines and Geosciences Bureau (MGB) and its Regional Offices, geoscientific surveys, flora and fauna research, carbon measurement, technical studies, and seismic, hydrological, or geophysical surveys;
2. Small-Scale Extraction and Quarrying Activities, including but not limited to quarry permits issued by Provincial Governors, commercial sand and gravel permits, and Minahang Bayan or small-scale mining permits issued by the PMRB;
3. Local Infrastructure and Utilities with Localized Impact, including but not limited to road right-of way, establishment of easement zones, local irrigation improvements, micro-hydropower facilities, and municipal-level renewable energy micro-projects;
4. Local agricultural, fisheries, or livelihood initiatives that introduce limited physical disturbance and do not materially alter land use or customary practices within the ancestral domain;
5. Forestry, Land, and Resource Use Agreements, including but not limited to Integrated Forest Management Agreements (IFMA), Socialized Industrial Forest Management Agreements (SIFMA), Forest Land Use Agreements (FLAg), and Special Land Use Permits (SLUPs) issued at the regional or provincial level;
6. Reproduction, distribution and commercialization of Indigenous Knowledge Systems and Practices (IKSP) such as but not limited to traditional attire, textiles patterns & sacred motifs. Unlike resources, the primary purpose of FPIC is the protection of the cultural integrity and intellectual property rights of ICCs/IPs.
7. Small scale energy projects such as:
 - a. Small-Scale Coal Mining Permits;
 - b. Pre-Development/Feasibility Study stages for Wind, Geothermal and Hydropower projects; and
 - c. Power Generation Plants in Small Power Utilities Group/off-grid (SPUG/Off- Grid service areas).

For Category B projects, consent shall be determined through the validated elders and leaders of the ICCs/IPs concerned, following customary decision-making processes. The Certification Precondition shall be issued by the Regional Director with the concurrence of the concerned Ethnographic Commissioner.

Category C. This category refers to projects, programs, or activities that are community initiated, community-solicited, and community-managed, where the ICCs/IPs themselves are the primary proponents, implementers, and direct beneficiaries as envisioned in Section 57 of IPRA.

These projects arise from the collective decision of the ICCs/IPs concerned, are consistent with their customary governance systems, and are aligned with their duly adopted Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) or other analogous community planning and governance instrument.

Category C includes, but is not limited to livelihood and enterprise initiatives conceptualized and implemented by the ICCs/IPs, including community-based agriculture, agroforestry, fisheries, handicrafts, eco-cultural tourism, and other sustainable economic activities within the ancestral domain.

1. Small-Scale Natural Resource Use, including but not limited to non-timber forest products and other minor forest product gathering permits, small water use permits, and other projects involving regulated natural resource access that do not require national-level approval;

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

2. Community infrastructure projects identified in the ADSDPP or through customary decision-making processes, including communal facilities, tribal halls, storage facilities, irrigation systems, watersheds, and similar structures serving the ICCs/IPs community needs;
3. Natural resource management and conservation initiatives undertaken directly by the ICCs/IPs, including reforestation, watershed rehabilitation, marine protection, biodiversity conservation, and climate change adaptation activities;
4. Cultural revitalization and protection programs, including documentation of IKSPs (subject to community protocols), cultural mapping, traditional governance strengthening, and intergenerational knowledge transmission;
5. Other similar community-managed partnerships or joint undertakings, provided that the ICCs/IPs retain control and management authority and that such partnerships are authorized through their customary decision-making processes.

For Category C Projects, the Certification Precondition and consent requirement shall be satisfied through a simple validation confirming that the community has been fully informed of the project. The Certification Precondition shall be issued by the Regional Director.

Category D. This category refers to non-commercial, government-initiated, community solicited, or basic development projects and activities whose impacts are temporary, minimal, non-extractive, or incidental, and which do not involve the development, exploitation, or utilization of natural resources within the Ancestral Domain.

Category D includes, but is not limited to:

1. Government infrastructure or service delivery projects, including social infrastructures such as schools, health centers, barangay roads, water systems, disaster response or evacuation structures, and barangay electrification;
2. Community-solicited or community-initiated projects identified in approved ADSDPPs, barangay development plans, or community issuances; and
3. Non-commercial academic, scientific, biodiversity, environmental, or cultural activities, such as environmental assessments, cultural documentation, ethnographic or ecological studies.

For Category D projects, the necessary Certification shall be issued by the Regional Director upon determination that the submitted documents prove that the project is covered by the provisions under the first paragraph of this Section, based primarily on submitted documents. This is, however, subject to just compensation and the right of concerned IPs to access and benefit sharing.

Section 30. Exemption for Basic Social Services, Welfare Programs, and Emergency or Relief Operations.

Basic social service projects, welfare programs, or public assistance activities undertaken by government agencies, LGUs, humanitarian organizations, or NGOs whose activities are accredited by NGAs and/or LGUs concerned shall be exempt from the FPIC requirement by reason of urgency, public welfare, and the need for immediate delivery of essential services to ICCs/IPs.

Exempted activities include, but are not limited to:

1. Health missions, vaccination campaigns, nutrition and medical outreach;
2. Distribution of relief goods and humanitarian aid;
3. Social protection programs;
4. Emergency response and disaster recovery operations;
5. Scholarships, training programs, and capacity-building not involving resource use;
6. Traditional resource use;
7. Geohazard Mapping;
8. Non-IKSP Research Studies: Research not requiring Philippine Health Research Ethics Board clearance, and similar studies;
9. Client survey activities for policy improvements;
10. Provision of Farm Inputs such as supply of seeds, fertilizers, or other agricultural inputs;
11. Animal Dispersal Programs for community benefit; and
12. Gift-Giving Programs without expected negative impact on ancestral domains.

Even when exempt, the project implementor, in coordination with the NCIP field office, shall inform the ICCs/IPs when circumstances allow, through its leaders, of the activity to ensure that cultural protocols are observed, respected, and monitor implementation to prevent misuse or activities beyond the exemption.

The appropriate Certificate stating the exemption and reason thereof shall be issued by the Regional Director.

**CHAPTER VIII
COMMENCEMENT OF THE FREE AND PRIOR INFORMED CONSENT PROCESS, FIELD BASED INVESTIGATION
PROCESS, AND CNO ISSUANCE**

Section 31. Filing of Application. The application with the required documents shall be submitted in the NCIP Regional Office.

Section 32. Review of Submitted Documents. The designated focal person or alternate at the NCIP Regional Office (RO), in coordination with the Regional Director, the Provincial Office, and the Technical Management and Services Division (TMSD), shall conduct a thorough review of the application and all supporting documents, and submit an assessment report incorporating their recommendations within two (2) working days from receipt of the application documents to determine the completeness of the application. The review shall include an examination of existing NCIP records, including approved and indicative maps, database entries, prior assessments reports, FBI reports, and any previously issued Certification Preconditions (CPs) or Certificate of Non-Overlap (CNO) covering the same area or portions thereof. Applicants will be promptly notified of any deficiencies or additional compliance requirements.

Section 33. Review of complete application. If, after an exhaustive review of the Application and its supporting documents, the designated focal person or alternate at the NCIP Regional Office finds sufficient basis to recommend the conduct of an FBI, a report shall be prepared and submitted to the Regional Director within one (1) working day from the conclusion of the review. The report must detail the findings, including an analysis of the submitted documents and any additional evidence reviewed, and shall include a recommendation for the issuance of a work order or directive authorizing the conduct of the FBI. Upon receipt of the report, the Regional Director shall promptly evaluate the recommendation and, if deemed warranted, issue the necessary directive to initiate the FBI process within one (1) day from receipt of the report.

However, the conduct of an on-site FBI may be dispensed with when existing and duly verified NCIP records already contain complete, reliable, and up-to-date information sufficient for determining the presence or absence of ICCs/IPs, Ancestral Domain claims, and other facts normally established through a FBI. The Regional Director, upon recommendation of the Provincial Officer and the TMSD, may rely on such records in lieu of a new FBI when all of the following conditions are met:

1. Adequacy and Reliability of Existing Records. There exist previously conducted FBIs, official NCIP maps, government survey plans, geospatial files, historical and public records, or other technical reports that accurately represent current environmental, social, cultural, and institutional conditions in the area, and are uncontested by any concerned ICC/IP or stakeholder;
2. Clarity of Ancestral Domain Status. Existing NCIP records definitively establish the ancestral domain status of the project area or confirm the absence of overlap, without conflicting information or unresolved claims;
3. Validity of Prior Determinations. Previous NCIP assessments on customary institutions, governance structures, land and resource use, decision-making processes, conflict resolution mechanisms, leadership profiles, or property relations remain valid and supported by reliable documentation; and
4. No Material Changes in Conditions. The evaluation confirms that conditions on the ground have not materially changed such that a new FBI would merely duplicate the information already on record.

In all cases, the Regional Director shall issue a written order dispensing with the on-site FBI, identifying the specific records relied upon and certifying that these are sufficient for processing the Certificate of Non-Overlap (CNO) or Certification Precondition application, as the case may be.

If the findings after the conduct of FBI, or if compelling evidence or existing NCIP records, clearly establish that the proposed project area is within an ancestral domain, the application shall proceed to FPIC process proper, as provided in the succeeding sections. Conversely, if the findings after the conduct of FBI, or such compelling evidence or existing NCIP records, clearly establish that the proposed project does not overlap with or affect any ancestral domain, a Certificate of Non-Overlap shall be issued.

Section 34. Certificate of Non-Overlap. When the area is patently and publicly known to be outside any ancestral domain (AD), or the activity is determined, after FBI, not to affect an AD, the Regional Director, with the concurrence of the concerned Commissioner, shall issue a CNO, provided however, that the applicant shall execute an undertaking for the conduct of FPIC should it be discovered later that there is, in fact, an overlap with an AD, provided further, that special attention shall be given to ICCs/IPs who are shifting cultivators or traditionally nomadic so as not to prejudice their rights as such.

In cases where the required data and information are not complete and it is determined that an onsite Filed Based Investigation must be conducted, the Certificate of Non-Overlap shall be issued within twenty three (23) working days from the submission of complete application documents.

In cases where the required data and information are complete and it is determined that the on-site FBI can be dispensed, the Certificate of Non-Overlap shall be issued within three (3) working days.

