

# On the Legal Regulation of Digital Administrative Filing

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## Abstract

In recent years, the implementation model of "digital administrative filing" has been continuously integrated into the whole scenario, field and process of administrative filing. Among them, algorithmic filing, as a beneficial practice of the administrative filing system to intervene in algorithm supervision, not only reflects the enabling role of digital information technology in administrative filing, but also exposes the huge hidden danger that there may be an imbalance of rights and responsibilities in the application of digital administrative filing. Therefore, this paper will focus on the transmutation phenomenon of the three major elements of administrative filing under digitalization and the problems faced by the current traditional administrative filing implementation model in the supervision of algorithmic filing, and deeply discuss the significance of digital administrative filing in responding to digital government governance, improving the precision level of administrative filing supervision, and protecting the legitimate rights and interests of administrative counterparts.

## Keywords

Digital Administrative Filing; Behavioral Attributes; Rule of Law Guarantee; Technical Due Process.

## 1. Behavioral Attributes of Digital Administrative Filing

Governments worldwide are embracing the digital era, and the construction of digital government has been fully implemented in China. Legal issues related to automated administration, government handling of personal information, and the sharing and opening of government data are becoming research hotspots in administrative law. Exploration of administrative law in response to the needs of digital transformation has become prevalent. In the current era where digital technology is closely integrated with government work and administrative activities, it is necessary for the theory of administrative filing to face the vivid and real public administration, as well as the increasingly digital administrative processes and means, to provide dynamic theoretical support for the rule of law in administrative filing under the digital background[1-4].

Based on the traditional theoretical analysis of administrative filing, digital administrative filing exhibits the following four behavioral forms: The first viewpoint holds that digital administrative filing is a procedural administrative factual act. For the counterpart, the purpose of digital administrative filing is merely to collect information, and the outcome of the act does not directly impact the rights and obligations of the counterpart, meaning it does not directly create, alter, or eliminate a right or obligation relationship under administrative law. The second viewpoint views digital administrative filing as an administrative confirmation act. This perspective emphasizes that filing serves as a form of national recognition, informing and respecting by society members the legal effect already achieved by the filed matters. The third viewpoint considers digital administrative filing as an administrative registration act, with digital administrative filing falling under the category of filing-based registration. For instance,

Article 2 of the "Measures for the Administration of Registration and Filing of Drug Research Institutions (Trial)" stipulates: "All institutions engaged in research for the purpose of applying for drug clinical trials and production and marketing in China shall register and file in accordance with these Measures." The fourth viewpoint perceives digital administrative filing as an unformalized administrative legal act that effectively fulfills the task of information supervision in the process of "streamlining administration, delegating powers, and improving regulation" reform. Digital administrative filing objectively possesses legal effect, and the act itself can directly produce legal consequences. These legal consequences are reflected in the ability of digital administrative filing to create procedural filing obligations for administrative counterparts and the obligation to continuously comply with filing requirements in terms of content[5-7].

The author tends to favor the fourth viewpoint. Firstly, it acknowledges that digital administrative filing is actually an independent and novel type of administrative action, albeit not yet categorized. This perspective provides more room for exploring the characteristics and functions of digital administrative filing, which is beneficial for the development prospects of the theory of digital administrative filing system. Secondly, it views digital administrative filing as an administrative legal action and points out that the act of digital administrative filing itself (at least in terms of procedure) can also directly produce legal effects, which is forward-looking and leaves room for digital administrative filing to fully exert its effectiveness in specific fields and for the overall coordination of subsequent system construction in those fields[8-12].

## **2. Legal Protection for Digital Administrative Filing**

### **2.1. At the Legislative Level: Refine the Criteria for Determining the Items to Be Filed**

With the development of digitalization in administrative entities and the gradual standardization and maturity of the regulatory industry itself, specific administrative management is bound to become more refined and micro-level. However, the current standards for identifying digital administrative filing matters are relatively broad, only covering broad categories: first, the need to protect the ecological environment, safeguard national, social, civic, and public interests, and optimize government public service functions; second, the need for administrative supervision; third, the need to guide industries and formulate industrial policies. These standards are insufficient to meet the needs of administrative agencies in precisely controlling key regulatory areas[13-15].

