§ 199.235 Required evaluation and testing.

No operator shall permit a covered employee who has engaged in conduct prohibited by §§ 199.215 through 199.223 to perform covered functions unless the employee has met the requirements of §199.243.

§ 199.237 Other alcohol-related conduct.

(a) No operator shall permit a covered employee tested under the provisions of §199.225, who is found to have an alcohol concentration of 0.02 or greater but less than 0.04, to perform or continue to perform covered functions, until:

(1) The employee’s alcohol concentration measures less than 0.02 in accordance with a test administered under §199.225(e); or

(2) The start of the employee’s next regularly scheduled duty period, but not less than eight hours following administration of the test.

(b) Except as provided in paragraph (a) of this section, no operator shall take any action under this subpart against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an operator with authority independent of this subpart from taking any action otherwise consistent with law.

§ 199.239 Operator obligation to promulgate a policy on the misuse of alcohol.

(a) General requirements. Each operator shall provide educational materials that explain these alcohol misuse requirements and the operator’s policies and procedures with respect to meeting those requirements.

(1) The operator shall ensure that a copy of these materials is distributed to each covered employee prior to start of alcohol testing under this subpart, and to each person subsequently hired for or transferred to a covered position.

(2) Each operator shall provide written notice to representatives of employee organizations of the availability of this information.

(b) Required content. The materials to be made available to covered employe-