The Certificate of Non-Overlap shall explicitly include the following:

1. The legal and/or technical basis for its issuance;
2. The distance from the nearest ancestral domain if the project is patently outside, or the reason why no ancestral domain is affected;
3. The property or vested rights recognized, if the Certificate of Non-Overlap is issued pursuant to Section 56 of IPRA; and
4. The technical description and/or map of the project, to be attached as an Annex.

The issuance of a Certificate of Non-Overlap shall be without prejudice to future determination that the subsequent conduct and/or operations of the project affects an Ancestral Domain and shall not be a waiver to enforcement of the ICCs/IPs' right to FPIC under these Rules nor a diminution of other rights as provided by other statutes.

Copies of the Certificate of Non-Overlap/s issued shall be posted in the CSC and the PO concerned for public information and upload in the FPIC Transparency Server. A copy shall likewise be furnished to the Ancestral Domains Office (ADO).

Section 35. Conduct of the Field-Based Investigation. The FBI shall be conducted by the FBI Team in accordance with the approved Work and Financial Plan (WFP) and within nine (9) working days for projects under Category A and three (3) working days for projects under Category B upon full payment of the Full Investigation Fee. In no case shall the FBI be extended.

The FBI shall determine the presence of ICCs/IPs, the existence of ancestral domain claims, and the socio-cultural, environmental, economic conditions, and human rights conditions, relevant to the proposed activity. The FBI shall likewise validate customary governance structures, land and resource use, and existing property relations within the area.

The conduct of the FBI shall observe the following:

1. The FBI Team shall undertake site inspections, interviews, community consultations, mapping activities, and customary validation methods appropriate to the affected community.
2. All existing NCIP records, including ADSDPPs, survey data, Recognition Books, validated claims, and prior assessments, shall be reviewed and used as essential references.
3. The applicant shall accompany the FBI Team when required and provide access to technical information, subject to community protocols.
4. The ICCs/IPs shall assist the FBI Team in understanding local customs, cultural sensitivities, and community protocols necessary for safe and respectful conduct of field activities.
5. All engagements shall be conducted in a manner that respects indigenous governance systems, local authority structures, and cultural practices.
6. The FBI shall be conducted objectively and shall not prejudice the necessity of FBI, the scope of affected areas, or the position of the ICCs/IPs.
7. Any incident, concern, or relevant observation identified during the FBI shall be documented for inclusion in the FBI Report.

Section 36. Submission of the FBI Report. Upon completion of the investigation, the FBI Team shall prepare and submit an FBI Report to the Regional Director within three (3) working days for projects under Category A and two (2) working days for projects under Category B from the completion of the FBI. The report shall constitute the basis for determining whether the FPIC process should proceed or a Certificate of Non overlap (CNO) should be issued.

The FBI Report shall contain the following:

1. A narrative of all activities conducted during the FBI, including methodologies (ie. Key informant interview, community assembly etc.) used and the dates and locations of field engagements;
2. A clear determination of whether the area affected by the proposed project overlaps with, affects, or is situated within an Ancestral Domain or an area under claim by ICCs/IPs;
3. A description of the ICCs/IPs present in the area, including community recognized Indigenous Political Structure, leaders, and decision-making processes;
4. Findings on socio-cultural conditions, traditional land and resource use systems, and existing property relations relevant to the proposed activity;
5. Identification of potential impacts of the proposed activity on the ICCs/IPs, whether social, cultural, environmental, or economic;
6. Findings on the presence of boundary conflicts or overlapping claims, if any, and the implications for the FBI process;
7. Identification of any vulnerabilities or conditions requiring additional safeguards during subsequent FBI activities;
8. A statement of issues, incidents, or concerns raised during the investigation and the manner in which these were validated;
9. A recommendation on whether to issue a Notice To Proceed (NTP) to Mandatory Activities for the conduct of the FPIC process or to proceed with the issuance of a Certificate of Non Overlap (CNO), as appropriate;
10. Maps showing the actual locations of the project components, photographs, attendance sheets, documentation, and other pertinent documents.

If the FBI Report recommends the conduct of FPIC, it shall include the following:

- a. List of validated community elders, leaders, and members of the indigenous political structure who shall participate in the process;
- b. Description of recognized customary social institutions and the established decision-making process of the ICCs/IPs;
- c. Recommendation on the classification of the project under these Rules;
- d. Identification of mandatory areas for the posting of notices and required disclosures; and
- e. Prescribed number of required activities or assemblies based on the characteristics of the affected ICCs/IPs and the scale of the proposed activity.

Section 37. Review and Approval of the Field-Based Investigation (FBI) Report. The Regional Office, through the Technical Management and Services Division (TMSD Chief), shall review the notarized FBI Report within two (2) working days to determine its completeness, sufficiency, and compliance with the requirements of these Rules.

The review shall verify that the findings are supported by documentation and that the activities undertaken, as indicated in the Report, were appropriate, culturally respectful, and technically sound.

The Regional Director shall approve within one (1) working day upon receipt of the results of the review by the Technical Management and Services Division (TMSD) Chief.

The Regional Director may require the FBI Team to clarify findings, submit additional documentation, or address inconsistencies when necessary. If the report is found insufficient or incomplete, the Regional Director may order the conduct of supplemental field activities, specifying the scope and timeline for compliance.

If the report is found sufficient, the Regional Director shall issue a written approval confirming the findings of the FBI. If the Regional Director approves the recommendation to conduct FPIC, such approval shall include the issuance of an NTP to Mandatory Activities, directing the commencement of the pre-FPIC conference and subsequent procedures required under these Rules.

A copy of the approved FBI Report shall be furnished to the applicant and, upon request, to the concerned ICCs/IPs and regulatory agencies.

Section 38. Mandatory Orientation for the Applicant. A mandatory orientation for the Applicant shall be conducted by the Regional Director or an authorized representative within one (1) working day from the approval of FBI report recommending the conduct of FPIC process. The orientation is conducted to ensure that the applicant fully understands all legal, procedural, cultural, and financial obligations associated with undertaking activities within Ancestral Domains.

The orientation shall cover the following:

1. An explanation of the statutory requirements under the IPRA, these Rules, and other relevant issuances, including the nature of the Certification Precondition and the mandatory character of the FPIC process;
2. A description of the sequential FPIC framework, including preparatory activities, the FBI, mandatory disclosures, community assemblies, consensus-building, decision-making, negotiation, and the formulation of the Memorandum of Agreement;
3. Clarification of the roles of the applicant, the ICCs/IPs, and the NCIP, emphasizing that FPIC is a community-centered process and that the NCIP functions as a regulator and facilitator rather than an advocate for either party;
4. A reminder that the applicant is prohibited from influencing, coercing, manipulating, or interfering with community decision-making, and that any logistical support to the ICCs/IPs must strictly follow the approved Work and Financial Plan;
5. Orientation on prohibited acts under these Rules, including unauthorized meetings, undue influence, bribery, misrepresentation, and the offering of gifts or benefits outside official assemblies;
6. Discussion of disclosure requirements, including the obligation to submit accurate, complete, and truthful documents such as project profiles, corporate papers, technical descriptions, maps, and environmental assessments;
7. Explanation of the applicant's financial obligations, including the preparation, approval, deposit, disbursement, and liquidation of the Work and Financial Plan (WFP) for preparatory activities, with emphasis that unutilized funds must be returned;
8. Guidance on respecting community protocols, customary governance systems, indigenous authority structures, and cultural norms or sensitivity during all engagements within the Ancestral Domain;
9. Clarification that failure to comply with any requirement discussed during the orientation may result in the termination of the application without prejudice to re-filing;
10. Execution by the applicant of a written acknowledgment confirming understanding of the duties, responsibilities, limitations, and safeguards imposed by these Rules.

No preparatory or community activity shall proceed unless the applicant has completed the orientation and submitted the required written acknowledgment.

CHAPTER IX CONDUCT OF MANDATORY ACTIVITIES FOR PROJECTS UNDER CATEGORY A AND CATEGORY B

Section 39. Guiding Framework. Mandatory Activities shall be conducted by the applicant as part of the FPIC process. The NCIP shall be present in these activities to serve as a resource person, to ensure that accurate information is conveyed to the ICCs/IPs, and to personally attest that all required activities have been properly conducted.

Section 40. Authority to Proceed (ATP) to Mandatory Activities. Upon completion of mandatory orientation, the Regional Director shall issue the Authority to Proceed with Mandatory Activities (APMA) and the Work Order constituting the FPIC team within one (1) working day for projects under Category A and Category B. The Notice shall reference the approved FBI Report, identify the applicant and the ICCs/IPs covered by the process, and authorize the commencement of the mandatory activities to be undertaken prior to the constitution of the FPIC Team. It shall direct the posting of notices in the mandatory areas identified in the FBI Report and specify the number and general nature of the required activities that must be conducted at this stage. The Notice shall instruct the member/s of the FPIC team to coordinate, supervise, or instruct the conduct of the mandatory activities in accordance with these Rules. The Notice shall be issued in writing, signed by the Regional Director within one (1) day upon completion of the required orientation, and furnished to the applicant, the concerned ICCs/IPs, and the appropriate NCIP offices.

Section 41. Pre-FPIC Conference. The Pre-FPIC Conference shall be conducted by the Proponent within two (2) working days upon receipt of the ATP to ensure the effective and organized implementation of the FPIC process. It shall serve as a platform to align all concerned parties, address logistical and coordination matters, and establish the necessary groundwork for the proper conduct of the process.

The activity report and WFP shall be submitted by the proponent to the regional office within one (1) day after completion of the activity.

Section 42. Approval of the Work and Financial Plan (WFP). Upon receipt of the WFP the Regional Director shall approve the same within one (1) working day.

The applicant shall shoulder all antecedent and logistical expenses necessary for the conduct of the activities, including but not limited to venue arrangements, transportation, materials, and documentation infrastructure, consistent with these Rules, to be indicated in a work plan.

The assemblies shall include: (1) an explanation of the IPRA, with emphasis on rights related to ancestral domains, self-governance, and benefit-sharing; and of these Rules and Procedures; (2) validation of IPS/IPO/Leaders and Elders; (3) presentation of the approved FBI report; (4) a presentation of the project, including its nature, scope, operational phases, potential social and environmental impacts, and required access to land and resources; and (5) disclosure of the applicant's initial offer for access and benefit sharing consistent with the project's scale and category. The NCIP shall ensure that all explanations are made in a manner understandable to the ICCs/IPs and consistent with these Guidelines.

