



The Network
for Public Health Law

Ideas. Experience. Practical Answers.

Air Quality and Public Health Law: A Priority to Address Inequitable Health Impacts of Climate Change

October 26, 2023

Jill Krueger

National Public Health Law Conference

Minneapolis, Minnesota



Why Air Quality?

**Burning Fossil Fuels
+ Industrial Pollution
+ History of Redlining
+ Climate Change
+ Wildfires
= Inequitable Adverse
Health Impacts**

**About 32,000 deaths in
the United States each
year related to PM 2.5**

Five Essential Public Health Law Services

Access to Evidence and Expertise - What is the problem? What evidence do we have? Who is working on this? What needs to be done?

Designing Legal Solutions - What is the best way to use the law to do this?

Engaging Communities/Building Political Will – Educate and mobilize to get the good idea into law

Enforcing and Defending Legal Solutions – Ensure capacity and accountability for implementation and defense

Policy Surveillance and Evaluation - Assess impact of solution, what works

Burris S, Ashe M, Blanke D, Ibrahim J, Levin DE, Matthews G, Penn M, and Katz M. Better Health Faster: The 5 Essential Public Health Law Services. Public Health Rep. 2016 Nov;131(6):747-753. doi: 10.1177/0033354916667496. Epub 2016 Oct 13.

U.S. CALL TO ACTION ON CLIMATE, HEALTH, AND EQUITY: A POLICY ACTION AGENDA

2019



Transition rapidly away from the use of coal, oil and natural gas to clean, safe, and renewable energy and energy efficiency. With the technology available today, we can dramatically change U.S. energy use and systems to meet growing energy needs affordably, while reducing climate and air pollution. Key policies include:

- » Establish ambitious goals and timelines for renewable energy, energy efficiency and energy conservation.

STRATEGIES TO BUILD HEALTHY, EQUITABLE, CLIMATE-RESILIENT COMMUNITIES



Clean And Resilient Energy System
Clean and renewable electricity, distributed energy generation, and a smart grid deliver clean air, improve health, and create a disaster-resilient energy supply.

Green Infrastructure and Smart Surfaces
Parks, green spaces, green roofs, reflective surfaces and porous pavements improve mental and physical health. They provide places for recreation, cool neighborhoods, manage stormwater, and reduce disaster damage.

Regenerative Agriculture
Planting climate-tolerant crops, protecting biodiversity, regenerating soil, and reducing pesticide and chemical use deliver a more resilient, healthy food supply and reduce carbon emissions.

Emergency Preparedness and Response
Climate-resilient public infrastructure, forecasting capacity, early warning systems, evacuation plans, and centers of refuge from extreme weather, heat and smoke build community resilience and preparedness.

Healthy and Active Transportation
Robust public transit; space for safe walking, cycling, and wheeling; and low-carbon transport (e.g. electric vehicles) promote physical activity, reduce pollution, and support community connectedness.

Strong Communities
Community cohesion can protect people from climate risks, support disaster response, and improve health. Inclusive, community-engaged planning promotes more equitable and just resilience solutions.

Federal Context: Judicial



**West Virginia v EPA —
Major Questions Doctrine**

**Sackett v EPA —
Waters of the United States**

Federal Context: Executive and Legislative

- » Executive Orders
- » Office of Climate Change and Health Equity
- » Justice 40
- » Resilience Framework
- » CRRSAA (Coronavirus Response and Relief Supplemental Appropriations Act)
- » American Rescue Plan Act
- » Infrastructure Act
- » Inflation Reduction Act

Tools of Public Health Law

- » Power to tax and spend
- » Power to alter the informational environment
- » Power to alter the built environment (*We'd add "and natural"*)
- » Power to alter the socioeconomic environment
- » Direct regulation
- » Indirect regulation through the tort system
- » Deregulation: laws as a barrier to public health

Source: LAWRENCE GOSTIN, PUBLIC HEALTH LAW: POWER, DUTY, RESTRAINT 28–38 (2008).

The Natural Environment as an Object of Public Health Law: Addressing Health Outcomes of Climate Change through Intersections with Environmental and Agricultural Law, THE JOURNAL OF LAW, MEDICINE & ETHICS 48: 664-680 (Winter 2020) (co-author with Betsy Lawton).

Key Messages

Generating electricity from fossil fuels is bad for our health, disproportionately impacts communities of color and low-income communities, and bad for our climate.

Renewable energy standards slow climate change and bring immediate health benefits to communities.

Renewable energy standards can differ substantially, with varying benefits for climate and health.

Renewable Energy Standards: a strategy to transition rapidly away from the use of coal, oil, and natural gas to clean, safe, and affordable renewable energy

This policy brief is one in an upcoming series on Policy Priorities for Climate, Health, and Equity. Each brief provides information on a policy identified in the [U.S. Call to Action on Climate, Health and Equity: A Policy Action Agenda](#). The briefs can help health professionals and others (1) determine whether policymakers or candidates are taking positions that advance action on climate, health and equity, (2) ask questions to hold leaders accountable, and (3) increase collaboration with community-based organizations and advocacy groups. This brief should be useful for anyone interested in learning more about equitable energy and climate policy.

Key Messages

- Generating electricity from fossil fuels produces 1/4 of U.S. carbon dioxide emissions, causes air pollution associated with asthma, heart disease, adverse pregnancy outcomes, thousands of premature deaths annually, and disproportionately impacts communities of color and low-income communities.
- Renewable energy standards – often called Renewable Portfolio Standards – are important in hastening the transition from fossil fuels to renewable and low-carbon energy sources, slowing climate change and bringing immediate health benefits to communities.
- Renewable energy standards can differ substantially in their composition, and thus can have varying benefits for climate and health. Key components of a strong RES include: clear definitions of renewable energy that exclude fossil fuels; mandatory and enforceable targets; ambitious targets and timeline; and prioritization of benefits to frontline and low-income communities and workers.



States Moving Forward on Renewable Energy Standards



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[Renewable Energy](#) | [topics/renewable-energy](#)

Minnesota Joins 20 Other States in Pursuit of 100 Percent Clean Energy

By [Madeline Dawson](#) | <mailto:eesi@eesi.org>

April 21, 2023

On February 7, the governor of Minnesota signed into law a new piece of legislation requiring the state's electrical utilities to transition to 100 percent carbon-free electricity by 2040. The law is pivotal to advancing the state's efforts to reduce greenhouse gas emissions, address the climate crisis, and generate local employment opportunities in the clean energy sector. Minnesota is now the 21st state (<https://www.cesa.org/resource-library/resource/advancing-equity-through-100-percent-clean-energy/pursuing>) (<https://www.cesa.org/resource-library/resource/advancing-equity-through-100-percent-clean-energy>) a 100 percent clean energy goal, contributing to the nationwide effort to transform the way we power our lives.



Courtesy: Dennis Schroeder / National Renewable Energy Laboratory (<https://www.flickr.com/photos/nrel/44553752552>)



Florida is now adding more solar power than any other state

Sorry, California and Texas! Florida zoomed to the No. 1 spot for solar installations in the first half of 2023, despite a decidedly mixed policy landscape.

15 September 2023



A large PV array in Babcock Ranch, Florida (Jeffrey Greenberg/Education Images/Universal Images Group/Getty)

GET CAUGHT UP



California looks to add solar and transmission along highways

Jeff St. John

Chart: China's solar export dominance grows with surging European orders

Eric Wesoff, Maria Virginia Olano

Renewable Energy Standard Elements (aka Renewable Portfolio Standards)

- » Definition of renewable energy
- » Timeline (speed, interim milestones)
- » Percentage goal
- » Mandatory or voluntary
- » Regulated entities
- » Health equity provisions
 - Procedural
 - Substantive
- » Leverage Inflation Reduction Act/ federal funds

Local Renewable Energy Commitments



Burlington, Vermont



Des Moines, Iowa

Pathways to Public Health Sector Engagement with Climate Work

Address health impacts of climate change within existing work

Address climate change in community health/ public health plans

Participate in cross-sector climate projects and planning

J. Krueger and C. Healy Boufides, *The Public Health Sector's Challenges and Responses in CLIMATE CHANGE, PUBLIC HEALTH, AND THE LAW* (Cambridge University Press, 2018) (Michael Burger and Justin Gundlach, eds.)