According to the "Record List of Domestic Deep Synthesis Service Algorithms" publicly released by the National Internet Information Office, as of now, a total of 940 algorithms from 5 batches have been registered for domestic deep synthesis service algorithms. As a digital administrative record, the professionalism and complexity of digital technology products cannot be avoided during the registration process. With the increasing number of algorithms registered in the algorithm registration list, if the "Algorithm Management Regulations" only use public opinion attributes or social mobilization capabilities as the applicable standards and ignore other important goals such as market order, user protection, and labor protection, some high-risk algorithms may not be included in the scope of registration management[16-17].

Based on the development of algorithm filing, the current judgment of including "algorithms" in digital administrative filing matters can be classified as a first-level matter identification standard. The judgment of "algorithmic recommendation technology with public opinion attributes or social mobilization capabilities" under algorithms falls under the second-level matter identification standard. Further elaboration is that "operating information services such as forums, blogs, microblogs, chat rooms, communication groups, public accounts, short videos, online live broadcasts, information sharing, mini-programs, or providing corresponding

functions; operating other internet information services that provide channels for public opinion expression or have the ability to mobilize the public to engage in specific activities" can be classified as a third-level matter identification standard. On this basis, it is also necessary to combine the algorithm evaluation system and incorporate guiding indicators such as market order, user protection, and labor protection into the establishment of each level of matter identification standards, ensuring that the matters included in digital administrative filing strictly comply with the basic definition of controllable potential social danger, stable or dynamically stable proportion of social danger to social development necessity and benefit.

The standardized, reasonable, convenient, and efficient application of digital administrative filing cannot be separated from the macro guidance and micro adjustments at the legislative level of digital administrative filing. The improvement of digital administrative filing legislation can not only clarify the regulatory objects of digital administrative filing but also provide legal basis for the specific implementation process and dispute resolution of digital administrative filing, which is of great significance to the currently thriving digital administrative filing system. In response to the two major issues mentioned above regarding the legal demands of digital administrative filing and the difficulty of digital administrative filing in responding to the needs of digital government governance, the competent authorities may consider establishing a standard system for identifying filing matters at the legislative level for digital administrative filing, and conducting in-depth research on the identification standards for sub-fields, secondary, tertiary, and even more minor levels of filing matters, in order to reasonably define digital administrative filing matters, maximize the efficiency of digital administrative filing, and thoroughly eradicate the cruxes of "too many and excessive filing settings" and "neglecting to manage and supervise"[18-21].

## **2.2. Enforcement Level: Adapting to the Digital Reconstruction of Administrative Filing**

With the application and development of modern emerging digital technologies such as artificial intelligence, big data, the Internet, and the Internet of Things in national governance, administrative activities have shifted from the traditional relationship of "public servant - administrative counterpart" to a model of "public servant - automated equipment - administrative counterpart." This change has already been evident in the integration of digitalization and legalization in algorithm filing. From the change in the mode of administrative activities, it is not difficult to understand that the power structure of the digitalized administrative subject is inevitably a fusion of traditional administrative power and "digital governance power" born from the application of high technology in administrative practice, initially manifesting as a cooperation model between information technology companies and administrative subjects under the dominance of information technology. It is this fusion that makes us consider that the simplification and optimization of traditional administrative behavior's methods, effectiveness, procedures, and evidence rules by digital technology are forming a digital administrative behavior mode. Moreover, these newly formed digital administrative behavior modes are highly likely to be legal gaps in digital administration. Therefore, research on digital administrative behavior modes should be accelerated, and the digital administrative behavior modes that have already formed in practice should be promptly incorporated into the realm of administrative law.

Due to the high degree of digitization inherent in algorithms, there are high digital requirements for both algorithm providers and administrative entities responsible for algorithm filing. Therefore, digitization is a prominent aspect in algorithm filing. It is an inevitable trend for the digitalization of filing matters and administrative counterparts to improve. As long as administrative entities strengthen reasonable supervision regarding digitization, administrative counterparts can consciously cooperate as usual. Therefore, the

focus of this issue mainly lies in how administrative entities can continue to carry out administrative activities reasonably and effectively under digitization, which naturally includes the implementation of the administrative filing system. If the digitalization issue of administrative entities is not handled properly, it will lead to administrative entities excessively pursuing instrumental rationality, becoming Leviathans that erode human rights without any value rational care, cloaked in the guise of digital technology.