Section 43. Posting of Notices and Disclosure. The applicant shall post notices, within five (5) working days for projects under Category A and two (2) working days for projects Category B upon payment of the FPIC fee before the first community assembly, indicating the schedule, venue, and purpose of the community assemblies in conspicuous areas within the affected ancestral domain, which shall include barangay halls, community gathering spaces, and other locations accessible to the concerned ICCs/IPs, as identified in the FPIC Report. Posting shall be undertaken in a language understood by the ICCs/IPs, and proof of posting shall be submitted to the NCIP prior to the scheduled assemblies.

Section 44. Conduct of Community Assemblies. The community assembly or assemblies shall be held within ten (10) working days for Category A projects and four (4) working days for Category B projects, starting five (5) calendar days after the posting and distribution of notices to all concerned participants.

Section 45. Modality of Assemblies. The community assemblies shall be conducted in the affected area where the project is to be implemented to ensure that all affected ICCs/IPs within the project area are fully informed and able to participate meaningfully. Assemblies shall be conducted in accordance with customary decision-making processes and community protocols, provided these remain consistent with IPRA and these Guidelines.

The community assemblies shall constitute a distinct information activity and shall be properly documented, with attendance sheets, photographs, audio video recordings, and minutes.

Section 46. Consensus-Building and Decision-Making. For Category A projects, consent shall be determined by the ICCs/IPs concerned household representatives present, following customary decision making processes. However, if customary law or the resolution of community leaders express that broader participation is required, or when the elders or leaders deem it necessary to reflect the will of the entire community, the matter shall be remanded to the domain-at-large, without prejudice to the decision of the directly affected communities. In such cases, the FPIC Team shall convene a final decision-making meeting in accordance with community protocols, and consent or nonconsent shall be determined by the majority of household representatives present.

For Category B projects, consent shall be determined through the validated elders and leaders of the ICCs/IPs concerned, following customary decision-making processes.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

If the project, program, or activity is deemed potentially acceptable during the consensus, the concerned ICCs/IPs shall proceed with the negotiation of the terms and conditions of the Memorandum of Agreement. However, if the participants determine, after thorough deliberation, that the project does not align with their plans, priorities, or way of life, they shall issue a Resolution of Non-Consent, providing a clear explanation of their reasons. Any request for reconsideration must follow the procedures outlined in Section 47. The FPIC Team shall ensure proper notice, documentation, attendance verification, and recording of proceedings in accordance with these Guidelines.

The duration of consensus-building and decision making shall be within thirty (30) working days for projects under Category A and seven (7) working days for projects Category B.

Section 47. Absence of Consent and Motion for Reconsideration (MR). If consent is not granted, the applicant may file a MR before the Regional Director within 5 calendar days upon receipt of the resolution. Upon receipt of the MR, the FPIC Team shall consult with the validated elders or customary leaders to determine whether the initial rejection constitutes a final decision. The elders or customary leaders may: (1) uphold the rejection with finality; or (2) remand the matter to the domain-at-large for a final decision.

If the elders or customary leaders determine that the wider community must decide, the FPIC Team shall convene the domain-at-large in accordance with community protocols. In such cases, consent or non consent shall be determined by the majority of household representatives present during the final decision making meeting. The FPIC Team shall ensure that notice, documentation, attendance verification, and record of proceedings are conducted in accordance with these Guidelines.

Section 48. Negotiation for the Memorandum of Agreement. The Memorandum of Agreement negotiation stage shall commence immediately upon the ICCs/IPs granting consent to negotiate. During this stage, the FPIC Team shall represent and assist the community by ensuring that all agreements reached reflect the conditions, safeguard and commitments identified during consensus-building and decision-making. The assigned legal officer shall lead the negotiation on behalf of the ICCs/IPs, safeguard their legal interests, and provide the necessary legal guidance to ensure that proposed terms conform to customary law, the community's expressed will, and the standard set by these Rules. The proponent and the FPIC Team shall jointly draft the Memorandum of Agreement.

The FPIC Team shall:

1. Ensure that the positions and conditions expressed during the decision-making stage are clearly presented, understood, and incorporated into the negotiations;
2. Provide guidance to the ICCs/IPs on legal and procedural matters, without encroaching upon the community's decision-making authority;
3. Coordinate schedules, venues, and logistics for negotiation sessions;
4. Ensure that discussions remain transparent, culturally appropriate, and free from coercion or undue influence; and
5. Ensure that no term is introduced without the full knowledge and understanding of the elders, customary leaders, or designated representatives.

Negotiations shall address, at a minimum:

1. Benefit-sharing arrangements;
2. Environmental, cultural, and social safeguards; and
3. Access arrangements and operational conduct.

The negotiation period shall be within ten (10) working days for projects under Category A and two (2) working days for projects Category B.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

Section 49. Memorandum of Agreement Validation and Signing. Upon completion of the negotiations, the applicant shall present the draft MOA reflecting the terms, safeguards, and conditions agreed upon by the ICCs/IPs. During this stage, the FPIC Team shall coordinate with the validated elders, customary leaders, and community representatives to convene the Memorandum of Agreement validation in accordance with customary practices; this validation and the signing shall be done within fifteen days upon completion of negotiations. The purpose of Memorandum of Agreement validation is to ensure that every provision in the draft accurately reflects the consensus reached and that no term contradicts or exceeds what was agreed upon during negotiation.

During the validation, the FPIC Team shall represent and assist the community by clarifying provisions, explaining the legal implications of the terms, and ensuring that the ICCs/IPs fully understand all rights, obligations, safeguard, and commitments contained in the Memorandum of Agreement. The FPIC Team shall not modify the draft Memorandum of Agreement but shall require the applicant to revise any provision that the community identifies as inaccurate, incomplete, or inconsistent with the negotiated agreements. Validation shall continue until the elders or customary leaders confirm that the document faithfully embodies the community's decisions.

Once the Memorandum of Agreement has been validated and accepted by the elders or customary leaders, the FPIC Team shall facilitate the conduct of the Memorandum of Agreement signing. The Memorandum of Agreement shall be signed by the designated elders, customary leaders, or authorized community representatives, together with the applicant or its authorized representative. The Provincial Legal Officer shall sign as a witness to affirm that the validation and signing were conducted in accordance with these Rules and customary law.

The signed Memorandum of Agreement shall constitute the principal evidence of consent granted by the ICCs/IPs and shall form part of the application for the issuance of the Certification Precondition.

The duration of the validation and signing of the Memorandum of Agreement shall be within five (5) working days for projects under Category A and two (2) working days for projects Category B.

Section 50. Preparation and Submission of the FPIC Report and Memorandum of Agreement. Upon signing of the Memorandum of Agreement, the applicant shall prepare and submit the FPIC Report and Memorandum of Agreement within seven (7) working days to the Ancestral Domains Office (ADO), copy furnish the Legal Affairs Office (LAO), Office on Education, Culture, and Health (OECH), Office of Empowerment and Human Rights (OEHR), and the concerned Regional Office, for projects under Category A and three (3) working days to the concerned Regional Office for projects under Category B.

The FPIC Report shall include the fully signed Memorandum of Agreement, proof of proper conduct of all mandatory activities, complete documentation of the consensus building and decision-making processes, and all supporting materials such as photographs, attendance sheets, minutes, and reports. The FPIC Report shall likewise include a consolidated account of all issues raised by the ICCs/IPs during the assemblies, those subsequently communicated through the NCIP, and those formally transmitted to the applicant, together with the applicant's corresponding responses and commitments to address such issues. Any additional evidence demonstrating full compliance with these Guidelines and the grant of consent by the ICCs/IPs shall also form part of the submission.

Incomplete applications shall not be accepted by the offices concerned, without prejudice to the re-filing of the application.

Section 51. Participation of Observers in Community Assemblies. CSOs, NGOs, POs, LGUs, and other stakeholders directly affected by the proposed project may participate as observers during community assemblies. Observers shall not participate in the consensus-building and decision making, but they may submit questions in writing, and must manifest their presence for documentation purposes. Only observers who were actually present may contest acts or omissions, through verified complaints submitted to the Regional Director or the Commission En Banc.

Section 52. Filing and Resolution of Complaints. Any complaint, grievance, or objection arising from the conduct of the process herein shall be filed in writing with the office responsible for issuing the Certification Precondition at any time prior to the issuance of the Certification Precondition. Complaints submitted after the issuance of the Certification Precondition shall no longer be entertained under this Section and shall instead be addressed through the appropriate administrative appeal mechanisms.

Complaints relating to Certification Preconditions issued at the regional level shall be filed with and resolved by the Regional Director. Complaints relating to Certification Preconditions issued by the Commission En Banc (CEB) shall be filed with and resolved by the Ancestral Domains Office (ADO), which shall evaluate and act on the complaint in coordination with the Regional Director concerned.

The office receiving the complaint shall conduct a summary and expeditious evaluation based on affidavits, minutes, FPIC Team documentation, and other available records. The filing of a complaint shall not automatically suspend the FPIC timeline. Suspension or termination of the FPIC process may be ordered only by the Chairperson, upon recommendation based on prima facie merit, where the allegations, if true, materially affect the integrity, voluntariness, or validity of the FPIC process.

All complaints submitted and the resolution thereof shall form part of the official record and shall be considered in the determination of the Certification Precondition.

Section 53. Processing of Category B Applications and Issuance of Certification Precondition. For Category B projects, the applicant shall submit the complete documents or requirements for Certification Precondition before the Regional Office. The Technical Management and Services Division (TMSD) Chief, shall conduct a review of the completeness and sufficiency of the submission. If the application is found to be incomplete, the Technical Management and Services (TMSD) chief shall return the submission to the applicant for correction or completion.

Section 54. Approval as a Matter of Course. If there is no justifiable reason, the Regional Director or the Commission En Banc, as applicable, fails to grant or deny the Certification Precondition within thirty (30) working days upon submission of the FPIC Report - which shall include the signed Memorandum of Agreement reflecting the consent of the ICCs/IPs to the project to the Regional Director or the Ancestral Domains Office, the application shall be deemed approved, without prejudice to monitoring, compliance, and enforcement mechanisms provided herein. As such, the Memorandum of Agreement shall be deemed concurred by the NCIP, and the Certification Precondition shall be issued as a matter of course.