What Can Public Health Do?

- » Renewable Energy
- » Reverse redlining and segregation; guard against gentrification
- » Advocate for tenants (not just homeowners) to benefit
- » Replace indoor natural gas appliances
- » Expand access to air conditioning/ heat pumps
- » Green space/ green infrastructure/ tree canopy/ natural solutions/ tribal adaptation menu
- » Medicaid state plan amendments/ section 1115 waiver – asthma remediation
- » Anti-idling laws; hybrid bus adoption
- » Active transportation
- » Include climate change in Community Health Improvement Plans and Community Health Needs Assessments

Model Indoor Air Act

VIEWPOINT

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Supplemental
content

The Model State Indoor Air Quality Act

Breathing should not make people sick. The air inside buildings (where people spend 90% of their lives) is often unfiltered, improperly ventilated, and unhealthy. Poor indoor air quality (IAQ) poses heightened risks of airborne infections and preventable exposures to harmful pollutants. US residents have little control over unhealthy built environments such as in workplaces, schools, shops, theaters, and restaurants. Absent their use of a personal air quality monitoring device, most people do not even realize the health risks. The Model State Indoor Air Quality Act (MSIAQA)¹ developed in collaboration with national advisors adopts science-based regulatory standards, such as testing, enhanced air filtration, system maintenance, and ventilation, to advance the public's health and increase occupant productivity—ensuring that public indoor environments provide healthy air to breathe.

Public Health Risks

Aerosol transmission drives the spread of infectious diseases, including tuberculosis, influenza, measles, rhinoviruses, and respiratory syncytial virus. The importance of IAQ became clear during the COVID-19

Ameliorating IAQ

In the wake of the COVID-19 pandemic, public health officials, community planners, developers, building owners, and occupants are focused on measuring and improving IAQ. In May 2023, the Centers for Disease Control and Prevention updated its building ventilation guidance to 5 air changes per hour.⁷ The White House issued a Clean Air in Buildings Challenge in May 2022 to encourage owners to optimize indoor air via scientifically supported methods, such as high-efficiency particulate air filtration or upper-room UV germicidal irradiation.⁸ Emerging science may offer additional methods, such as far-UV.

Designing or altering built environments complements personal behavioral modifications (eg, hand-washing, masking, and vaccinating), which can be hard to initiate and sustain in indoor public spaces over long periods.

Regulatory Frameworks

Despite recent efforts, extant legal and policy frameworks to improve IAQ are deficient, with most indoor spaces still unregulated and hazards unaddressed. In the 1990s, the US Congress failed to enact a bill to autho-

JAMA October 24/31, 2023
Volume 330, Number 16,
page 1525 -1526.

Next Steps

- » Watch for the 5th National Climate Assessment, connect with CAP/ RISA center in your region
- » Include priority law and policy goals in plans for climate/ emergency preparedness/ hazard mitigation/ community health improvement
- » Bring Policy, Systems, and Environmental (PSE) Change to environmental health
- » Policy surveillance and legal epidemiology (coordinated effort needed)
- » Bright spots in climate and health equity law and policy
- » Climate Change Community of practice
- » More climate sessions/ climate track at the next national public health law conference!

Policy Surveillance/ Legal Epidemiology Ideas

- » Renewable energy
 - » Health equity/ environmental justice
 - » Outdoor worker protections
 - » Preemption
 - » Air conditioning and heat pumps by setting (e.g. affordable housing)
 - » Wetlands
 - » Private wells
 - » Cooling tower registration
 - » Healthy soils
 - » Others?
- Public health lawyers, public health practitioners, community advocates, environmentalists, and researchers can collaborate and coordinate on projects!

Stay Tuned: Community of Practice

- » **Build on pilot learning and practice collaborative on climate change and public health law, leading up to the climate change and health equity summit in 2022**
- » **Seeking steering committee members now**
 - Collaboratively determine a group charter
 - Guide priorities for legal resources
 - Peer learning and community building
- » **Plan to launch community of practice in second half of 2024**

Contact Me

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APPLIANCE AIR POLLUTION: HEALTH IMPACTS AND POLICY OPTIONS

JAMIE LONG

THE PUBLIC HEALTH LAW CENTER



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Equality



Equity



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GAS APPLIANCES AND HEALTH



INCREASED PUBLIC AWARENESS



The screenshot shows the NPR website interface. At the top left is the NPR logo (n p r) and the text "MPRnews". To the right are links for "NEWSLETTERS", "SIGN IN", and "NPR SHOP". Below this is a dark navigation bar with icons and text for "NEWS", "CULTURE", "MUSIC", "PODCASTS & SHOWS", and "SEARCH". The main content area features the word "CLIMATE" in a small font, followed by the article title "How gas utilities used tobacco tactics to avoid gas stove regulations" in a large, bold font. Below the title is the text "Updated October 17, 2023 · 5:02 AM ET" and "Heard on Morning Edition". A small circular profile picture of Jeff Brady is shown next to his name. Below this is a blue "4-Minute Listen" button with a play icon, and to its right are icons for "+ PLAYLIST", download, share, and a menu icon. At the bottom of the article preview is a video player showing a close-up of an elderly woman's face.

INCREASED PUBLIC AWARENESS

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PUBLIC HEALTH

The Health Risks of Gas Stoves Explained

Gas stoves produce emissions that can harm human health and the environment. Experts answer questions about the dangers and how to limit them

The New York Times

Gas Stoves Are Tied to Health Concerns. Here's How to Lower Your Risk.

Emissions from gas stoves have been connected to an increased risk of asthma, heart disease, and other health problems. Along with other things, you can mitigate these risks with a few simple steps.

Los Angeles Times

CLIMATE & ENVIRONMENT

Cooking with a gas stove may be as bad as breathing secondhand cigarette smoke, study finds

AIR POLLUTION COMPARISON

Tobacco Smoke

- Nitrogen oxides (“NO_x”)
- Carbon monoxide
- Benzene
- Particulate matter
- Formaldehyde
- Lead
- Cadmium



Gas Appliances

- Nitrogen oxides (“NO_x”)
- Carbon monoxide
- Benzene
- Particulate matter
- Formaldehyde

GAS POLLUTION RESEARCH



Stanford Study (2023)

- Found benzene in all stoves tested across California
- 45 minutes of a burner or oven at 350 degrees > standards
- Benzene exceeded secondhand smoke levels in some cases

NO2 AND KIDS

- 42% increased risk of asthma symptoms for kids in homes with gas stoves
- Gas stoves responsible for 12.7% of U.S. childhood asthma cases
- Similar to asthma risk of kids living with a smoker

EXHIBIT 4

Three Main Factors Why Children Are More Susceptible to Illnesses Associated with Air Pollution than Adults^b



Source: RMI (2020)

Lower-income Households May be at a Higher Risk of Exposure to Gas Stove Pollution

FACTORS CONTRIBUTING TO HIGHER LEVELS OF NO₂ IN HOMES:



Smaller unit size



More people per home



Older homes, inadequate ventilation



Using the stove/ oven for supplemental heat



Higher exposure to outdoor pollution



Greater asthma burden

RMI – Energy. Transformed.

<https://rmi.org/insight/gas-stoves-pollution-health/>

GAS APPLIANCES AND CLIMATE CHANGE

The Problem

- Half of homes use gas for heating or cooking
- Gas appliances produce CO₂
- Unburned gas produces methane; leaks from pipes and appliances

The Climate Impact

- 10% of all U.S. emissions
- 25 million tons of CO₂ pollution each year



SOLUTION? GO ELECTRIC!

