FILED
JUL 16 1988
0292682
JANE BURGIO
Secretary of State

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF ORGANIZATION

OF

NL INDUSTRIES, INC.

It is hereby certified that:

1. The name of the corporation (hereinafter called the "Corporation") is NL Industries, Inc.

2. The following resolution has been adopted by the Board of Directors, as required by Section 14A:7-2(2) of the New Jersey Business Corporation Act:

RESOLVED, that pursuant to the authority granted to and vested in the Board of Directors of this Corporation (hereinafter called the "Board of Directors" or the "Board") in accordance with the provisions of the Certificate of Organization, as amended, the Board of Directors hereby creates a series of Preferred Stock, Series C, without par value, stated value $100 per share, of the Corporation and hereby states the designations and number of shares, and fixes the relative rights, preferences, and limitations thereof (in addition to the provisions set forth in the Certificate of Organization, as amended, which are applicable to the Preferred Stock of all classes and series) as follows, so that Article IV of the Corporation's Certificate of Organization, as amended, be, and it hereby is, amended by inserting therein the following Section E immediately preceding Article V:

E. <u>Preferred Stock -- Series C</u>:

1. <u>Designation and Amount</u>. The shares of such series shall be designated as "Preferred Stock -- Series C" (the "Series C Preferred Stock") and the number of shares constituting such series shall be 70,000.

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II. Dividends and Distributions.

(A) Subject to the prior and superior rights of the holders of any shares of the $8.625 Preferred Stock, Series A, of the Corporation (the "$8.625 Preferred Shares") and of any other series of capital stock of the Corporation ranking prior and superior to the shares of Series C Preferred Stock with respect to dividends, the holders of shares of Series C Preferred Stock, in preference to the holders of Common Stock, $1.25 par value, of the Corporation (the "Common Stock"), the Series B Preferred Stock and of any other series of Preferred Stock ranking junior to the Series C Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, cumulative quarterly dividends payable in cash on the last business day of March, June, September and December in each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series C Preferred Stock, in an amount per share (rounded to the nearest cent) equal to (i) on or prior to October 14, 1986, $90 or (ii) after October 14, 1986, the greater of (x) $90 or (y) the amount obtained by dividing (1) the operating revenues of NL Chemicals, Inc., a Delaware corporation and wholly owned subsidiary of the Corporation ("Chemicals"), and the Chemicals Subsidiaries (as hereinafter defined) less the aggregate amount of (a) the operating expenses of Chemicals and the Chemicals Subsidiaries, (b) any current foreign, federal, state or local income, sales or other taxes reserved for in accordance with generally accepted accounting principles ("GAAP") by Chemicals and the Chemicals Subsidiaries, (c) any capital expenditures budgeted or accrued by Chemicals and the Chemicals Subsidiaries which are in the ordinary course of business and consistent with Chemicals' or the Chemicals Subsidiaries' respective past practices (all references herein to past practices of Chemicals include the practices of the chemical division of the Corporation which previously carried on the business of Chemicals), (d) any debt service (including both interest and principal) on Indebtedness (as hereinafter defined) which is attributable to Chemicals or the Chemicals Subsidiaries, (e) any dividends paid or set aside for payment on the $8.625 Preferred Shares and (f) any mandatory purchase retirements made in accordance with the terms of the $8.625 Preferred Shares, plus (A) depreciation and amortization on any assets of Chemicals or the Chemicals Subsidiaries taken or reserved for in accordance with GAAP, and (B) any capital expenditures budgeted by Chemicals or the Chemicals Subsidiaries which were not made or accrued (in each case under this clause (1) the relevant computation shall be made in respect of the fiscal quarter immediately preceding the current Quarterly

Dividend Payment Date), by (2) the total number of shares of Series C Preferred Stock then issued and outstanding. Indebtedness shall mean (i) indebtedness for borrowed money or for the deferred purchase price of property or services, other than, in the case of any such deferred purchase price, on normal trade terms, (ii) rental obligations as lessee under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases, and (iii) obligations under direct or indirect guaranties in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss (such as obligations under an agreement to pay for property or services irrespective of whether or not such property is delivered or such services are rendered) in respect of, indebtedness or obligations of others of the kinds referred to in clauses (i) or (ii) above, and (iv) indebtedness or obligations of the kinds referred to in clause (i), (ii) or (iii) above of any person or entity that is merged with or into the Corporation. A Chemicals Subsidiary shall mean any corporation or other entity of which a majority of the voting equity securities or equity interests is owned, directly or indirectly, by Chemicals. Any accounting terms used herein and not defined herein shall have the meanings assigned to them in accordance with GAAP in effect at the date of determination.