This provision shall not absolve any office or official from criminal, civil, or administrative liability arising from negligence, inaction, or failure to act within the prescribed period under these Rules.

Section 55. Termination of FPIC Process. If the application is found to have been inactive for more than three (3) months since the last FPIC activity, and no justifiable reason is provided after due notice to the applicant, the FPIC Team shall issue a formal notice of inactivity. This notice will be sent to the community representatives, the project proponent, the Regional Director (RD), and the ADO, informing them of the proponent's inactivity. Such a finding shall give rise to the termination of the FPIC process.

CHAPTER X

PROCEDURES IN THE PROCESSING OF CATEGORY A PROJECTS BEFORE THE NCIP COMMISSION EN BANC

Section 56. Processing of Category A Applications and Endorsement to the Commission En Banc. For Category A projects, the applicant shall submit the complete application to the Ancestral Domains Office, with copies furnished to the Regional Director and the Legal Affairs Office for concurrent evaluation. The Ancestral Domains Office shall conduct an initial documentary review of the completeness and sufficiency of the submission. If the submission is incomplete, the Ancestral Domains Office shall return the application to the applicant for correction or completion.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

If the submission is complete but contains defects or unresolved issues, particularly in the decision making, consent, and the Memorandum of Agreement, the Ancestral Domain Office (ADO) is authorized to require the applicant to submit notarized justification/s, inquire directly to the FPIC Team for clarification, or order the conduct of compliance/remedial activities to verify the matters in question. The period allotted for this section shall be tolled by such order for compliance/remedial activities. All results of these clarifications and validation activities shall be transmitted to the Ancestral Domains Office, Regional Director, and Legal Affairs Office for evaluation and notation.

Section 57. Review of the FPIC Report. Upon receipt of the FPIC Report the Ancestral Domains Office, Legal Affairs Office, and Regional Director concerned shall simultaneously review the complete record of the application for Certification Precondition within ten (10) working days.

Section 58. Elevation to the Commission en Banc. Upon the concurrent recommendation of the Ancestral Domains Office, Legal Affairs Office, and Regional Director concerned, the complete record of the application for Certification Precondition shall be transmitted to the Commission En Banc secretariat within one (1) working day. The same shall be endorsed to the Commission En Banc for deliberation, in accordance with the Commission En Banc internal rules. Only applications with completed documentation and accompanying endorsements from the Regional Director Ancestral Domains Office and Legal Affairs Office.

The procedures under this Title shall apply exclusively to projects classified under Category A, except in applications where the Commission En Banc expressly directs that these procedures be observed.

Section 59. Standards of Review. In its examination of the application, the Commission En Banc shall determine whether: (1) the consent issued by the concerned ICCs/IPs is valid, free, prior, informed, and in accordance with their customary decision-making processes; (2) the access and benefit-sharing arrangements granted to the community are fair, equitable, and commensurate to the scale, duration, and intensity of the project; and (3) the long-term social, cultural, and environmental impacts of the project have been adequately disclosed, considered, and mitigated.

Section 60. Period to Decide. The Commission En Banc shall decide the application within fifteen (15) working days from receipt of the complete records. The Commission En Banc may grant or deny the Certification Precondition based on the standards stated in the preceding Section. Any denial shall state clearly the factual and legal bases for such action.

If approved, the Resolution and Certification shall be prepared and submitted by the Ancestral Domains Office within three (3) working days from approval of the Certification Precondition.

Section 61. Effect of the Decision. A decision granting the Certification Precondition becomes final upon issuance, without prejudice to monitoring, compliance, and enforcement mechanisms under these Rules. A decision denying the Certification Precondition may be the subject of only one Motion for Reconsideration, which shall be filed within ten calendar days from receipt of the decision. The Commission En Banc shall resolve the Motion for Reconsideration within fifteen days from its receipt.

If the denial is affirmed, the proponent shall be barred from re-filing an application involving the same project area and scope for a period of six months from the time of finality of the decision appealed from.

Section 62. Notice to Parties. The decision of the Commission En Banc shall be furnished to the regulatory agency concerned, the applicant, the concerned ICCs/IPs through their IPS and/or Indigenous Peoples Organization (IPO), and the Ancestral Domains Office within three working days from issuance. Notice of issuance of the same shall be posted in the FPIC Transparency Server.

Section 63. Appeal. Decisions, orders, or actions of the Regional Director in connection with the processing of an FPIC application, including the issuance, denial, or revocation of a Certification Precondition or Certificate of Non-Overlap, shall be appealable to the Commission En Banc within fifteen days from receipt thereof. The appeal shall be filed through a verified memorandum stating the grounds relied upon and shall not stay the execution of the decision unless the Commission En Banc issues a restraining order for compelling reasons.

Decisions of the Commission En Banc may thereafter be elevated on appeal to the appropriate office or court, in accordance with existing laws, rules, and procedures.

CHAPTER XI CONDUCT OF ACTIVITIES FOR PROJECTS UNDER CATEGORY C AND D

Section 64. Coverage and Purpose. Applications for projects classified under Category C and Category D pursuant to Section 28 of these Guidelines shall be filed with the NCIP Regional Office having jurisdiction over the ancestral domain concerned. The application shall be accompanied by basic project documents sufficient to describe the nature, scope, purpose, precise location, implementing entity, duration, and anticipated impacts of the activity.

The Regional FPIC Focal Person shall docket the application and conduct a preliminary review to determine whether the project properly falls under Category C or Category D, in accordance with the impact-based and authority-based classifications under Section 28. Any misclassification that materially alters the level of consent required shall be elevated to the Regional Director for appropriate determination.

Section 65. Assessment of the Project. Upon receipt of the application, the Regional FPIC Focal Person shall evaluate whether the proposed activity satisfies the requisites of Category C or Category D, as the case may be.

For Category C projects, the Focal Person shall determine whether:

- a. The project is expressly embodied in the duly approved Ancestral Domain Sustainable Development and Protection Plan (ADSDPP), which constitutes the consolidated plan of the ICCs/IPs for sustainable management and development of their ancestral domain consistent with their indigenous knowledge systems and practices;
- b. The project is supported by a valid community resolution, customary issuance, or other documentary proof demonstrating that the initiative is community-initiated, community-solicited, and community-managed;
- c. There exists documented proof that the ICCs/IPs concerned participated in the planning and formulation of the activity in accordance with their customary decision-making processes.

For Category D projects, the Focal Person shall determine whether the activity is noncommercial, non extractive, and government-initiated or community-solicited, with temporary, minimal, or incidental impacts, and does not involve the development, exploitation, or utilization of natural resources within the ancestral domain.

If the foregoing conditions are satisfactorily established by the documents submitted, and there is no indication of extraction, displacement, material alteration of land use, or irreversible environmental, social, or cultural impact, the Regional FPIC Focal Person shall recommend to the Regional Director the issuance of the appropriate Certification without need of further validation.

Section 66. Conduct of Field Validation for Category C Projects. Field validation for Category C Projects shall be undertaken by a duly constituted FPIC Team and shall be limited to confirming that:

1. The project is community-initiated, community-solicited, and community-managed, consistent with Section 57 of Republic Act No. 8371;
2. The ICCs/IPs concerned have been fully informed of the nature, scope, and intended outcomes of the activity in accordance with their customary decisionmaking processes;
3. The activity does not involve commercial extraction, large-scale utilization of natural resources, displacement, material alteration of land use, or irreversible environmental, social, or cultural impacts;
4. The ICCs/IPs retain control and management authority over the project; and
5. The validation shall not constitute a full FPIC process under Category A or Category B. It shall be confined to confirming informed community participation and the proper classification of the project under Category C.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

The FPIC Team shall prepare and submit a Field Validation Report to the Regional Director containing its findings and a categorical recommendation on whether the project qualifies under Category C or requires reclassification.

Section 67. Issuance of Certification for Category C and Category D Projects. Upon receipt of the Field Validation Report, or upon determination that the documentary requirements are sufficient for direct issuance, the Regional Director shall issue the appropriate Certification.

For Category C projects, the Certification Precondition shall expressly state that the activity is community initiated, community-managed, and aligned with the ADSDPP or customary decision-making processes, and that it does not involve commercial extraction or material alteration of the ancestral domain.

For Category D projects, the Certification shall state that the activity is non-commercial, non-extractive, and government-initiated or community-solicited, with minimal or incidental impacts, without prejudice to the right of the concerned ICCs/IPs to just compensation and equitable benefit sharing where applicable under existing laws.

Section 68. Express Limitations. Category C shall apply only to projects where the ICCs/IPs retain control and management authority, and where the activity is primarily for community benefit. The use of natural resources, if any, shall be limited to what is reasonably necessary for subsistence, livelihood, or community serving purposes and shall not result in large-scale extraction, commercial exploitation, displacement, or irreversible alteration of the ancestral domain.

Commercial undertakings shall not be classified under Category C, except where the project consists of a small-scale livelihood initiative directly owned, managed, and operated by the Indigenous Peoples Organization, and where economic benefits accrue to the community consistent with Section 57 of Republic Act No. 8371.

Any activity that involves substantial extraction, diversion of natural resources, relocation of residents, material alteration of land use across multiple sitios, or irreversible environmental, social, or cultural impacts shall not be processed under this Chapter and shall be reclassified in accordance with Section 28.

**CHAPTER XII
ACCESS-BENEFIT SHARING (ABS)**

Section 69. Nature of Benefits from the Development and Utilization of Natural Resources. Consistent with Section 7(b) of the IPRA, the grant of access to natural resources, including exploration, development, and utilization activities, shall at all times recognize the proprietary interest of ICCs/IPs as owners of their ancestral domains and the State's authority over minerals and other natural resources. The benefits accruing to ICCs/IPs shall reflect their time immemorial ownership of land, participation in governance, and the impacts and extent of operations within their domains.

Section 70. Forms of Benefits. Benefits that may accrue to ICCs/IPs under FPIC agreements include, but are not limited to:

1. Royalty, representing the share of the ICCs/IPs from the utilization of natural resources;
2. Rent or lease payments for land occupation, right-of-way, or temporary use of sites;
3. Profit-sharing arrangements; and
4. Co-management of resources and operations.

These benefits shall be reflected in the Memorandum of Agreement and shall comply with statutory, regulatory, and customary norms.

Section 71. ABS Framework During Exploration and Scoping Activities. Activities undertaken solely for exploration or feasibility assessment are non-commercial in nature, and are undertaken to evaluate the extent, viability, or characteristics of natural resources. Benefits during exploration shall be proportionate to the limited extent and duration of operations and may include access fees, support for community liaison or safety measures, capacity-building, and other incidental benefits appropriate to noncommercial activities.

Section 72. Prohibition on Using Royalty for SDMP. Royalty shares received by ICCs/IPs shall not be used to fund Social Development and Management Programs (SDMP) or other statutory obligations of mining or resource-based projects.

Section 73. Prohibition on Using Royalty and Benefits as Compensation or Damages. Royalty and other benefits due to ICCs/IPs shall not be used as compensation for environmental damage, operational impacts, rehabilitation obligations, resettlement, or any form of harm suffered by the ICCs/IPs. Compensation for damages shall be borne solely by the proponent in accordance with law and shall be separate from and in addition to benefit-sharing obligations.

Section 74. Consistency with the Community Resource Management and Development Plan (CRM DP). No utilization, allocation, or disbursement of royalty or other benefits shall be made in a manner inconsistent with the community's approved CRM DP, ADS DPP, or equivalent community development framework.

Section 75. Transparency in Benefit Disclosure. All benefits, monetary or nonmonetary, shall be disclosed to the ICCs/IPs in a language they understand and posted in the FPIC Transparency Server. Disclosure shall include computation basis, payment schedules, and identification of the community authorized receiving entity.

Section 76. Prohibition on Advances, Conditional Benefits, or Contingent Royalty. Applicants are prohibited from offering Advances, conditional benefits, or contingent royalty prior to FPIC issuance. Benefits accrue only after the execution of a valid Memorandum of Agreement and issuance of the Certification Precondition based on an approved permit.

CHAPTER XIII

MEMORANDUM OF AGREEMENT COMPLIANCE, DISPUTE RESOLUTION, AND GRIEVANCE MECHANISM

Section 77. Monitoring of Memorandum of Agreement Compliance and Constitution of the JMGC. The NCIP, together with the ICCs/IPs and the project proponent, shall undertake regular monitoring of compliance with the Memorandum of Agreement. Where the Memorandum of Agreement does not provide a grievance mechanism, the Regional Director shall constitute a Joint Monitoring and Grievance Committee (JMGC) through a written order, composed of representatives of the ICCs/IPs, the project proponent, and the NCIP.

The JMGC shall function as the primary forum for receiving complaints, coordinating corrective measures, and addressing issues concerning the interpretation, implementation, or execution of the Memorandum of Agreement.

Section 78. Alternative Dispute Resolution (ADR). Disputes submitted to the JMGC may be resolved through mediation, conciliation, or other forms of ADR only upon the written consent of all parties. Upon such consent, the JMGC may appoint a competent and impartial mediator or conciliator, or refer the matter to the Regional Director for facilitation of ADR. The mediator or conciliator shall endeavor to assist the parties in reaching a mutually acceptable settlement within 30 calendar days from receipt of the written referral.

Section 79. Applicability of Customary Law. Customary law shall apply strictly to disputes solely between and among members of the same ICCs/IPs that relate to the interpretation or implementation of the Memorandum of Agreement.

Customary law shall not be applied when the dispute involves any non-IP party, including project proponents, NCIP personnel, regulatory agencies, or other external stakeholders, even with consent, in recognition of jurisdictional limits and the constitutional requirement that customary law may be enforced only upon those who are legally and culturally bound by it.

Use of customary sanctions shall not bar the filing of civil, criminal, or administrative actions before competent authorities.

Section 80. Procedures with the NCIP. When a dispute involves non-IPs or when customary law is inapplicable, the matter shall be resolved through the appropriate administrative procedures of the NCIP. In such cases, the NCIP's authority over non-IP parties is limited to fact-finding, monitoring, Advisory, and recommendatory functions, including:

1. Issuing findings of violations or non-compliance;
2. Recommending corrective measures;
3. Coordinating with the concerned regulatory agency for enforcement; and
4. Exercising visitorial and monitoring powers within the Ancestral Domain.

NCIP shall not impose sanctions on non-IPs outside those expressly authorized under IPRA or these Rules. Enforcement actions against proponents or operators remain subject to the jurisdiction and regulatory authority of the appropriate government agencies.

Section 81. Bond Posting, Claims, Release, and Penalties. The proponent shall post the required bond in accordance with the terms of the Memorandum of Agreement (MOA) and submit proof of such posting to the NCIP and the concerned ICCs/IPs within three (3) working days from the signing of the MOA. Upon verification, the NCIP shall issue an acknowledgment of compliance.

The ICCs/IPs, through the NCIP or an authorized representative, may file a claim against the bond in cases of breach of MOA terms, non-compliance with project obligations, or damages resulting from the project, following the procedures provided in the MOA and in accordance with a standardized format to be prepared by the NCIP Regional Legal Officer and approved by the Legal Affairs Office (LAO).

The bond shall be released to the project proponent upon completion of the project and certification by the NCIP and the ICCs/IPs that all obligations have been fulfilled; provided that a portion of the bond may be retained for a specified period to cover post-project obligations or unforeseen damages as agreed upon in the MOA. Failure to post the required bond within the prescribed period shall constitute a breach of the MOA and may result in the suspension of project activities and the imposition of other penalties as stipulated in the MOA and applicable laws.

CHAPTER XIV PROHIBITED ACTS

Section 82. Prohibited Acts by the Project Applicant or Persons Acting on Their Behalf. To preserve the integrity of the FPIC process and protect the rights of the ICCs/IPs, the following acts are strictly prohibited when committed by the project proponent, its agents, contractors, employees, or any person acting for or on its behalf:

- a. Coercion, Threats, or Intimidation. The use of force, violence, coercion, threats, harassment, or intimidation in any form or degree against ICCs/IPs, NCIP personnel, or any individual participating in the FPIC process;
- b. Carrying of Firearms. Bringing firearms into the community during visits or activities related to the FPIC process. Where legitimate security risks exist, security assistance must be coordinated through the NCIP with the Philippine National Police or the Armed Forces of the Philippines;
- c. Undue Influence Through Rewards or Donations. Offering, promising, or granting money, gifts, benefits, privileges, projects, services, or any form of rewards beyond what is formally presented during official community assemblies for the purpose of influencing or manipulating community decision-making;
- d. Agitation, Instigation, or Disruption. Agitating, instigating, or provoking ICCs/IPs to oppose, disrupt, or attack the NCIP, its personnel, or the FPIC process; or using traditional or digital media platforms to create division, hostility, or misinformation;
- e. Unauthorized Negotiations. Conducting clandestine, informal, or unauthorized negotiations with individual community members, elders, or leaders without the knowledge and participation of the duly recognized IPS or the broader community;
- f. Bribery or Inducement of NCIP Personnel. Offering, promising, or giving money, gifts, favors, or benefits to NCIP officials or employees to influence the conduct or outcome of the FPIC process;
- g. Unapproved Meetings with NCIP Personnel or Community Members. Holding unofficial or unrecorded meetings with NCIP personnel, elders, leaders, or community members for purposes of influencing the FPIC outcome;

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

- h. Fraud, Misrepresentation, or Concealment. Withholding material information, committing fraud, or misrepresenting facts to secure consent or weaken opposition to the project;
- i. Deliberate Delays. Intentionally delaying the FPIC process to create tension, confusion, or division within the community or to pressure the NCIP into expedited action;
- j. Exploitation of Customs or Vulnerabilities. Taking Advantage of customary practices, internal community dynamics, or limited understanding of legal processes to manipulate consent.

Section 83. Prohibited Acts by NCIP Officials or Employees. NCIP officials, employees, contractors, or persons acting under NCIP authority are strictly prohibited from committing any of the following acts:

- a. Acceptance of Bribes. Receiving money, gifts, favors, or benefits from the proponent or any party to influence any step or decision in the FPIC process;
- b. Partiality or Undue Favor. Advocating for, supporting, or actively assisting the project proponent in a manner that undermines neutrality and fairness;
- c. Unlawful, Secret, or Unauthorized Meetings. Holding unrecorded, unapproved, or clandestine meetings with proponents or community members intended to influence the FPIC process;
- d. Falsification or Misrepresentation. Using falsified information, altering minutes or reports, or submitting misleading data or attachments in relation to the FPIC process;
- e. Neglect or Suppression of Complaints. Ignoring complaints, failing to act on reported prohibited acts, or intentionally withholding complaints from appropriate resolution;
- f. Negligence of Duty. Failing to perform mandated duties without valid justification, compromising the procedural integrity of the FPIC process;
- g. Interference with Teams. Influencing, coercing, or obstructing the work of FBI, FPIC, Validation, or Monitoring Teams, or performing their tasks without proper authority;
- h. Conflict of Interest. Acting with actual or potential conflict of interest, including expectations of future rewards or benefits from the proponent;
- i. Unauthorized Solicitation or Receipts. Soliciting or receiving money, gifts, or donations from proponents or community members outside approved Work and Financial Plans; and
- j. Failure to Implement the Rules. Willfully refusing or failing to implement these Rules, causing prejudice to the rights of ICCs/IPs or undermining the validity of the FPIC process.

Section 84. Prohibited Acts by the ICC/IP Community, Elders, Leaders, or Members. The following acts are prohibited only when they undermine collective decision-making or distort the FPIC process, but shall not diminish the right of ICCs/IPs to participate, express support, advocate positions, or be employed by proponents:

- a. Solicitation or Acceptance of Gifts Intended to Influence Consent. Soliciting or accepting gifts, money, or favors from proponents when the purpose or effect is to improperly influence the community's decision-making or to secure personal benefit contrary to customary practice or the collective interest;
- b. Unauthorized or Secret Negotiations that Prejudice the Community. Entering into private, undisclosed, or unauthorized negotiations with the proponent that commit the community or misrepresent its decision, without authority granted by the IPS or the community-at-large;
- c. Misrepresentation of Community Decisions. Falsely representing that the community has granted consent, or presenting personal, clan-level, or factional positions as if these were the decision of the entire domain;
- d. Acceptance of Offers that Circumvent Official Assemblies. Accepting promises, agreements, or benefits outside those formally disclosed and discussed in the official FPIC assemblies, in a manner that undermines the transparency and fairness of the process.