Product Options

- Induction stoves are awesome
 - 1/3 the energy use of gas
 - Less burn risk
 - Easier to clean
- Glass tops are good
- Old coil stoves are bad



HUD PETITION

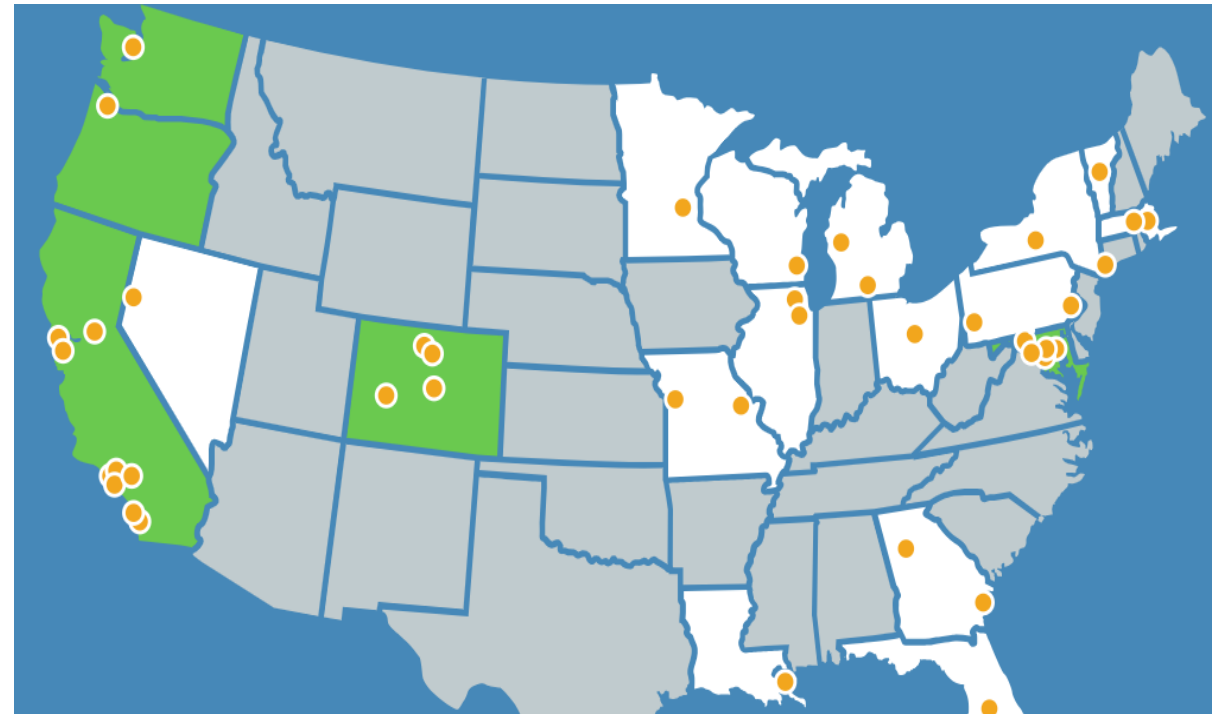
- Petitioned HUD in October 2022 to phase out gas appliances
- HUD obligations:
 - “free of hazardous materials [and] toxic chemicals and gasses.”
 - “decent, safe, sanitary and in good repair”



BUILDING PERFORMANCE STANDARDS

WHAT IS A BPS?

- Set targets for existing buildings to reduce energy use or GHG emissions by set deadlines
- Adopted by 4 states (CO, OR, MD, WA)
 - Commitments from 8 more:
(CA, CT, HI, MA, ME, NY, PA, RI)
- 8 Cities/ Counties: Denver, St Louis, Boston, Washington D.C., NYC



BUILDING PERFORMANCE STANDARDS

ST. LOUIS AND DENVER

St. Louis

- Covers: over 50K sq ft
- Compliance every 4 years, except 6 years for affordable housing and places of worship
- Uses site energy use intensity by building type
- Four compliance pathways (early adopter, custom, performance, narrow the gap)

Denver

- Covers: over 25K sq ft.
- Compliance in 2024, 2027, 2030
- Maximum site energy use intensity by building type
- Some exemptions for manufacturing or low occupancy

OTHER ELECTRIFICATION POLICY OPTIONS

- **All electric new construction** – nearly 100 cities require
 - Chicago, Los Angeles, New York, Denver, San Francisco, Washington D.C.
- **Updated building codes**
 - Prescriptive or performance requirements
- **Clean heat standards**
- **Target air emissions**
 - e.g. NYC's approach limiting carbon dioxide emissions from new buildings
- **Target gas infrastructure**



[See Our Event Page](#)

Tags

Press Release | September 2023

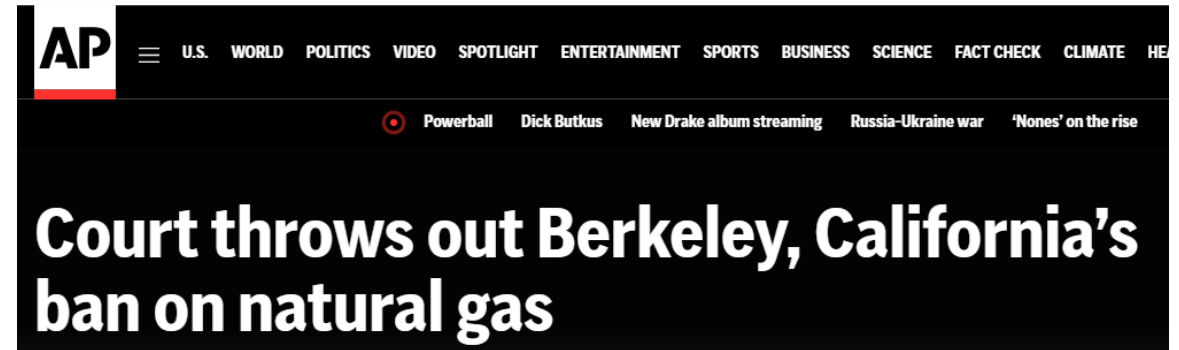
U.S. Climate Alliance Announces New Commitments to Decarbonize Buildings Across America, Quadruple Heat Pump Installations by 2030

September 21, 2023

NEW YORK, NY – The U.S. Climate Alliance, a bipartisan coalition of 25 governors representing approximately 60 percent of the U.S. economy and 55 percent of the U.S. population, today announced a series of new commitments from its members to eliminate emissions from buildings, including collectively quadrupling heat pump installations by the end of the decade.

LEGAL LANDSCAPE

- EPCA preemption issue
- All electric requirements:
 - still ok outside of 9th Circuit
- Prescriptive approaches:
 - Must leave enough flexibility with other performance-based options to not trigger EPCA preemption
 - Should not be viewed as penalizing the use of EPCA compliant natural gas products
 - Can incentivize the use of electric products



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knowledge changing life

CLIMATE CHANGE AND HEALTH: MITIGATION AND ADAPTATION

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Public Health Law Conference

Minneapolis, MN, US

October 26th 2023

Learning Objectives

1. Understand the causes of climate change and impact on the planet.
2. Discuss the impacts of climate change on health, especially on population and communities that have historically been targeted for marginalization.
3. Name key disparities and injustice in Climate change risk
4. Suggest actions as an individual and with communities to reduce carbon footprints and mitigate effects of climate change on health.
5. Be able to apply a 'Justice-informed framework' in the policy making process to reduce impact and improve health.

Equality



The assumption is that **everyone benefits from the same supports**. This is equal treatment.