(B) The Corporation shall not, and shall cause Chemicals and the Chemicals Subsidiaries not to, create or suffer to exist any Indebtedness which is attributable to Chemicals or to any Chemicals Subsidiary other than (i) Indebtedness which is attributable to Chemicals or to any Chemicals Subsidiary as of July 14, 1986 ("Existing Indebtedness"), (ii) any extension, renewal or refinancing of such Existing Indebtedness (x) on terms (including interest and other payment terms, negative and affirmative covenants) no less favorable to Chemicals than those of the Indebtedness to be so extended, renewed or refinanced or (y) in contemplation of the redemption of the Series C Preferred Stock for the shares of common stock, $.10 par value per share, of Chemicals (the "Chemical Common Shares") in accordance with Section VII (A) (ii) hereof, provided that in either case the aggregate principal amount of all Indebtedness which is attributable to Chemicals and the Chemicals Subsidiaries following any such extension, renewal or refinancing shall not exceed the aggregate principal amount of the Existing Indebtedness reduced by the aggregate amount of principal repaid in respect of Indebtedness attributable to Chemicals and the Chemicals Subsidiaries from and after July 14, 1986, (iii) Indebtedness which is attributable to Chemicals or to any

Chemicals Subsidiary the proceeds of which are used solely for working capital in accordance with past practices of Chemicals or such Chemicals Subsidiary prior to July 14, 1986, or (iv) an additional $35 million of Indebtedness.

(C) Dividends shall begin to accrue and be cumulative on shares of Series C Preferred Stock from the date of issue of such shares of Series C Preferred Stock, calculated on the basis of a 360-day year consisting of twelve 30-day months. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series C Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series C Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be not more than 60 days prior to the date fixed for the payment thereof.

III. Voting Rights.

(A) Except as required by law and as set forth in this Section III, holders of Series C Preferred Stock shall have no voting rights. On any matters on which holders of the Series C Preferred Shares shall be entitled to vote, they shall be entitled to one thousand votes per share.

(B) The affirmative vote of the holders of at least 80% of the outstanding shares of Series C Preferred Stock, voting as a single class, shall be required to:

(i) amend the Certificate of Organization in a manner which would materially alter or change the powers, preferences or special rights of the Series C Preferred Stock so as to affect them adversely;

(ii) increase the number of authorized shares of Series C Preferred Stock or create or issue shares of stock ranking senior or on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C Preferred Stock;

(iii) sell, transfer, pledge, mortgage, lease, exchange or otherwise dispose of (in one transaction or a series of transactions) (x) any capital stock of Chemicals or of any Chemicals Subsidiary having an aggregate Fair Market Value (as hereinafter defined) i-excess of $20 million or (y) other than in the ordinary course of business, any assets of Chemicals or of any Chemicals Subsidiary having an aggregate Fair Market Value in excess of $20 million, other than, in either case, pursuant to the redemption of the Series C Preferred Stock for Chemical Common Shares in accordance with Section VII (A)(ii) hereof and other than any merger or consolidation of any Chemicals Subsidiary with or into Chemicals or another Chemicals Subsidiary. Fair Market Value shall mean: (x) in the case of stock, the highest closing sale price during the 30-day period immediately preceding the date in question of a share of such stock on the Composite Tape for New York Stock Exchange - Listed Stocks, or, if such stock is not quoted on the Composite Tape, on the New York Stock Exchange, or, if such stock is not listed on such exchange, on the principal United States securities exchange registered under the Securities Exchange Act of 1934, as amended, on which such stock is listed, or, if such stock is not listed on any such exchange, the highest closing bid quotation with respect to a share of such stock during the 30-day period preceding the date in question on the National Association of Securities Dealers, Inc. Automated Quotations System or any system then in use, or if no such quotations are available, the fair market value on the date in question of a share of such stock as determined by the Board of Directors in good faith; and (y) in the case of property other than cash or stock, the fair market value of such property on the date in question as determined by the Board of Directors in good faith;