Section 85. Prohibited Acts by NGOs, CSOs, LGUs, Government Agencies, and Other Persons. The following acts shall be prohibited when committed by external actors:

- a. Undue Influence. Exerting improper pressure, influence, persuasion, or interference in the decision-making of ICCs/IPs, or attempting to sway the FPIC outcome.
- b. Improper Involvement in the Process. Intervening in the FPIC process in a manner that favors a particular position, undermines community autonomy, or disrupts the impartiality of the NCIP.

Section 86. Penalty and Liability. Any violation of these Guidelines, including the commission of prohibited acts by the applicant, NCIP officials or employees, members of the ICCs/IPs, or any external actor, shall give rise to civil, criminal, and administrative liability under IPRA and all other applicable laws. The imposition of liability is without prejudice to corrective measures, suspension of proceedings, denial of the Certification Precondition, or any other remedy provided under these Guidelines.

Section 87. Resolution of Complaints Involving Prohibited Acts. Complaints involving prohibited acts shall be resolved separately from the FPIC process. The filing, investigation, or pendency of such complaints shall not suspend, delay, or otherwise bar the issuance or denial of the Certification Precondition. The resolution of these complaints, however, may result in the nullification of the Certification Precondition or other appropriate corrective action, without prejudice to civil, criminal, or administrative liability of the persons involved.

**CHAPTER XV
REMEDIES PENDING ISSUANCE OF CP, PROCEDURE, AND SANCTIONS**

Section 88. Irregularities in the FPIC Process and Commission of Prohibited Acts; Remedies.

A. Complaints in relation to CP to be issued by the RD, or by the CEB prior to endorsement of the application to the ADO

1. All complaints involving alleged irregularities in the implementation of this Guidelines or alleged commission of any of the prohibited acts in relation to CP application processed under Categories A and B shall be filed with the concerned RD, copy furnished the FBI or FPIC Team leader, as the case may be.
2. The RD shall issue an order within three (3) working days from receipt of the complaint directing the persons complained of to submit their answer. Within ten (10) working days from receipt of the order, the respondents shall submit their answer thereto.
3. When the persons complained of include members of the community, or when there are allegations that the consent of the ICCs/IPs was not obtained based on their customary law, the matter shall be referred to the community or respective IPS or leaders/elders, as the case may be, within three (3) working days from receipt of the complaint, for resolution in accordance with their customary process of resolving disputes or other modes of alternative dispute resolution.
 - a. The FPIC team shall coordinate with the concerned community for the conduct of activities necessary to address the alleged irregularity or prohibited act.
 - b. The community activities or meetings conducted by the community to resolve the complaint shall be concluded within fifteen (15) working days from receipt of the referral and complaint, with the FPIC Team, or any of its members, as witnesses to document the proceedings.
 - c. After having decided and addressed the allegations in the complaint, the decision or resolution of the community or the council of elders/leaders shall be submitted to the FPIC Team within the same period.
 - d. The FPIC Team shall prepare its report on the proceedings and submit the same, under oath, together with the community resolution/decision within five (5) working days to the RD for final disposition.
4. The complaint shall be resolved by the RD within ten (10) days from:
 - e. receipt of the report on the FPIC's findings and the community.
 - f. resolution/decision for complaints referred to them, as provided in the immediately preceding paragraph, or when there is no resolution by the community after the period provided.
5. The decision of the RD shall address the alleged irregularity or in case of alleged commission of prohibited acts shall also contain a recommendation to the CEB for the filing of appropriate cases, if warranted. If circumstances may so require, the RD may order the reconstitution or divest authority from any member of the FBI/FPIC Team in order to protect the integrity of the FPIC Process.
6. No motion for reconsideration shall be allowed. The remedy of the aggrieved party is to file an appeal before the CEB. The filing of the appeal shall not, as far as practicable, stop the FPIC process or of the processing of the application unless ordered by the CEB.
7. When one of the persons complained of is the Regional Director, the complaint shall be filed before the ADO and shall be proceeded in accordance with the procedure under paragraph C of this section.

B. Appeal to the CEB

1. An appeal of the decision of the RD shall be filed before the CEB, through the ADO, within ten (10) working days from receipt of the decision, copy furnished the other party with proof of service. The other party shall submit its comment within ten (10) working days from receipt of the appeal.
2. The ADO shall, upon receipt of the comment or the expiration of the period to file the same, submit its findings and recommendations to the CEB for resolution. In the course of the proceedings, the CEB may require the submission of additional evidence or conduct of clarificatory hearings, after which the CEB shall resolve the appeal within thirty (30) working days from receipt of ADO's findings and recommendations. Only one motion for reconsideration to the CEB decision shall be allowed.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

- C. Complaints in relation to CP to be issued by the CEB after the application is endorsed to the ADO.
1. After the CP application is endorsed to the ADO but prior to the CEB deliberations on the CP application, all complaints involving irregularities in the implementation of this Guidelines or those involving the alleged commission of prohibited acts shall be filed with the ADO, copy furnished the concerned Regional Director. The complaint must be supported by affidavits of witnesses and other evidence.
 2. The ADO shall issue an order within three (3) working days from receipt of the complaint directing the persons complained of to submit its answer. Within ten (10) days from receipt of the order, the respondent shall submit its answer thereto.
 3. If the complaint contains an allegation on the commission of prohibited acts provided in this Guidelines, the ADO shall immediately coordinate and refer the matter to the OEHR for the conduct of appropriate investigation. Thereafter, the OEHR, as the lead bureau, shall compose a team to undertake the investigation, subject to the approval of the Chairperson. The investigation team members may be composed of the RHO, RLO, or PLO and other personnel from the nearest region as may be appropriate. The investigation period shall run for a period of thirty (30) working days. This 30-day period shall cover the ocular or ground investigation activities as well as the preparation and drafting of the investigation team's report and recommendations. Within ten (10) working days from the last activity of the investigation team, the OEHR shall submit its report with recommendations to the CEB, through the ADO, for action.
 4. When the persons complained of include members of the community, or when there is an allegation that the consent of the ICCs/IPs was not obtained in accordance with their customary laws, the ADO shall have the discretion to do the following:
 - a. Revert the matter back to the community for their internal resolution;
 - b. Recommend the matter to the CEB along with a CP application; or
 - c. Decide on the matter independently, based on the facts and circumstances presented.
 - i. The community shall resolve the complaint in accordance with their customary process of resolving disputes or other modes of alternative dispute resolution.
 - ii. The FPIC team shall coordinate with the concerned community for the conduct of activities necessary to address the alleged irregularity or prohibited act.
 - iii. The community activity or meetings conducted by the community to resolve the complaint shall be concluded within thirty (30) working days from receipt of the referral of the complaint, with the FPIC Team, or any of its members, as witnesses to document the proceedings.
 - iv. At the end of this period, the community shall issue a community resolution, to be submitted to the RD attesting to either:
 1. Settlement of the issues in the complaint;
 2. Withdrawal of their consent due to failure to address/resolve the issues in the complaint.
 5. Within five (5) working days from receipt of the community resolution, the RD shall submit its report, under oath, containing his/her recommendations to the ADO for proper action.
 6. Within fifteen (15) working days from receipt the RD recommendation or report of the OEHR, as the case may be, the ADO shall then submit its findings and recommendations to the CEB for resolution. When one of the persons complained of is a NCIP official tasked to review and/or approve an application, the CEB may divest him/her from his/her authority to be part of the proceedings.
- D. Non-Inclusion of Affected ICCs/IPs in the Exercise of Their Right to FPIC in Violation of this Guidelines
1. Prior to the endorsement of the application to the ADO, when a complaint is filed alleging the intentional and malicious non-inclusion of affected ICCs/IPs for the purpose of subverting the objectives of this Guidelines, the RD shall issue a memorandum within three (3) working days from receipt thereof for the composition of an investigation team. The members of this team must be distinct from the FBI team and shall be tasked to investigate the alleged violation expeditiously.
 - a. The investigation and validation activities shall be conducted and concluded within a period of fifteen (15) working days.
 - b. Upon conclusion of the investigation and validation activities, the team shall submit their report and recommendation, under oath, to the RD within five (5) working days from the last day of the investigation and validation activities.
 - c. The RD shall resolve the complaint within ten (10) working days from receipt of the report. The resolution of the RD may contain a dismissal of the complaint stating clearly the grounds thereof, or the inclusion of the affected community and the basis thereof.

2. When the complaint is filed after the application is endorsed to the ADO, the ADO shall issue, within ten (10) days, an order to the RO for the conduct of the necessary investigation and validation and which shall be proceeded in accordance with the immediately preceding paragraph. Within five (5) working days from receipt of the investigation report with recommendations, the RD shall endorse the same to the ADO. Thereafter, the ADO shall submit its findings and recommendations to the CEB for resolution.

Section 89. Sanctions. The following sanctions shall be imposed for the commission of prohibited acts or irregularities only after due notice and after the parties are given the opportunity to be heard and settled disputes, as may be applicable:

- a. The termination of the FPIC process pursuant to Section 91 of this Guidelines;
- b. The blacklisting of the project proponent with respect to applications for CP within the concerned ancestral domain, pursuant to Section 93;
- c. Divesting of authority of an NCIP officer or employee to be part of the FPIC process/proceedings.
- d. In addition to the above, the commission of any of the prohibited acts by any person/s shall be a ground for the filing of appropriate administrative, civil and/or criminal case under existing laws.
- e. If the prohibited acts committed by any member of NGOs and other groups or individuals, he or she shall be excluded from the FPIC proceedings, without prejudice to the Commission filing the appropriate civil or criminal case against such person/s;
- f. Commission of any of the prohibited acts by or attributable to the IPs/Elders/Leaders belonging to the same ICC shall be subjected to their customary laws

When there is no settlement reached using customary modes of dispute resolution or when a settlement is reached but party/ies refuse to comply, the aggrieved party may file a complaint with the Regional Hearing Office (RHO) for the resolution of the claim. In no case shall the RHO issue an order or judgment for the suspension or termination of the FPIC proceedings, blacklisting of the proponent, or the non issuance of the certificate applied for, or if already issued, an order or judgment for its revocation.