Equity



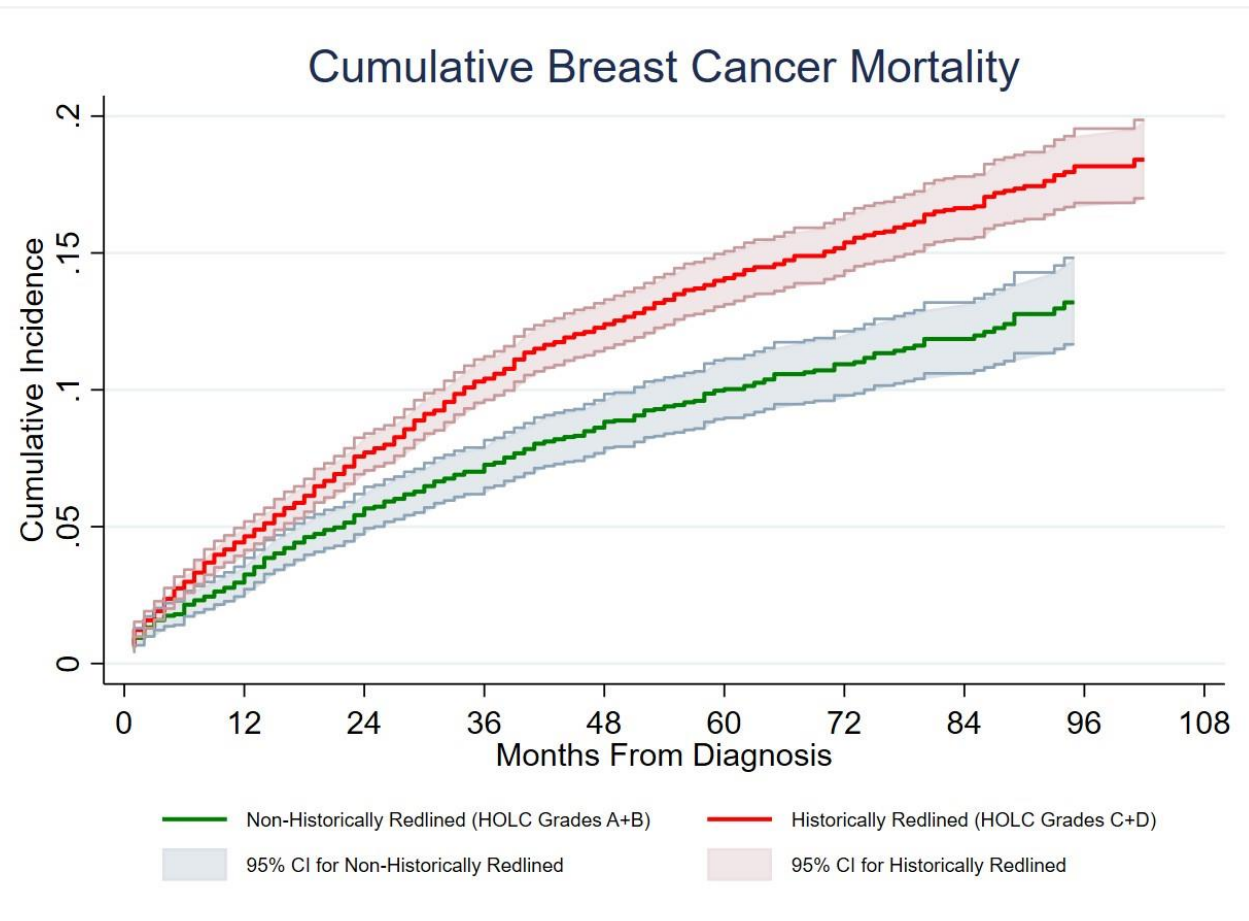
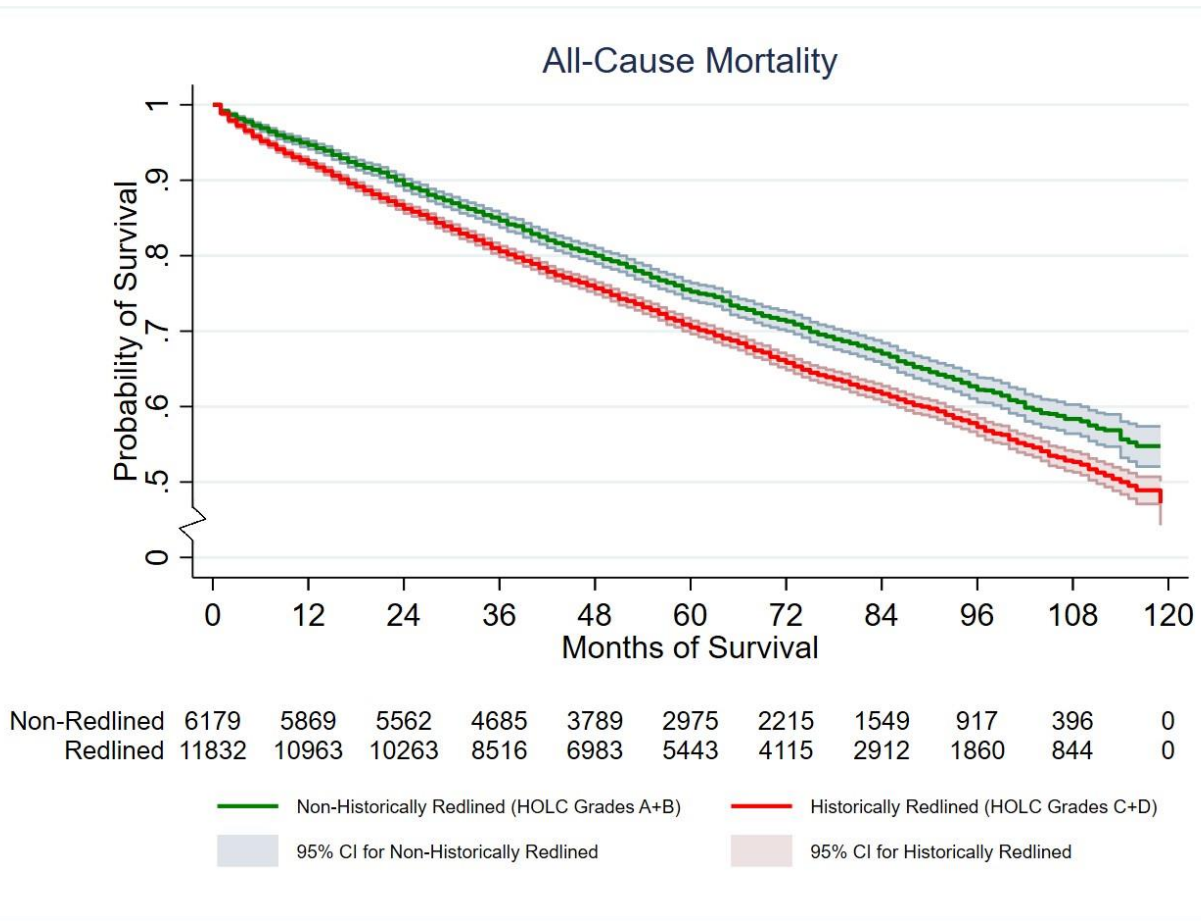
Everyone gets the supports they need (this is the concept of "affirmative action"), thus producing equity.

Justice



All 3 can see the game without supports or accommodations because **the cause(s) of the inequity was addressed**. The systemic barrier has been removed.

