

§ 19.11-6

22 CFR Ch. I (4-1-10 Edition)

which precedes the month in which eligibility ceases.

(d) Regular and supplemental survivor annuities to a spouse or former spouse of an annuitant described in §§ 19.11-2, 19.11-3 and 19.10-6(b) are increased from their effective date by the cumulative percentage of cost-of-living increases the annuitant was receiving under section 826 of the Act at death. All annuities payable to survivors on the date a cost-of-living adjustment becomes effective are increased by that percentage except (1) the first increase to a surviving spouse of a participant who dies in service shall be pro rated and (2) additional survivor annuities under § 19.10-5 when the spousal agreement authorizing the annuity makes no provision for cost-of-living increases.

(e) The annuity of survivors becomes effective as specified in this section but is not paid until the survivor submits Form JF-38, Application for Death Benefits, supported by such proof as may be required, for example, death, marriage, and/or divorce certificates. In the event that such is not submitted during an otherwise eligible beneficiary's lifetime, no annuity is due or payable to the beneficiary's estate.

[46 FR 12958, Feb. 19, 1981. Redesignated and amended at 46 FR 18970, Mar. 27, 1981]

§ 19.11-6 Death during active duty.

(a) *Annuity for surviving former spouse.* In the event a participant dies before separation from the Service and leaves a former spouse, such former spouse is entitled to a regular survivor annuity under § 19.11-2 computed as if the participant had retired on the date of death unless a court order or spousal agreement is on file in the Department waiving such entitlement or providing for some other computation, or unless the former spouse had been found missing and an election filed under the procedures of § 19.11-4 waiving a survivor benefit for that person. Any assumed service authorized to be used under paragraph (b) of this section in computing the annuity for a surviving spouse may not be counted as "years of marriage" when determining whether the previous spouse qualifies as a "former spouse" under the definition in § 19.2(k) or when computing the pro

rata share under § 19.2(s). A former spouse is entitled to an additional survivor annuity under § 19.10-5 provided death occurs on or after the effective date of a spousal agreement providing for the additional annuity.

(b) *Annuity for surviving spouse.* If a participant who has at least 19 months of civilian service credit toward retirement under the System, excluding extra service credited for unhealthful post duty in accordance with section 816 of the Act, dies before separation from the Service, and is survived by a spouse as defined in § 19.2(v) such survivor shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with § 19.10-1 less any annuity payable to a former spouse under paragraph a. If the participant had less than three years of creditable civilian service at the time of death, the survivor annuity is computed on the basis of the average salary for the entire period of such service. If, at time of death, the participant had less than 20 years of creditable service, the annuity shall be computed on the assumption that the participant has had 20 years of service, but such additional service credit shall in no case exceed the difference between the participant's age on the date of death and age 65. A spouse is entitled to an additional survivor annuity under § 19.10-5 provided death occurs on or after the effective date of a spousal agreement providing for the additional annuity.

(c) *Annuity for a child or children.* If a participant described in paragraph (b) of this section is survived by a child or children, each surviving child is entitled to an annuity as described in § 19.11-7.

(d) *Annuity changes.* Annuities based on a death in service are subject to the provisions of § 19.11-5 governing commencement, adjustment, termination and resumption of annuities.

§ 19.11-7 Annuity payable to surviving child or children.

(a) If a participant who has at least 18 months of civilian service credit under the System dies in service, or if an annuitant who was a former participant dies, annuities are payable to a surviving child or children, as defined in § 19.2(e) as follows: