

Environmentalists have long bemoaned appropriations riders — where Congress inserts a matter of substantive law into a budget appropriations bill. For instance, EPA gets a budget, but may not use any funds to enforce or promulgate a controversial regulation.

Sometimes Congress just changes the underlying law, permanently or temporarily.

Appropriations bills are enormous, so it's often hard for even members of Congress to know what is in the entire bill, let alone the public. And they are must pass (or close to must pass) since no one (usually) wants to shut down the government. That means all sorts of measures that might not otherwise pass on their own can be stuffed into an appropriations bill and end up passing.

The reason environmentalists tend to dislike riders is that they have frequently been on the losing end of them. For instance, in the 1990s Congress prohibited the listing of any new species under the Endangered Species Act for over a year through a rider. In that same time frame it also mandated that the Forest Service proceed with a bunch of logging projects in the Pacific Northwest, overriding all environmental laws (this was during the big fights over the spotted owl). And I think environmentalists usually have a good reason to dislike them. The politics usually means that riders will tend to weaken, rather than strengthen, environmental laws. (There are exceptions, of course. The Organic Act that authorized the first reservations of federal lands for national forests in the 19th century was passed as an appropriations rider.)

So it was interesting for me to see [this article](#) in the New York Times. As usual, a couple of members of Congress are seeking to get a special exemption from EPA regulation for a local project. In this case, protecting the last coal-fired ferry on Lake Michigan from EPA air and water regulations (apparently the ferry dumps its coal ash into the lake). What is interesting is that opponents of the special exemption argue that the exemption is in fact an earmark. Earmarks (special designation of federal expenditures for particular projects) are in bad odor in Congress now, partly because of opposition from conservative Congressmen elected in 2010. No member of either party wants to be seen as supporting an earmark.

If this argument succeeds, it might have some important implications: If riders become politically toxic, then it will be harder to get special exemptions from generally applicable regulations. That should, in general, be of benefit to environmental activists, since (as I've [noted before](#)) special exemptions to general environmental laws will often benefit those who seek to weaken those laws.