Regarding the solution to this issue, the author believes that it is necessary to start from the value pursuit of "digital government". In the process of building a digital government, we should not sacrifice the protection of more rights and interests of the counterpart just because digital technology can bring convenience, efficiency, and economy. Digitalization should be on the extension line of legalization. Legalization should ensure that the application of administrative automation and digital technology cannot be simplified or disguised to exceed the relevant procedures necessary for the implementation of administrative activities stipulated by law, and restrict the use of these digital technologies in matters with large discretionary space, complexity, and specific scenarios. More importantly, administrative entities should continuously improve the accountability mechanism of digital technology, deepen their understanding of human rights protection, especially the recognition of emerging digital human rights fields, explain the mechanism principles of the digital technology used to the public and accept supervision, and ensure the frequency and quality of interaction with administrative counterparts within a certain period of time to expand public participation.

Through the operational mechanism of algorithm filing, the author observed the process of administrative entities striving to accommodate the phenomenon of digital reconstruction of administrative actions. As mentioned earlier regarding the alienation of regulatory effects in digital administrative filing, this is due to administrative entities' unfamiliarity with the phenomenon of digital reconstruction in administrative filing, leading to a vacancy in the enforcement of digital administrative filing. This directly affects the improvement of the operational efficiency of digital administrative filing and the protection of the legitimate rights of filing parties. Ultimately, the phenomenon of digital reconstruction in digital administrative filing stems from the comprehensive digitization of administrative entities' performance of duties and government operations. Therefore, the key to addressing the alienation of regulatory effects and subsequently enhancing the operational efficiency of digital administrative filing and protecting the legitimate rights of filing parties lies in accelerating the adaptation process of administrative entities to the implementation mode of digital administrative filing at the enforcement level.

Accelerating the adaptation process of administrative entities to the implementation model of digital administrative filing at the enforcement level relies, on one hand, on the digital government reaching a certain scale or achieving a comprehensive digital government. A digital government is the fundamental condition for the formation of digital administrative filing. Discussing the implementation of digital administrative filing without considering the digital government is akin to building castles in the air. Therefore, administrative entities should focus on optimizing their technical application capabilities, actively introducing supportive facilities and equipment, and emphasizing the cultivation of professional information technology personnel, which are essential factors in digital government construction, when implementing digital laws.

On the other hand, accelerating the adaptation process also requires strengthening research on the procedures for the establishment and implementation of digital administrative filing. At the enforcement level, adapting to the implementation model of digital administrative filing cannot solely rely on the internal drive and self-control of administrative entities. It also requires designing appropriate procedures to form external synergy, thereby compelling administrative entities not to abuse or misinterpret digital administrative filing. In the process of digital

government construction, due process should not only not be lost, but should also be strengthened with the times. Currently, technical due process can optimize the establishment and implementation of digital administrative actions from three aspects: notification obligations, feedback-consultation mechanisms, and algorithm interpretation. Therefore, to ensure that the establishment and implementation of digital administrative filing always uphold the basic principles of administrative law, authorities can timely embed the value of technical due process into digital administrative filing in terms of macro principles such as scope definition, responsibilities and authorities, process and information management, supervision and evaluation; functional aspects such as optimization and improvement of matter review, data quality inspection, statistical analysis, and comprehensive management; and specific implementation elements such as setting basis, application materials, handling channels, and promised processing time limits.

### **2.3. Law-abiding Level: Stimulating the "Meta-regulatory" Effect of Digital Administrative Filing**

In the process of algorithm filing, the administrative entity sets specific "submission" requirements for particular filing matters. Meanwhile, the filing party undertakes self-compliance rectification, commits to meeting administrative filing requirements, and submits administrative filing materials. This process essentially shapes the self-regulation of the filing party through clear "rewards" and "punishments" measures imposed by the administrative entity. In academic terms, this regulatory interaction mechanism, which establishes external constraints, administrative requirements, and regulatory objectives while preserving a considerable degree of flexibility for the administrative party, is referred to as "meta-regulation" or "internal management-type regulation".