Historical Redlining and Breast Cancer Survival



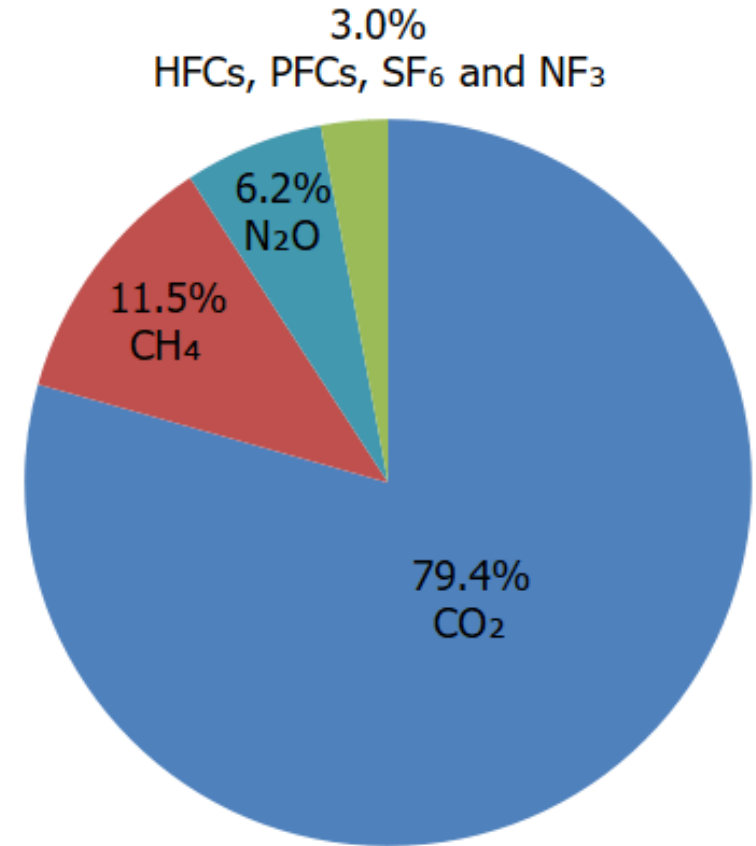
Bikomeye et al., Historical redlining and breast cancer treatment and survival among older women in the United States: J Natl Cancer Inst. 2023

The Greenhouse Effect

Some sunlight that hits the earth is reflected. Some becomes heat.

CO₂ and other gases in the atmosphere trap heat, keeping the earth warm.

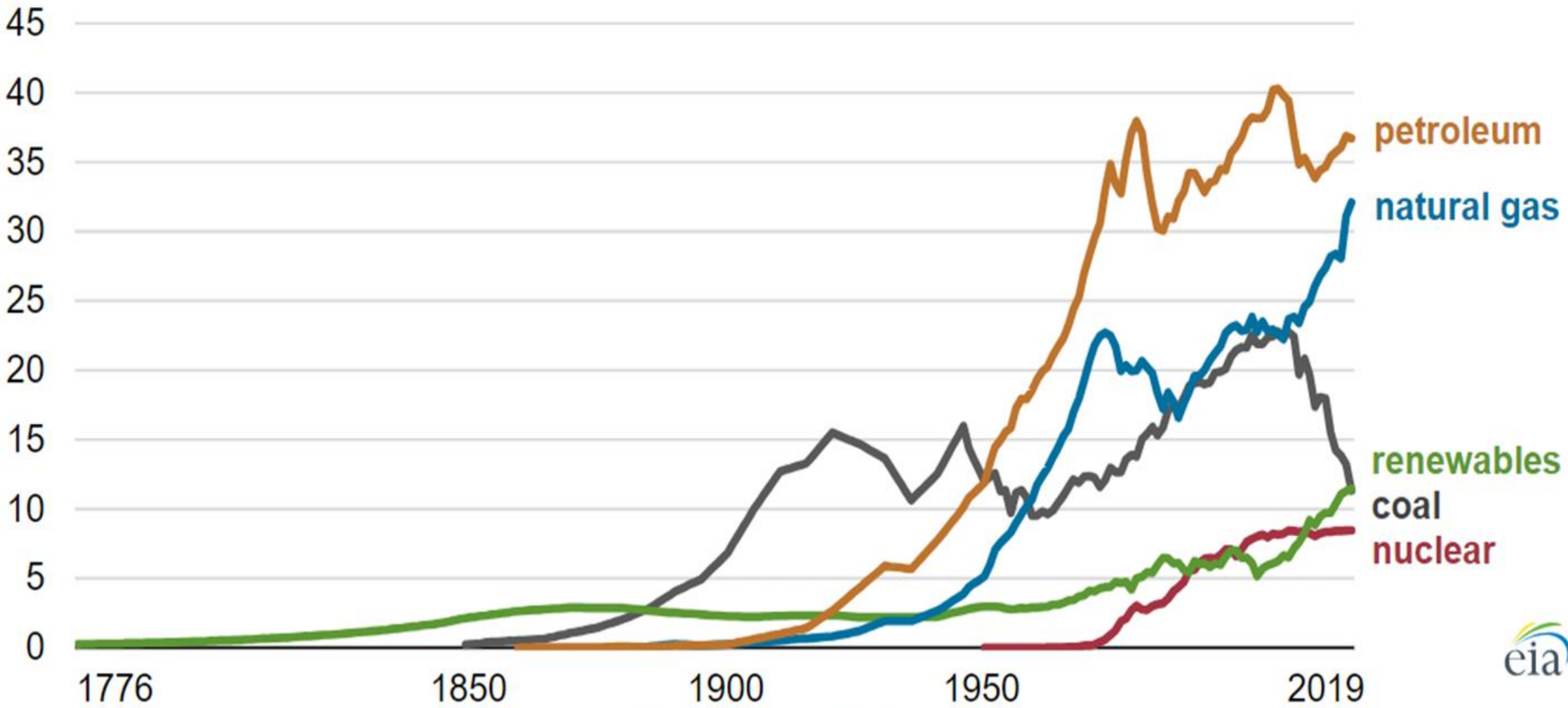
ATMOSPHERE



U.S. Environmental Protection Agency (2023). Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2021

Energy consumption in the United States (1776–2019)

quadrillion British thermal units

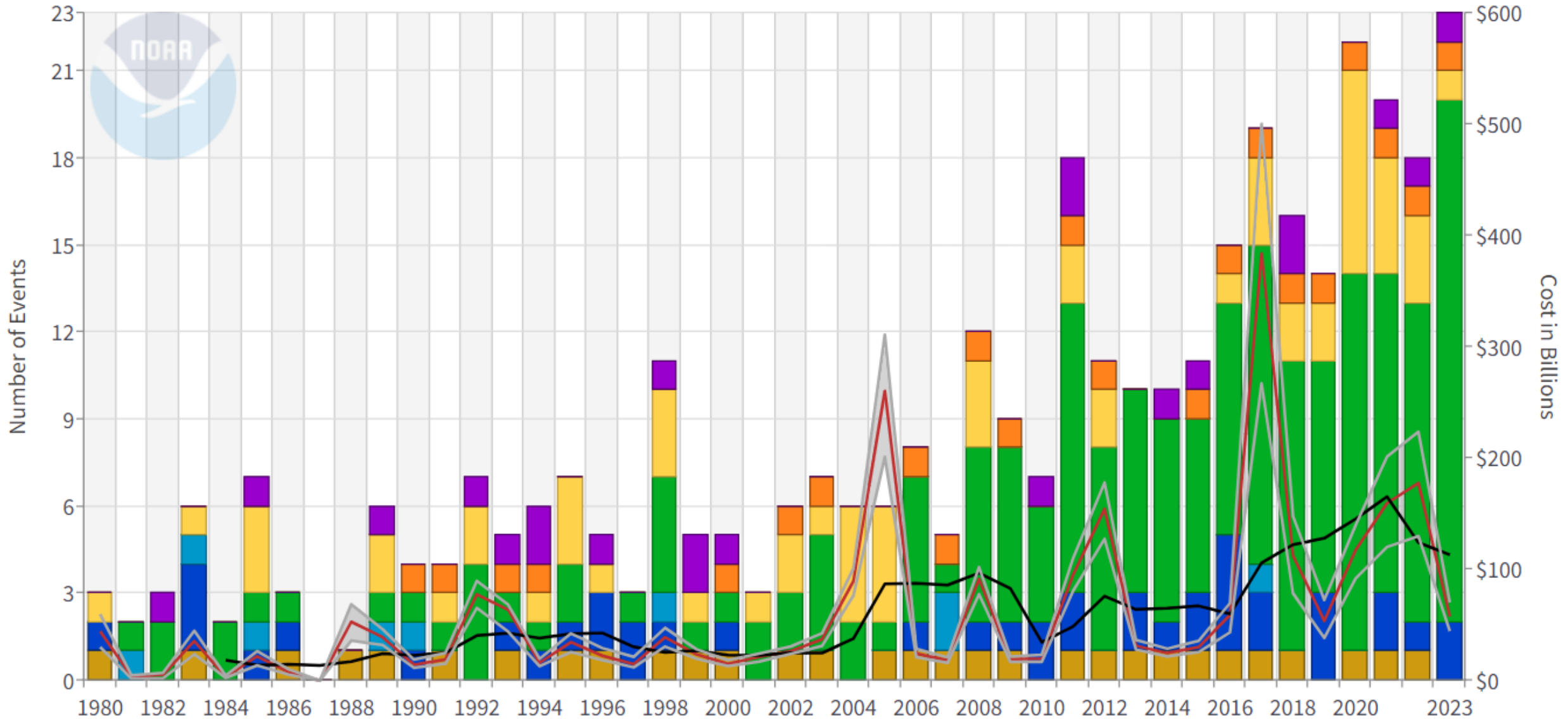


Source: U.S. Energy Information Administration, *Monthly Energy Review*



United States Billion-Dollar Disaster Events 1980-2023 (CPI-Adjusted)