Section 90. Suspension of the FPIC Process at the Community and Regional Levels. The FPIC process at the community and regional levels may be suspended by the RD when:

- a. There is a validated community resolution, issued by their identified and recognized IPS/decision makers, requesting suspension attached to the complaint alleging the commission of any of the prohibited acts that would unduly affect the FPIC process, or intentional and malicious non inclusion of affected ICCs/IPs in violation of this Guidelines. In this instance, the RD may issue an order of suspension of the FPIC process after a validation process which shall not exceed three (3) working days from receipt of the complaint; or
- b. During the customary settlement process or other modes of alternative modes of dispute resolution as allowed in this Guidelines, the community, through their identified and recognized IPS or decision-makers, requested a suspension of the FPIC process via a community resolution expressing community interest; The suspension shall remain effective until it is shown that the alleged prohibited act has already been addressed, pursuant to this Guidelines.

Section 91. Termination of FPIC process for failure to address the issues at the community level. When the issues are not addressed and resolved despite referring the case to the community, the community, through their identified and validated IPS or decision-makers, may issue:

- a. A Resolution Terminating the FPIC Process; or
- b. A Resolution of Non-Consent.

Upon receipt of any of the resolutions mentioned above, the same shall be validated by the FPIC Team within five (5) working days to verify its authenticity. After the conduct of validation activity, the FPIC Team shall submit its report and recommendations with the community resolution to the RD for proper disposition pursuant to this Guidelines. The application shall be returned to the endorsing/regulating agency upon order of the RD stating the reasons for the termination of the FPIC process or issuance of the Resolution of Non-Consent.

Section 92. Resumption of FPIC process. If the FPIC process is suspended pursuant to Section 97 herein, the FPIC process activities may resume upon the motion of the community through the execution of a community resolution to be submitted to the FPIC Team. The same shall be validated by the FPIC Team to verify its authenticity within three (3) working days from receipt of the resolution. After the conduct of the validation activity, the FPIC Team shall submit its report, under oath, and recommendation to the RD, within three (3) working days from the conduct of the validation activity, for action. Thereafter, the RD shall immediately issue an order for the resumption of the FPIC process from receipt of the report.

Section 93. Blacklisting of Proponents

A. Grounds, Conditions, and Effects of Blacklisting. In addition to terminating the FPIC process, the affected ICCs/IPs may blacklist a project proponent for violations of the prohibited acts. The ADO shall issue notices to all concerned national government agencies to inform them of the blacklisting, provided the following conditions are met:

1. The community issues a resolution calling for the blacklisting of the proponent.
2. A resolution of no consent or a resolution terminating the FPIC process is issued.
3. A motion for blacklisting is formally adopted by the community.

A blacklisted project proponent is prohibited from applying for a CP or engaging as a partner in EPR applications within the ancestral domain that issued the blacklisting resolution, unless the blacklist status is lifted in accordance with the succeeding provisions. The ADO shall maintain and update an official list of blacklisted proponents as necessary.

B. Lifting of Blacklist Status. The blacklist status of a project proponent may be lifted upon a verified request submitted by the proponent, provided it includes a resolution from the aggrieved ICC/IP community consenting to the lifting of the blacklisting. A copy of the resolution shall be submitted to the ADO, which shall endorse it to the Regional Office within three (3) working days of receipt for validation by the concerned field office. Validation activities must be conducted and concluded within fifteen (15) working days of receiving the appropriate order from the Regional Office. The validation team, led by the Provincial Officer or the Community Service Center Head (for areas without Provincial Offices), shall submit its report, under oath, along with recommendations to the RD within five (5) working days after the last field validation activity.

The RD shall review and endorse the report, along with their recommendations, to the ADO within three (3) working days. The ADO will then verify the authenticity of the community resolution. If confirmed, the project proponent shall be removed from the blacklist; otherwise, the request will be denied.

Notices regarding the status of the request shall be transmitted to the national government agencies previously informed of the proponent's blacklist status.

Section 94. Cancellation of CNO. All petitions for the cancellation of CNOs due to alleged irregularities must be filed with the RD within one (1) year from the discovery of the irregularity. Upon receipt, the RD shall issue an order, with a copy furnished to the proponent, either directing the Validation Team to submit comments within five (5) working days or constituting a validation team to conduct an investigation. The investigation must be completed within fifteen (15) working days.

A BRIEFER: ON THE DRAFT 2026 RULES AND PROCEDURES ON THE CONDUCT OF
FREE AND PRIOR INFORMED CONSENT (FPIC)

A copy of the RD's decision shall be provided to the proponent. No motion for reconsideration of the RD's decision shall be entertained. Aggrieved parties may appeal to the CEB through the ADO within ten (10) working days from receipt of the decision. Upon receipt of the appeal, the ADO shall issue an order directing the RD and/or other interested parties to submit comments within ten (10) working days. The appeal before the CEB shall follow the procedures outlined in this Guidelines.

Section 95. Correction of Contents of the CP/CNO. Clerical errors that do not change the project design nor change the terms of the MOA may be corrected. A request for correction of entries or contents of the CP/CNO/CRVR and other certifications may be filed before the ADO and the regional office, as the case may be.

For CPs/CNOs and other certifications issued by the regional director, the request for correction shall be filed and corrected before the concerned regional office. Clerical or minor errors in the CP, CNOs or other certifications issued by the CEB or the Commissioners, as allowed in this Guidelines, may be corrected by the ADO within 3 days from filing, provided the errors are clearly evident in the records and do not alter the original documents or the deliberations as reflected in the CEB proceedings.

Section 96. Cancellation of CP. Once a CP is issued, the same may be cancelled upon the filing of a verified Petition with the CEB through the ADO. The Petition shall contain a sworn certification of non forum shopping. After due notice and hearing before the CEB, the subject CP may be cancelled based on the following grounds:

- a. The CP was erroneously issued due to misrepresentation or fraud provided that such case for cancellation is filed within one (1) year from the date of discovery of the fraud or misrepresentation;
- b. Breach of the term/s of the MOA and such breach is a ground for cancellation of the CP per the MOA;
- c. The project was pre-terminated based on grounds provided in the MOA;
- d. Non-implementation of the Project or inactivity, without justification, within six (6) months from the issuance of the CP;
- e. In case of merger, consolidation or reorganization where the consent was transferred, and transferee refuses to assume the obligations of the transferor under the MOA, or the transfer of CP without the required consent.

For alleged non-implementation of project or inactivity under this Guidelines, the cancellation of the CP may also be initiated *motu proprio* through the endorsement of the RD based on the findings and recommendations of the monitoring team.

Section 97. Receipt of Petition or Endorsement of the RD for CP Cancellation; Order to Answer. Upon receipt of the petition for CP cancellation or the endorsement of the Regional Director, the ADO shall specify the date of receipt, assign the case number, and immediately cause the issuance of an order requiring the proponent/s to answer the petition within fifteen (15) working days from receipt. The order shall contain a notice that unless the proponent/s so answers, resolution of the relief prayed for in the petition shall be rendered without proponent/s participation.

Section 98. Service of Order and Proof of Service. The order mentioned in the immediately preceding section, together with a copy of the petition, shall be personally served upon the proponent/s.

If personal service is not practicable, the order shall be served through registered mail or through a legitimate and reputable private courier at proponent/s' given address.

Section 99. Dismissal of the Petition for Cancellation of CP. The CEB may dismiss the petition if on its face it finds the same to be clearly without merit.

Section 100. Summary Proceedings to Resolve Petition for Cancellation of CP or Appeal on CNO Cancellation. In the course of the proceedings, the CEB may require the submission of additional evidence or the conduct of clarificatory hearings, after which, the Commission shall resolve the petition within thirty (30) working days from the Order submitting the case for resolution. Only one (1) motion for reconsideration shall be allowed which must be filed within ten (10) calendar days from receipt of the decision, resolution or order, with proof of service that a copy of the motion was furnished to the other parties to the petition.

Section 101. Resolution of Petitions for CP Cancellation or Appeal on CNO Cancellation. A judgment rendered by the CEB on cancellation of CP or CNO/CRVR/CNC shall become final and executory upon the lapse of ten (10) calendar days from the receipt of all parties and/or their respective counsel/s of the decision, resolution, or order denying the motion for reconsideration, and no appeal with the Court of Appeals was filed. If the 10th day falls on a Saturday, a Sunday or a Holiday, the last day shall be the next working day.

Section 102. Appeal to the Court of Appeals. Final judgement, decisions, or orders of the CEB may be appealed to the Court of Appeals only by way of a petition for review on certiorari.

CHAPTER XVI MISCELLANEOUS PROVISIONS

Section 103. No Restraining Order or Preliminary Injunction. No inferior court shall issue any restraining Order writ of preliminary injunction against the NCIP or any of its duly authorized offices in any case, dispute, or controversy arising from the lawful conduct of the FPIC or the lawful execution of the FPIC process.

Section 104. Free and Prior Informed Consent Transparency Server. The NCIP shall establish a FPIC Transparency Server as the central digital platform for the filing, processing, monitoring, and public disclosure of all Certification Precondition and Certificate of Non-Overlap applications. Subject to confidentiality and data privacy laws, the Server shall provide access to submitted application documents, real-time project status, summaries of reports, certifications issued, and video feeds of official proceedings. The Server shall be jointly managed by the Office of Policy, Planning, and Research (OPPR) and the Ancestral Domains Office (ADO).

Section 105. Claims for Actual Loss and Damage During Project Operations. Without prejudice to other remedies available, any ICC/IP household or lawful occupant who suffers actual loss, injury, or damage because of the implementation or operation of the project may file a claim with the NCIP at any time while the project remains active. Upon receipt of the claim, the NCIP shall initiate a validation process, undertaken jointly with the regulatory agency exercising jurisdiction over the project, to determine the existence, extent, and cause of the alleged harm. The validation shall include site inspections, technical assessments, and direct consultations with the affected households to ensure a complete and culturally appropriate understanding of the impacts.