(iv) acquire, in one transaction or a series of transactions, directly or indirectly, any interest of any kind in assets (including securities) with an aggregate Fair Market Value in excess of $50 million (x) which are owned, directly or indirectly, by Chemicals or any Chemicals Subsidiary after such acquisition; or (y) the consideration for which consists, directly or indirectly, of assets (including securities) of Chemicals or any Chemicals Subsidiary; or

(v) pay any dividend or make any cash advance, loan or other intercorporate transfer of funds from Chemicals or any Chemicals Subsidiary, on the one hand, to the Corporation or any of its other subsidiaries or affiliates on the other hand, other than (i) payments for tax sharing or corporate services in accordance with the agreements in effect on July 14, 1986, (ii) payments for dividends on the Series C Preferred Stock, (iii) dividends and mandatory purchase retirements of the $8.625 Preferred Shares, (iv) payments for debt service (including both interest and principal) (x) prior to October 14, 1986, on Indebtedness of the Corporation aggregating not more than $425 million, and (y) from and after October 14, 1986, on Indebtedness which is attributable to Chemicals and the Chemicals Subsidiaries, but only to the extent required under the terms of the instruments governing such preferred stocks and Indebtedness, and (v) regular quarterly cash dividends on the Common Stock in an amount not in excess of $.05 per share of Common Stock per quarter, appropriately adjusted for any change in the number of shares of Common Stock outstanding after July 14, 1986.

(C) Whenever six quarterly dividends payable on the Series C Preferred Stock as provided in Section II are in arrears in part or in full, holders of the Series C Preferred Stock shall have, in addition to the rights set forth in Section III (B) above, (i) the special right, voting separately as a class with the shares of other series of the Preferred Stock upon which like voting rights may be conferred, if any, to elect two directors of the Corporation and (ii) the additional special right, voting separately as a class, to elect such additional number of directors so that the total number of directors elected pursuant to subparagraphs (i) and (ii) of this Section III(C) shall constitute a majority of the Board of Directors at all times until such time as all dividends on the Series C Preferred Stock shall have been paid or declared and set aside for payment for all past quarterly dividend periods and for the then current quarterly dividend period at which time the right of the Series C Preferred Stock to vote and to be represented at and to receive notice of meetings shall terminate, subject to revesting in the event of each and every subsequent default of the character and for the time in this paragraph above mentioned. Anything in Article VIII of this Certificate of Organization to the contrary notwithstanding, directors elected by the holders of the Series C Preferred Stock shall not be classified in respect to the time for which they shall hold office and, except as specifically otherwise provided herein, such directors shall be elected annually at the annual meeting of the stockholders of the Corporation.

At any time when such voting power shall become vested in the Series C Preferred Stock, and any such other series, as herein provided, the number of directors otherwise constituting the Board of Directors of the Corporation shall ipso facto be increased by two or such additional number of directors as is provided for herein so long as such voting power shall be so vested, and a proper officer of the Corporation shall call a special meeting of the holders of the Series C Preferred Stock, and any such other series for the purpose of electing such directors. Such meeting shall be called upon the notice required for annual meetings of stockholders and shall be held at the earliest practicable date at the place at which the last preceding annual meeting of the stockholders of the Corporation was held, but may be held at the time and place of the annual meeting if such annual meeting is to be held within 60 days after such voting power shall be vested in the Series C Preferred Stock, and any such other series. If such meeting shall not be called by a proper officer of the Corporation within 10 days after personal service upon the Secretary of the Corporation of a written request therefor of the holders of record of at least ten percent (10%) of the total number of shares of the Series C Preferred Stock, or within 10 days after mailing such request within the United States of America by registered or certified mail addressed to the Secretary of the Corporation at its principal office (such mailing to be evidenced by the receipt issued by the postal authorities), then the holders of record of at least ten percent (10%) of the total number of shares of the Series C Preferred Stock, and of any and all such other series then outstanding may designate in writing one of their number to call such meeting, and such meeting may be called at the expense of the Corporation by such person so designated upon the notice required for annual meetings of stockholders, or such shorter notice as may be acceptable to the holders of ten percent (10%) of the total number of shares of the Series C Preferred Stock, and any and all such other series then outstanding, and shall be held at the place at which the last preceding annual meeting of the stockholders of the Corporation was held, or such other place as may be acceptable to the holders of ten percent (10%) of the total number of shares of the Series C Preferred Stock, and any and all such other series then outstanding. Any holder of Series C Preferred Stock, or of any such other series so designated shall have access to the stock books of the Corporation for the purpose of causing such meeting to be called pursuant to these provisions.