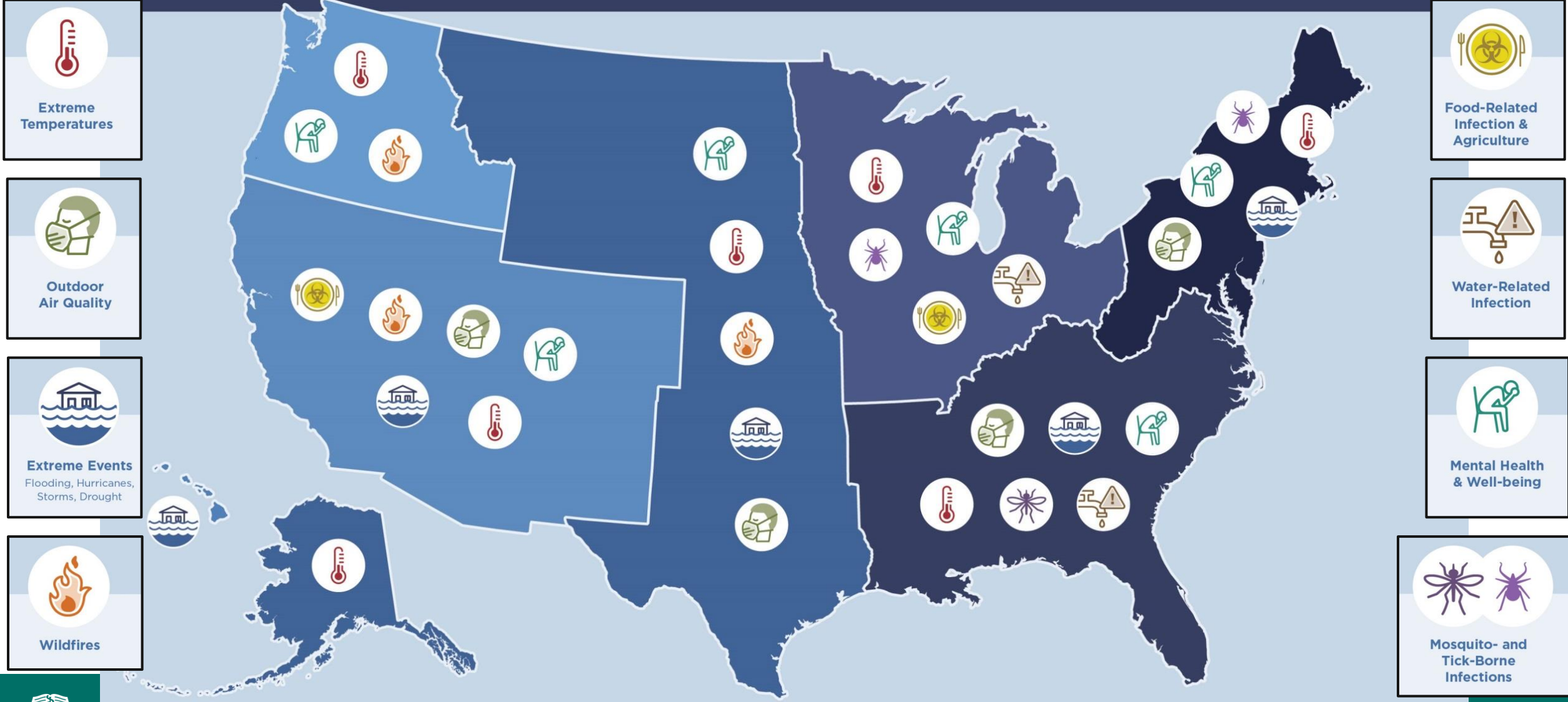
- Drought Count
- Wildfire Count
- Flooding Count
- Winter Storm Count
- Freeze Count
- Severe Storm Count
- Tropical Cyclone Count
- Combined Disaster Cost
- Costs 95% CI
- 5-Year Avg Costs



