April 7, 1994

Patrick L. Nelms

[redacted]

Dear Mr. Nelms:

This is in reply to your letter of March 1.5, 1994.

You state that on September 15, 1993, you were convicted, upon a plea of guilty, for violation of 21 U.S.C. 841 and 18 U.S.C. 371 and were sentenced to 36 months incarceration, with three years probation. The offenses in question did not involve use of an aircraft, you state.

You are the holder of a commercial pilot certificate and would like to resume flying upon completion of your sentence. You question whether your pilot certificate is subject to revocation or suspension. I draw the inference that if it is subject to suspension or revocation, you would like to have this accomplished soon so that you will be able to fly again when you are free. Section 61.15 of the Federal Aviation Regulations {14 C.F.R. 61.15) provides that a conviction for the violation of any federal or state statute relating to the growing, processing, manufacture, sale, disposition, possession, or importation of narcotic drugs, marijuana, or depressed or stimulate drugs or substances is grounds for:

> (2) Suspension or revocation of any certificate or rating issued under this Part.

Our agency's practice, in cases other than a single conviction for simple possession is to revoke any pilot certificate. Once a pilot certificate has been revoked under these circumstances, we would not entertain an application for issuance of a new pilot certificate for a period of one year after the date of revocation. After this one year period, it would be necessary for the applicant to requalify by taking the appropriate written and flight tests.

I should mention that if an aircraft were used in the commission of the offense and the FAA certificate holder was aboard the aircraft in connection with the offense, the situation is considerably different in that we are, in most cases, precluded by statute from ever issuing an airman certificate again.

I hope this adequately explains the situation. If you would like to send me information relating to your conviction, which would establish that an aircraft was not involved in the offense, we would be happy to proceed with the revocation of your certificate, forthwith. Otherwise, the information will be made available to the FAA, in due course, by the appropriate authorities, and we will proceed with the revocation of your certificate at that later time. In the latter case, however, I can offer no assurance that this would not begin until after you are released from incarceration.

Sincerely,

George L. Thompson

Assistant Chief Counsel