Where the validation confirms that the loss or damage is attributable to the project, the NCIP, in coordination with the regulatory agency concerned, shall direct the proponent to institute appropriate remedies. These remedies may include compensation, rehabilitation, livelihood restoration, environmental remediation, and/or relocation when warranted, and only as the last resort.

Section 106. Protection to Migrant IPs and IPs in Areas Without a Recognized Ancestral Domain. In areas where migrant ICCs/IPs are present, or where no Ancestral Domain has yet been formally recognized, or where a Certificate of Non-Overlap has been issued, the NCIP shall extend assistance and protection by coordinating with the Indigenous Peoples Mandatory Representatives (IPMRs) to ensure representation in consultations concerning resource use, or by directly representing the affected ICCs/IPs in such consultations when necessary.

Section 107. Void Agreements and Prohibited Waivers. Any stipulation, undertaking, or condition that results in the waiver, diminution, or impairment of rights recognized under IPRA, the Constitution, or international norms shall be void ab initio. No FPIC-related agreement may be used to justify the erosion of collective or individual rights of ICCs/IPs.

Section 108. Modification or Amendment of the Memorandum of Agreement. Any modification, amendment, or supplemental agreement to the Memorandum of Agreement shall be allowed only upon joint written request of the ICCs/IPs and the applicant, filed with the NCIP office that issued the Certification Precondition.

Administrative, clerical, or purely clarificatory changes that do not alter any substantive term of the Memorandum of Agreement shall be approved by the Regional Director if the Certification Precondition was issued at the regional level, or by the Legal Affairs Office (LAO) if the Certification Precondition was issued by the Commission En Banc.

Where the proposed modification involves a substantive change, such as Adjustments to the project's scope, area, duration, impacts, obligations, or benefit-sharing, the issuing office shall require a confirmation activity with the duly authorized elders or leaders of the affected Ancestral Domain to confirm renewed consent in accordance with customary processes.

All approved amendments shall be registered with the NCIP, appended to the original Memorandum of Agreement and Certification Precondition, and published in the FPIC Transparency Server. No amendment shall take effect without prior approval by the issuing office.

Section 109. Non-Transferability of the Certification Precondition. As a general rule, the Certification Precondition is non-transferable. FPIC is granted exclusively to the applicant named in the Certification Precondition, and such consent cannot be transferred, assigned, conveyed, or availed of by any other entity. Consent attaches to the identity of the applicant and not merely to the permit or project.

Where a regulatory agency allows the transfer, assignment, or substitution of a permit to another party, such transfer shall not be valid unless the ICCs/IPs concerned are first formally informed and the succeeding entity executes a new Memorandum of Agreement absorbing, in full, the rights and responsibilities of the original applicant. Failure to comply with this requirement shall render the Certification Precondition void and any continued operation by the substituted entity shall constitute unauthorized activity within the Ancestral Domain subject to appropriate action.

This provision shall not be construed to prohibit the engagement of operators, contractors, or analogous service providers necessary to implement the project, provided that the original permit-holder remains the same legal entity and continues to bear full responsibility for all obligations incurred.

Section 110. Notice of Violation and Recommendation for Suspension. Upon verified complaint or motu proprio, the NCIP shall verify reports that a project implementer has operated without a valid Certification Precondition or Certificate of Non-Overlap, or has violated rights under IPRA, or has breached obligations under the Memorandum of Agreement. Upon determination of a violation, the Regional Director shall issue a Notice of Violation requiring initiation of corrective action or explanation within five working days, with copies furnished to the concerned regulatory agency.

If no corrective measure is undertaken, or if imminent harm persists, the Chairperson shall transmit a Recommendation for Suspension to the regulatory agency having jurisdiction. The NCIP exercises fact finding and recommendatory authority only.

Violations may result in Administrative, civil, criminal, or regulatory actions by the appropriate agencies.

Section 111. Reinstatement After Suspension. Where a regulatory or permitting agency suspends a project pursuant to a recommendation from the NCIP, reinstatement or resumption of operations shall occur only after the proponent has submitted proof of substantial compliance with all corrective measures required by the regulatory agency and the NCIP. The NCIP Regional Office shall conduct verification and submit a validation report to the Chairperson confirming such compliance.

Only upon confirmation by the NCIP shall a formal notice be transmitted to the regulatory agency stating that no outstanding FPIC-related compliance issues remain. Final authority to lift the suspension rests solely with the regulatory agency concerned.

Section 112. Request for Cancellation of Issued Certifications. A request to cancel an issued Certification Precondition or Certificate of Non-Overlap may be filed with the NCIP office that issued the certification. Cancellation shall be granted only upon verified proof of fraud, material misrepresentation, or procedural violations affecting the validity of the FPIC process. The Regional Office concerned shall investigate the request and elevate its findings to the Commission En Banc for final action.

Section 113. Amendment of Details in the Certification Precondition. Requests to amend clerical details or non-substantive entries in the Certification Precondition shall be filed with and resolved by the Ancestral Domains Office. Where the requested amendment involves a substantive change, such as expansion of the project area, the Regional Director shall require a supplemental process to validate renewed consent and to amend the Memorandum of Agreement accordingly.

Section 114. Dormancy of Certification Precondition. A Certification Precondition shall be deemed dormant when the project implementer fails to commence operations within six months from issuance. Dormancy shall subject the Certification Precondition to review, and the NCIP may require a supplemental FPIC process where conditions have materially changed or the basis of consent has become outdated.

Section 115. Extension of Original Permits. Where a regulatory agency extends the term of an existing resource permit for valid reasons without altering the nature, scope, scale, or impacts of the original activity, the full FPIC process may be dispensed with. In such cases, the Regional Director shall require the conduct of a simple validation activity to inform the concerned ICCs/IPs of the extension and to confirm that no objections or new material concerns exist.

The simple validation shall determine: (a) that the extension does not introduce new impacts or expand the original project footprint; (b) that the applicant remains compliant with all obligations under the existing Memorandum of Agreement; and (c) that the affected ICCs/IPs have been duly informed and have not expressed any objection to the continued implementation of the project under the same terms and conditions. A supplemental document shall embody the consent of the ICCs/IPs for the extension.

If the validation reveals material changes in impacts, conditions, or community concerns, or if objections are raised, the Regional Director shall require a supplemental FPIC process consistent with these Rules.

Section 116. Free and Prior Informed Consent Requirement for Renewal of Permits. Renewal of permits covering the use, access, development, or extraction of natural resources within Ancestral Domains shall require the conduct of a FPIC process in all cases. Automatic renewal is prohibited as a matter of public policy, regardless of any provision in the original Memorandum of Agreement. The renewal process shall be initiated one year before the expiration of the existing permit.

The conduct of FPIC for renewal shall dispense with the FBI unless there are material changes in the project, its impacts, its scope, or in the conditions within the Ancestral Domain. In lieu of the FBI, the Regional Director shall require the FREE AND PRIOR INFORMED CONSENT Team to validate: (a) the continued accuracy of the original FPIC findings, if available; (b) the applicant's compliance with all obligations under the original Memorandum of Agreement; (c) the existence of continuing or new impacts affecting the ICCs/IPs; and (d) any proposed changes to the activity.

Upon completion of validation, the FPIC Team shall proceed with the FPIC proper, following customary decision-making processes and all procedural requirements under these Rules, to determine whether the ICCs/IPs consent to the renewal of the permit.

Section 117. Applications in Areas Claimed by Two or More ADs. When a proposed project area is subject to overlapping claims of two or more Ancestral Domains, the Regional Director shall elevate the matter to the CEB for guidance on the special FPIC process to be followed. A Memorandum of Agreement executed pursuant to such process shall bind all concerned ICCs/IPs and remain effective even if boundaries are later settled, unless the original Memorandum of Agreement expressly allows modification or the ICCs/IPs renew consent through a subsequent FPIC process. No boundary settlement shall diminish rights or benefits already granted under a duly executed Memorandum of Agreement.

**CHAPTER XVII
FINAL PROVISIONS**

Section 118. Standardized Forms and Templates. The NCIP shall improve the available standardized forms, templates, and procedural instruments for use in all stages of the FPIC process, including but not limited to application forms, notices, certifications, documentation templates, and reporting formats. These standardized instruments shall be finalized jointly by the Ancestral Domains Office and the Legal Affairs Office, pursuant to their respective mandates.

Once approved, all forms and templates shall be published and made accessible through the FPIC Transparency Server and shall be mandatory for use by all NCIP offices, applicants, and concerned stakeholders. No FPIC-related document shall be considered valid unless issued using the prescribed standardized template.

The finalized Memorandum of Agreement template shall be posted and made accessible through the FPIC Transparency Server and shall serve as the mandatory baseline for all FPIC agreements. Adjustments shall be permitted only to reflect community-specific provisions and shall not, under any circumstance, reduce, waive, or impair the rights of the ICCs/IPs.

Section 119. Applicability to Pending Applications. These Guidelines and Procedures shall apply to all applications for issuance of Certification Precondition or Certificate of Non-Overlap filed after its effectivity; Provided, however, that in cases where the Certification Precondition application was already received but no FBI was commenced due to failure of project proponent to pay the required fee, such application shall still be covered by these Guidelines.

Section 120. Separability Clause. In case any clause, section, sentence, or provision of this Administrative Order or any portion hereof is held or declared unconstitutional or invalid by a competent Court, the other sections or portions hereof which are not affected thereby shall continue to be in full force and effect.

Section 121. Repealing Clause. Administrative Order No. 3, Series of 2012, otherwise known as the Revised Guidelines on FPIC and Related Processes, is hereby expressly repealed, except Part VII thereof, which governs the process for the declaration and exercise of priority rights and shall remain in full force and effect until superseded by a separate issuance.

All other NCIP Administrative Orders, Memorandum Circulars, Regional Orders, issuances, guidelines, and policies, or portions thereof, which are inconsistent with these Rules and Procedures, are hereby repealed, amended, or modified accordingly.

Section 122. Effectivity. This Administrative Order shall take effect fifteen calendar days after its last publication either in a newspaper of general circulation or in the Official Gazette, and registration in the office of the National Ancestral Domain Administration Register, U.P. Law Center, Diliman, Quezon City, Philippines.