At any meeting so called, and at any other meeting of stockholders held for the purpose of electing directors at which the Series C Prefered Stock, and any such other series shall have the right, voting separately and as a class, to elect directors as aforesaid, the presence in person or by proxy of one-third of the total outstanding shares of Series C Preferred Stock shall be sufficient to constitute a quorum for the election of any director by the Series C Preferred Stock, any such other series, as a class.

If at any such meeting or adjournment thereof a quorum of the Series C Preferred Stock shall not be present, the absence of such quorum shall not prevent the election of any directors to be elected by the holders of other classes of stock entitled to vote, but a majority of the holders of the Series C Preferred Stock, and any such other series present in person or by proxy, shall have the power to adjourn the meeting for the election of directors which they are entitled to elect, from time to time, until a quorum of the Series C Preferred Stock and any such other series is present at such adjourned meeting.

Upon any termination of the right of the holders of the Series C Preferred Stock and any such other series to vote for the directors as herein provided, the term of office of any directors theretofore elected by such holders and then in office shall terminate, provided, however that the termination of such right of the holders of any such other series shall not affect the term of any director which the holders of the Series C Preferred Stock are entitled to elect.

During any period in which the holders of the Series C Preferred Stock, and any such other series have the right to vote for directors as herein provided, any vacancy occurring among the directors elected by such holders shall be filled at a special meeting of such holders called for such purpose as aforesaid.

IV. Certain Restrictions.

(A) Whenever quarterly dividends or other dividends or distributions payable on the Series C Preferred Stock as provided in Section II are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series C Preferred Stock outstanding shall have been paid in full, the Corporation shall not:

(i) declare or pay dividends on, make any other distributions on, or redeem or purchase or otherwise acquire for consideration any shares of stock ranking junior (either as to dividends or upon liquidation dissolution or winding up) to the Series C Preferred Stock;

(ii) declare or pay dividends on or make any other distributions on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C Preferred Stock, except dividends paid ratably on the Series C Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled; or

(iii) purchase or otherwise acquire for consideration any shares of Series C Preferred Stock, or any shares of stock ranking on a parity with the Series C Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(B) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under paragraph (A) of this Section IV purchase or otherwise, acquire such shares at such time and in such manner.

V. <u>Reacquired Shares</u>. Any shares of Series C Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and cancelled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of Preferred Stock to be created by resolution or resolutions of the Board of Directors, subject to the conditions and restrictions on issuances set forth herein.

VI. <u>Liquidation, Dissolution or Winding Up</u>. (A) Upon any liquidation, dissolution or winding up of the Corporation, no distribution shall be made (i) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series C Preferred Stock unless, prior thereto, the holders of shares of Series C Preferred Stock shall have received for each share the sum in cash of (x) $14,000, (y) the amount obtained by dividing (1) the excess, if any, of the net worth of Chemicals and the Chemicals Subsidiaries as of the date of such liquidation, dissolution or winding up, determined in accordancce with GAAP, over the net worth of Chemicals and the Chemicals Subsidiaries as of June 30, 1986, determined in accordance with GAAP, by (2) the number of shares of Series C Preferred Stock issued and outstanding on the date of such liquidation, dissolution or winding up, and (z) all accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, or (ii) to the holders of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series C Preferred Stock, except distributions made ratably on the Series C Preferred Stock and all other such parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up.

(B) For purposes of this Section VI, in the event that the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then such transaction shall be deemed to be a liquidation.

