mass destruction (WMD)-related applications. The precise description of what is “subject to the EAR” is in §734.3, which does not limit the EAR to controlling only dual-use items. In essence, the EAR control any item warranting control that is not exclusively controlled for export, reexport, or transfer (in-country) by another agency of the U.S. Government or otherwise excluded from being subject to the EAR pursuant to §734.3(b) of the EAR. Thus, items subject to the EAR include purely civilian items, items with both civil and military, terrorism or potential WMD-related applications, and items that are exclusively used for military applications but that do not warrant control under the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 et seq.).

§ 730.6 Control purposes.

The export control provisions of the EAR are intended to serve the national security, foreign policy, nonproliferation of weapons of mass destruction, and other interests of the United States, which in many cases are reflected in international obligations or arrangements. Some controls are designed to restrict access to items subject to the EAR by countries or persons that might apply such items to uses inimical to U.S. interests. These include controls designed to stem the proliferation of weapons of mass destruction and controls designed to limit the military and terrorism support capability of certain countries. The effectiveness of many of the controls under the EAR
§ 730.7 License requirements and exceptions.

A relatively small percentage of exports and reexports subject to the EAR require an application to BIS for a license. Many items are not on the Commerce Control List (CCL) (Supplement No. 1 to §774.1 of the EAR), or, if on the CCL, require a license to only a limited number of countries. Other transactions may be covered by one or more of the License Exceptions in the EAR. In such cases no application need be made to BIS.

§ 730.8 How to proceed and where to get help.

(a) How the EAR are organized. The Export Administration Regulations (EAR) are structured in a logical manner. In dealing with the EAR you may find it helpful to be aware of the overall organization of these regulations. In order to determine what the rules are and what you need to do, review the titles and the introductory sections of the parts of the EAR.

(1) How do you go about determining your obligations under the EAR? Part 732 of the EAR provides steps you may follow to determine your obligations under the EAR. You will find guidance to enable you to tell whether or not your transaction is subject to the EAR and, if it is, whether it qualifies for a License Exception or must be authorized through issuance of a license.

(2) Are your items or activities subject to the EAR at all? Part 734 of the EAR defines the items and activities that are subject to the EAR. Note that the definition of “items subject to the EAR” includes, but is not limited to, items listed on the Commerce Control List in part 774 of the EAR.

(3) If subject to the EAR, what do the EAR require? Part 736 of the EAR lists all the prohibitions that are contained in the EAR. Note that certain prohibitions (General Prohibitions One through Three) apply to items as indicated on the CCL, and others (General Prohibitions Four through Ten) prohibit certain activities and apply to all items subject to the EAR unless otherwise indicated.

(4) Do you need a license for your item or activity? What policies will BIS apply if you do need to submit license application? The EAR have four principal ways of describing license requirements:

(i) The EAR may require a license to a country if your item is listed on the CCL and the Country Chart in part 738 of the EAR tells that a license is required to that country. Virtually all Export Control Classification Numbers (ECCN) on the CCL are covered by the Country Chart in part 738 of the EAR. That part identifies the limited number of entries that are not included on the Chart. These ECCNs will state the specific countries that require a license or refer you to a self-contained section, i.e., Short Supply in part 754 of the EAR, or Embargoes in part 746 of the EAR. If a license is required, you should consult part 740 of the EAR, which describes the License Exception that may be available for items on the CCL. Part 742 of the EAR describes the licensing policies that BIS will apply in reviewing an application you file.

(ii) A license is required for virtually all exports to embargoed destinations, such as Cuba. Part 746 of the EAR describes all the licensing requirements, license review policies and License Exceptions that apply to such destinations. If your transaction involves one of these countries, you...