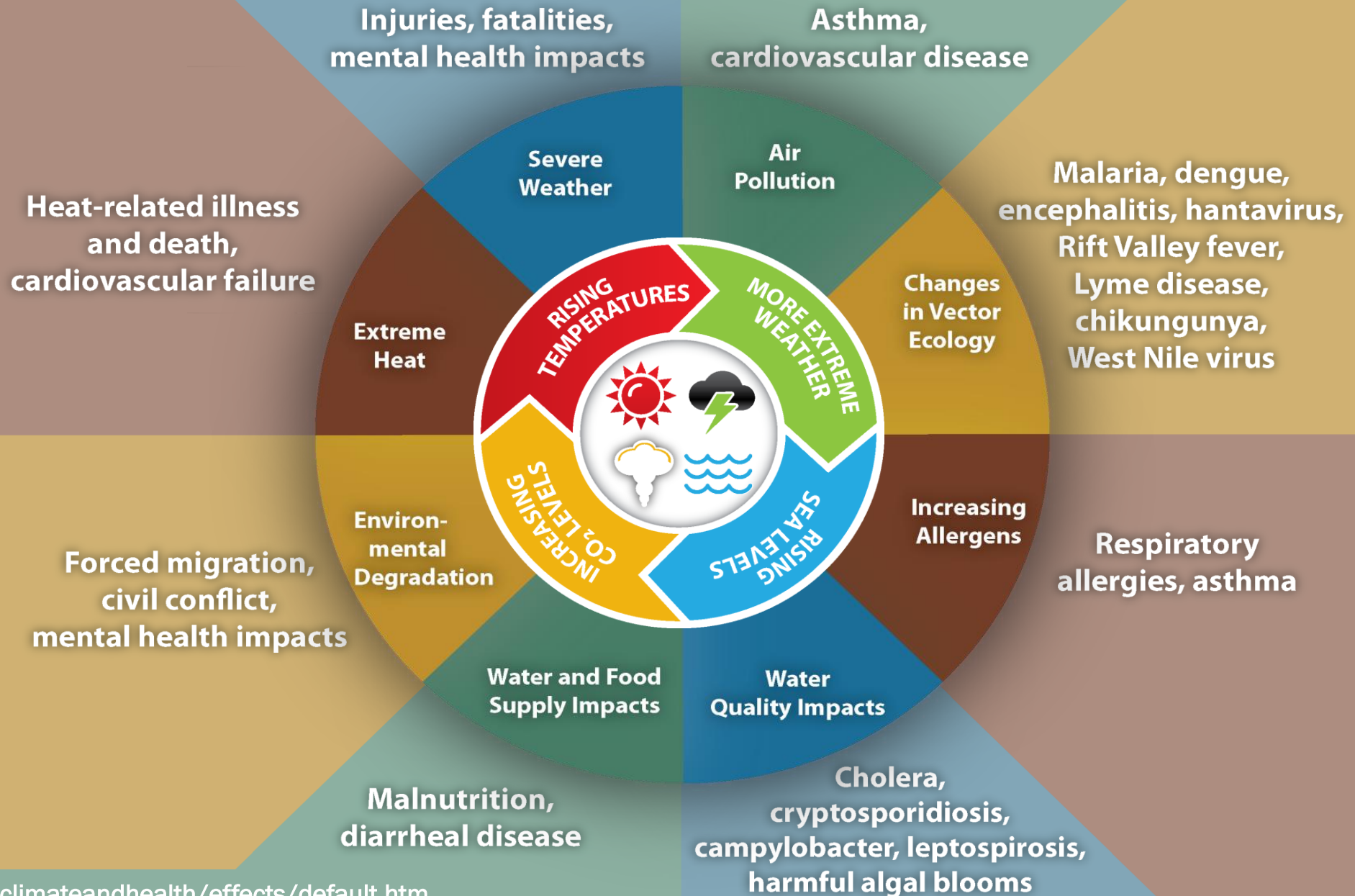
Updated: September 11, 2023

Climate's Impact on Health

How Our Health is Harmed by Climate Change: Impacts Differ by Geographic Region



Impact of Climate Change on Human Health



Climate & Health Equity: Global & Local Injustice

Vulnerability is a function of *exposure*, *sensitivity*, and *adaptive capacity*

Most vulnerable populations

- Children
- Student athletes
- Pregnant women
- Elderly individuals
- People with chronic illnesses and allergies
- People with limited resources
- Low income countries



Climate & Health Equity: Global & Local Injustice



NEWS

Strong wind destroys 100 houses

TODAY'S CLIMATE

Plagued by Floods and Kept in the Dark, a Black Alabama Community Turns to a Hometown Hero for Help

The historic Black neighborhood in Elba, Alabama, began flooding after the state widened nearby Highway 84. Prominent environmental justice activist Robert Bullard is investigating the connection.

By Kristoffer Tigie 
July 28, 2023



New UN report: Inequalities cause and exacerbate climate impacts on poor and vulnerable people

Evidence is increasing that climate change is taking the largest toll on poor and vulnerable people, and these impacts are largely caused by inequalities that increase the risks from climate hazards, according to a new report launched by the United Nations today.

Climate's Action: Hope for the Future

HOPE FOR THE FUTURE: MITIGATION AND ADAPTATION

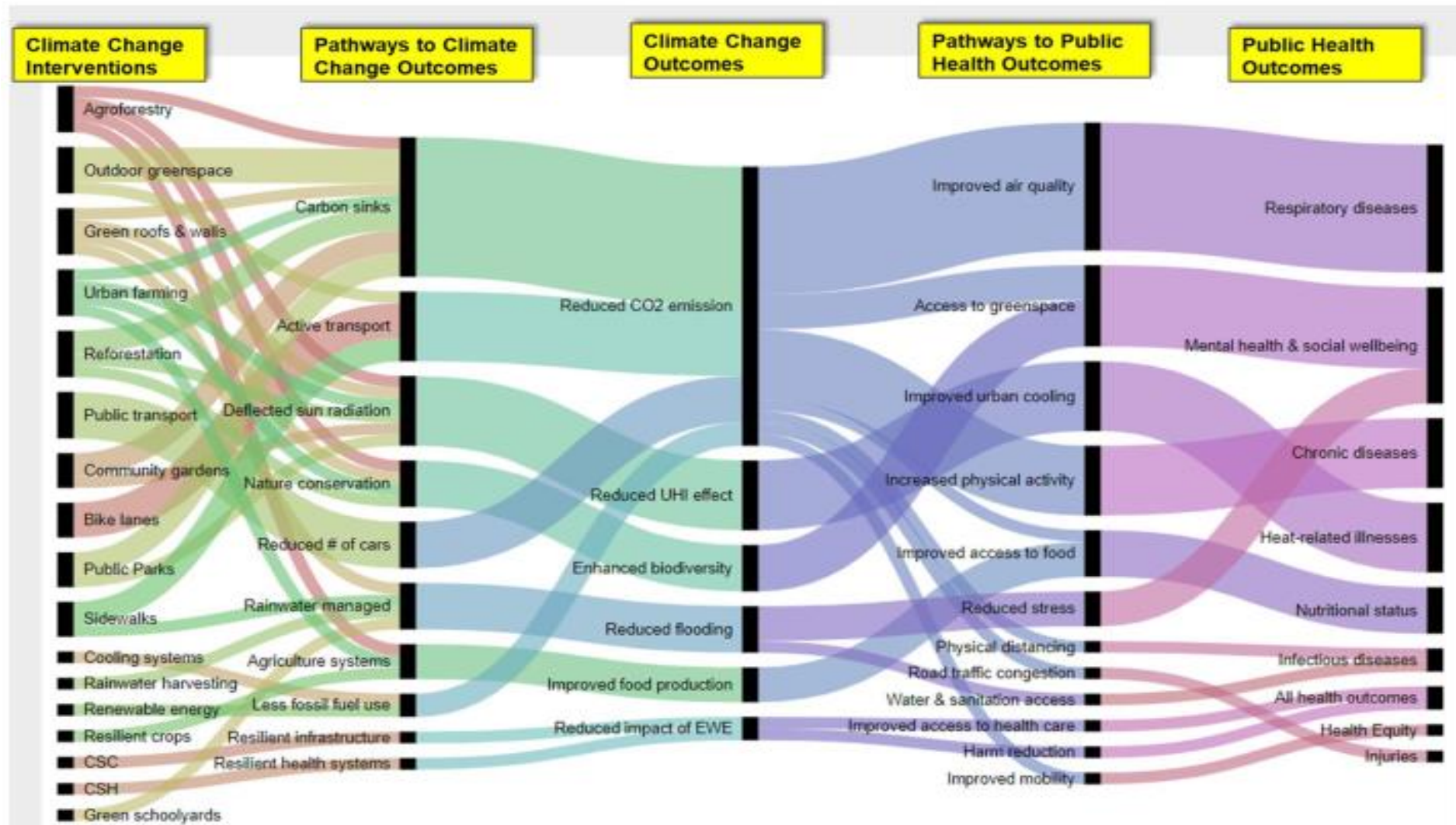
Mitigation (Global in scope):

Intention: reduce global greenhouse gas (GHG) emissions, improve GHG capture and storage, and consequently lower GHG concentration in the atmosphere. This approach aims to prevent further negative impacts of climate change on the environment and public health.

Adaptation (Local in scope):