The "reward measures" in algorithm filing are not significantly different from traditional administrative filing. The main point is that by fulfilling the filing obligations, the counterpart essentially relaxes the threshold for market access, reducing the actual costs of administrative counterparts. Moreover, through information collection and regulation, the administrative subject can create a more favorable market environment and provide more advantageous policy options for market entities based on their development trends. Additionally, the counterpart's filling out algorithm filing information is also a form of self-examination of the algorithm technology used, which can help avoid legal risks in civil, criminal, and other aspects in advance. The difference between algorithm filing and traditional administrative filing mainly lies in the construction of "punitive measures". The foundation of "punitive measures" firstly lies in the fact that the "Algorithm Management Regulations" stipulate that those who fail to meet the filing requirements will bear legal responsibilities, which clearly indicates the existence of punishment clauses. Secondly, it lies in the fact that people will establish trust or guard against the filing counterpart through the filing information disclosure mechanism. In other words, sloppy and unclear filing information will trigger public criticism of the enterprise's credit reputation, thereby affecting the enterprise's actual economic interests. For example, if a third party learns about the poor filing situation of the counterpart through the filing information disclosure system, they may consider the high risk of trading with them and withdraw from the transaction. Finally, it lies in the fact that after the algorithm filing information is archived, if subsequent damage occurs due to the filing matters, algorithm filing can identify risk points in a timely manner for remediation and fix evidence for subsequent accountability, which is post-supervision.

This "meta-regulation" effect is not unique to algorithm filing, but rather a regulatory effect inherent in the design of the digital administrative filing system. However, algorithm filing fully and clearly embodies this effect. Of course, the stimulation of this effect is the embodiment of maximizing the efficiency of administrative filing. Digital administrative filing should take



algorithm filing as a blueprint to explore the conditions for stimulating "meta-regulation" in all application forms of administrative filing. Through the above analysis of algorithm filing, the author believes that the conditions for stimulating "meta-regulation" should at least include: a cooperative governance model formed between the administrative subject and the relative person, a relatively low administrative discretion space, an equal legal status in administrative management, the application of high-tech digital technology by the administrative subject, and public vigilance against the potential infringement of their rights and interests by digital technology products. These conditions coincide with the impact of digitalization on administrative filing.

Stimulating the "meta-regulatory" effect of digital administrative filing at the level of law compliance reflects the adherence to the concept of modern administrative rule of law. This not only reduces friction and conflicts between private parties and administrative entities, but also promotes a cooperative governance model that fosters private parties' recognition of the digital administrative filing system, leading them to consciously and actively abide by relevant legal norms. For example, regarding the issue of privacy leakage in filing data mentioned earlier, although the core of addressing this issue is to establish a comprehensive filing information disclosure mechanism, due to barriers in the regulatory field and the development and changes of filing information elements, the specific scope of filing information disclosure still requires timely adjustments through continuous and repeated communication and feedback between administrative entities and private parties. The "meta-regulatory" effect essentially advocates for the provision of sufficient information, necessary participation opportunities, interactive channels, technical support, and other conditions of action by authorized institutions in the construction of the digital administrative filing system, thereby enabling private parties to possess adequate abilities in understanding, judging, thinking, and self-adjusting in the face of digital administrative actions.

When administrative agencies abandon human intelligence and professional knowledge in favor of systems that automatically grant or deny benefits and rights, disaster is already lurking around the corner. The "meta-regulatory" effect endows the counterpart with capabilities that not only help maintain their autonomous status and decent existence in the face of machines, but also effectively balance the digital administrative filing system and the various complex human interventions behind it, fundamentally ensuring fairness and justice in digital administrative filing practices. Therefore, when applying digital administrative filing, it is even more important to make good use of the fertile soil formed by digital transformation to cultivate the "meta-regulatory" effect of digital administrative filing. It is necessary to make the counterpart fully aware that actively fulfilling the obligation of administrative filing is not a helpless act forced by the compulsory nature of digital administrative filing, but a win-win choice for both the counterpart and the administrative subject under the "meta-regulatory" effect.

### 3. Conclusion

The future development prospects of digital technology are difficult to predict. It is worth pondering how digital administrative filing can safeguard the value of the rule of law and effectively respond to the enormous challenges brought by technological development and social transformation amidst the tumultuous tide of digitization. Compared to traditional administrative filing, digital administrative filing, bolstered by digital technology, offers higher efficiency, more diverse functions, and richer application scenarios. This is both an advantage and a significant potential risk that can lead to an imbalance in the responsibilities and rights of digital administrative filing. Only by continuously promoting the standardized, reasonable, convenient, and efficient application of digital administrative filing at the legal level can

administrative entities enhance the operational efficiency of filing while better protecting the legitimate rights of administrative counterparts.

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