VII. Optional Redemption. (A) To the extent permitted by law, the Corporation shall have the right, solely at its option, at any time to call for redemption all but not less than all the shares of Series C Preferred Stock then outstanding and may redeem such shares on any date fixed by the Board of Directors (the "Redemption Date") of the Corporation by paying for each share thereof either (i) the sum in cash of (x) $14,000, (y) the amount obtained by dividing (a) the excess, if any, of the net worth of Chemicals and the Chemicals Subsidiaries as of the Redemption Date determined in accordance with GAAP over the net worth of Chemicals and the Chemicals Subsidiaries as of of June 30, 1986, determined in accordance with GAAP by (b) the number of shares of Series C Preferred Stock issued and outstanding on the Redemption Date and (z) all unpaid dividends thereon, including accrued dividends, whether or not declared, to the Redemption Date, or (ii) 1,000 Chemical Common Shares, provided that the Corporation shall not redeem the Series C Preferred Stock pursuant to subparagraph VII (A) (ii) unless at the date on which the shares of Series C Preferred Stock are called for redemption, such distribution of the Series C Preferred Stock would be in compliance with the Securities Act of 1933, as amended (the "1933 Act"), the Securities Exchange Act of 1934, as amended (the "1934 Act"), and any other applicable laws and regulations. The Corporation shall, and shall cause Chemicals to, use its best efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper or advisable under the 1933 Act, the 1934 Act and any other applicable laws and regulations to assure as expeditiously as possible that the redemption of the Series C Preferred Stock for Chemical Common Shares will be in compliance with the 1933 Act, the 1934 Act and any other applicable laws and regulations. The Corporation shall effect such redemption for such Chemical Common Shares as soon as practicable following the time at which such redemption will be in compliance with the 1933 Act, the 1934 Act and any other applicable laws and regulations.

(B) Not less than thirty nor more than sixty days prior to the date fixed for any redemption of Series C Preferred Stock pursuant to Section VII(A) hereof, a notice specifying the time and place of such redemption and the consideration to be paid upon such redemption shall be given by first class mail, postage prepaid, to the holders of record of Series C Preferred Stock to be redeemed at their respective addresses as the same shall appear on the books of the Corporation, but no failure to mail such notice or any defect therein or in the mailing thereof shall affect the validity of the proceedings for redemption. Any notice which was mailed in the manner herein provided shall be conclusively presumed to have been duly given whether or not the holder receives the notice and the shares specified in such notice shall be deemed to have been called for redemption as of the date such notice was mailed.

(C) Unless the Corporation shall fail to pay, upon surrender of the certificates evidencing the shares to be redeemed, the redemption price of any shares of the Series C Preferred Stock called for redemption as provided herein, from and after the date fixed for the redemption of such Series C Preferred Stock by the Corporation, the holders of such shares shall cease to be stockholders with respect to such shares and shall have no interest in or claims against the Corporation by virtue thereof and shall have no voting or other rights with respect to such shares, except the right to receive the consideration payable upon such redemption from the Corporation, without interest thereon, upon surrender (and endorsement, if required by the

Corporation) of their certificates, and the shares evidenced thereby shall no longer be deemed to be outstanding.

(D) The Corporation shall take such action as may be necessary, including increasing the number of authorized or issued and outstanding Chemical Common Shares, so that at all times the number of issued and outstanding Chemical Common Shares shall equal 1000 times the number of issued and outstanding shares of Series C Preferred Stock. Except for the previous sentence, the Corporation shall not, and shall cause Chemicals and the Chemicals Subsidiaries not to, issue or grant to any person or entity, any Chemical Common Shares, any shares of capital stock of the Chemicals Subsidiaries or any rights, warrants or options of any kind to acquire any Chemical Common Shares or any shares of capital stock of the Chemical Subsidiaries, other than employee stock options or grants in respect of Chemical Common Shares which shall become effective only upon completion of the redemption of the Series C Preferred Stock pursuant to subparagraph VII(A)(ii) or which cannot be exercised while any shares of Series C Preferred Stock are outstanding.

VIII. Rank. The Series C Preferred Stock shall rank junior (as to dividends and upon liquidation, dissolution or winding up) to the $8.625 Preferred Stock, Series A, of the Corporation and superior (as to dividends and upon liquidation, dissolution or winding up) to the Preferred Stock, Series B, and to the Common Stock.

IX. Specific Performance. The holders of the Series C Preferred Stock shall be entitled to specific enforcement of the covenants contained in Sections I-VIII hereof and to injunctive relief against any violation or threatened violation thereof.

3. Said resolution is the resolution duly adopted by the Board of Directors of the Corporation on July 13, 1986, pursuant to authority granted under Section 14A:7-2(2) of the New Jersey Business Corporation Act.

4. The Certificate of Organization is amended so that the designation and number of shares of the class and series acted upon in the foregoing resolution, and the relative rights, preference and limitations of such class and series, are as stated in the resolution.

IN WITNESS WHEREOF, this Certificate of Amendment of the Certificate of Organization is executed on behalf of the Corporation by its Chairman and Chief Executive Officer this 13th day of July, 1986.

By

Theodore C. Rogers
Chairman and
Chief Executive Officer

ATTEST:

John T. Rafferty
Secretary