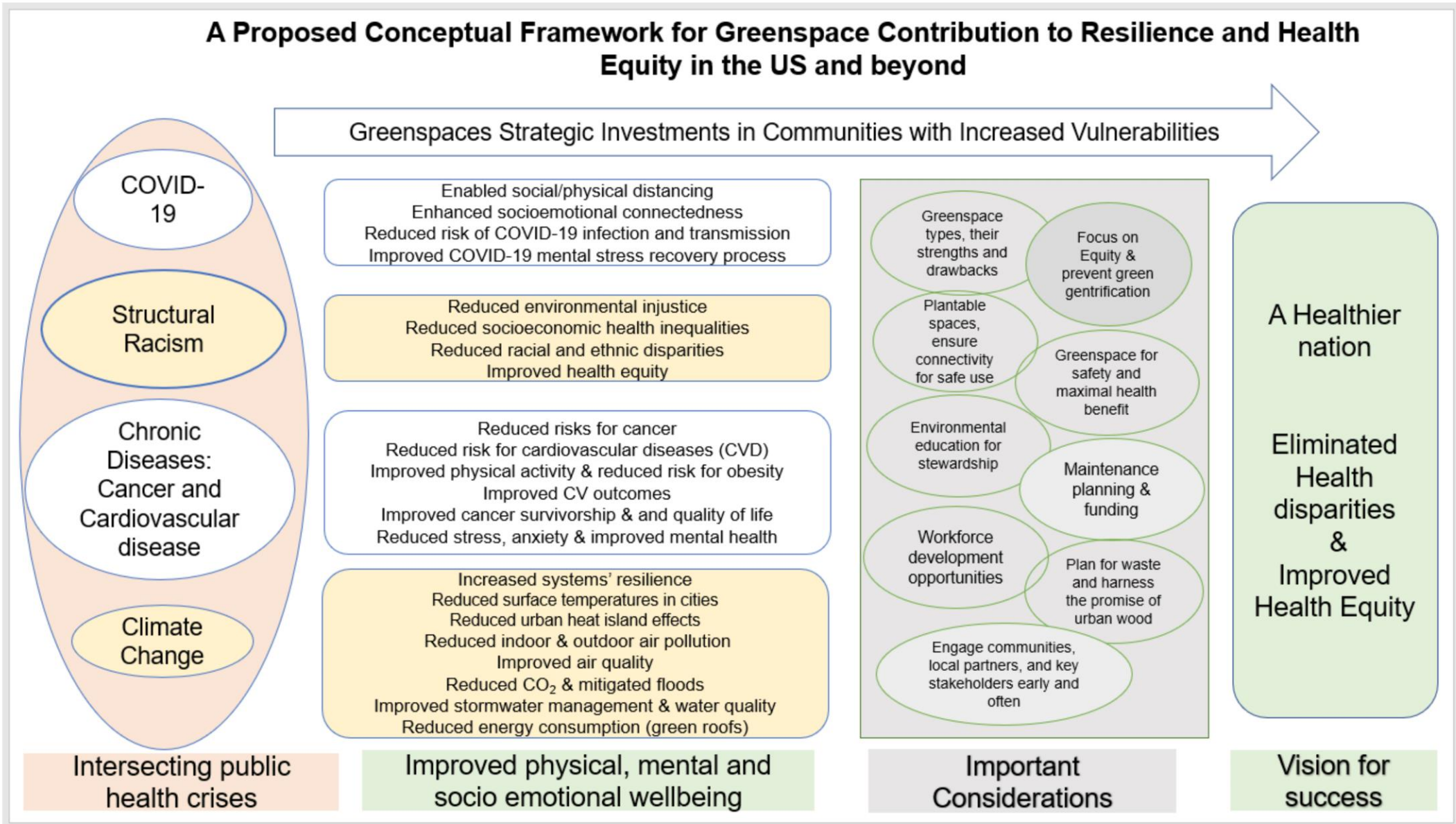
Intention: Enhance the resilience of human or natural systems to climate change and mitigate the impacts of future adverse events by sustaining or augmenting adaptive capacity.

Bikomeye et al., Positive Externalities of Climate Change Mitigation and Adaptation for Human Health: A Review and Conceptual Framework for Public Health Research; *Int. J. Environ. Res. Public Health* 2021, 18(5), 2481



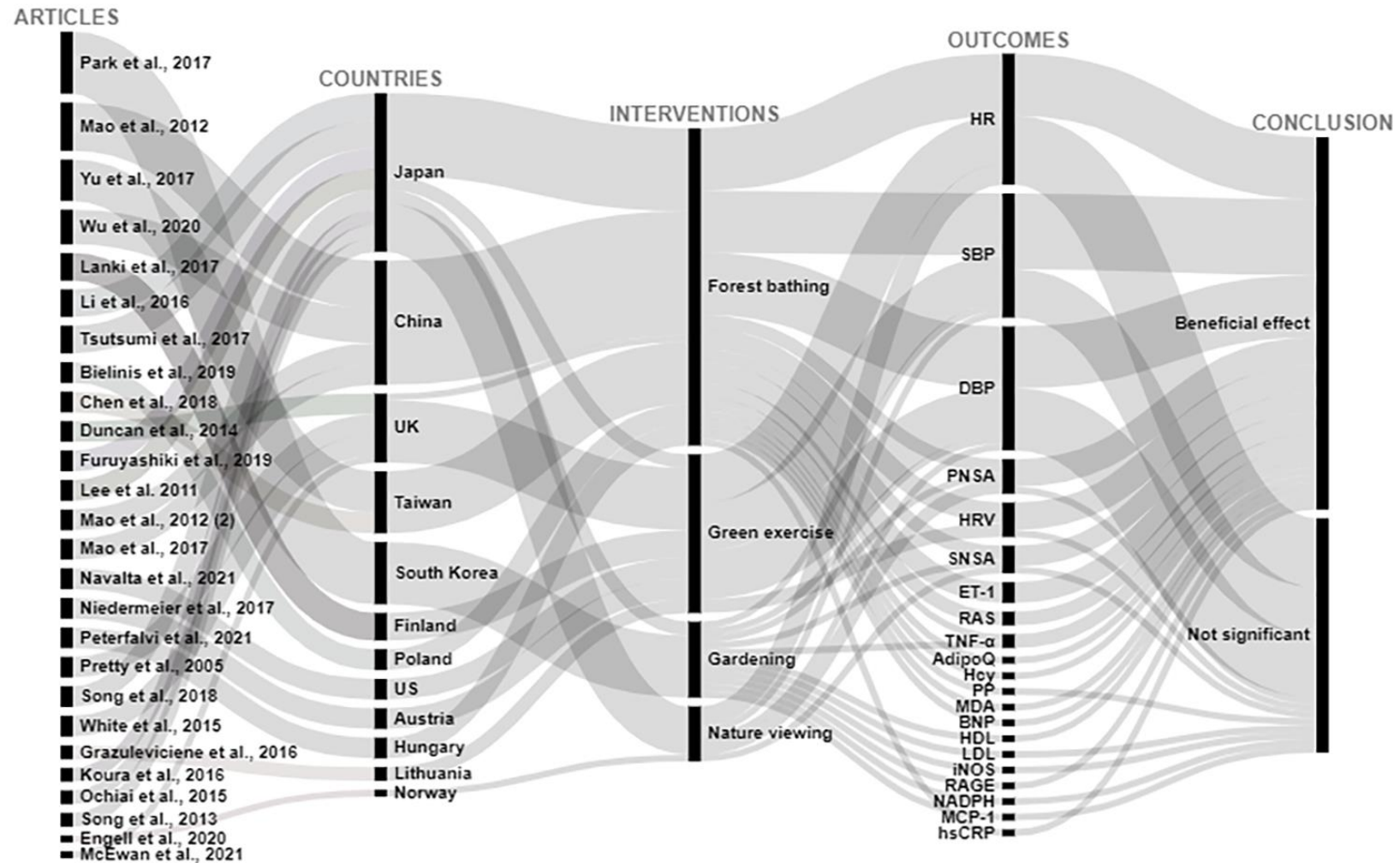
Bikomeye et al., Positive Externalities of Climate Change Mitigation and Adaptation for Human Health: A Review and Conceptual Framework for Public Health Research; Int. J. Environ. Res. Public Health 2021, 18(5), 2481

A Proposed Conceptual Framework for Greenspace Contribution to Resilience and Health Equity in the US and beyond



Bikomeye et al., 2021: Resilience and Equity in a Time of Crises: Investing in Public Urban Greenspace

Greenspace and cardiovascular outcomes



Bikomeye et al., 2022: The impact of greenspace or nature-based interventions on cardiovascular health or cancer-related outcomes

What can I do TODAY?

Join the Medical Society Consortium on Climate and Health



ms2ch.org/sign-join-us/



The Medical Society Consortium on
CLIMATE & HEALTH



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Discussion Questions

1. Can you name one root cause of climate change?
2. Can you name one group or community that has been historically been targeted for marginalization, and discuss how Climate Change compound adverse health outcomes for that group?
3. Can you name at least one injustice case in Climate change risk
4. Can you name ONE action that you will take as an individual to reduce carbon footprints and mitigate effects of climate change on health.
5. How will you Apply a 'Justice-informed framework' in the policy making process to reduce impact and improve health?



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Talks about #healthequity, ##greenspace, #climateaction, #cardiooncology, and #preventivemedicine

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